

STORAGE NAME: h0055a.tr

DATE: March 4, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 55

RELATING TO: Tax on Diesel Fuel/Motor Coach Idle-Time Refund

SPONSOR(S): Rep. Fuller

COMPANION BILL(S): None

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

- (1) TRANSPORTATION YEAS 9 NAYS 1
 - (2) FINANCE & TAXATION
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides motor coach owners with a diesel fuel tax refund on fuel consumed by a motor coach when the engine is idling to run climate control and electrical systems. The current tax rate on diesel fuel is 25 cents per gallon.

The bill has an indeterminate fiscal impact to the State Transportation Trust Fund, the General Revenue Fund, and local government funds.

[Note: See part VI. Amendment or Committee Substitute Changes for effects of an amendment adopted by the Committee on Transportation.]

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

State law imposes fuel taxes on each gallon of taxable fuel sold in Florida. These fuel taxes are administered by the Department of Revenue (DOR). The current fuel tax rates for diesel and uses of tax revenue are as follows:

- ▶ 2 cents - Constitutional Fuel Tax - Local government transportation needs.
- ▶ 1 cent - County Fuel Tax - Local government transportation needs.
- ▶ 1 cent - Municipal Fuel Tax - Local government transportation needs.
- ▶ 7 cents - Local Option & Ninth-Cent Fuel Taxes* - Local government transportation needs.
- ▶ 5 cents - State Comprehensive Enhanced Transportation System (SCETS) Tax - State transportation needs in the county of collection.
- ▶ 9 cents - Fuel Sales Tax - State transportation needs.

(*As of 1994 the tax rates for both the Local Option Fuel Tax and the Ninth-Cent Fuel Tax were equalized statewide at a total of 7 cents per gallon for diesel fuel.)

Currently, tax refunds are authorized for diesel fuel consumed for unloading bulk cargo by pumping; for turning a concrete mixer drum; and for compacting solid waste. Requests for these refunds are processed by DOT as provided by agency rule. Based on industry conducted studies, DOR established fixed guidelines by rule for the portion of diesel fuel purchased which would be subject to refund. For both the concrete mixing industry and the trash compacting industry DOR rules provide that 35 percent of fuel purchased is subject to refund. For the bulk cargo pumping industry DOR rules provide that 10 gallons of fuel purchased for each load is subject to refund.

B. EFFECT OF PROPOSED CHANGES:

This bill provides that diesel fuel used by a motor coach during idle time for running climate control systems and maintaining electrical systems is subject to a refund. The refund process would be provided by agency rule. Presumably, DOR rules for determining the amount of refund will be based on motor coach industry conducted studies of fuel consumption. "Motor coach" is defined in the bill to mean a privately owned class 36 vehicle with a gross vehicle weight of 30,000 pounds or more, which is used exclusively for transporting passengers for compensation. A "class 36" vehicle is a registration classification used by the Department of Highway Safety and Motor Vehicles for buses. The minimum weight requirement will have the effect of limiting refunds to owners of larger buses and excluding smaller vehicles such as vans and mini-buses from eligibility for refunds.

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 bill states that refunds will be as provided by DOR rule. However, other than establishing minimum eligibility criteria, the bill contains no directions to the agency related to methods of calculating refunds or limitations on number and frequency of refund requests.

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

DOR must process refund requests from motor coach owners.

(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 reduce the amount of fuel tax paid by motor coach owners.

- 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:

STORAGE NAME: h0055a.tr

DATE: March 4, 1999

PAGE 5

(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 206.8745, F.S.

E. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Indeterminate, see D. Fiscal Comment.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

Indeterminate, see D. Fiscal Comment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Indeterminate, see D. Fiscal Comment.

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:

The motor coach industry will benefit from refunds of fuel taxes paid on diesel fuel consumed while a motor coach's engine is idling. The amount of this benefit is indeterminate, see D. Fiscal Comments.

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

N/A

D. FISCAL COMMENTS:

[Note: See part VI. Amendment or Committee Substitute Changes for fiscal impacts of an amendment adopted by the Committee on Transportation.]

Because the amount of fuel consumed by motor coaches that would be subject to refund is unknown, the fiscal impact of this bill cannot be determined. For a similar bill last year with slightly different eligibility criteria, the annual fiscal impact was estimated to be in the range of between \$1 million and \$3.5 million. These "low" and "high" estimates were based on assumptions respectively of either 10 percent of motor coach fuel being subject to refund or 35 percent of motor coach fuel being subject to refund.

According to DOR, significant resources may be required to review and process refund requests. Limiting the number of requests to one per year and providing a method of calculating the amount of each refund would greatly reduce the potential fiscal impact to DOR's operational budget.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities to raise revenues.

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

While the bill will reduce the amount of the certain fuel taxes distributed to municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(c), Florida Constitution does not apply.

V. COMMENTS:

Based on a survey of the Florida Motor Coach Association, the ratio of diesel fuel consumption at idle to total fuel consumption varied from 11 percent to 33 percent. The wide variance in consumption rates is apparently related to different operational characteristics of the motor coach companies involved in the survey. For example, a motor coach that operates primarily in an urban area such as the Orlando/Disney area would have a higher percentage of idle time fuel consumption compared with a motor coach that operates in a more rural area or that has more cross-country trips.

Federal law allows a tax credit for federal tax paid on diesel fuel consumed by buses for intercity and local use. The federal tax rate on diesel fuel for 1998 was 24.4 cents per gallon and the amount of the credit was 17 cents per gallon of diesel fuel consumed by an eligible intercity or local bus.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The House Committee on Transportation considered this bill on March 3, 1999, and adopted an amendment which rewrote the substantive provisions of the bill to make the following changes:

Provides that the refund to motor coach operators will be 35 percent of fuel taxes paid, and is only applicable to buses that weigh 33,000 pounds or more.

Clarifies that only one refund request per year may be made by a fuel purchaser, and that for the 1999 calendar year refunds will be available only for fuel purchased between July 1, 1999 and December 31, 1999.

Specifies what documentation must be submitted with a refund request.

Provides that state sales tax is due on motor coach fuel that is subject to refund of fuel tax.

The bill as amended is estimated to have a negative fiscal impact to state and local revenues of \$1.2 million on an annualized basis. The bill was reported favorably with one amendment.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Phillip B. Miller

John R. Johnston