A bill to be entitled
An act relating to bottled water excise tax; revising the title of ch. 211, F.S.; creating part III of ch. 211, F.S., entitled "Tax on Extraction of Water for Bottling"; creating s. 211.41, F.S.; defining terms; creating s. 211.42, F.S.; imposing an excise tax upon bottled water operators; specifying the rate of the tax and the trust fund where tax proceeds are to be deposited; requiring that tax proceeds be separately accounted for and used for certain purposes; creating s. 211.43, F.S.; specifying requirements for bottled water operators in filing monthly returns with the Department of Revenue; authorizing the department to grant extensions for filing and payment under certain circumstances; specifying the department's rulemaking authority; creating s. 211.44, F.S.; specifying interest payable on unpaid taxes; specifying the delinquency penalty for failure to timely file a return; specifying the penalty for the substantial underpayment of taxes; providing construction; authorizing the department to settle or compromise taxes in accordance with certain provisions; creating s. 211.45, F.S.; authorizing the department to adopt rules; requiring local governments to cooperate with the department and furnish information without cost to
the department for certain purposes; specifying
recordkeeping requirements for bottled water
operators; specifying the department's authority to
inspect, examine, and audit bottled water operator
books, records, and papers, issue subpoenas, require
testimony under oaths or affirmations administered by
certain persons, and apply for certain judicial
orders; specifying requirements and procedures for the
department in conducting audits and examinations,
assessing deficiencies, and crediting or refunding
overpayments; specifying procedures and requirements
for claiming refunds; providing that amounts due
remain a lien on certain property, assets, and
effects; specifying requirements and procedures for
warrants and alias tax executions issued by the
department; authorizing certain department employees
to make and sign certain assessments, warrants, and
satisfactions; requiring that suits brought by the
department for violations be brought in circuit court;
creating s. 211.46, F.S.; providing criminal penalties
for certain violations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Chapter 211, Florida Statutes, entitled "Tax on
Production of Oil and Gas and Severance of Solid Minerals," is
retitled "Tax on Production of Oil and Gas, Severance of Solid
Minerals, and Extraction of Water for Bottling."

Section 2. The Division of Law Revision is directed to
create part III of chapter 211, Florida Statutes, consisting of
ss. 211.41-211.46, Florida Statutes, to be entitled "Tax on
Extraction of Water for Bottling."

Section 3. Section 211.41, Florida Statutes, is created to
read:

211.41 Definitions.—As used in this part, the term:
(1) "Bottled water operator" means a person engaged in the
business of extracting water from waters of the state and
bottling or packaging the water for sale. The term does not
include a person who extracts and bottles or packages water from
a public water system as defined in s. 403.852(2).
(2) "Department" means the Department of Revenue.
(3) "Waters of the state" has the same meaning as the term
"waters" as defined in s. 403.031(13).

Section 4. Section 211.42, Florida Statutes, is created to
read:

211.42 Bottled water excise tax; distribution and use of
tax proceeds.—
(1) An excise tax is levied upon every bottled water
operator at a rate of 12.5 cents per gallon of water extracted
from waters of the state.
(2) The proceeds of the tax imposed by this section must be deposited in the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund and must be accounted for separately within the fund. The tax proceeds must be used to provide grants and loans to local governmental agencies pursuant to s. 403.1835, with priority given to projects that connect existing onsite sewage treatment and disposal systems to central sewerage systems.

Section 5. Section 211.43, Florida Statutes, is created to read:

211.43 Returns; filing requirements.—

(1) Each bottled water operator shall remit tax due and submit to the department a return on or before the 25th day of each month as prescribed by the department showing the total amount of water extracted from waters of the state during the previous month, the source and county of extraction, the location of all facilities from which taxable water was extracted, and other information required by department rule. The department shall prescribe by rule the form of the return. The return must be filed on or before the 25th day of each month as prescribed by the department and must be signed and verified under oath by the bottled water operator or the bottled water operator's duly authorized representative.

(a) The return must include a statement of the tax due under this part and such other information as the department may
reasonably require.

(b) A return must be filed even though no tax is due. Any tax, penalty, or interest due must be remitted with the return.

(2) If any due date prescribed by this section falls on a Saturday, Sunday, or state or federal holiday, the last date prescribed for filing or payment of a return is the next day that is not a Saturday, Sunday, or state or federal holiday. The date of receipt by the department, or the postmark date if mailed, determines the timeliness of payment or filing of a return.

(3) The department may grant an extension of time for payment or filing of a return upon written request submitted on or before the due date.

Section 6. Section 211.44, Florida Statutes, is created to read:

211.44 Interest and penalties; failure to pay tax or file return.—

(1) If any part of the tax imposed by this part is not paid on or before the due date, interest shall be added to the amount due at the rate of 12 percent per year from the due date until the date of payment.

(2) A bottled water operator who fails to file the return required under s. 211.43 by the due date shall pay a delinquency penalty. If tax is due with the return, the delinquency penalty is 10 percent for each month, or portion thereof, of the amount
of tax due with the return, not to exceed 50 percent. If no tax
is due with the return, the delinquency penalty is $50 for each
month, or portion thereof, during which the return was not
filed, not to exceed $300 in aggregate. The amount of tax due
with a return must be reduced by amounts properly creditable
against the tax liability shown on the return on the date the
return was due.

(3) A bottled water operator who makes a substantial
underpayment of the tax due under this part shall pay a penalty
of 30 percent of the underpayment in addition to the delinquency
penalty imposed under subsection (2). For purposes of this
subsection, the term "a substantial underpayment of tax due"
means a deficiency of tax in an amount exceeding 35 percent of
the total tax due for a month.

(4) Any penalty or interest imposed by this section is
deemed assessed upon the assessment of the tax and must be
collected and paid in the same manner as the tax.

(5) Any penalty imposed by this section may be settled or
compromised by the department for reasonable cause in accordance
with s. 213.21. Interest imposed by this section may be settled
or compromised only as authorized by s. 213.21.

Section 7. Section 211.45, Florida Statutes, is created to
read:

211.45 Administration and enforcement; books and records;
refunds.
(1) The department may adopt rules to administer this part, including prescribing the form and content of returns and reports.

(2) All state, county, or municipal agencies, boards, bureaus, departments, or districts shall cooperate with the department and furnish any information the department deems necessary, without cost to the department, for the purposes of administering, collecting, or enforcing the tax imposed under this part.

(3)(a) A bottled water operator shall keep suitable books, records, and papers relating to the extraction of taxable waters of the state to enable the department to determine the amount of tax due under this part. Such books and records must be preserved as long as required by s. 213.35.

(b) The department may inspect or examine the books, records, or papers of a bottled water operator which are reasonably required for the purposes of this part and may require the bottled water operator to testify under oath or affirmation or to answer competent questions regarding the bottle water operator's business or extraction of taxable waters of the state.

1. The department may issue subpoenas to compel third parties to testify or to produce books, records, papers, or other evidence in their possession.

2. Any duly authorized representative of the department
may administer an oath or affirmation.

3. If a bottled water operator fails to comply with a request of the department to inspect or examine the bottled water operator's books, records, or papers; fails to testify or respond to competent questions; or fails to comply with a subpoena, upon application by the department, a circuit court having jurisdiction over such bottled water operator may issue orders necessary to secure compliance.

(c) All books, records, and papers required to be kept under this subsection must be available for inspection or examination by the department upon written request during normal business hours.

(4) The department may audit or examine the books, records, or papers of a bottled water operator to determine whether returns have been properly filed and taxes have been properly paid. An audit or examination may be commenced for any month for which the power of the department to make an assessment of amounts due under this part is available. An audit or examination must be commenced by service, in person, or by certified mail, upon the bottled water operator of a written notice of intent to audit or examine. The date the bottled water operator receives such notice, or the postmark date if such notice is mailed by certified mail, governs the period subject to audit or examination. If there is jeopardy to the revenue and jeopardy is asserted in or with an assessment, the department
must proceed in the manner specified for jeopardy assessment in s. 213.732.

(5)(a) The department may assess, with or without an audit or examination, any deficiency resulting from nonpayment or underpayment of the tax, interest, or penalties imposed by this part. The department shall inform the bottled water operator by written notice of the amount of any deficiency or overpayment revealed by an audit or examination, including the tax, interest, or penalties due, and shall explain the basis for the determination.

(b) The department may make an assessment under this part based upon the best information available to it. The department may make an assessment based upon an estimate of amounts due under this part if a bottled water operator fails to file a return, files a grossly incorrect or fraudulent return, or refuses to permit inspection of its books, records, or papers. An assessment of the amounts due under this part is deemed prima facie correct and the bottled water operator has the burden of showing any error in such assessment.

(c) In the event of a deficiency, the department shall issue its written notice to a bottled water operator for the tax, penalties, or interest due. Full payment of the total amount assessed must be made in the manner prescribed by the department in such notice.

(6)(a) The department may credit or refund any
overpayments of amounts due under this part which are revealed
by an audit or examination or for which a timely claim for
refund has been properly filed.
(b) A claim for refund may be filed within the period
specified in s. 215.26(2).
(c) A claim for refund must be signed by the bottled water
operator or the bottled water operator's duly authorized
representative, successor, or assignee and must include
information the department requires to determine the correctness
of the claim.
(7)(a) Amounts due under this part remain a lien upon the
property, assets, and effects of a bottled water operator until
paid or until collection of such amounts is barred under s.
95.091. Amounts due may be recovered by the department, on
behalf of the state, by an action in any county where the
property, assets, or effects of the bottled water operator are
located.
(b) When any tax imposed by this part becomes delinquent
or is otherwise in jeopardy, the department may issue a warrant
for the full amount due or estimated to be due, including the
tax, penalties, interest, and costs of collection. The warrant
must be directed to the sheriff in each county where the bottled
water operator's property is located and may be recorded with
the clerk of the circuit court in any county where the bottled
water operator's property is located. Upon recording, the clerk
shall execute the warrant in the same manner prescribed by law
for executions upon judgments and is entitled to the same fees
for this service. Upon payment of the warrant, the department
shall satisfy the lien of record within 30 days. Thereafter, any
interested person may compel the department to satisfy the lien
of record.

(c) An alias tax execution may be issued whenever the
department deems it necessary. Each alias tax execution must be
so designated on its face and has the same force and effect as
the original.

(d) Tax executions may be levied upon any third party who
is in possession or control of any assets of a delinquent
bottled water operator or who is indebted to a delinquent
bottled water operator. Such tax executions have the force and
effect of a writ of garnishment. The third party shall pay the
debt or deliver the assets of the delinquent bottled water
operator to the department, and receipt by the department
discharges the third party completely to the extent of the debt
paid or assets surrendered to the department.

(e) When any tax execution becomes void, the department
may cancel it of record and shall do so upon the request of any
interested person.

(f) Any employee of the department may be designated by
the executive director or his or her designee to make and sign
assessments, tax warrants, and satisfactions of tax warrants.
(9) Any suit brought by the department against any person for violating this part must be brought in circuit court.

Section 8. Section 211.46, Florida Statutes, is created to read:

211.46 Criminal penalties.—

(1) A bottled water operator who willfully fails to file a return or keep suitable books, records, and papers relating to the extraction of waters of the state which is taxable under this part; who files a fraudulent return; who willfully fails or refuses to produce the books, records, or papers; or who willfully violates any provision of this part or any rule adopted by the department under this part commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A bottled water operator who withholds tax due under this part and willfully fails to remit the tax as required by this part or who purports to make payments of tax due under this part but willfully fails to remit the tax because the remittance fails to clear the bank or depository institution against which it is drawn commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. This act shall take effect July 1, 2022.