

# Session Spotlight



## PROVISIONS IN THE HOUSE TAX PACKAGE & CORRESPONDING SENATE LEGISLATION

March 4, 2020

*THIS REPORT IS BASED ON  
THE PROVISIONS OF THE  
LEGISLATION AS OF MARCH 4.*

**It appears the 2020 Legislature will cut taxes again.** As has been recent practice, the House Ways & Means Committee developed a package of tax cuts and other tax related provisions, while the Senate has moved individual tax bills through committee. We likely will not see the Senate's full tax proposal until the House bill (HB 7097) reaches the Senate floor and it offers an amendment.

The House package includes \$61.6 million in one-time cuts and \$128.0 million in recurring cuts. This includes local taxes of \$24.8 million (one-time cuts) and \$42.5 million (recurring cuts). By delaying the effective date of largest recurring tax cuts until January 1, 2021, the House was able to limit the loss of General Revenue (GR) in the upcoming budget year to \$87.3 million. The two biggest House cuts are two Florida TaxWatch top priorities: reductions in the business rent tax and the communications services tax.

Most of the other House tax cuts are relatively small and narrow in application. Most of these do not have corresponding Senate bills. HB 7097 also includes a number of other tax changes, some of which are administrative

The House could vote on its tax package this week. The Senate has not yet passed any major tax bills, but two sales tax holiday bills are on the Calendar.

The following is a description of all the provisions in the 110-page House tax package, and notes if there is Senate legislation containing the provisions.

### RECURRING TAX CUTS

**Communications Sales Tax** – A cut in the CST is the centerpiece of the package and is the largest reduction. The CST is levied on wireless, landline (partial exemption), cable, satellite television and streaming services. Effective January 1, 2021, the state CST rate would be reduced from 4.92 percent to 4.42 percent (a 2.52 gross receipts tax and local CST taxes also apply to communications services.) The state CST rate on direct-to-home satellite services would be reduced from 9.07 percent to 8.57 percent (gross receipts tax, but not local taxes, also apply.) [This is a Florida TaxWatch priority.](#)

***Tax Savings:***

First Year – State \$20.9 million   Local \$4.0 million   Total \$24.9 million  
Recurring – State \$50.1 million   Local \$9.6 million   Total \$59.7 million

***Senate:***

SB 1174 would reduce and make uniform local CST rates, along with a very small reduction in the state rate (4.92 percent to 4.90 percent). It only passed one committee.

**Business Rent Tax** – Effective January 1, 2021, the state sales tax rate on commercial leases would be cut from 5.5 percent to 5.4 percent (local taxes also apply). The reduction/elimination of this tax—which is unique to Florida—is a [long-time recommendation of Florida TaxWatch](#). This would be the fourth straight year the tax was reduced. We hope the Legislature can find a way to increase this relatively small rate cut.

***Tax Savings:***

First Year – State \$14.0 million   Local \$1.8 million   Total \$15.8 million  
Recurring – State \$29.3 million   Local \$3.8 million   Total \$33.1 million

***Senate:***

No Senate BRT bill was filed this session, but the Senate has been supportive of reducing the BRT in the past.

**Aviation Fuel Tax** – The tax rate paid by commercial carriers or all-cargo operations would be effectively reduced from 2.85 to 1.89 cents per gallon. In 2018, the Legislature reduced the rate from 4.27 to 2.85 cents per gallon. Both reductions have to be claimed by paying the full 4.27 rate and then requesting refunds. This is the only proposed tax cut that has a more than insignificant impact on state trust fund (TF) revenue. The State Transportation Trust Fund would lose \$4.8 million annually, dollars that go to airport improvements.

***Tax Savings:***

First Year – State GR \$0.3 million   State TF \$3.2 million   Total \$3.5 million  
Recurring – State GR \$0.4 million   State TF \$4.8 million   Total \$5.2 million

***Senate:***

SB 1192 would repeal the entire 4.27 cents per gallon aviation tax. It only passed one committee.

**Insurance Premium Tax** - Surplus lines insurance is insurance for risks for which the Florida licensed market is unable or unwilling to provide coverage. The tax rate on surplus lines is 5 percent but for a multistate policy, the tax rate is limited to the tax rate where an insured risk is located. The bill would reduce the rate to 4.94 percent and eliminate the provision in statute that limits the tax on risk outside of Florida to the tax rate where the insured risk is located.

***Tax Savings:***

Indeterminate (may be positive or negative)

***Senate:***

No bill

**Expanding Property Tax Exemption for Inventory** - Inventory is exempt from property taxes. The bill would expand the definition of “inventory” to include construction equipment owned by a heavy equipment rental dealer for sale or short-term rental in the normal course of business. The exemption would not apply to school property taxes.

***Tax Savings:***

Local –Recurring \$20.5 million

***Senate:***

No bill

**Electric Utility Tangible Personal Property (TPP)** – TPP is taxable when it is part of construction work in progress when “substantially complete” or connected to the existing property. The bill clarifies that for TPP constructed or installed by an electric utility, construction work in progress is not deemed substantially complete unless all permits or approvals required for commercial operation have been received and approved.

***Tax Savings:***

Local – First Year \$2.6 million    Recurring \$2.6 million

***Senate:***

No bill

**Property Tax Exemption for Non-Profit Hospitals** – In what could be considered a tax increase (although the provision carries an “indeterminate” fiscal estimate), a hospital’s exemption would be limited to the value of the charity care it provides (as reported to the IRS). The House has a separate bill (HB 919) awaiting a floor vote that would do the same thing.

***Tax Impact:***

Indeterminate positive local revenue impact

***Senate:***

No bill.

**Condo Appeal Representation** - The bill clarifies that when a condominium or cooperative association has filed a single joint petition to challenge a tax assessment, the association may continue to represent, prosecute, and defend the unit owners through any related subsequent proceeding in any tribunal and any appeals. This provision will apply to cases pending on July 1, 2020. The bill also requires that if the association chooses to continue in the appeal process, it must notify all unit owners of their options to participate or not participate.

***Tax Savings:***

Local – First Year \$5.5 million    Recurring \$1.7 million

***Senate:***

No bill

**Educational Property Tax Exemption** - Property used for educational purposes is generally exempt from property tax in Florida if the property is owned by an educational institution. The bill would also allow the exemption if, under a lease, the educational institution is responsible for any taxes owed and for ongoing maintenance and operational expenses, and if the property has been used for educational purposes and has received the exemption for that property for any 10 prior years. Two schools have been identified as being impacted by this legislation.

***Tax Savings:***

Local –Recurring \$4.2 million

***Senate:***

No bill

**Property Tax Exemption for Deployed Servicemembers** - The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the United States. The military operations that qualify must be designated by the Legislature in statute. The proposal would add three operations to the list.

***Tax Savings:***

Insignificant negative local impact (less than \$50,000)

***Senate:***

No bill

## ONE-TIME TAX CUTS

**Back-to-School Sales Tax Holiday** – In what has become a perennial tax relief measure, a three-day sales tax holiday would be held from August 7-9, 2020. During the holiday, clothing (including footwear, wallets and bags) that cost \$60 or less would be exempt from the state and local sales taxes. Also exempt would be school supplies costing \$15 or less and the first \$1,000 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. [See why Florida TaxWatch supports sales tax holidays.](#)

### ***Tax Savings:***

One-time – State \$32.3 million   Local \$9.5 million   Total \$41.8 million

### ***Senate:***

SB 542 proposes a longer holiday—seven days. The only other difference is that the Senate would exempt computers and computer accessories priced less than \$1,000 (instead of exempting first \$1,000 of the sales price). SB 542 has passed all its committees. The Senate's proposed holiday would save taxpayers \$65.1 million.

**Disaster Preparedness Sales Tax Holiday** – The House would create a seven-day sales tax holiday from May 29 - June 4, 2020 for specified items related to disaster preparedness. The exempt items (and price limits) would be: portable self-powered light sources (\$20); portable self-powered, two-way, or weather band radios (\$50); tarps or other flexible waterproof sheeting (\$50); ground anchor or tie-down kits (\$50); gas or diesel fuel tanks (\$25); packages batteries, excluding automobile and boat batteries (\$30); nonelectric food storage coolers (\$30); portable generators (\$750); and reusable ice (\$10).

### ***Tax Savings:***

One-time - State \$4.3 million   Local \$1.3 million   Total \$5.6 million

### ***Senate:***

SB 524 proposes a longer holiday—18 days. The only other difference is that the Senate would exempt impact-resistant windows and doors when sold in units of 20 or fewer (windows) or ten or fewer (doors). SB 524 has passed all its committees. This proposal would save taxpayers \$20.7 million.

**Brownfields Tax Credit** – There is currently a credit against corporate income taxes for voluntary brownfield cleanup of up to \$500,000 per site. The credits are limited to \$10 million per year. The proposal would provide a one-time additional tax credit authorization of \$8.2 million for FY 2020-21 to address the backlog of approved credits.

### ***Tax Savings:***

One-time - State \$8.2 million

### ***Senate:***

No bill

**Corporate Income Tax Refunds/Tax Credit Scholarships** – This spring, the state will be refunding \$543 million in excess corporate income tax revenues that are due to Florida adopting provisions of the federal Tax Cuts and Jobs Act that expanded Florida's tax base. Current law would distribute those refunds by giving each corporation a refund equal to total refunds multiplied by that taxpayer's final tax liability as a percentage of the total liabilities of all eligible taxpayers. This proposal would add a company's contributions to the Florida Tax Credit Scholarship Program to its final tax liability. Individual companies that contributed to the scholarship program would receive larger refunds, but the other companies would receive smaller refunds. Net state revenue would not be impacted.

***Tax Savings:***

Net state revenue would not be impacted.

***Senate:***

No bill.

**Like-Kind Property Exchange Tax Credit** - The bill would provide a one-time \$2 million credit against 2018 corporate income tax liability for car rental, leasing and sales financing companies that experienced huge state tax increases due to the loss of the tax treatment of like-kind (IRS Section 1031) exchanges. To qualify for the credit, a company must have had a final tax liability of more than \$15 million and this liability must also be at least 700 percent greater (or \$15 million greater for car financing companies) than the prior tax year. This is relatively minor relief since it would take a tax increase of at least \$13.125 million to qualify for the \$2 million credit.

***Tax Savings:***

One-time - State \$6.0 million

***Senate:***

SB 1240 has this same provision. It was approved by one committee.

## OTHER TAX CHANGES – NON-CUTS

**Tourist Development Taxes** – The proposal expands the list of acceptable uses of TDT revenues to include water quality improvement projects such as flood mitigation; seagrass or seaweed removal; algae control, cleanup, or prevention measures; and septic to sewer conversion projects. [Read why Florida TaxWatch opposes this.](#) The bill also would restructure the authorized uses of tourist development, convention development, and local option food and beverage taxes levied in Miami-Dade County. This includes renaming Miami-Dade's 2 percent food and beverage tax as the "Local Option Coastal Recovery and Resiliency Tax" and changing its use from currently funding the Greater Miami Convention and Visitors Bureau (after current contracts expire) to funding water quality improvements, beach renourishment, purchase of conservation lands, erosion control, mangrove protection, and removal of invasive species.

***Senate:***

SB 334 would authorize TDT revenue to be used to promote or incentivize film or television production in Florida. It passed two committees but stalled in Appropriations.

**School Capital Outlay Surtax** – Future resolutions to levy the tax must include a statement that the revenues collected shall be shared with charter schools based on their proportionate share of the total school district enrollment.

***Senate:***

No bill

**Sports Development Program** – The program, which distributes state sales and use tax revenue to fund professional sports franchise facilities, would be eliminated. The distribution is based on 75 percent of the sales tax generated at the facilities. To date, no funds have been distributed under the program. The House also has a separate bill (HB 6097) to eliminate the program that is also awaiting a floor vote.

***Senate:***

No bill

**Value Adjustment Boards** – Many VAB special magistrates are employed in the appraisal business. To reduce conflicts of interest, the proposal provides that an appraisal performed by a special magistrate may not be submitted as evidence to the value adjustment board in any year during which he or she has served on that board as a special magistrate.

**Senate:**

No bill

**Tax Collection Enforcement Diversion Program** – This program, operated by DOR in cooperation with the Centers for Independent Living and state attorneys, collects sales tax from taxpayers with habitual misdemeanor delinquencies. Half of the money goes to the state and half goes to a program that provides personal care attendants and other support services to persons with significant and chronic disabilities to enable them to obtain or maintain employment. This bill would increase the amount going to this program from 50 percent to 75 percent. This would reduce state revenues, and increase funding of the program by \$1 million.

**Senate:**

No bill

**Charter County and Regional Transportation System Surtax** – Four counties levy this tax, primarily used for transit (up to 25 percent may be used for non-transit). The bill would repeal Miami-Dade's tax on December 31, 2049. The bill also provides that any new levy of the surtax by any county may not be authorized for more than 20 years.

**Senate:**

No bill

**Department of Revenue Tax Administration Recommendations** – The House tax package also include a number of recommendations from DOR to improve tax administration and property tax oversight. These include:

- Tolling the statute of limitations for refund claims to allow taxpayers to apply for refunds during the audit process.
- Extending from 3 to 5 years the time for commencement of repairs to property damaged by Hurricane Michael without the property owner losing the prior assessment limitation.
- Updating real property classification language to classify apartments with more than nine units as commercial property.
- Updating DOR's tax roll review requirements to delete the requirement that the department do in-depth reviews of tangible personal property and to delete the requirement that the department calculate a confidence interval for an entire property roll.
- Increasing the timeframes during which non-residents and dealers must provide documentation demonstrating that boats and aircraft purchased in Florida were removed from the state.
- Changing the penalty for not properly labeling dyed diesel fuel from \$10 per gallon to \$2,500 for every month that dyed diesel fuel is improperly labeled.
- Increasing the bond that fuel tax dealers are required to file with DOR to allow for recovery of unpaid tax from \$100,000 to \$300,000.

- Requiring payment settlement entity (banks, credit card companies and payment platforms) that file IRS form 1099-K (providing information about payments by credit cards or third-party merchants) to also electronically file the form with DOR. A penalty for not filing of \$1,000 a month or \$10,000 per year is created.
- Allowing DOR to send taxpayers official notice of actions by electronic means if they receive the affirmative consent of the taxpayer.
- Providing alternative deadlines, scheduling requirements, revised notice delivery methods, and other procedures that may be used by property appraisers and local taxing authorities as a result of a declared state of emergency.
- Revising Reemployment Tax E-File Provisions, including reducing penalties, eliminating written waiver requests, and reducing unnecessary billing of agents.

It is estimated the credit card returns will produce an indeterminate positive amount of revenue, and the tolling of statute of limitation for refunds will reduce revenue by an indeterminate amount.

***Senate:***

SB 7060 includes the first six of the above provisions. The bill is ready for a floor vote.

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106 N. Bronough St.  
Tallahassee, FL 32301  
o: 850.222.5052