

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 992

SPONSOR: Fiscal Resource Committee and Senator Horne

SUBJECT: Tax on sales, use and other transactions

DATE: April 14, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill provides an exemption from the sales, use and storage tax imposed by chapter 212, F. S., for labor charges for the repair of, and parts and materials used in the repair of and incorporated into, industrial machinery and equipment which is used for the manufacturing, processing, compounding, or production of items of tangible personal property at a fixed location in Florida. The bill also adds to exemption on the sales tax for electricity and steam used to operate machinery and equipment pursuant to s. 212.08(7)(ii), F.S., the cigar manufacturing industry.

The exemption applies only to certain industry codes as classified under the Standard Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President. Additionally, the exemption would be phased-in at the rate of 25 percent per year beginning with July 1, 1999, and continuing until July 1, 2002.

The bill provides a sales tax exemption for donations of works of art to an educational institution where the title to the work of art is transferred to the educational institution.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 212.08(7)

II. Present Situation:

Chapter 212, F. S., provides for the tax on sales, use and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under chapter 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a six

percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in this state.

Section 212.02, F.S., provides definitions for the implementation of this chapter and paragraph (16) of this section states that "sales price" includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Section 212.02(19), F.S., defines "tangible personal property" as personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses. Section 212.08, F.S., provides for exemptions from the sales and use tax imposed by this chapter.

Section 212.08(7)(dd), F.S., provides for a sales and use tax exemption for works of art sold to or used by certain educational institutions.

Section 212.08(7)(ii), F.S., provides a sales tax exemption on charges for electricity and steam used to operate machinery and equipment used in manufacturing.

Certain industries are classified under the Standard Industrial Classification (SIC) Manual, 1987, published by the Office of Management and Budget, Executive Office of the President. The following are the SIC codes and their industry description affected by this bill: 10 - Metal Mining; 12 - Coal Mining; 13 - Oil and Gas Extraction; 14 - Nonmetallic Materials, except fuels; 20 - Food and kindred products; 22 - Textile Mill Products; 23 - Apparel and other Textile Products; 24 - Lumber and Wood Products; 25 - Furniture and Fixtures; 26 - Paper and Allied Products; 27 - Printing and Publishing; 28 - Chemicals and Allied Products; 29 - Petroleum and Coal Products; 30 - Rubber and Misc. Plastics Products; 31 - Leather and Leather Products; 32 - Stone, Clay and Glass Products; 33 - Primary Metal Products; 34 - Fabricated Metal Products; 36 - Electronic and Other Electric Equipment; 37 - Transportation Equipment; 38 - Instruments and Related Products; 39 - Miscellaneous Manufacturing Industries; and 212 - Cigars.

III. Effect of Proposed Changes:

The bill amends paragraphs (dd) and (ii) and adds a new paragraph (zz) to s. 212.08(7), F.S. Paragraph (dd) is amended to add a sales and use tax exemption for works of art that are donated to an educational institution where the title of the work of art is transferred to the educational institution.

Paragraph (ii) adds to the exemption on the sales tax for electricity and steam used to operate machinery and equipment, SIC Industry Group Number 212, the cigar manufacturing industry.

Paragraph (zz) provides an exemption from the sales, use and storage tax for labor charges for the repair of, and parts and materials used in the repair of and incorporated into, industrial machinery and equipment which is used for the manufacture, processing, compounding, or production of items of tangible personal property at a fixed location within this state. The following SIC Major Groups are effected by this bill: 10, 12, 13, 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, and 212. This tax exemption would be effective beginning July 1, 1999, at a rate of 25 percent of such charges for repair parts and labor, and would increase at a rate of 25 percent until reaching 100 percent beginning July 1, 2002.

The bill will take effect July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill phases-in over a four year period, the sales and use tax on labor charges for repair of, and parts and materials used in the repair of and incorporated into, industrial machinery and equipment which is used by qualifying SIC industries. The fiscal impact is estimated to be a recurring loss to the General Revenue Fund of \$12.8 million, with a \$2.9 million GR loss in fiscal year 1999-00. Local governments are estimated to loss \$0.3 million in sales tax revenue in fiscal year 1999-00 and \$1.2 million of recurring sales tax revenue.

Art purchased for the purpose of donating to an educational institution has an estimated recurring General Revenue loss of \$1.2 million, with a corresponding local government loss of \$0.2 million.

Adding the cigar manufacturing industry to the electricity and steam exemption is estimated to have an insignificant negative fiscal impact.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
1) Sales Tax Exempt. Phase-in: M&E Repair	(2.9)	(12.8)	(*)	(*)	(0.3)	(1.2)	(3.2)	(14.0)
2. Works of Art	(1.1)	(1.2)	(*)	(*)	(0.2)	(0.2)	(1.3)	(1.4)
3. Cigar Manufacturing	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

* Insignificant
 ** Indeterminate

B. Private Sector Impact:

Industries qualifying for this exemption will realize a savings on repair parts and labor used in the repair of qualified machinery and equipment. Cigar manufacturers will realize a savings on sales tax previously paid on charges for electricity and steam used in their business.

A person who purchase a work of art for the purpose of donated it to an educational institution will not have to pay sales tax on the purchase price of the work of art.

C. Government Sector Impact:

The Department of Revenue will have to notify qualified industries that effective July 1, 1999, 25% of the charges paid for repair parts and labor would be exempt from the sales tax. Each year thereafter, the Department would have to update their sales tax coupons to reflex the current percentage exemption until it reaches 100% on July 1, 2002.

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/HB 397 is similar to SB 992

VIII. Amendments:

None.