

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 754

INTRODUCER: Committee on Transportation and Senator Diaz

SUBJECT: Motor Vehicle and Vessel Registration Data

DATE: March 25, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Vickers	TR	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 754 includes the following provisions:

- Authorizes tax collectors to contract with vendors for technology services in order to provide electronic and telephonic motor vehicle and vessel titling transactions to customers;
- Defines a vendor-built technology system for motor vehicle, mobile home, and vessel renewal transactions as a “tax collection system”;
- Authorizes the Department of Highway Safety and Motor Vehicles (DHSMV), upon a tax collector’s request, to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector’s office or online through a tax collector’s website; and
- Requires the DHSMV to provide a tax collectors’ vendor with the ability to record registration renewals in the Florida Real Time Vehicle Information System (FRVIS) in real time and with the ability to do bulk data reporting.

The bill may have an indeterminate, though likely significant, impact on the DHSMV associated with the expansion of the FRVIS data access and interface functionality. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2021.

II. Present Situation:

Tax Collectors as Agents of the DHSMV

Sixty-five counties currently have elected tax collectors who are constitutional officers.¹ Broward and Miami-Dade counties currently have appointed tax collectors under each county's charter government.²

Chapters 320, 322, and 328, F.S., provide that tax collectors are agents of the DHSMV for the limited purposes of providing motor vehicle and driver license services. Specifically, with regards to the issuance of registration certificates, license plates, and validation stickers (motor vehicle services), the tax collectors in the several counties of the state are "authorized agents of the department [DHSMV] ... subject to the requirements of the law."³ This principal/agent relationship is memorialized by written agreement in the form of a memorandum of understanding (MOU) between the DHSMV and tax collectors throughout the state, providing that tax collectors are acting as agents of the DHSMV carrying out state law duties at a local level in a uniform and accountable manner.

While the tax collector itself is not a state agency, in its role as an authorized agent of the DHSMV, it is considered a "state agency" when acting pursuant to s. 320.03, F.S., in providing motor vehicle services.⁴ The Florida Attorney General has also concluded that tax collectors are under the direction and control of the DHSMV when providing services under ch. 320 (motor vehicle licenses) and 322 (driver licenses), F.S.⁵

As a result of Florida Constitutional Amendment 10 (amending Section 3 of Article III, Sections 4 and 11 of Article IV, and Sections 1 and 6 of Article VIII of the Florida Constitution) that passed in 2018, Volusia, Broward and Miami-Dade county tax collector offices will be elected positions. The tax collector in Volusia County took office in 2021 and the Broward and Miami-Dade county tax collectors will take office in 2025. Currently, the motor vehicle services in these charter counties are predominately provided by private tag agency/license plate agent/license tag agencies/private license plate agencies⁶ (collectively referred to as "LPA") that have an

¹ Volusia County formerly had an appointed tax collector. However, pursuant to s. 1(d), Art. VIII of the State Constitution and effective January 5, 2021, Volusia County has an elected tax collector.

² Pursuant to s. 1(d), Art. VIII of the State Constitution, Broward and Miami Dade counties will have elected tax collectors effective January 7, 2025.

³ Section 320.03(1), F.S.

⁴ *Dealer Tag Agency, Inc. v. First Hillsborough County Auto Tag Agency, Inc.*, 14 So. 3d 1238, 1240 (Fla. 2d DCA 2009). The trial court declared the contract void as a matter of law, because the tax collector established no bid protest procedures as required by Chapter 287, F.S. On appeal, the Second DCA held that the trial court erred, because the tax collector was not an executive branch of the state government bound by Chapters 287 or 120. Instead, the tax collector is a constitutional entity created by Article VIII, Section 1(d) of the Florida Constitution. The court held that "The fact that the Tax Collector is described as an "authorized agent" of the DHSMV for the provisions of section 320.03, F.S, does not make it a state agency for the provisions of chapter 287 and 120." *Id.* at 1240.

⁵ "The tax collector, who acts as the agent of and under the direction and control of the department in the sale of motor vehicle license plates, is not acting as a county officer and the bond required to be posted protects only the department and not the county for other tax revenues received by the collector." FL AGO 74-101 (Apr. 1, 1974).

⁶ Various combinations of these words are used interchangeably.

agreement with the county to charge an additional county service fee set by the county commission.⁷

Sixteen counties have, or have until recently had, contracts with LPAs to operate 57 offices to perform title and registration services for motor vehicles, mobile homes, and vessels, as follows:

- Alachua – 1
- Bay – 1
- Broward – 7
- Highlands – 1
- Hillsborough – 1
- Jefferson – 2
- Lee – 1 (opens in 2021)
- Leon – 1
- Manatee – 1
- Miami-Dade – 25
- Orange – 4
- Palm Beach – 2
- Pasco – 1
- Pinellas – 3
- Polk – 3
- Volusia - 3⁸

Many tax collectors in Florida hire information technology vendors to assist with mailing, cashiering, deploying kiosks, providing online services, and performing other duties. When requested by a tax collector, the DHSMV routinely provides access to data, both in real-time and through batch processes, to the tax collector's vendors for the purpose of providing support to the requesting tax collector. Some of the data provided contains personal information⁹ which is confidential pursuant to the federal Driver's Privacy Protection Act ("DPPA") of 1994.¹⁰ Such information may be released only as authorized by that act.

To ensure compliance with DPPA, the DHSMV practices data minimization, so that personal information from driver license records is provided to agents and vendors only when it is directly relevant to accomplish a specified task deemed necessary by the DHSMV or Legislature. Once the specified purpose has been completed, this practice requires that shared data is securely destroyed or otherwise rendered unreadable. Data minimization also decreases risks of data loss and breaches.¹¹

Registration Duties of Tax Collectors

Motor Vehicles

Tax collectors are authorized agents of the DHSMV that issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants.¹² The DHSMV may require each tax collector to give a bond, payable to the DHSMV, conditioned that the tax collector faithfully and truly perform the duties imposed upon him or her according to the requirements of law and the rules and regulations of the DHSMV.¹³ Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, or other

⁷ In determining the appropriateness of public funding for equipment used by LPAs, the Attorney General noted for purposes of section 320.03, F.S., that "license tag agencies are the agents of the respective county tax collectors....[and that n]o pecuniary benefit inures to such agents or subagents." (emphasis added) FL AGO 082-81 (Oct. 11, 1982). The opinion goes on saying, "The license tag agencies in question are the agents of the county tax collector and as such subagents of the department...." *Id.*

⁸ These LPA offices operated prior to the elected Volusia County tax collector taking office on January 5, 2021. Currently, these offices are winding down operations and were to close by February 4, 2021.

⁹ See 18 U.S.C. s. 2725.

¹⁰ See 18 U.S.C. ss. 2721 et seq.

¹¹ Department of Highway Safety and Motor Vehicles, *2021 Legislative Bill Analysis for SB 754*, (March 5, 2021), p. 3 (on file with the Senate Committee on Transportation).

¹² Section 320.03(1), F.S.

¹³ Section 320.03(2), F.S.

properties received by him or her from the DHSMV.¹⁴ FRVIS must be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.¹⁵

Vessels

Tax collectors must issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with the rules of the DHSMV.¹⁶ Each tax collector must keep a full and complete record and account of all vessel decals or other properties received by him or her from the DHSMV and must make prompt remittance of moneys collected by them at the times and in the manner prescribed by law.¹⁷

Florida Real Time Vehicle Information System

The FRVIS is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and tag agent offices that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing that is conducted centrally at the DHSMV's primary data center.¹⁸

The DHSMV maintains the FRVIS that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor vehicles and vessels.¹⁹ Local tax collector and tag agent offices throughout the state process tag, title, and registration transactions through the FRVIS.²⁰ There is a \$0.50 fee on each motor vehicle, mobile home, and vessel registration to cover the operation of the FRVIS, and that fee is deposited into the Highway Safety Operating Trust Fund.²¹ According to the DHSMV, the FRVIS processed approximately 407.3 million transactions for the collection of approximately \$2.99 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during fiscal year 2019-20, including amounts retained by local tax collector and tag agent offices.²² These funds, together with all other sources of the DHSMV's revenue, are distributed through the FRVIS to various state agencies, including the DHSMV, and non-state entities in accordance with governing Florida Statutes.²³

Currently, any tax collector or LPA opening a new office or expanding existing offices initially purchases the equipment needed for title and registration services in that office. The DHSMV

¹⁴ Section 320.03(3), F.S.

¹⁵ Section 320.03(4)(b), F.S.

¹⁶ Section 328.73(1), F.S.

¹⁷ Section 328.73(2), F.S.

¹⁸ Department of Highway Safety and Motor Vehicles, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, at 1 (April 2014), available at https://flauditor.gov/pages/pdf_files/2014-183.pdf (last visited March 16, 2021).

¹⁹ *Id.*

²⁰ *Id.* at 1-2.

²¹ Sections 320.03(5) and 328.73(3), F.S.

²² Email from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, FW: FRVIS, (March 16, 2021).

²³ *Supra*, FN 18.

periodically refreshes outdated equipment and pays the cost of the new equipment (contingent upon appropriated funds) for both tax collector's and LPA's offices. LPAs reimburse the DHSMV for reoccurring circuit costs (i.e., Internet access) for each location, unless the LPA office is collocated with a tax collector's office and the circuit is shared.²⁴

The DHSMV administers the FRVIS in consultation with the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is equipped with the necessary information technology to support the operation of the FRVIS. Only the DHSMV, tax collectors, and LPAs have access to the FRVIS. Access to the DHSMV systems and data is governed by various MOUs between the DHSMV, tax collectors, and other third-party entities. The MOUs document how the data will be used and protected, ensuring compliance with various state and federal laws, including DPPA.

In addition to residential street addresses, the DHSMV is authorized to collect and store (in the FRVIS) e-mail addresses. E-mail addresses may be used, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices.^{25, 26, 27, 28, 29}

FRVIS Interfaces

Over the years, the DHSMV has also created numerous custom interfaces to the FRVIS. These interfaces include:

- The Electronic Filing System³⁰ and Electronic Temporary Registration system³¹ which allow motor vehicle and vessel dealers the ability to conduct tag and title transactions in their dealerships;
- The motor vehicle kiosk interface which allows tax collector vendors the ability to place motor vehicle registration kiosks in their office and in off-site locations such as Publix; and
- The Motor Vehicle Eligibility Web Service that provides tax collectors a real time application interface to assist with processing mailed in motor vehicle renewals or motor vehicle renewals processed through their proprietary standalone websites.³²

Other Significant DHSMV Systems and Data Exchanges

The DHSMV also operates various other driving and traffic records systems including:

- Online Registration and Identity Operating Network for issuing driver licenses and identification cards;
- An electronic crash reporting system for law enforcement to submit crash reports; and

²⁴ *Supra*, FN 11.

²⁵ Section 319.40, F.S.

²⁶ Section 320.95, F.S.

²⁷ Section 322.08(10), F.S.

²⁸ Section 328.30, F.S.

²⁹ Section 328.80, F.S.

³⁰ The Electronic Filing System has been created using the new Online Registration and Identity Operating Network architecture which is being used for the Motorist Modernization Project.

³¹ Section 320.131, F.S.

³² *Supra*, FN 11.

- A uniform traffic citation processing system utilized by the clerks of court to submit traffic citations.³³

The DHSMV also maintains dozens of data exchanges with governmental and private entities to provide access to real time data to improve customer service and efficiency of operations. External stakeholders and their vendors routinely submit requests to the DHSMV to modify their motor vehicle, driver license and traffic records systems and interfaces to meet stakeholder needs. The DHSMV's stakeholders include state and local law enforcement, tax collectors, clerks of court, supervisors of elections, other states through the American Association of Motor Vehicle Administrators systems, Department of State, Department of Transportation, insurance companies, expressway tolling authorities, automobile dealers, and various other technology companies, that rely on the DHSMV data or systems to efficiently conduct business. When a stakeholder requests that the DHSMV modify an existing system or create a new system or interface, the DHSMV must evaluate the:

- Benefits of the modification, new system, or new interface to the DHSMV's and tax collectors' customers, third party system users, and to tax collectors' vendors;
- The cost to implement the change;
- Previously existing legislative, tax collector, and the DHSMV priorities; and
- Requested implementation schedule.³⁴

Collection of Electronic Mail Addresses

The DHSMV is authorized to collect electronic mail addresses and use electronic mail, in lieu, of the U.S. Postal Service, for purposes of renewal notices associated, respectively, with motor vehicle, mobile home, and trailer titling; motor vehicle, mobile home, and trailer registrations; and vessel registrations.³⁵ E-mail addresses collected by the DHSMV pursuant to s. 319.40(3), F.S., (relating to motor vehicle, mobile home, and trailer titling) and s. 320.95(2), F.S., (relating to motor vehicle, mobile home and trailer registrations) are exempt from disclosure pursuant to s. 119.07(1), F.S., and s. 24(1) of Article I of the State Constitution.³⁶

III. Effect of Proposed Changes:

The bill amends s. 320.03, F.S., to require each third party contracted with a tax collector who has online computer access to the DHSMV's systems or data must enter into a memorandum of understanding with the DHSMV.

The bill amends ss. 320.03 and 328.73, F.S., to provide that other tax collection systems include technology systems provided by a tax collector's approved vendors for registration renewal transactions, including, but not limited to, renewal of motor vehicle and mobile home registration certificates, registration license plates, validation stickers, vessel registration certificates, and vessel numbers and decals. Such transactions must be performed on behalf of an applicant either in person at a county tax collector's office or online through a county tax collector's website.

³³ *Id.*

³⁴ *Id.*

³⁵ Sections 319.40(1), 320.95(2), and 328.30(3), F.S.

³⁶ Section 119.0712(2)(c), F.S.

If requested by a tax collector, the DHSMV is authorized to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online through a tax collector's website. The provided data and functionality must be used for the purpose of processing renewal transactions and must include, but not be limited to, bulk data for vehicle and vessel registrations which includes each applicant's current residential address and electronic mail address and the ability to record registration renewals in the state system in real time. The provided data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties and may not be resold or used for any other purpose.

The bill requires that the data access and uniform interface functionalities must be developed no later than July 1, 2023.

The bill directs the DHSMV in consultation with the Florida Tax Collectors, Inc., to ensure that tax collectors' approved vendors protect customer privacy and data collection.

The bill has an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Tax collector-approved agents and vendors, may experience a positive indeterminate fiscal impact as a result of improved operational efficiencies and service due to having the ability to record motor vehicle, mobile home, and vessel registration renewals in the FRVIS.

C. Government Sector Impact:

Tax collectors may experience a positive indeterminate fiscal impact as a result of improved operational efficiencies and service due to having the ability to record motor vehicle, mobile home, and vessel registration renewals in the FRVIS.

The bill authorizes the DHSMV, upon the request of any tax collector, to create and maintain interfaces to support the integration of their vendors' technology systems and provide their vendors with the ability to record motor vehicle, mobile home, and vessel registration renewals in the FRVIS in real-time. To the extent that the bill results in the DHSMV creating more interfaces to the FRVIS for tax collectors' vendor-provided systems, funding required to develop those interfaces may increase and potentially impair the ability of the Highway Safety Operating Trust Fund to fund all of the costs currently associated with FRVIS, its interfaces, and other DHSMV information technology costs as well as equipment refreshes and internet connections for tax collectors and LPAs.³⁷

Complying with the requirement to integrate a vendors technology systems may impact the DHSMV's ability to maintain the FRVIS within current resources. Presently, the DHSMV manages its resources for the FRVIS to maintain the system's functionality and capabilities to benefit the widest array of users. The potential new interfaces may limit the DHSMV's ability to prioritize use of resources for the FRVIS, including to make enhancements required by federal law, and to make enhancements that would benefit law enforcement, automobile dealers and other stakeholders.³⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV provided the following additional comments in the 2021 Legislative Bill Analysis for SB 754:

- The bill requires the DHSMV to provide the tax collector and his or her approved vendor with the ability to record registration renewals in the state system in real time. Neither the DHSMV's websites nor the tax collectors' websites update a cashiered renewal transaction in real time. The DHSMV will be required to build this functionality.
- The bill amends ss. 320.03(5) and 328.73(1), F.S., authorizing the DHSMV provide tax collectors and their approved third-party vendor's data access and interface functionality,

³⁷ *Supra*, FN 11.

³⁸ *Id.*

including bulk data transfers, which potentially could undermine the DHSMV's data minimization policies. Those policies are designed to protect customers against data loss, including personally identifying information, and to ensure compliance with the federal Drivers Privacy Protection Act of 1994.

- The bill amends s. 328.73(1), F.S., to authorize tax collectors to contract with vendors for technology services in order to provide those transactions by electronic and telephonic means. Currently FRVIS is the only system used to title and register motor vehicles, mobile homes, trailers, and vessels in Florida. The language appears to contemplate the tax collectors and their vendors would create a stand-alone system to conduct title and registration transactions. As this concept has not been previously discussed with the DHSMV, it is unclear as to how much it would cost the DHSMV to integrate the vendor systems in each requesting county.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.03 and 328.73.

IX. Additional Information:

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

CS by Committee on Transportation on March 24, 2021:

- Authorizes tax collectors to contract with vendors for technology services in order to provide electronic and telephonic motor vehicle and vessel titling transactions to customers;
- Defines a vendor-built technology system for motor vehicle, mobile home, and vessel renewal transactions as a “tax collection system”;
- Provides that if requested by a tax collector, the DHSMV is authorized to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online through a tax collector's website;
- Requires the DHSMV to provide a tax collectors' vendor with the ability to record registration renewals in the FRVIS in real time and with the ability to do bulk data reporting;
- Removed language in the underlying bill which provided for data access and interface functionalities, to the tax collectors and third parties contracting with a tax collector, that other third parties receive from the DHSMV; and
- Removed language in the underlying bill which provided that a tax collector and third parties contracting with a tax collector may collect electronic mail addresses.

- B. **Amendments:**

None.