

**-HOUSE OF REPRESENTATIVES ANALYSIS**

**BILL #:** 1907 (PCB FT 03-02)      **RELATING TO:** Taxation  
**SPONSOR(S):** Committee on Finance & Tax  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 1176

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
(1) <u>Finance &amp; Tax</u>	<u>22 Y, 0 N</u>	<u>Overton</u>	<u>Diez-Arguelles</u>
(2) _____	_____	_____	_____
(3) _____	_____	_____	_____
(4) _____	_____	_____	_____
(5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

The bill enacts the Department of Revenue’s recommendations for changes in the administration of the tax laws. The bill makes administrative changes to general tax administration and to the following specific tax: communications services tax, fuel tax, sales and use tax, and unemployment compensation tax.

Additionally, the bill:

- Amends the definition of “service address” for communications services tax so that third number and calling card calls are treated the same as bank, debit, and credit card calls for tax purposes.
- Provides an exemption for homes for the aged from communications services tax.
- Provides that a charter county which is a member of a three county expressway or transit authority created by law and at least one of the three member counties is eligible to levy the High Tourism Impact County Local Option Tourist Development Tax may use the proceeds or any interests accrued thereto for operation and maintenance of a transit system.
- Provides a sales tax exemption for low-speed vehicles.
- Repeals the sunset provisions for the Certified Audit Project and directs the Department of Revenue to submit a report by January 1, 2006, regarding the effectiveness of certified audits as a tool in the overall state tax collection effort.
- Allows local governments that collect the municipal resort tax to participate in RISE.
- Provides a salary tax credit for “an affiliated group of corporations that created a service company within its affiliated group on July 30, 2002.”
- Provides an exemption from communications services tax for private two-way mobile radio systems used by a nonprofit utility provider.

The estimated fiscal impact upon General Revenue is (\$3.8) million for FY 03-04. There is a negative, but insignificant fiscal impact on State Trust Funds for FY 03-04. The estimated fiscal impact upon local governments is (\$0.2) million for FY 03-04. The total estimated fiscal impact for this bill is (\$4) million for FY 03-04.

Unless otherwise provided, the bill is effective July 1, 2003.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1907.ft.doc  
**DATE:** April 21, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

##### **Intangible Tax – Voluntary Contribution to the Election Campaign Financing Trust Fund** (Section 1)

Section 199.052(13), F.S., provides that the annual intangible tax return shall include language permitting a voluntary contribution of \$5 per taxpayer for the Election Campaign Financing Trust Fund. The voluntary Election Campaign Trust Fund expired November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

The bill repeals subsection (13) of s. 199.052, F.S., eliminating the requirement that the Department provide language on the intangible tax return permitting a \$5 contribution to the Election Campaign Financing Trust Fund.

##### **Communications Services Tax – Service Address** (Section 2)

Chapter 202, F.S., imposed the communications services tax on communications services which:

1. Originate and terminate in this state, or
2. Originate or terminate in this state and are charged to a service address in this state.

"Service address" is defined in s. 202.11(15), F.S. In general, the service address is the location of the originating communications services equipment or the location of the equipment where the customer receives the communications services. When the location of the equipment can not be determined through the billing process (example: third-number and calling card calls) the service address is the location determined by the dealer based on the customer's telephone number, the customer's mailing address for bills, or another address provided by the customer. When a credit or payment mechanism does not relate to a service address (example: bank, debit, or credit card), the service address is the address of the "central office" based on the area code and first three numbers of the originating telephone number. The "central office" is the switching facility that first routes the call.

The bill amends the definition of "service address" in s. 202.11(15)(a), F.S., to remove the portion of the definition relating to situations where the location of the equipment can not be determined through the billing process. Third number and calling card calls are treated the same as bank, debit, and credit card calls. The service address is the address of the central office based on the area code and first three numbers of the originating telephone number.

For example, under the present law, when a person from New York visits Florida and makes a calling card call to a friend in Florida, the service address is in New York and no Florida CST would be collected. Under the bill, when a person from New York visits Florida and makes a calling card call to a friend in Florida, the service address is in Florida and Florida CST would be collected.

Additionally, under present law, when a person from Florida visits New York and makes a calling card call to a friend in Florida, the service address is in Florida and Florida CST would be collected. Under the bill, when a person from Florida visits New York and makes a calling card call to a friend in Florida, the service address is in New York and no Florida CST would be collected.

### **Communications Services Tax – Substitute Communications Systems** (Section 2)

Sec. 202.11(16), F.S., defines a “substitute communications system” as any telephone system, or other system capable of providing communications services, which a person purchases, installs, rents, or leases for his or her own use to provide himself or herself with services used as a substitute for any switched service or dedicated facility by which a dealer of communications services provides a communication path.”

Sec. 202.12, F.S., provides that the cost of operating a substitute communications system is subject to communications services tax.

Some not-for-project utilities such as electric cooperatives use their own private two-way mobile radio systems to maintain a two-way radio service system used for dispatch and communications between service vehicles and base offices. Under present law these two-way radio systems are a substitute communications system and are subject to communications services tax.

The bill creates an exemption from communications services tax for such private two-way mobile radio systems used by a nonprofit utility provider. Sec. 202.11(16), F.S, is amended to provide that a substitute communications system does not include a not-for-hire mobile communications service that exclusively serves the internal communication needs of a nonprofit utility provider.

### **Communications Services Tax – Homes for the Aged Exemption** (Section 3)

Sales to religious or educational institutions that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code are exempt from both the state and local communications services tax. Sales by certain religious institutions are also exempt from both the state and local communications services tax. Presently, sales to homes for the aged are not exempt from communications services tax.

The bill creates an exemption for a “home for the aged” from both the state and local communications services taxes. “Home for the aged” includes any nonprofit corporation:

1. In which at least 75 percent of the occupants are 62 years of age or older or totally and permanently disabled; which qualifies for an ad valorem property tax exemption under s. 196.196, s. 196.197, or s. 196.1975; and which is exempt from the sales tax imposed under chapter 212.
2. Licensed as a nursing home or an assisted living facility under chapter 400 and which is exempt from the sales tax imposed under chapter 212.

### **Communications Services Tax – Improperly Collected Taxes** (Section 4 & 5)

Section 202.33, F.S., provides that the taxes collected under Chapter 202, F.S., become government funds at the moment of collection by the dealer and that such taxes must be remitted to the Department. Section 213.756, F.S., provides that any funds collected from a customer under the representation that the funds

are taxes provided for under state revenue laws are state funds from the moment of collection, must be remitted to the state, and will not be refunded to the dealer unless first refunded by the dealer to the customer. Some communications services tax dealers that overcollect from customers as a result of incorrectly assigning customers to incorrect local jurisdictions subsequently take credits for those overcollections or apply them to subsequent liabilities without making refunds to the customers. They believe that no provision of Chapter 202, F.S., prohibits this practice.

The bill adds subsection (8) to s. 202.22, F.S., to provide that all local communications services taxes collected by a dealer under the representation that they are taxes are state funds from the moment of collection and are not subject to refund absent proof that the funds have previously been refunded to the purchaser. The bill also provides that the "hold harmless" provisions in s. 202.22, F.S., do not entitle dealers to keep or take credits for taxes overcollected from a customer who was assigned to an incorrect local taxing jurisdiction. Additionally, dealers are only entitled to take a credit for the tax overcollected after the tax has been refunded to their customers.

The bill provides that these amendments are remedial in nature and intended to clarify existing law.

### **Communications Services Tax – Siting for Local Governments** (Sections 6, 7, 8, & 9)

Section 202.19, F.S., authorizes the governing authority of each county and municipality to levy, by ordinance, a discretionary communications services tax. However, this subsection does not require dealers to report the revenues and taxes collected within each jurisdiction. While the Department of Revenue requires the reporting of taxable sales by jurisdiction on the communications services tax return, the only penalty for noncompliance with this reporting requirement is the loss of the taxpayer's collection allowance based on the filing of an incomplete return, pursuant to s. 202.28(1)(b), F.S. Subsection (2) of s. 202.28, F.S., provides for penalties to be imposed on any person who is required to make a return or pay communications services tax who fails to timely file such return or fails to pay the taxes due.

Dealers that exercise due diligence in using one of the four eligible methods to assign customer addresses to local taxing jurisdictions are granted a "hold harmless" status under the provisions of s. 202.22(1), F.S. Dealers that do not use a qualified method or fail to meet due diligence standards in using a qualified method are not "held harmless" for tax, penalty, and interest owed due to incorrectly assigning customers to local taxing jurisdictions. However, if a dealer collected enough total local communications services tax, even if it was not properly allocated, s. 202.22(5), F.S., provides that the Department will properly reallocate the amounts and no interest or penalties will be imposed.

The Department is required by s. 202.37(1)(a), F.S., to include in its audit a determination of the dealer's compliance with the jurisdictional siting of its customer service addresses and a determination whether the rate collected is correct. This has proven difficult for the Department. In some cases, the Department reports, dealers that are clearly assigning addresses inaccurately have refused to cooperate in providing information about their customer base or siting method.

The bill amends s. 202.27, F.S., to create a procedure for ensuring proper siting. First each dealer of communications services shall within 10 days of a request, designate a managerial representative to whom the Department shall direct any inquiry regarding the completeness or accuracy of the dealer's return when the response provided by the contact person identified on the return has been inadequate. When the representative is contacted by the Department, the dealer shall respond to the Department within 30 days.

If the Department determines that a return may contain a material error in the reporting of local communications service taxes by jurisdiction it may issue a notice as the dealer. Prior to issuing the notice the Department shall attempt to resolve the issue by consulting with the managerial representative; consulting with the affected local jurisdictions, and consulting other relevant sources of information. Such inquiry by the Department shall include, without limitation, whether local rate changes, changes in jurisdictional boundaries, or fluctuations in the taxes reported by other dealers are consistent with the

reporting on the return that is the subject of the notice. The notice shall specify the schedule, line or lines of the return that are the subject of the notice, describe the reporting error, and describe the other sources of information consulted by the Department as required herein and the results of such inquiry.

The dealer is required to respond in writing to the notice within 90 days from receipt of the notice, except that an extension of this 90 day period must be granted if requested by the dealer for reasonable cause. The dealer's response shall state either that the return contained a material error conforming to the Department's description and that the error has been corrected by filing a corrected return, or that the dealer has been unable to locate such an error. In the latter event, the dealer's response shall also state whether any of the following events have occurred that might reasonably account for the condition described in the notice as a probable reporting error:

1. the dealer has changed from one of the methods specified in s. 202.22(1) of assigning customers to local jurisdictions to another method specified therein;
2. there has been an acquisition or disposition of an entity providing communications services, an acquisition or disposition of such an entity's assets used to provide such services, or a change in the dealer's licensed service area;
3. the dealer has implemented a new billing system;
4. there has been an update to the dealer's database or corrections in assignments of service addresses pursuant to s. 202.22(4)(b) ;
5. substantial credits, refunds or adjustments to customer accounts are reflected in the return identified in the notice.

If the dealer responds as required, and provides the prescribed information that is incorrect and, after audit, the return is finally determined to contain the specific material error identified in the notice, the dealer shall be subject to a penalty not to exceed the lesser of 10% of any taxes reported for an incorrect jurisdiction as a result of the error or \$10,000. If the dealer fails to respond to the notice or request an extension within the time prescribed, the dealer shall be subject to a specific penalty of \$5,000, except that the Department shall waive the specific penalty if the dealer responds as required within 30 days of notification that the specific penalty has been imposed.

A "material error" is an error in the reporting of tax on a return for a specific local jurisdiction that exceeds the greater of \$50,000 or fifty percent (50%) of the tax reported for such local jurisdiction. "Material error" also includes a return for which Schedule I or II is not included, regardless of tax amount reported. "Material error" does not include, and the penalties set forth in this subsection shall not apply, to any error resulting from the assignment of a service address to an incorrect local taxing jurisdiction for which the dealer is held harmless under s. 202.22(1).

The amendments to s. 202.27, F.S. described above are repealed effective June 30, 2004.

Section 202.28(2) is amended to provide that if a dealer fails to separately report and identify local communications services taxes on the appropriate return schedule the dealer shall be subject to a penalty of \$5000 per return: and if a dealer of communications services does not use one or more of the methods specified in s. 202.22(1) for assigning service addresses to local jurisdictions and assigns one or more service addresses to an incorrect local jurisdiction in collecting and remitting local communications services taxes imposed under s. 202.19, the dealer shall be subject to a specific penalty of ten percent of any tax collected but reported to the incorrect jurisdiction as a result of incorrect assignment, provided that in no event shall the penalty imposed hereunder with respect to a single return exceed \$10,000.

Section 202.34, F.S., is amended to require that if a dealer fails to respond a contact to or request from the Department, and the dealer has inadequate records, the Department may determine the proper allocation or reallocation of the tax proceeds between local governments using the best information available. The Department will seek the agreement of the affected local governments.

## **Fuel Tax -- Biodiesel**

(Section 10 & 17)

Biodiesel is a fuel alternative made from fats or oils. Florida fuel tax law does not require persons who manufacture biodiesel have a fuel tax license.

The bill amends s. 206.02(1) to add "biodiesel manufacturer" to the list of persons requiring a fuel tax license. The amendment further places a biodiesel manufacturer under the same licensing, reporting, and bonding requirements as licensed wholesalers. Sec. 206.86(14) is created to add a definition for biodiesel. "Biodiesel" is defined as "any product made from nonpetroleum-base oils or fats which is suitable for use in diesel-powered engines. Biodiesel is also referred to as alkyl esters." Sec. 206.86(15), F.S., is created to provide a definition of the term "biodiesel manufacturer" to mean those industrial plants, regardless of capacity, where organic products are used in the production of biodiesel. This includes businesses that process or blend organic products that are marketed as biodiesel.

## **Fuel Tax – Corporate Certification**

(Section 10)

Sec. 206.02, F.S., requires corporations that apply for fuel tax licenses must provide the Department with a certified copy of the certificate or license issued by the Department of State showing that the corporation is authorized to transact business in this state. Obtaining this documentation places a burden on the corporation and is not needed by the Department.

The bill removes the requirement for corporations to provide a certified copy of a certificate issued by the Department of State. Instead, corporate fuel tax applicants must indicate the state, territory, or county where the corporation is organized and the date the corporation was registered as a foreign corporation with the Department of State.

## **Fuel Tax – Personal Data**

(Section 11)

Sec. 206.026, F.S., provides that a person or entity cannot hold a fuel license in Florida if that person or entity is not of good moral character or have been convicted of a felony in Florida or a felony in another state, which would be a felony in Florida, or a felony under the laws of the United States.

Currently, s. 206.026(5), F.S., provides that the Department shall make rules for photographing, fingerprinting, and obtaining personal data from the individuals described in s. 206.026(1)(a), F.S., for purposes of determining whether such individuals are not of good moral character or have been convicted. The Department of Law Enforcement (FDLE) advised the Department that it had received notification from the FBI that s. 206.026(5), F.S., does not comply with Public Law 92-544, which authorizes the FBI to do background checks for licensing purposes, based on submitted fingerprints. The FBI further notified FDLE that, after July 1, 2003, it would no longer process fingerprint cards submitted pursuant to s. 206.026(5), F.S. The federal law requires:

- 1) That there must be a state legislative enactment;
- 2) which requires that applicants be fingerprinted;
- 3) it must authorize the use of FBI records for screening;
- 4) it must identify the specific categories of licensees falling within its purview;
- 5) it must not be against public policy; and,
- 6) it must not identify a private entity as a recipient of the results.

The bill amends s. 206.026(5), F.S., to comply with the requirements of Public Law 92-544.

## **Fuel Tax – Amend Cross Reference**

(Section 12)

The bill amends s. 206.052, F.S., to update a cross reference to s. 206.416, F.S. The update in the cross reference is needed due to the amendments made to s.206.416, F.S., in Section 13 of the bill.

### **Fuel Tax – Failure to Provide Records** (Section 13)

Sec. 206.14, F.S., authorizes the Department to audit the books and records of terminal suppliers, importers, exporters, or wholesalers, retail dealers, terminal operators, or all private and common carriers to verify the truth and accuracy their fuel reports and determine whether or not fuel tax has been paid. However, s. 206.14, F.S., does not impose penalties specifically on persons who fail to provide adequate records to the Department.

The bill amends s. 206.14(2), F.S., to provide that any person who fails to provide required records shall, in addition to all other penalties, be subject to an additional penalty of \$5,000.

### **Fuel Tax – Collection of Local Option Fuel Taxes** (Section 14)

Sec. 206.01, F.S., provides that a “terminal” is a storage and distribution facility for taxable motor or diesel fuel, supplied by pipeline or marine vessel, that has the capacity to receive and store a bulk transfer of taxable motor or diesel fuel, including a loading rack through which petroleum products are physically removed into tanker trucks or rail cars, and that is registered with the Internal Revenue Service as a terminal. A “terminal supplier” is licensed by the Department as a terminal supplier for transactions involving the bulk storage and transfer of taxable motor or diesel fuels.

Sec. 206.414, F.S. provides that collection, by terminal suppliers, of local option fuel taxes is prohibited: when 1) one terminal supplier sells gasoline to another terminal supplier; 2) when a terminal supplier sells gasoline to a wholesaler; and, 3) when one wholesaler sells gasoline to another wholesaler. When such sales occur, the provisions of the section further prohibit a credit or refund when local option taxes are collected under the conditions prohibited.

Sec. 206.414(1), F.S., is added to provide that the fuel taxes previously prohibited from collection may now be collected at the loading rack of a terminal. The Department of Revenue shall determine a minimum amount of local option tax on gasoline prior to January 1 of each year, and the minimum amount shall be collected at the loading rack of terminals. The new taxes collected at the loading rack of a terminal shall be collected in the same manner as the taxes that were already required to be collected at the terminal, and the new taxes collected, refunded, or credited shall be distributed based on the current applied period.

The amendment provides that terminal suppliers and wholesalers shall not collect the new taxes above the annual minimum determined by the Department on authorized exchanges and sales to terminal suppliers, wholesalers, and importers. It further provides that terminal suppliers, wholesalers, and importers shall not pay, to their suppliers, the new taxes above the annual minimum on sales of gasoline.

### **Fuel Tax – Change in State Destination** (Section 15)

Sec. 206.416, F.S., requires that any person who sells fuel destined for sale or use in this state may change the destination state designated on the original shipping paper upon notification by the purchaser of the fuel by the 20th day of the month following the date of the transaction. The terminal supplier or position holder is required to document a change in destination state by issuing a new invoice bearing the corrected destination state. Each terminal supplier and position holder is also required to report monthly to the Department all changes in the state of destination, including the name of the purchaser, date, number of gallons of fuel, and the basis for the change. A terminal supplier or position holder who issues a change

in the state of destination on the invoice to this state from another state is required to collect and remit to the Department the Florida fuel taxes and is entitled to a credit or refund of any tax paid.

The bill relieves the terminal suppliers from a requirement to issue a new invoice, when properly notified by a customer that fuel purchased for use in this state was exported from the state. It further adds terminal suppliers to a requirement for obtaining a diversion number, and manually recording the number on shipping papers when fuel was purchased, destined for export from the state, but diverted for sale or use in this state. If a wholesaler or exporter diverts fuel to this state that was destined for out-of-state delivery more than 6 times within 3 consecutive months, the wholesaler or exporter must register as an importer within 30 days after such diversion. Penalties for violation of the new provisions shall be enforced in the same manner as prescribed in ss. 206.413 and 206.872, F.S.

### **Fuel Tax – Failure to Electronically File** (Section 16)

Section 206.485, F.S., provides authority to the Department to establish, by rule, an electronic filing requirement on fuel tax licensees. There are no provisions in Chapter 206, F.S., that impose a specific penalty for failure to file returns and remit tax electronically.

The bill creates s. 206.845(2), F.S., to provide that any person who fails to file an electronic fuel tax report within 3 months after notification of such failure by the Department shall, in addition to all other penalties prescribed by this chapter, be subject to an additional penalty of \$5,000 for each month such failure continues.

### **Section 17 – see Fuel Tax – Biodiesel above**

### **Fuel Tax – Seller of Alternative Fuel** (Section 18)

The current title of alternative fuel license is confusing as it is called “Wholesaler of Alternative Fuel” when it is actually for retailers who sell alternative fuel at a service station to an out of state licensed vehicle. Section 206.89, F.S., currently provides for the licensing provisions for wholesalers of alternative fuel. The bill amends the entire section to change the licensing requirements from a “wholesaler of alternative fuel” to a “retailer of alternative fuel.”

### **Local Government Infrastructure Surtax – Additional Uses** (Section 19)

The Local Government Infrastructure Surtax is levied at the rate of 0.5 or 1 percent pursuant to a local ordinance enacted by a majority vote of the county’s governing body and approved by voters in a countywide referendum. Generally, the proceeds must be expended to finance, plan, and construct infrastructure; to acquire land for public recreation or conservation or protection of natural resources; and to finance the closure of local government-owned solid waste landfills that are already closed and are required to close by order of the Department of Environmental Protection. Additional spending authority exists for select counties.

The bill provides that a charter county which is a member of a three county expressway or transit authority created by law and at least one of the three member counties is eligible to levy the High Tourism Impact County Local Option Tourist Development Tax may use the proceeds or any interests accrued thereto for operation and maintenance of a transit system. Orange, Osceola, and Seminole Counties meet this criteria.

### **Rental Car Surcharge – Reporting Requirements** (Section 20)

Beginning in FY 2007-2008 the proceeds of the rental car surcharge are required to be allocated to each Department of Transportation (DOT) district for projects, based on the amount of proceeds collected from the rental car surcharge collected within the respective districts. The majority of the rental car surcharge collected is reported on consolidated returns by companies with multiple locations and is not broken down by the amount of surcharge collected on a county-by-county basis. In order to accommodate DOT's needs for their 5-year planning cycle, the Department is presently providing an estimate of the rental car surcharge based on sales tax returns.

The bill gives the Department the authority to require dealers to report surcharge collections according to the county to which the surcharge was attributed. The surcharge shall be attributed to the county where the rental agreement was entered into.

Dealers who collect the rental car surcharge shall report all surcharge revenues attributed to the county where the rental agreement was entered into to the Department on a timely filed return for each required reporting period.

### **Sales and Use Tax – Apportionment Formula for New Motor Carrier** (Section 21)

Sec. 212.08(4)(a)2., F.S, provides that railroads and vessels engaged in interstate or foreign commerce can prorate their Florida taxable purchases and their purchases of motor fuels and diesel fuels to determine the tax due on such purchases. The basis of the tax is the ratio of intrastate mileage to interstate or foreign mileage traveled by the railroad or vessel during the previous fiscal year (if the carrier had at least some Florida mileage). Once calculated, the ratio is applied against the carrier's Florida taxable purchases and Florida purchases of motor fuels and diesel fuels. There is no statutory provision for prorating the tax on purchases of motor fuels and diesel fuels tax if the carrier has been operating for less than a fiscal year, as there is for other Florida taxable purchases.

The bill authorizes carriers to prorate the tax on their purchases of motor fuel and diesel fuel used in a railroad locomotive or vessel when the carrier has been in business for less than a year, consistent with the language in s. 212.08(8) and (9)(a), F.S.

### **Sales and Use Tax – Affordable Housing in a Brownfield** (Section 21)

Building materials used in real property contracts for redevelopment housing projects are exempt from sales tax. The exemption is realized through a refund of previously paid sales taxes. The term "housing project," as defined in s. 212.08(5)(o)1.b., F.S., means existing manufacturing or industrial building or housing units in an urban high-crime, enterprise zone, empowerment zone, Front Porch Community, urban infill area, or a designated brownfield area."

The bill amends the definition of a "housing project" to include "or the construction in a designated brownfield area of affordable housing for persons described in ss. 420.0004(9), (10), or (14), or in s. 159.603(7)."

Sec. 420.0004(9), F.S., states: "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Sec. 420.0004(10), F.S., states: "Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual

adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Sec. 420.0004(14), F.S., states: "Very-low-income persons" means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

Sec. 159.603(7), F.S., states: Eligible persons" means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the housing finance authority to be of low, moderate, or middle income. Such determination does not preclude any person or family earning up to 150 percent of the state or county median family income from participating in programs. Persons 65 years of age or older shall be defined as eligible persons regardless of their incomes. In determining the income standards of eligible persons for its various programs, the housing finance authority may consider the following factors:

- (a) Requirements mandated by federal law.
- (b) Variations in circumstances in different areas of the state.
- (c) Whether the determination is for rental housing or homeownership purposes.
- (d) The need for family-size adjustments to accomplish the purposes set forth in this act.

#### **Sales and Use Tax – Low-Speed Vehicles**

(Section 21)

The bill creates a sales tax exemption for the sale or rental of a low speed-vehicle. Low-speed vehicles are defined by s. 320.01(42), F.S., to be any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

Sec. 316.2122, F.S., provides that a low-speed vehicle may operate on any roadway with the following restrictions:

- (1) A low-speed vehicle may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.
- (2) A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.
- (3) A low-speed vehicle must be registered and insured in accordance with s. 320.02.
- (4) Any person operating a low-speed vehicle must have in his or her possession a valid driver's license.
- (5) A county or municipality may prohibit the operation of low-speed vehicles on any road under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.
- (6) The Department of Transportation may prohibit the operation of low-speed vehicles on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

(Section 22)

## **Sales and Use Tax – Tax Brackets**

(Section 23)

Section 212.12, F.S., provides the brackets for collection of tax at 6 percent and at 7 percent in counties with a 1 percent surtax. The Department is authorized to provide by rule the brackets for other rates of tax.

The bill permits the Department to establish new tax brackets when necessary without requiring rulemaking when a tax rate changes. The brackets are a mathematical function that should not require rulemaking. When a tax rate changes, it is often not possible to complete the rulemaking process to establish the brackets for that rate prior to the date it takes effect. The bill also permits the Department to make the brackets for tax collection available in an electronic format.

## **Sales and Use Tax – Collection Allowance**

(Section 23)

Sec. 212.12(1), F.S., provides that for each reporting period dealers who collect sales tax are allowed a collection allowance of 2.5 percent of the amount of tax due for remitting tax and filing a return. The collection allowance can not exceed \$30. A dealer cannot claim the collection allowance if the required tax return or tax is delinquent at the time of payment.

Chapter 2002-213, Laws of Florida, amended s. 213.21(10), F.S., to allow the Department to automatically waive penalties for a one-time noncompliant tax return for an otherwise compliant taxpayer. Previously, such a taxpayer would have had to request the penalty waiver in writing. However, since no amendments were made to s.212.12(1)(a), F.S., in 2002, the Department is still required to disallow the collection allowance for a one-time noncompliant tax return.

The bill authorizes the Department to disallow the collection allowance if the tax return or tax or fee is delinquent at the time of payment, or if an incomplete return is filed.

## **Sales and Use Tax – Penalties for Noncompliance**

(Section 23)

Sec. 212.12(2), F.S., imposes a penalty on the late payment or late filing of sales tax at the rate of 10 percent of unpaid tax for every 30 days, up to a maximum of 50 percent and with a minimum penalty of \$10. The minimum penalty for quarterly, semiannual and annual filers is \$5.

The bill revises the penalty provisions by amending s. 212.12(2), F.S., to impose a 10 percent penalty, with a \$50 minimum, when a person either fails to timely file a return or timely pay the tax or fee shown due on the return, except as provided in s. 213.21(10), F.S. This penalty does not accumulate for each additional 30-day period. However, if a person fails to timely file a return and to timely pay the tax or fee shown on the return, then only one 10 percent penalty, with a \$50 maximum, is assessed.

In addition to all other penalties provided in this section, the bill imposes a 10 percent penalty for failure to timely disclose a tax or fee on a return. The penalty accumulates at 10 percent per thirty days up to a maximum of 50 percent of any unpaid tax or fee.

## **Information Sharing – Rental Car Surcharge Revenues**

(Section 24)

The bill amends s. 213.053, F.S., to allow the Department of Revenue to provide rental car surcharge revenues reported according to the county to which the surcharge was attributed to the Department of Transportation.

## **Registration Information Sharing and Exchange Program – Municipal Resort Tax** (Section 25)

Sec. 213.0535, F.S. authorizes the Registration Information Sharing and Exchange Program (RISE) which allows the Department to share taxpayer information with local governments that collect and administer local taxes and other state agencies that collect taxes. Presently, a local government that collects the municipal resort tax is not authorized to participate in RISE.

The bill amends s. 213.0535, F.S., to allow local governments that collect the municipal resort tax to participate in RISE. Miami Beach, Bal Harbour, and Surfside collect the municipal resort tax.

## **Certified Audits Project** (Sections 24, 28, & 29)

When the Certified Audit Project was authorized by the Legislature in 1998, a sunset provision was included of July 1, 2002, or upon completion of the project as determined by the Department, whichever occurs first. This program allows a taxpayer to hire a private Certified Public Accountant (CPA) firm to perform a compliance audit. Taxpayers reporting a liability under this program receive a waiver of penalties and of the first \$25,000 in interest and of 25% of any interest in excess of \$25,000. In 2002, the sunset provision was extended from July 1, 2002, to July 1, 2006.

This bill repeals the sunset provisions for the Certified Audit Project so the Project becomes a permanent program. The bill also requires the Department to submit a report to the President of the Senate, Speaker of the House, Chair of the Senate Committee on Finance and Taxation and Chair of the House Committee on Finance and Tax, by January 1, 2006, regarding the effectiveness of certified audits as a tool in the overall state tax collection effort. The report shall include statistics, from the time of the programs inception, on taxes assessed and collected pursuant to the certified audits, interest and penalties compromised, the cost to the state to support the certified audits project, and the impact, if any, on taxpayer compliance. The Legislature will review the report at that time to determine if any modifications should be made.

## **All Taxes – Voluntary Self-disclosures** (Sections 26 & 27)

Taxpayers often find that they have not complied with the tax laws. When this discovery is made, taxpayers will contact the Department to voluntarily self-disclose any liability and to come into compliance with the tax laws. As an incentive to encourage this activity the Department is authorized to settle and compromise the tax and interest due under the voluntary disclosure to the amounts due for the 5 years immediately proceeding the date that the taxpayer contacts the Department. When revisions were made to Section 95.091, F.S., in 1999 reducing the statute of limitation for audits from 5 years to 3 years amending s. 213.21(7)(a), F.S., was not also changed to 3 years. The current statutory language provides a disincentive to taxpayers to voluntarily disclose a potential tax liability.

The bill amends s. 213.21(7)(a), F.S., to change the lookback period in instances of voluntary self-disclosure from 5 years to 3 years to encourage more taxpayers to come forward when they are aware that they have an outstanding tax liability. This lookback period will be the same number of years as the audit period.

## **Local Option Fuel Tax – Distribution** (Section 30)

Sec. 336.021(1), F.S., contains provisions that specify the manner under which local option fuel taxes are distributed by the Department to counties. Counties in which qualifying new retail stations begin operations after June 30, 1996, are authorized the distribution of local option taxes. For a station to qualify, the station

is required to have diesel sales exceeding 50 percent of the overall fuel sales of the station. The 50 percent threshold is determined on gallons of diesel fuel sold during the period between April 1 of one year and March 31 of the next year. Distribution of the local option taxes from sales of motor fuel are determined based on the tax reported to the Department by terminal suppliers and importers

The bill changes the qualifying period for retail stations to: February 1 of one year to January 31 of the next year. In addition, the bill specifies that local option taxes reported by wholesalers are included in the distribution process.

### **Unemployment Compensation Tax – Limited Liability Company** (Section 31)

Presently Florida law does not provide any basis to determine the treatment of limited liability companies (LLC's) for Florida unemployment compensation tax purposes. An LLC may be treated as a partnership, sole proprietor, or a corporation for federal purposes depending on the structure of the LLC. This lack of clear treatment has caused confusion.

The bill amends the definition of an "Employing unit" in s. 443.036 (20), F.S. to include a limited liability company. A limited liability company shall be treated as having the same status as that in which it is classified for federal income tax purposes. The bill also provides that any person who is an officer or a member of a limited liability company classified as a corporation for federal income tax purposes and who performs services for a limited liability company shall be deemed an employee of the limited liability company.

### **Unemployment Compensation Tax – Transfer of Employees** (Section 32)

Chapter 443, F.S., allows an employer to obtain the tax rate of another business if there is a transfer of business, merger, or consolidation, and if the employer "continues to carry on the employing enterprises of the business."

Large companies are able to manipulate the current tax laws by transferring employees between different companies, solely to avoid their experience based unemployment tax rate. This employee transfer results in the loss of substantial tax revenue for the trust fund. The United States Department of Labor, in order to ensure the integrity of the both the unemployment trust fund and the tax rating system, has asked states to take action.

The bill amends s. 443.131(3)(g)1., F.S., to provide that an employer may not be considered a successor if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding taxes.

### **Unemployment Compensation Tax – Contract with the Department of Revenue** (Section 33)

Pursuant to s. 443.1316, F.S., the Department of Revenue and the Agency for Workforce Innovation have entered into a contract whereby the Department administers Florida's unemployment tax program. The program is funded with federal monies. The Department has incurred certain overhead and indirect costs in administering the program. Federal guidelines allow for the reimbursement of the Department's overhead and indirect costs. However, state law, s. 216.346, F.S., limits the Department's recovery of these costs to no more than 5 percent of the total costs of the contract. Therefore, although federal guidelines would allow for the payment by federal monies of more than 5 percent of overhead and indirect costs, due to this state law, the Department must use state general revenue to pay for its overhead and indirect costs which exceed 5 percent of the contract. During fiscal year 2001-02, this amounted to approximately \$2.2 million

of state general revenue for costs which, but for s. 216.346, F.S., would have been paid for with federal monies.

The bill amends s. 443.1316, F.S., to exempt the contract between the Department of Revenue and the Agency for Workforce Innovation from the provisions of s. 216.346, F.S., removing the restriction on overhead and indirect costs.

### **Unemployment Compensation Tax – Electronic Reporting and Remitting**

(Sections 34 & 35)

Sec. 443.163 (1), F.S., provides that any person that prepared and reported for 5 or more employers in the preceding state fiscal year, must submit the Employers Quarterly Reports (UCT-6) for the current calendar year and remit the taxes due by electronic means. The bill amends s. 443.163 (1), F.S., to provide that a person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports (UCT-6) for each calendar quarter in the current calendar year, beginning with reports due for the second calendar quarter of 2003, by electronic means.

Sec. 443.163 (2), F.S., provides any employer or person who fails to file an Employers Quarterly Report (UCT-6) by electronic means required by law is liable for a penalty of 10 percent of the tax due, but not less than \$10 for each report. The bill repeals the penalty of 10 percent of the tax due and sets the penalty at \$10 for each report.

### **Insurance Premium Tax – Service Company**

(Section 36)

Chapter 624 imposes a tax on insurance premiums. The rates are: 1.75% on gross premiums minus reinsurance and return premiums; 1% on annuity premiums; 1/6% on self insurers; and 5% on surplus lines premiums. Various credits are allowed against insurance premium tax including the salary tax credit authorized by s. 624.509(5), F.S. The salary tax credit is equal to 15% of the amount paid by the insurer in salaries to employees located or based within Florida.

MetLife, Inc. is the holding company parent of Metropolitan Life Insurance Company, New England Financial, General American Life Insurance Company, and several other insurers. In 2002, MetLife, Inc. undertook an internal reorganization and formed a service company subsidiary. The employees of each of these insurers were transferred to the service company, MetLife Group, Inc., to simplify how services are performed and how services are performed and personnel-related expenses are allocated and accounted for across the MetLife group of companies. The reorganization did not result in a change in the number of MetLife's total employees. However, since the insurance company is no longer paying the salaries, MetLife is no longer eligible for the salary tax credit under current law.

The bill amends s. 624.509(5), F.S., to create a salary tax credit for "an affiliated group of corporations that created a service company within its affiliated group on July 30, 2002." This amendment only applies to MetLife, Inc.

### **Electronic Funds Transfers**

(Section 37)

Florida Statutes require taxpayers to file returns and remit tax payments by electronic means where the taxpayer is subjected to tax and has paid that tax in the prior state fiscal year in the amount of \$30,000 or more.

Section 832.062, F.S., is the controlling statute with respect to prosecution for worthless checks, drafts, or debit card orders given to pay any tax administered by the Department of Revenue. As written, s. 832.062, F.S., does not proscribe unlawful conduct related to dishonored or refused electronic funds transfers in payment of state taxes. Because the statute does not prohibit such conduct, a taxpayer is not subject to

prosecution under the statute, where an electronic funds transfer is initiated with respect to payment of taxes due and the transaction is dishonored or refused. It has come to the attention of the Department that some taxpayers make a habit of making an electronic funds transfer in payment of state taxes knowing at the time the Automated Clearinghouse debit transaction is executed, that he or she does not have sufficient funds on deposit in or credit with the receiving financial institution to pay the taxes due. Without some criminal sanctions, such behavior will only continue.

The bill amends s. 832.062, F.S., to provide that any attempt to initiate, send, or make a required electronic funds transfer payment (EFT) when the taxpayer does not have sufficient funds available to complete the EFT transaction will be subject to the same prosecution as payment with a worthless check, bank draft, or debit card. The act will be a second-degree misdemeanor if the amount is less than \$150, and a third-degree felony if the amount is more than \$150.

#### C. SECTION DIRECTORY:

**Section 1:** Repeals s. 199.052(13), F.S.

**Section 2:** Amends s. 212.11(15)(a), F.S., to amend the definition of “service address” for communications services tax purposes; amends subsection (16) to provide that a “substitute communications system” does not include a not-for-hire mobile communications service that exclusively serves the internal communication needs of a nonprofit utility provider.

**Section 3:** Amends s. 202.125(4) to create an exemption from communications services tax for homes for the aged.

**Section 4:** Adds subsection (8) to s. 202.22, F.S., to provide that all local communications services taxes collected by a dealer under the representation that they are taxes are state funds from the moment of collection.

**Section 5:** Provides that Section 4 of the bill is remedial in nature and is intended to clarify existing law.

**Section 6:** Creates subsections (6) and (7) of s. 202.27, F.S., to require a taxpayer to designate a managerial representative; requiring a response from the taxpayer; providing a procedure for the taxpayer and the Department to resolve a material error on a tax return; providing a definition; provides that subsection (7) of s. 202.27, F.S., is repealed on June 30, 2004

**Section 7:** Amends s. 202.28(2), F.S., to provide penalties for noncompliant communications services tax returns.

**Section 8:** Amends s. 202.34(5), F.S., to provide penalties for failure to provide certain taxpayer records.

**Section 9:** Amends s. 202.35, F.S., to provide the Department may determine proper allocation of communications services tax to local jurisdictions under specified circumstances.

**Section 10:** Amends s. 206.02, F.S., to provide licensing requirements to biodiesel manufacturers; repeals requirement that certain license holders provide the Department with a certified copy of its authorization to transact business.

**Section 11:** Amends s. 206.026(5), F.S., to revise the requirements for the Department to obtain fingerprints for motor fuel license applicants.

**Section 12:** Amends s. 206.026(5), F.S., to update a cross-reference.

**Section 13:** Amends s. 206.14(2), F.S., to provide that any person who fails to provide required records shall, in addition to all other penalties, be subject to an additional penalty of \$5,000.

**Section 14:** Amends s. 206.414(1), F.S., to provide that the fuel taxes previously prohibited from collection may now be collected at the loading rack of a terminal.

**Section 15:** Amends s. 204.416(1), F.S., to relieve the terminal suppliers from a requirement to issue a new invoice, when properly notified by a customer that fuel purchased for use in this state was exported from the state; adds terminal suppliers to a requirement for obtaining a diversion number; add the requirement that if a wholesaler or exporter diverts fuel to this state that was destined for out-of-state

delivery more than 6 times within 3 consecutive months, the wholesaler or exporter must register as an importer within 30 days after such diversion; provides penalties for violation of the new provisions.

**Section 16:** Creates s. 206.845(2), F.S., to provide that any person who fails to file an electronic fuel tax report within 3 months after notification of such failure by the Department shall, in addition to all other penalties prescribed by this chapter, be subject to an additional penalty of \$5,000 for each month such failure continues.

**Section 17:** Amends s. 206.86(1), F.S., to amend the definition of diesel fuel; adds s. 206.86(14) to create a definition for biodiesel; adds s. 206.86(15) to create a definition for biodiesel manufacturer.

**Section 18:** Amends s. 206.89, F.S., to change the licensing requirements from a "wholesaler of alternative fuel" to a "retailer of alternative fuel."

**Section 19:** Amends s. 212.055(2)(d), F.S., to provide for additional uses of revenue from local government infrastructure surtax under specified circumstances.

**Section 20:** Amends s. 212.0606(2) and (3), F.S., to give the Department the authority to require dealers to report surcharge collections according to the county in which the surcharge was collected. ***This section has an effective date of January 1, 2004.***

**Section 21:** Amends s. 212.08(4)(a), F.S., to authorize carriers to prorate the tax on their purchases of motor fuel and diesel fuel used in a railroad locomotive or vessel when the carrier has been in business for less than a year. Amends (5)(o) to amend the definition of housing project for purposes of the exemption from sales and use tax for building material used in redevelopment projects. Creates (7)(ccc) to create a sales and use tax exemption for low-speed vehicles.

**Section 22:** Amends s. 212.11(4)(a), F.S., to update a cross reference.

**Section 23:** Amends s. 212.12(1), F.S., to allow the Department to disallow the sales tax dealers' collection allowance if the tax return or tax or fee is delinquent at the time of payment, or if an incomplete return is filed; amends s. 212.12(2), F.S., to amend penalties for noncompliance; amends ss. 212.12(9), (10), and (11), F.S., to permit the Department to establish new tax brackets when necessary without requiring rulemaking when a tax rate changes

**Section 24:** Amends s. 213.053(7)(m), F.S., to repeal the sunset of the Certified Audits Project.

**Section 25:** Amends s. 213.0535(4), F.S., to allow local governments that collect the municipal resort tax to participate in RISE.

**Section 26:** Amends 213.21, F.S., to decrease the look back period for voluntary self-disclosures from 5 years to 3 years.

**Section 27:** ***Provides that the amendments to s. 213.21, F.S., take place upon the bill becoming a law.***

**Section 28:** Amends s. 213.21, F.S., to repeal the sunset of the Certified Audits Project.

**Section 29:** Amends s. 213.285, F.S., to repeal the sunset of the Certified Audits Project; provides for a report on the Certified Audits Project by the Department of Revenue by January 1, 2006.

**Section 30:** Amends s. 336.021(1) to change the qualifying period for retail stations to: February 1 of one year to January 31 of the next year; specifies that local option taxes reported by wholesalers are included in the distribution process.

**Section 31:** Amends s. 433.036(20), F.S., to include a limited liability company in the definition of an employing unit. ***This section has an effective date of January 1, 2004.***

**Section 32:** amends s. 443.131(3)(g)1., F.S., to provide that an employer may not be considered a successor if the employer purchases a company with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding taxes. ***This section has an effective date of January 1, 2004.***

**Section 33:** Amends s. 443.1316, F.S., to exempt the contract between the Department of Revenue and the Agency for Workforce Innovation from the provisions of s. 216.346, F.S., removing the restriction on overhead and indirect costs. Deletes obsolete language.

**Section 34:** Amends s. 443.163 (1), F.S., to provide that a person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports (UCT-6) for each calendar quarter in the current calendar year, beginning with reports due for the second calendar quarter of 2003, by electronic means; revises the penalty for failure to file by electronic means.

**Section 35:** Provides that the amendments to s. 443.163, F.S., are retroactive for reports due on or after April 1, 2003.

**Section 36:** Amends s. 624.509(5), F.S., to create a salary tax credit for “an affiliated group of corporations that created a service company within its affiliated group on July 30, 2002.”

**Section 37:** Amends s. 832.062, F.S., to provide that any attempt to initiate, send, or make a required electronic funds transfer payment (EFT) when the taxpayer does not have sufficient funds available to complete the EFT transaction will be subject to the same prosecution as payment with a worthless check, bank draft, or debit card.

**Section 38:** Provides that except as otherwise expressed in the bill, the act shall take effect July 1, 2003.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2003-04

Issue	<u>General Revenue</u>		<u>State Trust</u>		<u>Local Trust</u>		<u>Total</u>	
	<u>Cash</u>	<u>Recurr</u>	<u>Cash</u>	<u>Recurr</u>	<u>Cash</u>	<u>Recurr</u>	<u>Cash</u>	<u>Recurr</u>
	Homes for the Aged	-0.1	-0.1	(*)	(*)	(*)	(*)	-0.1
Sourcing Rule for Third Number and Calling Cards	**	**	**	**	**	**	**	**
Substitute Communication Systems	-0.2	-0.2	(*)	(*)	-0.1	-0.1	-0.3	-0.3
Salary Tax Credit for Service Company	-3.1	-2	0	0	0	0	-3.1	-2
Low-speed Vehicles	-0.4	-0.5	(*)	(*)	-0.1	-0.1	-0.5	-0.6
Affordable Housing in Brownfeild	0	0	0	0	0	0	0	0
<b>Total</b>	-3.8	-2.8	0	0	-0.2	-0.2	-4	-3

2. Expenditures: None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: See table above.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: Homes for the aged will no longer have to pay communications services tax on communications services. Purchasers or renters of low-speed vehicles will not have to pay sales tax on the purchase or rental. A nonprofit utility provider will not have to pay communications services tax for private internal two-way mobile radio systems.

D. FISCAL COMMENTS:

The amendment to s. 443.1316, F.S., exempting the contract between the Department of Revenue and the Agency for Workforce Innovation from the provisions of s. 216.346, F.S., limiting the Department's recovery of overhead and indirect costs to 5 percent of the total costs of the contract, will save the state general revenue. In fiscal year 2001-02, the overhead and indirect costs above the 5 percent cap cost the General Revenue Fund \$2.2 million.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES