

STORAGE NAME: h3229s1.ep

DATE: February 11, 1998

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

BILL #: CS/HB 3229

RELATING TO: Sales Tax Exemption

SPONSOR(S): Committee on Environmental Protection; and Representatives Thrasher; Feeney; Minton; and others.

COMPANION BILL(S): SB 434 by Senator Dyer

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

- (1) ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
- (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, and machinery used primarily in pollution abatement and control to be exempt from sales, use, and privilege taxes. To qualify, those facilities, equipment and machinery are required to meet the permitted conditions of the Department of Environmental Protection (DEP).

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.

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 facility, device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants from manufacturing, processing, compounding, and producing, as well as with respect to any structure, machinery, or equipment installed in the reconstruction or replacement of such facility, device, fixture, equipment, or machinery.

This bill requires that such facility, device, fixture, equipment, or machinery is required to meet the permitted conditions of the DEP.

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?

No.

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

No.

(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 facility, device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants from manufacturing, processing, compounding, and processing, as well as with respect to any structure, machinery, or equipment installed in the reconstruction or replacement of such 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:

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. By exempting facilities, devices, fixtures, equipment, and machinery, it is anticipated that there could potentially be an annual reduction to the General Revenue similar to the impact of HB1997. The Revenue Estimating Conference has yet to review this bill, and therefore the recurring fiscal impact for this bill has not been determined. This bill will be reviewed by the Revenue Estimating Conference in the near future.

3. Long Run Effects Other Than Normal Growth:

There will be a loss in tax revenues to the state (see recurring effects).

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.

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:**

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

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 4, 1998, the Committee on Environmental Protection adopted HB 3229 as a committee substitute. One amendment, with an amendment to the amendment, was adopted which removed the language that included processes and pollution prevention equipment as eligible for the sales tax exemption. The amendment also removed the requirement that the DEP certify all processes, facilities, equipment, and machinery to the Department of Revenue in order to be exempt. The amendment does require that in order to qualify all equipment, devices, machinery, and facilities must meet permitted conditions of the DEP. This amendment is anticipated to reduce the bill's estimated recurring negative fiscal impact.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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