

STORAGE NAME: h1925.ca
DATE: April 8, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 1925
RELATING TO: The Tax on Sales, Use, and Other Transactions
SPONSOR(S): Representative Patterson
COMPANION BILL(S): SB 2374 (i)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS
(2) FINANCE & TAXATION
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

This bill exempts certain nonprofit water systems from the sales and use tax. This bill does not impact the general revenue fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 212, Florida Statutes, establishes taxation and exemptions on the retail sales, storage and use of all tangible personal property in the State of Florida. The rate of taxation in Florida is 6 percent of the sales price of each item or article of tangible personal property when sold at retail, computed on each taxable sale for the purpose of remitting the amount of tax due to the state, and including each and every retail sale. Furthermore, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from up to 0.5 percent to 1.0 percent each.

The statutes currently provide more than 150 exemptions from the sales tax. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(7), Florida Statutes, provides for over 50 miscellaneous exemptions.

Section 501(c)(12) of the Internal Revenue Code provides exemptions for benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

B. EFFECT OF PROPOSED CHANGES:

This bill exempts certain nonprofit water systems from the sales and use tax.

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?

The Department of Revenue will have to draft and promulgate rules to implement the exemption.

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

The department must identify affected taxpayers and may be required to create forms, change internal processes, prepare a Taxpayer Information Publication (TIP) to be sent to affected parties, and otherwise notify the public on how to comply with the new tax law.

- (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 will provide an exemption from the sales and use taxes of certain non-profit water systems.

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:

Section 212.08, Florida Statutes.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 212.08(7), Florida Statutes, by adding a new paragraph (zz), which provides a specific exemption for sales or leases to Florida corporations that: 1) are incorporated pursuant to chapter 617, Florida Statutes, ; 2) hold a current exemption from federal income tax pursuant to s. 501(c)(3), Internal Revenue Code; and 3) have as their primary function, the construction, maintenance, or operation of a water system in Florida.

Section 2: The bill takes effect July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The Revenue Estimating Conference estimates that the exemption for qualified corporations which construct, maintain, or operate water systems in Florida will result in a recurring loss to the General Revenue Fund of \$600,000.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

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:

Corporations qualifying for this exemption will benefit from not having to pay sales and use tax on the purchase or lease of tangible personal property.

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

N/A

D. FISCAL COMMENTS:

N/A

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

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A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties and municipalities to expend funds or to take action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The Revenue Impact Conference determined that the bill has an insignificant impact on the revenue raising authority of counties and municipalities

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

The bill does not reduce the amount of state tax shared with counties and municipalities.

V. **COMMENTS:**

The Department of Revenue would like the effective date of the bill changed from July 1, 1999, to January 1, 2000. The Department contends a July 1, 1999 effective date does not give the department a sufficient time frame to adequately implement the law.

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

None.

VII. **SIGNATURES:**

COMMITTEE ON COMMUNITY AFFAIRS:

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