

STORAGE NAME: h1073a.bdt

DATE: March 21, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 1073

RELATING TO: Sales Tax Exemption

SPONSOR(S): Representative Fuller and others

TIED BILL(S):

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

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 9 NAYS 0
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

The bill would revise the sales tax exemption for industrial machinery and equipment purchased for use in manufacturing or spaceport activities in new or expanding businesses. It revises the time period during which such machinery and equipment must be purchased with respect to the exemption for new businesses. It removes a provision that specifies that the exemption for expanding businesses applies only to taxes in excess of \$50,000. Provides an exemption for machinery and equipment purchased for use in manufacturing that is not eligible for the exemption for new or expanding businesses, phased in over a 5-year period. It provides a sales tax exemption for machinery, equipment, materials, and tangible personal property purchased for use predominantly in research and development, phased in over a 5-year period. Extends the application of the sales tax exemption for materials and labor used in the repair of industrial machinery and equipment to include machinery and equipment used in the preparation of items for shipping.

The Revenue Estimating Conference has not yet addressed this bill.

The bill does not address the issue of rulemaking.

The bill provides an effective date of July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 212, Florida Statutes, provides for a 6 percent 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 Florida. Section 212.05(1)(b), F.S., provides for a six percent tax on the cost price of any item of tangible personal property that is not sold but used in Florida. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging 0.5 percent to 1.0 percent each.

Industrial machinery and equipment purchased by new and expanding spaceport activities, manufacturing-type businesses, and printing facilities or plant units is exempt from sales and use tax when the criteria for exemption are met as established by s. 212.08(5)(b), F.S. Mining-type activities may receive an exemption when the criteria as established by ss. 212.08(5)(b) and 212.0805, F.S., are met. All new and expanding businesses, except mining-type activities, may receive the sales and use tax exemption by way of a refund of previously paid taxes. Mining-type activities may only receive the sales and use tax exemption by way of a prospective credit against severance taxes. All businesses must apply for the exemption.

Pursuant to s. 212.052(2), F.S., machinery, materials, equipment, and tangible personal property used in research and development are specifically subject to sales and use tax.

C. EFFECT OF PROPOSED CHANGES:

The bill changes the account of use exemption relating to machinery and equipment, found in s. 212.08(5)(b), F.S., from that which is used to increase productive output to that which is used in manufacturing or spaceport activities. It provides the exemption for qualifying machinery and equipment purchased and delivered within four years prior to the time the business begins production and for the following four years.

The bill adds s. 212.08(5)(b)3, F.S., exempting industrial machinery and equipment purchased for use in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in the state. It provides a phase-in period for the exemption beginning July 1, 2000, with a 15 percent exemption and purchases will become fully exempt on July 1, 2005.

The bill creates s. 212.08(8)(n), F.S., exempting machinery, materials, equipment, and all tangible personal property purchased for use in research and development activities. It provides a phase-in period for the exemption beginning July 1, 2000, with a 15 percent exemption and purchases will become fully exempt on July 1, 2005.

The bill adds two definitions to the statutes:

1. "Predominantly" is defined as at least 50 percent of the time the machinery, materials, equipment, or tangible personal property is used in qualifying research and development activities.
2. "Research or development" is defined as research which has one of the following as its ultimate goal:
 - Basic research in a scientific field of endeavor.
 - Advancing knowledge of technology in a scientific or technical field of endeavor.
 - The development of a new product, whether or not the new product is offered for sale.
 - The improvement of an existing product, whether or not the improved product is offered for sale.
 - The development of new uses of an existing product, whether or not a new use is offered as a rationale to purchase the product.
 - The design and development of prototypes, whether or not a resulting product is offered for sale.

"Research or development" does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency surveys, consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other similar nontechnical activities.

The bill extends the application of the sales tax exemption for materials and labor used in the repair of industrial machinery and equipment to include machinery and equipment used in the preparation of items for shipping.

The bill amends s. 212.0805, F.S., to allow machinery and equipment purchased for use in mining operations to qualify for the exemption provided in s.212.08(5)(b), F.S.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The Revenue Estimating Conference has yet to address this bill.

IV. 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 an 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.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Department of Revenue has raised several concerns relating to the implementation and administration of this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

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