

# 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 1604

SPONSOR: Fiscal Resource Committee, Senator Sullivan and Others

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 25, 2000 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:

The bill replaces the term “silicon” with “semiconductor” for the sales tax exemption for machinery and equipment used in silicon technology production. Semiconductor is the modern term for silicon technology. Includes building materials for use in manufacturing or expanding “clean rooms” in the exemption. Also cleans up some out dated language in s. 212.08(5)(j).

The bill expands the exemption to include machinery and equipment used by defense or space technology facilities to produce defense or space technology products, and machinery and equipment used in defense or space research and development in a defense or space technology research and development facility. This exemption is at 25 percent. The bill also provides definitions of “industrial machinery and equipment” for use in silicon, defense, or space technology production, “machinery and equipment” used predominately in silicon wafer, defense, or space research and development activities, and “space technology products”.

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

## II. 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, with a maximum of 1.5 percent.

Section 212.08(5), F.S., provides exemptions from the tax imposed by this chapter based on use. Section 212.08(5)(j), F.S., provides an exemption from the sales and use tax for machinery and equipment purchased for use in silicon technology facilities to manufacture, produce, compound, or process silicon technology products. Additionally, machinery and equipment purchased for use predominately in silicon wafer research and development activities in a certified silicon technology research and development facility are also exempt.

To receive the exemption, an eligible business must apply to Enterprise Florida Inc. (EFI), who is responsible for reviewing the applications and making the recommendation of approval or disapproval to the Governor's Office of Tourism, Trade, and Economic Development (OTTED) within a specified time period. OTTED must either approve the application within 5 working days or notify the applicant of its denial and reasons why within 10 working days. Businesses must apply annually to OTTED for the exemption and provide to OTTED documents on the sales and use taxes otherwise payable, the average number of full-time equivalent employees at the facility, the average wage and benefits paid to those employees over the preceding calendar year, and the total investment made in real and tangible personal property over the preceding calendar year since the date of certification. OTTED is responsible for using this information to prepare an annual report on the exemption program and its cost and impact.

The exemption program allows certified businesses to designate one or more state universities or community colleges as recipients of up to 100 percent of the amount of the exemption for which they may qualify. To receive these funds, the institution agrees to match the funds with equivalent cash, programs, services, or other in-kind support on a one-to-one basis in the pursuit of research and development projects as requested by the certified business. Rights to patents, royalties, or real or intellectual property must be vested in the business unless otherwise agreed to by the business and the university or community college.

Language in the section providing the exemption for machinery and equipment used "predominately" in silicon wafer research and development defines "predominately" to mean such use of the equipment is at least 50 percent of the time. "Research and development" is defined as basic and applied research in the science, engineering, design, development, and testing of prototypes or processes for new products or improvement of products. It does not include market or sales research, routine consumer product testing, research in the social sciences or psychology, non technological activities, or technical services.

### **III. Effect of Proposed Changes:**

The bill amends s. 212.08(5)(j), F.S. replacing the term "silicon" with "semiconductor" for the sales tax exemption for machinery and equipment used in silicon technology production. The exemption would be applied to machinery and equipment "used" in these technology facilities instead of "purchased for use." Semiconductor is the modern term for silicon technology. Includes building materials for use in manufacturing or expanding "clean rooms" in the exemption. Also cleans up some out dated language in s. 212.08(5)(j).

In addition, the bill expands the exemption to include space and defense technology activities. The exemption would be applied to machinery and equipment used in these technology facilities. The exemption is for 25 percent of the tax imposed by chapter 212.

The bill adds the following definitions to the statutes: “industrial machinery and equipment; “machinery and equipment”; “clean rooms”; “defense technology products”; and “space technology products”.

The bill provides an effective date of January 1, 2001.

**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 Revenue Estimating Conference estimates the fiscal impact of the bill to be a recurring loss to the General Revenue Fund of \$1.8 million, with a recurring loss to local governments of \$0.3 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
Defense & space research exempt. & semiconductor	(1.7)	(1.8)	(*)	(*)	(0.3)	(0.3)	(2.0)	(2.1)

- \* Insignificant
- \*\* Indeterminate

**B. Private Sector Impact:**

Space and defense related industries certified for the tax exemption would be exempt from 25 percent of the sales tax on machinery and equipment used in their technology facilities that manufacture, process, compound, or produce defense or space technology products.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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