

STORAGE NAME: h3229s2z.ep
DATE: June 17, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 3229

RELATING TO: Tax on Sales, Use, and Other Transactions

SPONSOR(S): Committees on Finance and Taxation and Environmental Protection; and
Representatives Thrasher and others

COMPANION BILL(S): CS/SB 434 (s) by Senator Dyer

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

- (1) ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
- (2) FINANCE AND TAXATION YEAS 15 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 10 NAYS 0
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 28, 1998, CS/CS/HB 3229 was passed on the floor of the house by a vote of 118 to 0. On April 29, the Senate amended the act moving the effective date to January 1, 1999, and then passed it by a vote of 39 to 0. The House concurred with the Senate amendment by a vote of 117 to 0. On May 30, 1998 CS/CS/HB 3229 became law without the signature of the Governor, Chapter 98-317, L.O.F.

II. SUMMARY:

This act provides a sales and use tax exemption for any facility, device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants in manufacturing, processing, compounding, or producing for sale items of tangible personal property at a fixed location, or any structure, machinery, or equipment installed in the reconstruction or replacement of such facility, device, fixture, equipment, or machinery. To qualify, such facility, device, fixture, equipment, or machinery is required to meet the permitted conditions of the Department of Environmental Protection (DEP). A sales and use tax exemption is provided for equipment, machinery, or materials required by permit or law that are purchased for the monitoring, prevention, abatement, or control of pollution or contaminants at solid waste management facilities.

III. 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. Equipment, machinery, or materials required by permit or law that are purchased for the monitoring, prevention, abatement, or control of pollution or contaminants at solid waste management facilities is subject to sales and use tax.

B. EFFECT OF PROPOSED CHANGES:

A sales and use tax exemption is provided for any facility, device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants in manufacturing, processing, compounding, or producing for sale items of tangible personal property at a fixed location, or any structure, machinery, or equipment installed in the reconstruction or replacement of such facility, device, fixture, equipment, or machinery. To qualify, such facility, device, fixture, equipment, or machinery is required to meet the permitted conditions of the Department of Environmental Protection (DEP).

A sales and use tax exemption is provided for equipment, machinery, or materials required by permit or law that are purchased for the monitoring, prevention, abatement, or control of pollution or contaminants at solid waste management facilities. This exemption does not include solid waste collection vehicles, compactors, graders and other earthmoving equipment.

Exemptions will not be accepted unless the purchaser signs a certificate stating that the facility, device, fixture, equipment or structure is required to meet laws or permit conditions.

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?

Yes. The act creates an exemption from sales, use and privilege taxes.

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.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 212.051, F.S., to exempt from sales, use, or privilege taxes any facility, device, fixture, equipment, or machinery used primarily for the control or abatement of pollution or contaminants in manufacturing, processing, compounding, or producing for sale items of tangible personal property at a fixed location, or any structure or equipment installed in the reconstruction or replacement of such facility, device, fixture, equipment, or machinery. To qualify for the exemption, such facility, device, fixture, equipment, or machinery is required to meet the permitted conditions of the Department of Environmental Protection. The purchaser must sign a certificate stating that the equipment exempted is required to meet laws and permit conditions.

Equipment, machinery, or material required by permit or law that are purchased for the monitoring, prevention, abatement, or control of pollution or contaminants at solid waste management facilities shall be also be exempt.

Section 2: Provides that the act shall take effect on July 1 of the year in which it is enacted.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See fiscal comments.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See fiscal comments.

2. Recurring Effects:

See fiscal comments.

3. Long Run Effects Other Than Normal Growth:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The private sector will benefit by paying less sales or use tax due to the exemption. If the exemption induces facilities to improve or modify their processes or install new pollution control equipment, Department of Environmental Protection emission and discharge fees may be reduced, and industry regulatory liability due to the reduction in generation of regulated pollutants may be reduced.

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

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

D. FISCAL COMMENTS:

ESTIMATED REVENUE INCREASES/(DECREASES)

General Revenue Fund

	Fiscal Year 98-99	Recurring Impact	Non-Recurring Impact
Manufacturing equipment exemption	(4.8) million	(11.4) million	6.7 million
Solid waste management equipment exemption	(0.4) million	(1.0) million	0.6 million

Local Government

	Fiscal Year 98-99	Recurring Impact	Non-Recurring Impact
Manufacturing equipment exemption	(0.8) million	(1.8) million	None
Solid waste management equipment exemption	(0.1) million	(0.2) million	None.

Total Impact on Revenues

	Fiscal Year 98-99	Recurring Impact	Non-Recurring Impact
Manufacturing equipment exemption	(5.6) million	(13.2) million	6.7 million
Solid waste management equipment exemption	(0.5) million	(1.2) million	0.6 million

These figures were developed by the Revenue Estimating Conference, these are the expected impacts based upon the act's final language. The impact on trust funds is expected to be insignificant.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the act will reduce the authority of municipalities and counties to raise revenues due to the reduction in the amount of the Local Option Sales Tax, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

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

While the act will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 4, 1998, the Committee on Environmental Protection adopted committee substitute to HB 3229. 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 was anticipated to reduce the bill's estimated recurring negative fiscal impact.

On March 5, 1998, the Committee on Finance and Taxation adopted a committee substitute to CS/HB 3229. An amendment was adopted that added a sales and use tax exemption for equipment, machinery, or materials required by permit or law that are purchased for the monitoring, prevention, abatement, or control of pollution or contaminants at solid waste management facilities.

On April 14, 1998, the Committee on General Government Appropriations adopted one amendment that requires a purchaser to sign a certificate stating that the facility, device, fixture, equipment, or structure to be given the tax exemption afforded by the bill meets all related laws implemented by, or any conditions of a permit issued by, the Department of Environmental Protection. This requirement also applies to equipment, machinery, or materials purchased for monitoring, prevention, abatement, or control of pollution at solid waste facilities.

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VIII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

Chris Flack

Wayne S. Kiger

AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Legislative Research Director:

Lynne Overton

Keith G. Baker, Ph.D.

**AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:**

Prepared by:

Legislative Research Director:

Jenny Underwood Dietzel

Cynthia P. Kelly

FINAL RESEARCH PREPARED BY COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

Chris Flack

Wayne Kiger