

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 167 Exemption from the Tax on Sales, Use, and Other Transactions
SPONSOR(S): Energy & Utilities Policy Committee and Abruzzo
TIED BILLS: None. IDEN./SIM. BILLS: SB 942

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Energy & Utilities Policy Committee, General Government Policy Council, Finance & Tax Council, Policy Council, and an empty row.

SUMMARY ANALYSIS

CS/HB 167 creates s. 212.0802, F.S., and entitles it the "Consumer Energy Savings Act." The bill provides that sales tax will not be collected on the first \$1,500 of the selling price of a new energy-efficient product during the period beginning two Saturdays prior to the last Sunday in July at 12:01 a.m., continuing for nine days, and ending at midnight on the last Sunday in July.

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 and by the U.S. Department of Energy as meeting the requirements under the Energy Star Program of either agency:

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

The bill appropriates \$73,891 for FY 2008-2009 and \$57,028 for FY 2009-2010 from the General Revenue Fund to the Department of Revenue to implement s. 212.0802, F.S.

The Revenue Estimating Conference has estimated that the bill will have a negative fiscal impact on the state of \$5.8 million for FY 09-10; \$13.3 million for FY 10-11; and \$13.6 million for FY 11-12. The estimated negative fiscal impact on local government is \$1.4 million [\$0.6 million in local option sales taxes] for FY 09-10; \$3.0 million [\$1.3 million in local option sales taxes] for FY 10-11; and \$3.0 million [\$1.3 million in local option sales taxes] for FY 11-12.

Although the negative fiscal impact on local governments is determined to be insignificant, the amount in reduction of authority that counties have to raise revenues is unknown; therefore it is unknown if the bill requires a two-thirds vote of the membership of each house.

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."

## 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**

##### ***Energy Star Program***

In 1992, the U.S. Environmental Protection Agency (EPA) created the Energy Star Program as a voluntary labeling program to identify and promote energy-efficient products designed to reduce greenhouse gas emissions. In 1996, the U.S. Department of Energy (DOE) became a partner of the EPA for particular product categories within the program.

According to Energy Star, the program partners with more than 12,000 private and public sector organizations and delivers the "technical information and tools that organizations and consumers need to choose energy-efficient solutions and best management practices." The program estimates having delivered energy and cost savings in the U.S. of approximately \$16 billion in 2007.<sup>2</sup>

Energy Star claims to provide a trustworthy label on over 50 product categories (and thousands of models) that deliver the same or better performance as comparable models while using less energy and saving money.<sup>3</sup> A listing of Energy Star Qualified Products in the categories of appliances, heating and cooling, and water heaters may be found at the following web address:  
[http://www.energystar.gov/index.cfm?fuseaction=find\\_a\\_product](http://www.energystar.gov/index.cfm?fuseaction=find_a_product).

##### ***Previous Legislation***

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.

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<sup>2</sup> Energy Star website: [http://www.energystar.gov/index.cfm?c=about.ab\\_history](http://www.energystar.gov/index.cfm?c=about.ab_history).

<sup>3</sup> Ibid.

The exemption applied to the following items:

- Dishwashers
- Clothes washers
- Air conditioners
- Ceiling fans
- Incandescent<sup>4</sup> 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, CS/HB 7123, 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 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 the negative fiscal impact on the state would have been \$8.9 million. The sales tax holiday provision was deleted from the bill prior to final passage.

### **Effect of Proposed Changes**

CS/HB 167 creates s. 212.0802, F.S., and entitles it the “Consumer Energy Savings Act.” The bill provides that sales tax will not be collected on the first \$1,500 of the selling price of a new energy-efficient product during the period beginning two Saturdays prior to the last Sunday in July at 12:01 a.m., continuing for nine days, and ending at midnight on 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, and prohibits those purchases being made using a business or company credit card, debit card, or check.

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 and by the U.S. Department of Energy as meeting the requirements under the Energy Star Program of either agency:

- Dishwasher
- Clothes washer
- Air conditioner
- Ceiling fan
- Compact fluorescent light bulb
- Dehumidifier

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<sup>4</sup> Subsequent to adoption of the 2006 legislation, it was determined that incandescent light bulbs did not meet Energy Star standards.

- Programmable thermostat
- Refrigerator

The bill appropriates \$73,891 for FY 2008-2009<sup>5</sup> and \$57,028 for FY 2009-2010 from the General Revenue Fund to the Department of Revenue to implement s. 212.0802, F.S.

**B. SECTION DIRECTORY:**

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

**Section 2.** Provides appropriations.

**Section 3.** Provides that the bill become effective upon becoming a law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

On March 14, 2009, the Revenue Estimating Conference estimated that the bill will have a negative fiscal impact on the state of \$5.8 million for FY 09-10; \$13.3 million for FY 10-11; and \$13.6 million for FY 11-12.

2. Expenditures:

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

Nonrecurring

	<u>FY 2008-2009<sup>6</sup></u>	<u>FY 2009-2010</u>	<u>FY 2010-2011</u>
Printing and postage <sup>7</sup>	\$73,891	\$57,028	\$57,028

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

On March 14, 2009, the Revenue Estimating Conference estimated that the bill will have a negative fiscal impact on local government of \$1.4 million [\$1.3 million in local option sales taxes] for FY 09-10; \$3.0 million [\$1.3 million in local option sales taxes] for FY 10-11; and \$3.0 million [\$1.3 million in local option sales taxes] for FY 11-12.

2. Expenditures:

None.

<sup>5</sup> See Footnote 1.

<sup>6</sup> The 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.”

<sup>7</sup> 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.

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 energy-efficient products sales tax holiday. Consumers purchasing new energy-efficiency products during the holiday will not pay sales tax on the first \$1,500 of the selling price of those items.

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. The amount of this reduction in authority is unknown. The amount of local option sales taxes that will be reduced is estimated to be less than \$1.9 million and is determined to be insignificant. It is unknown whether an exemption to the mandates provision applies. Accordingly, it is unknown if the bill requires a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt rules under s. 120.54, F.S., to administer the section.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 17, 2009, the Energy & Utilities Policy Committee reported the bill favorably as a Committee Substitute, making the following changes:

- Allows the sales tax exemption to apply to the *first* \$1,500 of the sales price of an Energy Star product, rather than *\$1,500 or less*; therefore, if the item is priced at \$1,600, only the last \$100 is taxable.
- Changes the wording of the holiday date to provide clarity.
- Prohibits purchases under the exemption from being made on business or company credit cards, debit cards, or checks.

- Removes incandescent light bulbs from the list of Energy Star items that are eligible for the sales tax exemption for the reason that incandescent light bulbs are not deemed Energy Star status nor are they considered energy-efficient.
- Provides appropriations of \$73,891 for FY 2008-2009 and \$57,028 for FY 2009-2010 from the General Revenue Fund for the Department of Revenue to implement s. 212.0802, F.S.
- Changes the effective date from July 1, 2009, to “upon becoming a law.”