

STORAGE NAME: h3229.ep
DATE: January 15, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3229

RELATING TO: Sales Tax Exemption

SPONSOR(S): Representatives Thrasher; Feeney; Minton; and others.

COMPANION BILL(S): SB 434 by Senator Dyer

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION
 - (2) FINANCE AND TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill amends s. 212.051, F.S., it will allow those facilities, equipment, machinery, and processes used primarily in pollution prevention and control to be exempt from sales, use, and privilege taxes. The Department of Environmental Protection (DEP) will be required to certify all such processes, facilities, equipment, and machinery as used primarily for pollution prevention or control.

Provides effective date of July 1 of the year enacted.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Presently pollution control equipment is subject to sales tax and tax exemptions do not exist for machinery and equipment used for controlling or abating pollution or contaminants.

Exemptions also do not exist for processes, nor for equipment or processes that are used for pollution prevention. Section 403.031, F.S., defines pollution prevention as the steps taken by a potential generator of contamination or pollution to eliminate or reduce the contamination or pollution before it is discharged into the environment. The term includes non-mandatory steps taken to: use alternative forms of energy; conserve or reduce the use of energy; substitute nontoxic materials for toxic materials; conserve or reduce the use of toxic materials and raw materials; reformulate products; modify manufacturing or other processes; improve in-plant maintenance and operations; implement environment planning before expanding a facility; and recycle toxic or other raw materials.

During the 1997 Legislative session, there was language in HB1997 that created a sales tax exemption for the purchase of pollution control equipment. In order to receive the exemption, the equipment must have been required by a federal, state, or local agency, and only taxes in excess of \$50,000 per calendar year were exempt. This section of the bill amended s. 212.08(5)(b), F.S., relating to the sales tax exemption for the purchase of machinery and equipment used to increase productive output. On April 18, 1997, the Committee on Transportation and Economic Development Appropriations adopted an amendment to the bill which struck everything after the enacting clause and removed this language from the bill. HB1997 was carried over and is currently on the Economic Impact calendar.

B. EFFECT OF PROPOSED CHANGES:

Provides that sales, use, or privilege taxes will not be collected with respect to any process, facility, device, fixture, equipment, or machinery used primarily for the control, prevention, or abatement of pollution or contaminants from industrial plants or installations, as well as with respect to any structure, machinery, or equipment installed in the reconstruction or replacement of such process, facility, device, fixture, equipment, or machinery. The term "process" is added to the list of property which will qualify for exemption. Also provided is that property used for "prevention" will qualify, in addition to property used for pollution control or abatement.

This bill requires DEP to certify that the process, facility, device, fixture, equipment, or machinery is being primarily used to prevent, control, or abate the generation of pollutants or contaminants.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

DEP will be given the authority to certify facilities to the Department of Revenue so that they may receive their exemption.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

This will require the Department of Environmental Protection to adopt a procedure to implement a certification program for eligible pollution prevention, control, or abatement equipment. DEP will have to certify to the Department of Revenue what processes, equipment, devices, fixtures, or machinery are or could be used for control, prevention or abatement of pollution or contaminants.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

There will be an exemption of sales, use and privilege taxes which has the potential to reduce revenues.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 212.051 F.S., - Equipment or machinery for pollution control; subject to sales or use tax.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 212.051, F.S., provides that sales, use, or privilege taxes shall not be collected with respect to any process, facility, device, fixture, equipment, or machinery used primarily for the control, prevention, or abatement of pollution or contaminants from industrial plants or installations, as well as with respect to any structure, machinery, or equipment installed in the reconstruction or replacement of such process, facility, device, fixture, equipment, or machinery.

Section 2: Provides an effective date of July 1 of the year enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

By exempting processes, facilities, devices, fixtures, equipment, and machinery, there are potentially tens of thousands of facilities that could apply for the tax exemption. The Department of Revenue presented the Revenue Estimating Conference an estimated range of \$16.1 million to \$52.2 million annually that would be lost in sales, use and privilege tax revenues. The estimate of \$16.1 million was based upon the total of pollution abatement capital expenditures in the state by manufacturing and electric utilities. The \$52.2 million estimate was based on the Florida Gross State Product, machine and equipment purchases in manufacturing and other industries. This estimate was not endorsed by the Revenue Estimating Conference and the bill will be reviewed again at the Conference's next meeting.

3. Long Run Effects Other Than Normal Growth:

There is a possible substantial loss in tax revenues to the state and an increase in expenditures to certify facilities on a case by case basis to determine whether or not exemptions apply.

4. Total Revenues and Expenditures:

Indeterminate at this time, this bill will be reviewed by the Revenue Estimating Conference in the near future.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The bill appears to include local government owned facilities. Thus, it is anticipated that the bill would have a positive fiscal impact on local governments due to tax savings. There also could be a loss of tax revenues; any local sales, use, or privilege tax may also be exempted.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The private sector will benefit by not paying sales or use tax. If the exemption from tax leads facilities to improve or modify their processes or install new equipment, it would lead to reduced Department of Environmental Protection emission and discharge fees, and reduce regulatory liability due to the reduction in generation of regulated pollutants. A tax exemption on pollution prevention equipment could benefit the environment by encouraging companies to replace old, outdated equipment with newer, more efficient equipment. It might also encourage companies to invest in less polluting technologies.

3. Effects on Competition, Private Enterprise and Employment Markets:

This bill may increase a company's ability to compete with foreign and domestic companies due to increased efficiency and lower costs.

D. FISCAL COMMENTS:

The DEP anticipates additional Full Time Employees (FTE's) will be required to review facility data and certify the equipment. Potentially, tens of thousands of facilities could apply for the tax exemption, thus, it is difficult to estimate the number of FTE's needed. The DEP uses the Air Division as an example of the number of FTE's that would be

required. They estimate that the Division would require an additional two people in the central office and three people per district to handle the workload, a total of 20 people. There would be corresponding increases in the number of FTE's required in the various other regulatory divisions of DEP, including Waste Management, Water Facilities, and Marine Resources.

DEP estimates that the first year costs would total \$1,332,560 for the Air Division, this would be a recurring cost in subsequent years of \$1,229,580. DEP did not provide an estimate for a total funding of the certification program.

It was estimated by the Revenue Estimating Conference that HB1997 (described in "Present Situation") would have a negative fiscal impact on the General Revenue Fund of \$5.7 million in FY 97/98 and \$6.2 million in FY 98/99 due to the sales tax exemption. HB1997 only exempted the purchase of pollution control equipment, so it can be expected that the negative fiscal impact on the General Revenue Fund would be larger when all facilities, equipment, machinery, and processes used in pollution prevention, control, and abatement are exempted from sales, use and privilege taxes. The fiscal impact for this bill has not yet been reviewed by the Revenue Estimating Conference.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue-raising authority of cities or counties.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the amount of state tax shared with cities and counties.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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