

By Senators Ostalkiewicz, Williams, Harris and Clary

12-679-98

See HB 3305

1                                   A bill to be entitled  
2           An act relating to tax on sales, use, and other  
3           transactions; amending s. 212.08, F.S.;  
4           revising the activities and industries to which  
5           the exemption for electricity used in certain  
6           manufacturing and related operations applies;  
7           specifying a threshold for use of electricity  
8           to qualify for exemption; deleting a  
9           requirement relating to separate metering of  
10          such electricity; providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Paragraph (ii) of subsection (7) of section  
15 212.08, Florida Statutes, is amended to read:

16           212.08 Sales, rental, use, consumption, distribution,  
17 and storage tax; specified exemptions.--The sale at retail,  
18 the rental, the use, the consumption, the distribution, and  
19 the storage to be used or consumed in this state of the  
20 following are hereby specifically exempt from the tax imposed  
21 by this chapter.

22           (7) MISCELLANEOUS EXEMPTIONS.--

23           (ii) Certain electricity uses.--

24           1. Charges for electricity used to operate machinery  
25 and equipment directly and exclusively at a fixed location in  
26 this state when such ~~to operate~~ machinery and equipment ~~that~~  
27 is used to manufacture, process, compound, ~~or~~ produce, or  
28 prepare for shipment items of tangible personal property for  
29 sale, or to operate pollution control equipment, recycling  
30 equipment, maintenance equipment, or monitoring or control  
31 equipment used in such operations are exempt to the extent

1 provided in this paragraph from the tax imposed by this  
2 chapter as provided in subparagraph 2. In order to qualify for  
3 this exemption, 75 percent or more of the electricity used at  
4 the fixed location must be used to operate qualifying  
5 machinery or equipment.~~The exemption provided for herein is~~  
6 ~~applicable if the electricity that is used for the exempt~~  
7 ~~purposes is separately metered, or if it is not separately~~  
8 ~~metered, it is irrevocably presumed that 50 percent of the~~  
9 ~~charge for electricity is for nonexempt purposes.~~

10       2. This exemption ~~only~~ applies only to industries  
11 classified under SIC Industry Major Group Numbers 10, 12, 13,  
12 14, 20, ~~21~~,22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33,  
13 34, 35, 36, 37, 38, and 39 and Industry No. 2121. As used in  
14 this paragraph, "SIC" means those classifications contained in  
15 the Standard Industrial Classification Manual, 1987, as  
16 published by the Office of Management and Budget, Executive  
17 Office of the President.

18       3. Possession by a seller of a written certification  
19 by the purchaser, certifying the purchaser's entitlement to an  
20 exemption permitted by this subsection, relieves the seller  
21 from the responsibility of collecting the tax on the  
22 nontaxable amounts, and the department shall look solely to  
23 the purchaser for recovery of such tax if it determines that  
24 the purchaser was not entitled to the exemption.

25       4. Such exemption shall be applied as follows:

26       a.1. Beginning July 1, 1996, 20 percent of the charges  
27 for such electricity shall be exempt.

28       b.2. Beginning July 1, 1997, 40 percent of the charges  
29 for such electricity shall be exempt.

30       c.3. Beginning July 1, 1998, 60 percent of the charges  
31 for such electricity shall be exempt.

1           ~~d.4.~~ Beginning July 1, 1999, 80 percent of the charges  
2 for such electricity shall be exempt.

3           ~~e.5.~~ Beginning July 1, 2000, 100 percent of the  
4 charges for such electricity shall be exempt.

5           5. Notwithstanding any other provision in this  
6 paragraph to the contrary, in order to receive the exemption  
7 provided in this paragraph a taxpayer must first register with  
8 the WAGES Program Business Registry established by the local  
9 WAGES coalition for the area in which the taxpayer is located.  
10 Such registration establishes a commitment on the part of the  
11 taxpayer to hire WAGES program participants to the maximum  
12 extent possible consistent with the nature of their business.

13           6.a. In order to determine whether the exemption  
14 provided in this paragraph from the tax on charges for  
15 electricity has an effect on retaining or attracting companies  
16 to this state, the Office of Program Policy Analysis and  
17 Governmental Accountability shall periodically monitor and  
18 report on the industries receiving the exemption.

19           b. The first report shall be submitted no later than  
20 January 1, 1997, and must be conducted in such a manner as to  
21 specifically determine the number of companies within each SIC  
22 Industry Major Group receiving the exemption as of September  
23 1, 1996, and the number of individuals employed by companies  
24 within each SIC Industry Major Group receiving the exemption  
25 as of September 1, 1996.

26           c. The second report shall be submitted no later than  
27 January 1, 2001, and must be comprehensive in scope, but, at a  
28 minimum, must be conducted in such a manner as to specifically  
29 determine the number of companies within each SIC Industry  
30 Major Group receiving the exemption as of September 1, 2000,  
31 the number of individuals employed by companies within each

1 SIC Industry Major Group receiving the exemption as of  
2 September 1, 2000, whether the change, if any, in such number  
3 of companies or employees is attributable to the exemption  
4 provided in this paragraph, whether it would be sound public  
5 policy to continue or discontinue the exemption, and the  
6 consequences of doing so.

7 d. Both reports shall be submitted to the President of  
8 the Senate, the Speaker of the House of Representatives, the  
9 Senate Minority Leader, and the House Minority Leader.

10 Section 2. This act shall take effect July 1 of the  
11 year in which enacted.

12 \*\*\*\*\*

13  
14 HOUSE SUMMARY

15 Revises the activities and industries to which the sales  
16 tax exemption for electricity used in certain  
17 manufacturing and related operations applies. Specifies  
18 a threshold for use of electricity to qualify for  
19 exemption, and deletes a requirement relating to separate  
20 metering of such electricity.  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31