

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 28

INTRODUCER: Transportation Committee and Senator Hooper

SUBJECT: License Taxes

DATE: December 7, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 28 imposes specified additional license taxes on certain electric vehicles. The bill defines the terms “electric motorcycle,” “plug-in hybrid electric motorcycle,” and “plug-in hybrid electric vehicle and modifies the definition of the term “electric vehicle.”” The bill imposes taxes on such vehicles in addition to registration fees currently assessed against non-electric vehicles and authorizes biennial registration of such vehicles. The additional taxes imposed apply to an initial or renewal registration that has a renewal period beginning on or after October 1, 2024.

The bill provides for distribution of the proceeds of such fees to the State Transportation Trust Fund (STTF) and to the county where such a vehicle is registered, and requires the Department of Highway Safety and Motor Vehicles (DHSMV) to transfer funds allocated to a county to the Department of Revenue (DOR) for distribution, as specified. The bill restricts local government use of transferred proceeds to transportation expenditures, as defined in current law; exempts certain electric and plug-in hybrid electric vehicles from the additional tax; and provides that the additional fees expire on June 30, 2034. The bill also makes necessary conforming revisions.

The Revenue Estimating Conference determined on November 3, 2023, that the bill would increase receipts to the STTF and to county and municipal governments for Fiscal Years 2024-25 through 2028-29 by a total of \$65 million recurring. DHSMV expects to incur expenses associated with programming and implementation. See the “Fiscal Impact” heading for additional details.

The bill takes effect July 1, 2024.

II. Present Situation:

The Impact of Electric Vehicles on Revenues

Annual fuel tax revenues at both the state and federal levels are directly based on the number of gallons of gasoline and diesel fuel consumed. Because some electric vehicles (EVs) are not powered by gasoline or diesel, and because others use less gasoline or diesel fuel than a conventional vehicle with only an internal combustion engine, an increase in the number of EVs operating on the roadways results in less revenue being raised from fuel taxes for comparable vehicle miles traveled.

Projections for EV sales vary, but a literature review suggests a general consensus that while EV adoption will not significantly impact state revenues in the near-term, EV sales will continue to increase over the long-term, at least to some extent supported by federal, state, local, and utility incentives for EV purchases.¹ The Florida Department of Transportation's (FDOT's) *EV Infrastructure Master Plan*, completed in July of 2021, concludes that negative impacts to motor-fuel based revenue streams in Florida could range between 5.6 percent and 20 percent by the year 2040, depending on the rate of growth of EV sales.²

The National Perspective

Traditional funding for repairs and improvements to the nation's highways comes primarily from state and federal taxes collected at the pump. A perceived inequity may exist, in that electric vehicles do not require motor fuel to operate, or at least as much in the case of vehicles that operate on a combination of electricity and gasoline or diesel, compared to motor vehicles with internal combustion engines. The assertion is that EV owners may not be fairly contributing to the cost of constructing and maintaining public roads through payment of "traditional" registration fees.

According to the National Conference of State Legislatures (NCSL), many states face declining gas tax revenues, and "one common policy" to address the decline is to impose a separate registration fee for certain EVs to address the issues of declining revenues and fair contribution.³ The following may serve to generally highlight the trend:

- Thirty-two states impose some form of a special registration fee for electric vehicles, which is in addition to the registration fee for motor vehicles with internal combustion engines.
- Of those, 19 states also assess a fee on plug-in vehicles that operate on a combination of electricity and gasoline. The fees range from \$65 in Iowa to \$100 in Alabama, Arkansas, Ohio, and West Virginia.

¹ For a description of the Inflation Reduction Act's 2022 re-vamped tax credit of up to \$7,500 for certain all-electric and plug-in hybrid electric vehicles, see Vincent, J. and Threewitt, C., available at [How Does the Electric Car Tax Credit Work? / U.S. News \(usnews.com\)](#). For a compilation of available incentives offered by states, local governments, and utilities, see Wakefield, C., September 1, 2023, available at [Electric Car Rebates and Incentives: What To Know by State - Kelley Blue Book \(kbb.com\)](#) (last visited October 13, 2023).

² See the FDOT's *EV Infrastructure Master Plan*, p. 30 of 52, available at [fdotemp.pdf \(windows.net\)](#) (last visited October 12, 2023).

³ See [ncsl.org, Special Fees on Plug-In Hybrid and Electric Vehicles \(ncsl.org\)](#) (last visited October 12, 2023).

- Ten states⁴ enacted laws in 2019 amending or adding new fees for plug-in electric and some plug-in hybrid vehicles, with fees ranging from \$50 per year in Colorado, South Dakota, and Hawaii, to \$225 for a plug-in electric vehicle in Washington.
- The enacted legislation in Alabama, Arkansas, Ohio, and Wyoming set or increased fees for EVs to \$200 annually. In 2021, South Dakota law was revised to impose a fee of \$50 for all EVs, and Oklahoma tiered its EV fees based on vehicle weight. Louisiana enacted legislation in 2022 imposing a \$110 fee for EVs and a \$60 fee for plug-in hybrids.⁵
- At least five states tie the additional registration fees to the consumer price index or another inflation-related metric and periodically increase the fees (California, Indiana, Michigan, Mississippi, and Utah).⁶

Although the exact number of states that impose additional registration fees on electric and plug-in hybrid electric motorcycles is not readily available, a brief search revealed at least three states, Washington, Iowa, and Minnesota,⁷ that do so.

Revenue from these additional registration fees is, according to the NCSL, most often directed to a state transportation trust fund as a fair contribution to the cost of constructing and maintaining the public roads, with a few states also allocating some of the revenue to support EV charging infrastructure and small amounts to other uses.⁸

Types of Electric Vehicles

The U.S. Department of Energy’s Alternative Fuels Data Center uses the term, “electric-drive vehicles,” to collectively refer to all-electric vehicles (AEVs), hybrid electric vehicles (HEVs), and plug-in hybrid electric vehicles (PHEVs):

- AEVs use a battery to store the electric energy that powers the motor. AEVs do not have an internal combustion engine and are solely powered by electricity. AEV batteries are usually charged by plugging the vehicle into an electric power source.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery, and are plugged into an electric power source to charge the battery. PHEVs can travel various distances on electricity alone but can also operate solely on motor fuel.

⁴ Alabama, Arkansas, Hawaii, Illinois, Iowa, Kansas, North Dakota, Ohio, Washing and Wyoming.

⁵ *Supra* note 4. Scroll down to the “*State Action*” heading. The definitions, fees, and fee distributions for each state are reflected under the heading *States With Fees on Plug-In and/or Electric Vehicles*.

⁶ At least two states have alternatively enacted road user charges (Oregon and Utah), also known as vehicle miles traveled fees or mileage based user fees and, according to the Transportation Investment Advocacy Center (TIAC), as of May, 2022, three states (Pennsylvania, Iowa, and Oklahoma) had enacted excise taxes on the electricity that powers electric vehicles. See the TIAC’s *Electric Vehicle Excise Tax Model Language*, Appendix B, available at [2022 Electric Vehicle Excise Tax Model Language-2.pdf \(transportationinvestment.org\)](https://www.transportationinvestment.org/2022-Electric-Vehicle-Excise-Tax-Model-Language-2.pdf) (last visited October 12, 2023).

Further, at least 10 states have enacted studies or pilot programs examining the feasibility of road user charges, supported by the federal Surface Transportation System Funding Alternatives grant program. *Supra* note 3. Scroll down to the “*Road User Charges*” heading.

⁷ Thirty dollars annually in Washington, [RCW 46.17.323: Electric vehicle registration renewal fees—Electric motorcycles](https://leg.wa.gov/bills/2022/RCW_46.17.323).; \$9 annually in Iowa, [HF767.pdf \(iowa.gov\)](https://legis.iowa.gov/legislation/bills/2022/HF767); and \$10 annually in Minnesota for all-electric motorcycles, [sf1086\(hf2250\)_1 electric surcharges.pdf \(state.mn.us\)](https://legis.mn.us/sfs/2022/sf1086/hf2250_1_electric_surcharges.pdf) (last visited December, 4, 2023).

⁸ *Supra* note 4. Scroll down to the “*State Action*” heading.

- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. An HEV battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.⁹

State definitions are not always consistent with the above definitions and contain some variation.

Florida's Registration Structure and Electric Vehicles

Florida's definition of the term "motor vehicle" for registration purposes is quite broad and includes motorcycles along with other vehicles.¹⁰ All vehicles meeting the definition, with some exceptions, are required to be registered in this state.¹¹ Current law imposes an initial registration fee (a license tax) of \$225 on automobiles and tri-vehicles for private use, certain trucks, and motor homes and truck campers.¹² Thereafter, registration is generally based on the class and weight of the vehicle. The fees range generally from \$5 for a moped to \$1,322 for heavy trucks or truck tractors and wreckers.¹³

After monthly distributions for education purposes, for completion of the interstate highway system, and for the Florida Seaport Transportation and Economic Development Program, the remaining proceeds from registration fees are deposited in the STTF.¹⁴

Current law defines the term "electric vehicle" for registration purposes as a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.¹⁵ The license tax for an EV is the same as that prescribed in law for a vehicle that is not electrically powered.¹⁶

Thus, Florida law currently makes no distinction between the types of EVs in its definition, as all-electric *and* hybrid electric vehicles, plug-in or regenerative, are in fact powered, in whole or in part, by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current. The definition does not require that an electric vehicle be *solely* powered as described. Additionally, Florida law does not charge a fee in addition to the registration fee for a "traditional" vehicle as some 32 other states do, for registration of electric vehicles, nor does the state impose an additional registration fee on electric or plug-in hybrid electric motorcycles.

⁹ See U.S. Department of Energy, [Alternative Fuels Data Center: Electric Vehicles \(energy.gov\)](https://www.energy.gov/alternative-fuels-data-center/electric-vehicles) (last visited October 13, 2023).

¹⁰ Section 320.01(1), F.S. Section 320.01(26), F.S., defines the term "motorcycle" to mean any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, as defined in s. 316.003, F.S., but excludes a tractor, a moped, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

¹¹ Section 320.02, F.S.

¹² Section 320.072, F.S.

¹³ Section 320.08, F.S.

¹⁴ Section 320.20, F.S.

¹⁵ Section 320.01(36), F.S.

¹⁶ Section 320.08001, F.S.

Credits or Refunds and Delinquent Fees

Section 320.08056(8), F.S., provides for the discontinuance of specialty license plates, and provides that once a specialty license plate has been discontinued, a vehicle owner or lessee issue such plate may keep the plate for the remainder of the 10-year license plate replacement period.

Section 320.15(2), F.S., provides that a motor vehicle registrant or mobile home owner who has renewed a motor vehicle registration during the advance renewal period¹⁷ and who surrenders the license plate for the vehicle before the end of the renewal period may apply for a refund of the license taxes assessed in s. 320.08, F.S.

Biennial Registration

Currently, any person who owns a specified vehicle¹⁸ that is required to be registered¹⁹ may renew the registration biennially during the applicable renewal period upon payment of the two-year cumulative total; i.e., double the amount of the applicable annual license tax (as well as the service charge and surcharge).²⁰

Local Option Fuel Taxes

County governments are authorized to levy up to 12 cents of local option fuel taxes in three separate levies on fuel sold within the county.²¹ Relevant for purposes of the bill is a tax of one to six cents on every net gallon of motor and diesel fuel sold within a county.²² Generally, this tax is levied by ordinance adopted by a majority vote of the governing body or upon approval by referendum.²³ Revenues from the tax are remitted to the Department of Revenue (DOR) by the licensed terminal supplier who owned the fuel immediately prior to removal from storage²⁴ and transferred to the Local Option Fuel Tax Trust Fund.²⁵

DOR distributes the tax proceeds monthly²⁶ according to distribution factors determined at the local level by interlocal agreement between the county and municipalities within the county's boundaries. If no such agreement is established, a local government's distribution is generally based on the transportation expenditures of that local government for the immediately preceding five fiscal years as a proportion of the sum total of such expenditures for the respective county

¹⁷ The advance renewal period is pursuant to s. 320.071, F.S.

¹⁸ Generally, motorcycles and mopeds; automobiles or tri-vehicles for private use; light-duty trucks and heavy duty trucks and truck tractors of a certain weight; motor vehicles for hire; trailers for private use; trailers for hire; recreational vehicle-type units; park trailers, travel trailers, and fifth-wheel trailers of a certain length; and mobile homes. *Infra* note 18.

¹⁹ Sections 320.08(1)-(3), (4)(a) or (b), and (6) – (11), F.S.

²⁰ *See* s. 320.03, F.S.

²¹ *See* floridarevenue.com, [Florida Dept. of Revenue - Local Option Taxes \(floridarevenue.com\)](http://floridarevenue.com) (last visited December 4, 2023).

²² Section 336.025(1)(a), F.S. Local option tax rates on diesel fuel are “equalized” statewide, meaning that the full six cents, and another 1 cent per s. 336.021(1)(a), F.S., is levied on every net gallon of diesel fuel sold in every county. Seven cents’ worth of local option tax revenue on diesel fuel is distributed to local governments, regardless of whether the county is levying these two taxes. *Id.*

²³ *See* s. 335.025(3)(a)1.-3. and (3)(b), F.S.

²⁴ Section 206.41(2), F.S.

²⁵ Section 336.025(2)(a), F.S.

²⁶ *Id.*

and all municipalities within the county.²⁷ County and municipal governments may use the proceeds only for “transportation expenditures.”²⁸

III. Effect of Proposed Changes:

Definitions (Section 1)

The bill amends s. 320.01, F.S., defining and redefining terms as follows:

- “Electric motorcycle” means a motorcycle, as defined in s. 320.01(26), F.S., that is solely powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.
- “Electric vehicle” means a motor vehicle that is solely powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current. The term includes an electric motorcycle, unless otherwise specified.
- “Plug-in hybrid electric motorcycle” means a motorcycle, as defined in s. 320.01(26), that is equipped to be propelled by an internal combustion engine and an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current that are recharged by an energy source external to the motor vehicle.
- “Plug-in hybrid electric vehicle” means a motor vehicle equipped to be propelled by an internal combustion engine and an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current that are recharged by an energy source external to the motor vehicle. The term includes an electric motorcycle, unless otherwise specified.

An all-electric (or “battery electric”) vehicle would meet the definition of “electric vehicle,” as it is solely powered as described, but not meet the definition of “plug-in hybrid electric vehicle,” as it is not also equipped to be propelled by an internal combustion engine. The definition of “plug-in hybrid electric vehicle” excludes all-electric vehicles, as they are not equipped to be propelled by an internal combustion engine, and excludes hybrid electric vehicles, as they are not recharged by an energy source external to the motor vehicle. The same logic applies to electric and plug-in hybrid electric motorcycles. Under the bill, Florida law would impose additional license taxes, in addition to registration license taxes for non-electric vehicles, only on electric vehicles and plug-in hybrid electric vehicles, as defined. Hybrid electric vehicles that use regenerative braking would not be subject to an additional license tax.²⁹

²⁷ Section 336.025(4)(a), F.S.

²⁸ Section 336.025(7), F.S. The term “transportation expenditures” includes public transportation operations and maintenance; roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment; roadway and right-of-way drainage; street lighting installation, operation, maintenance, and repair; traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair; bridge maintenance and operation; and debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks. Note that current law authorizes the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such county to use the proceeds in any fiscal year to fund “infrastructure projects” under the conditions and as specified in s. 336.025(8), F.S.

²⁹ Research identified only eight states that impose an additional fee on hybrid electric vehicles that use regenerative braking.

Additional License Taxes, Applicability, Exemption, and Distribution (Section 2)

The bill amends s. 320.08001, F.S., to remove “an electric vehicle” from current law providing that the license tax for such is the same as that prescribed in s. 320.08, F.S., for a vehicle that is not electrically powered, leaving that provision applicable only to a low-speed electric vehicle. Instead, the bill imposes the following annual license taxes in addition to the license taxes prescribed in s. 320.08, F.S.:

- For electric vehicles, an annual license tax of \$200, increasing to \$250 beginning January 1, 2029. The annual license tax for electric motorcycles is \$25, increasing to \$35 on the same date.
- For plug-in hybrid electric vehicles, an annual license tax of \$50, increasing to \$100 on January 1, 2029. The annual license tax for plug-in hybrid electric motorcycles is \$10, increasing to \$20 on the same date.

The additional license taxes expressly apply to an initial registration or renewal registration that has a renewal period beginning on or after October 1, 2024. The bill exempts from the additional annual license tax imposed under the amended section of law an electric or plug-in hybrid electric vehicle that uses a battery storage system of up to five kilowatt hours.

Sixty-four percent of the proceeds from the additional license taxes imposed must be deposited into STTF, and 36 percent must be allocated to the county where the vehicle is registered. The DHSMV must transfer the funds allocated to a county to the FDOR for distribution to the board of county commissioners and municipalities within the county in proportion to the previous quarter’s distribution of the local option fuel taxes. Local governments must use the funds for defined transportation expenditures.³⁰

The bill provides that the registrant of an electric vehicle or plug-in hybrid electric vehicle is not entitled to a credit or refund of any additional license tax for any prior year’s annual license tax payments unless the registration is required by DHSMV to replace a discontinued specialty license plate or meets the requirements of s. 320.15(2), F.S.

The bill provides that any delinquent fee imposed on the registration of any electric vehicle or plug-in hybrid electric vehicle must be imposed in accordance with the schedule listed in s. 320.07(4)(a), based on the license tax prescribed in s. 320.08, F.S., for a vehicle that is not electrically powered.

Expiration of the Additional License Taxes (Section 3)

The bill creates an undesignated section of law providing that the amendments made by the act to s. 320.08001, F.S., expire on June 30, 2034, and the text of that section reverts to that in existence on June 30, 2024, except that any amendments to such text enacted other than by the act are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire.

³⁰ *Supra* note 27.

Conforming Revision (Section 4)

The bill amends s. 320.07(2)(b), F.S., relating to biennial registration, to insert a conforming cross reference, thereby authorizing biennial registration of the specified vehicles.

Effective Date (Section 5)

The bill takes effect July 1, 2024.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The bill not does require counties or municipalities to spend funds, reduce counties' or municipalities' authority to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines "fee" to mean "any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service." The bill imposes license taxes in addition to the "base" registration fee for electric and plug-in hybrid electric vehicles, authorizes payment of the additional license taxes biennially, provides for distribution of the proceeds from the additional taxes, and provides an exemption from the additional fees. The bill requires a two-thirds vote of the membership of each house of the Legislature.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

On November 3, 2024,³¹ the Revenue Estimating Conference determined that the bill will increase receipts to the State Transportation Trust Fund and to county and municipal governments for Fiscal Years 2024-25 through 2028-29 as follows:

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2024-25	0.0	0.0	21.0	41.6	11.8	23.4	32.8	65.0
2025-26	0.0	0.0	33.0	41.6	18.6	23.4	51.6	65.0
2026-27	0.0	0.0	35.1	41.6	19.8	23.4	54.9	65.0
2027-28	0.0	0.0	35.7	41.6	20.1	23.4	55.8	65.0
2028-2029	0.0	0.0	41.6	41.6	23.4	23.4	65.0	65.0

B. Private Sector Impact:

Those who register electric vehicles or plug-in hybrid electric vehicles would be subject to the specified additional registration fees.

C. Government Sector Impact:

The DHSMV estimates it will incur \$66,173 for programming and implementation required by the bill.³²

The bill will allow for increased spending on projects funded through the State Transportation Trust Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³¹ See the Revenue Estimating Conference’s adopted consensus estimate available at [page16-19.pdf \(state.fl.us\)](https://www.fl.gov/page16-19.pdf) (last visited November 6, 2023).

³² See DHSMV’s 2024 Agency Legislative Bill Analysis for SB 28, July 1, 2024 (on file in the Senate Transportation Committee).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.01, 320.08001 and 320.07.

This bill creates an undesignated section of law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on December 6, 2023:

The committee substitute:

- Relocates and amends definitions contained in the bill to s. 320.01, F.S., the definitions section of that chapter, to provide consistency in the use of defined terms.
- Creates additional license taxes for electric motorcycles and plug-in hybrid electric motorcycles.
- Clarifies that any refunds for the additional license taxes are available only under the same circumstances that refunds are presently available for non-electric vehicles.
- Removes duplicative language authorizing biennial registration of the specified vehicles.
- Clarifies that the delinquent fee imposed on persons who fail to timely renew a vehicle registration for the specified vehicles is calculated based on the license tax for a vehicle that is not electrically powered.

- B. **Amendments:**

None.