STORAGE NAME: h3307z.rs ****FINAL ACTION****
DATE: May 14, 1998 ****SEE FINAL ACTION STATUS SECTION****

HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3307

RELATING TO: Alcoholic beverage surcharge

SPONSOR(S): Representative Gay and Others

COMPANION BILL(S): CS/HB 4147, SB 1806

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) REGULATED SERVICES W/D
(2) FINANCE AND TAXATION W/D
(3) GENERAL GOVERNMENT APPROPRIATIONS W/D
(4)
(5)

I. FINAL ACTION STATUS:

HB 3307 was withdrawn from the Committee on Regulated Services and all other committees of reference and subsequently died without being referred to a committee. The substance of HB 3307 was, however, amended onto HB 4147. That provision tied the repeal of the alcoholic beverage surcharge to employment of WAGES participants by the food and beverage industry. [See CS/HB 4147 for details.]

CS/HB 4147 was vetoed by the Governor on May 1, 1998.

II. SUMMARY:

This bill provides that the amount of taxes and economic benefit generated by the restaurant industry from the employment of participants in the WAGES Program will be considered when determining if sufficient increased revenues have been generated to offset a repeal of the alcoholic beverage surcharge.

The bill is intended to have a neutral economic impact since the surcharge repeal is contingent upon increased revenue collections and other economic benefits sufficient to offset a repeal of the alcoholic beverage surcharge.

The act would take effect upon becoming a law.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The alcoholic beverage surcharge, sometimes referred to as a “pouring fee” or “by-the-drink” tax, was passed in 1990. Chapter 90-132, Laws of Florida, imposed a surcharge of ten cents on each one ounce of liquor or four ounces of wine, and four cents on each 12 ounces of beer sold at retail for consumption on a vendor’s licensed premises. Chapter 97-213, Laws of Florida, reduced the surcharge rate on alcoholic cider, which had previously been taxed at the wine rate of ten cents per four ounce serving, to six cents per 12 ounce serving.

Retail vendors are required to remit the alcoholic beverage surcharge monthly and may pay the surcharge based on their actual on-premise sales during the previous month or up-front, based on the amount of purchases made from wholesalers. Rather than prepay the surcharge on beverages not yet sold, many vendors opt to pay the surcharge based on their actual sales. The sales method of calculations and remittance, however, involves a more cumbersome record keeping procedure which often results in vendor miscalculations. Vendors are allowed to retain 1% of the monthly surcharge owed to the state to cover their cost of maintaining appropriate records and remitting the tax in a timely manner.

Section 561.121, Florida Statutes, requires surcharge revenue to be deposited into the General Revenue Fund, except that nine and eight-tenths percent of the surcharge is deposited in the Children and Adolescents Substance Abuse Trust Fund (CASA). The CASA Trust Fund collections are specified to be used to fund programs directed at reducing and eliminating substance abuse problems among children and adolescents.

Chapter 97-213, Laws of Florida, also provided for the prospective repeal of the surcharge effective July 1, 1999, conditioned upon the collection of sufficient revenue to offset the repeal. In order that the surcharge repeal does not adversely affect Department of Children and Family Services’ programs funded from surcharge deposits into the CASA Trust Fund, this law appropriates, contingent upon repeal of the surcharge, $10 million annually from excise tax collections to CASA.

The surcharge is expected to generate approximately $106 million for FY 1997/98.

Chapter 96-175, Laws of Florida, eliminated individual entitlement to public assistance and created the WAGES [Work and Gain Economic Self-sufficiency Act] program. The WAGES Program State Board of Directors in the Executive Office of the Governor, together with the Departments of Children and Family Services and Labor and Employment Security have primary responsibility for administering the WAGES Program. Local WAGES Coalitions are given responsibility to plan and coordinate the delivery of services under the WAGES Program at the local level. The local coalitions also establish registries of local businesses who agree to hire WAGES Program participants to the extent possible consistent with the nature of their businesses. These businesses are eligible for specified sales tax exemptions [s. 212.08(5)(b) and (7)(ii), Florida Statutes] for purchases of machinery and equipment used to increase productive output and for certain electricity uses.

B. EFFECT OF PROPOSED CHANGES:

This legislation requires that, in addition to the 1998 excise tax collections and collections pursuant to s. 561.54, Florida Statutes, the “amount of taxes and economic benefit generated by the restaurant industry from the employment of participants in the WAGES Program” shall be considered when determining if sufficient increased revenues have been generated to offset a repeal of the alcoholic beverage surcharge. The Department of Business and Professional Regulation is given responsibility for certifying these collections and benefits to the Legislature no later than March 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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

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

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

The bill repeals the alcoholic beverage surcharge, however, this repeal is conditioned upon increased excise tax collections and positive economic benefits generated by employment of participants in the WAGES program sufficient to offset the repeal.

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

N/A

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

N/A

3. Personal Responsibility:

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

N/A

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

N/A

4. Individual Freedom:

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

N/A

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

N/A

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:

The bill amends section 1 of Chapter 97-213, Laws of Florida.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Amends section 1 of Chapter 97-213, Laws of Florida, to require consideration of taxes and economic benefits derived from employment of persons participating in the WAGES program by the restaurant industry.

Section 2. Provides that the act would take effect upon becoming a law.

IV. <u>FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects</u>:

The Division of Alcoholic Beverages and Tobacco (DABT) will incur expenses associated with making a determination of the economic benefits accruing to the state as a result of the employment of WAGES Program participants by the restaurant industry. The division will require the assistance of other agencies with technical expertise in these fields when making this determination.

The DABT will also incur the cost of informing alcoholic beverage licensees of the repeal of the alcoholic beverage surcharge, updating departmental records and conducting close-out audits of approximately 20,000 accounts. These costs are indeterminate at this time.

2. <u>Recurring Effects</u>:

The DABT has an annual budget of approximately $2.4m and 53 FTE's to administer the alcoholic beverage surcharge program. A repeal of the surcharge will eliminate the need for this appropriation.

3. Long Run Effects Other Than Normal Growth:

   Indeterminate.

4. Total Revenues and Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   N/A

2. Direct Private Sector Benefits:

   Alcoholic beverage licensees would no longer be required to collect and remit the alcoholic beverage surcharge, thereby eliminating the costs associated with that collection.

   Whether these exemptions will result in decreased costs to consumers in the form of reduced drink prices is unknown.

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

   The incentive to repeal the surcharge may generate increased job opportunities in the restaurant industry for persons now participating in the WAGES Program. WAGES Program participants who find employment in the restaurant industry may, in turn, learn marketable skills which enable them to become self-sufficient.

D. FISCAL COMMENTS:

The economic impact of the bill is intended to be sufficient to offset a repeal of the alcoholic beverage surcharge which generates over $100 million annually. The bill, however, does not provide a formula or other verifiable criteria by which a determination can be made concerning the "amount of taxes and economic benefit" generated by the employment of WAGES Program participants. It may be argued that any ensuing tax or economic benefit could not be considered new or off-setting dollars since the state is already the beneficiary of these impacts. Conversely, the incentive to repeal the surcharge may generate increased job opportunities which might be argued to be new or off-setting dollars.

A hold-harmless clause was created in Chapter 97-213, Laws of Florida, to protect the Children and Adolescents Substance Abuse Trust Fund in the event the alcoholic beverage surcharge is repealed.

V. 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 to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state tax shared with counties or municipalities.

VI. COMMENTS:

HB 3307 places the burden for determining the amount of taxes generated and economic benefit accruing to the state as a result of restaurants' employment of WAGES Program participants on the Department of Business and Professional Regulation. The Department of Business and Professional Regulation does not have access to relevant WAGES data by which such a determination may be attempted.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

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