

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 167

Exemption from the Tax on Sales, Use, and Other Transactions

SPONSOR(S): Abruzzo

TIED BILLS:

IDEN./SIM. BILLS: SB 942

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Energy & Utilities Policy Committee		Whittier	Collins
2) General Government Policy Council			
3) Finance & Tax Council			
4) Policy Council			
5)			

SUMMARY ANALYSIS

HB 167 creates s. 212.0802, F.S., and entitles it the "Consumer Energy Savings Act." The bill provides that the sales tax on an energy-efficient product with a selling price of \$1,500 or less per product will not be collected during the period between 12:01 a.m. of the second Saturday preceding the last Sunday in July and midnight of the last Sunday in July. It limits the exemption to purchases for noncommercial home or personal use and does not apply when the product is purchased for trade, business, or resale.

The bill defines "energy-efficient product" as one of the following items that has been designated by the U.S. Department of Environmental Protection Agency (EPA) and by the U.S. Department of Energy (DOE) as meeting or exceeding each agency's requirements for energy-efficiency or that has been designated as meeting or exceeding the requirements under the Energy Star Program of either agency:

- Dishwasher
- Clothes washer
- Air conditioner
- Ceiling fan
- Incandescent or fluorescent light bulb
- Dehumidifier
- Programmable thermostat
- Refrigerator

The Department of Revenue estimates expenditures of \$73,891 for FY 2008-2009¹; \$57,028 for FY 2009-2010; and \$57,028 for FY 2010-2011 for the purpose of administering the sales tax holiday.

On February 13, 2008, the Revenue Estimating Conference released an analysis of the bill and estimates a negative fiscal impact on the state of \$1.8 million for FY 2009-2010; \$1.7 million for FY 2010-2011; and \$1.9 million for FY 2011-2012. The Revenue Estimating Conference has determined an insignificant negative fiscal impact on local governments.

¹ The Department of Revenue states that with a July 1, 2009, effective date and "given the short turnaround [for implementation of the provisions], rapid notification [to dealers] by first class delivery will be necessary for the first year."

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

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DATE: 2/13/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 2006, the Legislature approved an energy efficient appliance sales tax holiday and designated October 5-11, 2006, as "Energy Efficient Week." Specified new energy-efficient appliance purchases of \$1,500 or less were exempt from the state sales tax during the week. The exemption, however, did not cover the first \$1,500 of the purchase price, only those items priced at \$1,500 or less. For example, if the item was priced at \$1,600, no amount was tax exempt.

The exemption applied to the following items:

- Dishwashers
- Clothes washers
- Air conditioners
- Ceiling fans
- Incandescent² or fluorescent light bulbs
- Dehumidifiers
- Programmable thermostats
- Refrigerators

CS/CS/CS/SB 888 specified that in order for the above items to be eligible for the sales tax exemption, they must be designated by the EPA or by the DOE as meeting or exceeding the requirements set up by the Energy Star Program of either agency. The items listed in the bill were selected based on their amount of energy consumption or were predicted to be "high ticket items." There were items that were rated energy efficient by the Energy Star Program, such as ventilating fans, that were not included in the bill due to fiscal constraints. The bill restricted the exemptions to noncommercial use only.

In 2007, the House of Representatives approved an energy efficient sales tax holiday, entitled the "Energy-Efficient Products Sales Tax Holiday," and increased the length of the holiday from 7 to 14 days, beginning October 1st and ending October 14th. The bill removed the restrictions on the commercial sector so that developers, contractors, and other commercial entities could also take advantage of the sales tax exemptions. The bill allowed for the exemption to apply to the *first* \$1,500 of

² Subsequent to adoption of the 2006 legislation, it was determined that incandescent light bulbs did not meet Energy Star standards.

the sales price of an Energy Star appliance; therefore, if the item was priced at \$1,600, only the last \$100 was taxable. The 2007 exemption applied to the same items as the 2006 exemption with the exception of incandescent light bulbs and addition of “ventilating fans” to the list of products available for the sales tax exemption.

The Revenue Estimating Conference determined that for FY 2007-2008 that the negative fiscal impact on the state was \$8.9 million therefore there was a consensus by the membership to delete the provision from the bill prior to final passage.

Effect of Proposed Changes

HB 167 creates s. 212.0802, F.S., and entitles it the “Consumer Energy Savings Act.” The bill provides that sales tax on an energy-efficient product with a selling price of \$1,500 or less per product will not be collected during the period between 12:01 a.m. of the second Saturday preceding the last Sunday in July and midnight of the last Sunday in July. It limits the exemption to purchases for noncommercial home or personal use and does not apply when the product is purchased for trade, business, or resale.

The bill defines “energy-efficient product” as one of the following items that have been designated by the U.S. Department of Environmental Protection Agency and by the U.S. Department of Energy as meeting or exceeding each agency’s requirements for energy efficiency or that has been designated as meeting or exceeding the requirements under the Energy Star Program of either agency:

- Dishwasher
- Clothes washer
- Air conditioner
- Ceiling fan
- Incandescent³ or fluorescent light bulb
- Dehumidifier
- Programmable thermostat
- Refrigerator

The bill authorizes the Department of Revenue to adopt rules under chapter 120, F.S., to administer the section.

B. SECTION DIRECTORY:

Section 1. Creates s. 212.0802, F.S., regarding the Consumer Energy Savings Act.

Section 2. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On February 13, 2009, the Revenue Estimating Conference estimated that the bill will have the following negative fiscal impact on state government:

	<u>FY 2009-2010</u>	<u>FY 2010-2011</u>	<u>FY 2011-2012</u>
General Revenue	(\$1.8 m)	(\$1.7 m)	(\$1.9 m)
State Trust	<u>(Insignificant)</u>	<u>(Insignificant)</u>	<u>(Insignificant)</u>
Total	(\$1.8 m)	(\$1.7 m)	(\$1.9 m)

³ Incandescent light bulbs are not qualified as energy-efficient under the Energy Star Program.

2. Expenditures:

The Department of Revenue (department) estimates the following administrative expenditures:

Nonrecurring

	<u>FY 2008-2009⁴</u>	<u>FY 2009-2010</u>	<u>FY 2010-2011</u>
Printing and postage ⁵	\$73,891	\$57,028	\$57,028

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated that the bill will have the following negative fiscal impact on local governments:

	<u>FY 2009-2010</u>	<u>FY 2010-2011</u>	<u>FY 2011-2012</u>
Revenue Sharing	(\$.1 m)	(\$.1 m)	(\$.1 m)
Local Gov't. Half Cent	(\$.2 m)	(\$.2 m)	(\$.2 m)
Local Option	<u>(\$.2 m)</u>	<u>(\$.2 m)</u>	<u>(\$.2 m)</u>
Total Local Impact	(\$.5 m)	(\$.5 m)	(\$.5 m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Manufacturers and retailers of appliances meeting Energy Star Program ratings should experience an increase in sales during the Consumer Energy Savings Sales Tax Holiday (holiday). Consumers purchasing energy-efficiency products during the holiday will not pay sales taxes on those products valued at \$1,500 or less.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option sales taxes; however, the amount of the reduction is estimated to be less than \$1.9 million and is determined to be insignificant. Therefore, an exemption appears to apply. Accordingly, the bill does not appear to require a two-thirds vote of the membership of each house.

2. Other:

None.

⁴The department states that "given the short turnaround, rapid notification by first class delivery will be necessary for the first year. For the second and subsequent years...the [d]epartment will have sufficient time to draft and mail a [Tax Information Publication] TIP; therefore mailing may be done using standard postage rates."

⁵ The department states that this bill would require a [Tax Information Publication] TIP to be provided to dealers selling the products listed in the bill. The department estimates that the population requiring mailing is 153,300 plus an additional 5,000 TIPs to be used for taxpayer educational seminars and for distribution to others upon request.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt rules under chapter 120, F.S., to administer the section.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Incandescent light bulbs are contained within the list of Energy Star items that are eligible for the sales tax exemption; however, incandescent light bulbs are not deemed Energy Star status nor are they considered energy efficient. Further, there are no appropriations in the bill for the Department of Revenue to implement the program. The bill sponsor will offer an amendment to address these items.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES