

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: SB 390

SPONSOR: Fiscal Resource Committee

SUBJECT: Aviation Fuel Tax

DATE: February 16, 2000 REVISED: _____

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

I. Summary:

The bill eliminates the July 1, 2000, repeal of the alternative aviation fuel tax rate that is imposed under s. 206.9825(2), F.S.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 206.9825.

II. Present Situation:

In 1988, the Florida Legislature passed ch. 88-371, Laws of Florida, which authorized certain air carriers that utilize mileage apportionment for corporate income tax purposes to use the apportionment formula established in s. 212.0598, F.S., for their aviation fuel tax. The basis of the tax is the ratio of Florida mileage to total mileage. Section 206.9825(2), F.S., provides for a tax rate of 8 percent of the retail sales price on aviation fuel used in Florida only, as compared to the regular aviation fuel tax rate of 6.9 percent of all fuel purchased in Florida. However, in no event shall the tax be lower than 4.4 cents per gallon. This provision was adopted as part of a package to encourage aircraft hubs in Florida and to benefit airlines based in Florida who load more fuel in Florida than they utilize in Florida. The proration of aviation fuel tax is set to expire on July 1, 2000. Aviation fuel is also known as "kerosene". Most of the kerosene produced meets standards for jet fuel. Thus, kerosene purchased for home use could also be used as jet fuel.

The 1995 Legislature re-wrote the motor fuel and special fuel tax statutes, to conform to the federal diesel fuel dyed program. All of the motor and special fuel tax provisions found in chapters 206, 212, and 336 were combined into chapter 206. The point of collection for state motor, diesel and aviation fuel and local diesel fuel was changed from the wholesaler, special fuel dealer, importer, or retailer, to the terminal supplier. The changes took effect July 1, 1996. Prior to the changes, aviation fuel could be purchased either tax paid or tax-free, since air carriers could apply for, and receive an aviation fuel dealers license. The majority of air carriers that elected to prorate their aviation fuel taxes, generally purchased aviation fuel tax-free, calculated their tax liability,

and paid tax to the Department of Revenue based on such calculation. Since July 1, 1996, all air carriers pay the 6.9 percent regular aviation fuel tax on all purchases at the terminal rack, and receive a refund if the credit for tax paid gallons is greater than the tax due on the apportioned gallons.

According to the Department of Revenue, as a result of changing the point of collection from the wholesaler, special fuel dealer, importer, or retailer level to the terminal supplier, aviation fuel tax collections increased by 14 percent in the first year, net of refunds. The increase appears to be a direct result of the elimination of the ability for air carriers and others to purchase kerosene (aviation fuel) tax-free. The change eliminated most errors and evasion. The Department of Revenue issues ten to fifteen refunds each month. According to the department, the cost to administer these refunds is insignificant compared to the increase in aviation fuel tax collections.

As of August, 1999, there were fifty-six active air carrier dealers registered with the Department of Revenue. Of those fifty-six, fifteen prorate their aviation fuel taxes pursuant to s. 206.9825(2), F.S.

The Senate Fiscal Resource Committee Interim Project 2000-49, "Automatic Repeal of Section 206.9825(2), F.S., - Proration of the Aviation Fuel Tax", recommended that the Legislature eliminate the July 1, 2000, repeal of alternative aviation fuel tax rate. This recommendation was based on findings that air carriers that prorate aviation fuel taxes travel primarily in Florida and that such air carriers maximize their fuel purchases in Florida and without proration, they report that they would purchase less fuel in Florida. This would have a negative impact on total state-wide aviation fuel tax collections, as well as on aviation fuel companies domiciled in Florida. In addition, for some of the smaller air carriers, the proration of aviation fuel taxes means the difference between profitability or not. The larger airlines that fly the continental United States do not use proration because their Florida mileage is small compared to their overall mileage, which results in a small apportionment factor, less than the 4.4 percent floor. Such a small apportionment factor does not make it cost effective for the larger airlines to apportion their Florida aviation fuel taxes.

III. Effect of Proposed Changes:

The amends s. 206.9825(2), F.S., eliminating the July 1, 2000, repeal of the alternative aviation fuel tax rate.

The bill shall take effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Based on information and data obtained for Interim Project 2000-49, Table 1 indicates that the costs of the repeal of s. 206.9825(2), F.S., would be a potential loss to Florida’s economy of \$18 million. The potential increase in aviation fuel tax revenues from the repeal of the alternative aviation fuel tax rate is indeterminate due to reports from air carriers that without proration, they would purchase less aviation fuel in Florida, thus pay less aviation fuel taxes. In addition, several small air carriers reported that they could not remain in business without the proration provisions of s. 206.9825(2), F.S.

Table 1
Aviation Fuel Gallons Purchased in Florida, Total Dollars Spent In Florida,
Refunds Processed and Net Gain to the Florida Economy
For a 12-month Period for Selected Air Carriers
(Estimates)

Air Carrier	Gallons Purchased in Florida	Aver. Cost Per Gal.	Total \$ Spent in Florida	Refunds (Tax Loss to State)	Net Gain to Florida Economy
Sun Country Airlines *	2.2 million	.5050	\$1,111,000	\$127,000	\$ 984,000
Spirit Airlines **	20.0 million	.6248	12,496,000	900,000	11,596,000
Gulf Stream International *	5.4 million	.4711	2,543,940	221,000	2,322,940
Miami Air International **	2.3 million	.5829	1,340,970	120,000	1,220,670
Southeastern Airlines @	2.4 million	.6454	1,548,960	132,000	1,416,960
National Jets, Inc. *	0.7 million	.7800	546,000	37,000	509,000
Total			\$19,586,870	(\$1,537,000)	\$18,049,870

* Based on actual figures.

** Based on less than 12 months of data. Estimates assume monthly patterns.

@ Southeastern Airlines (formerly Sun Jet International) only in operation for last 2 months. Estimates assume monthly patterns.

B. Private Sector Impact:

Air carriers that prorate their aviation fuel taxes will be able to continue to prorate and some of the smaller air carriers will be able to stay in business in Florida as a direct result of being able to continue to prorate their aviation fuel taxes.

Local aviation fuel companies will benefit by increased sales of aviation fuel by air carriers that prorate their aviation fuel taxes, since many of these airlines report that due to the proration provisions of s. 206.9825(2), F.S., they maximize their aviation fuel purchases in Florida.

C. Government Sector Impact:

The Department of Revenue will not experience any increase in costs since they currently provide the forms and computer programming necessary for the proration of aviation fuel taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None