STORAGE NAME: h0527a.edt.doc
DATE: March 7, 2001

HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE
ANALYSIS

BILL #: HB 527

RELATING TO: Sales Tax Exemption on Spaceport and Manufacturing Activities

SPONSOR(S): Representative(s) Wallace

TIED BILL(S):

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

(1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE YEAS 10 NAYS 0
(2) FISCIAL POLICY & RESOURCES
(3) FISCAL RESPONSIBILITY COUNCIL
(4)
(5)

I. SUMMARY:

This bill amends s. 212.08(5), F.S., to provide a full, rather than partial, sales tax exemption for industrial machinery and equipment purchased for exclusive use in spaceport or manufacturing activities. The bill removes the $50,000 annual threshold and deletes the exemption requirement that a spaceport or manufacturing business demonstrate that expansion will increase productive output by at least 10 percent.

The bill also amends s. 212.0805, F.S., relating to the qualification for the sales tax exemption on industrial machinery and equipment used in expanding phosphate or other solid minerals severance, mining, or processing operations. It removes the requirement that qualifying phosphate and other minerals businesses demonstrate the creation of new Florida jobs to qualify.

The act takes effect July 1, 2001. It does not address rulemaking authority. The Revenue Estimating Conference has not addressed this bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes [x]	No []	N/A []
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

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

B. PRESENT SITUATION:

Chapter 212, F.S., provides for a six percent tax on sales, use and other transactions. Section 212.08(5), F.S., provides exemptions from the tax imposed by the chapter based on use. Specifically, Section 212.08(5)(b)1., F.S., provides a full sales tax exemption on industrial machinery and equipment purchased for exclusive use by a *new* business in spaceport activities or for use in *new* businesses which manufacture, process, compound, or produce items of tangible personal property for sale at fixed locations are exempt from the tax on sales, use and other transactions imposed by this chapter. Section 212.02(22), F.S., defines “spaceport activities” as activities directed or sponsored by the Spaceport Florida Authority on spaceport territory pursuant to its powers and responsibilities under the Spaceport Florida Authority Act.

Section 212.08(5)(b)2.a., F.S., provides a *partial* sales tax exemption on industrial machinery and equipment purchased for exclusive use by an *expanding* facility engaged in spaceport activities or for use in *expanding* manufacturing facilities or plant units. The exemption applies after the first $50,000 in sales tax has been paid and after the business has demonstrated that the industrial machinery and equipment purchased are used to increase productive output by at least 10 percent. “Productive output” means the number of units actually produced by a single plant or operation in a single, continuous 12-month period, irrespective of sales.

To receive an exemption, a business must apply to the Department of Revenue for a temporary tax exemption permit. Upon completion of the purchasing of machinery and equipment, the business must return the temporary tax exemption permit to the department. If the department determines that the machinery and equipment did not meet the criteria, the amount of taxes exempted at the time of purchase, as well as any accrued interest, will be due. A refund through previously paid taxes will be made to those businesses that fail to apply for a temporary exemption permit.

Section 212.08(5)(b) 5., F.S., grants the exemptions available under the aforementioned scenarios to industrial machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations only by way of a prospective credit against taxes due under chapter 211, F.S., Tax on Severance and Production of Minerals. To qualify for the exemption and credit contained in s. 212.08(5)(b)5., an expanding phosphate or other minerals business must demonstrate:

- The creation of new Florida jobs in an amount equal to at least 5 percent of its Florida employees, if the business has 2,500 or fewer employees, **or**

- The creation of new Florida jobs in an amount equal to at least 3 percent of its Florida employees if the business has more than 2,500 employees.

To qualify for the exemption and credit contained in s. 212.08(5)(b)5., F.S., a *new* phosphate or other minerals business must demonstrate the creation of at least 100 new Florida jobs.

"New Florida jobs" is defined as a new position created and filled within 24 months after completion of construction of the new or expanded facility and includes the transfer of a position from an existing Florida operation as long as the transfer is the result of the closure or reduction of the other Florida operation. For an expanding business, the Office of Tourism, Trade, and Economic Development (OTTED) documents the number of employees working on the date construction begins on the expansion and verifies the number of employees working 24 months later. For new businesses, the number of new Florida jobs is documented by OTTED 24 months after the completion of initial construction. The agency certifies these numbers to the Department of Revenue.

C. EFFECT OF PROPOSED CHANGES:

The bill changes s. 212.08(5)(b), F.S., to provide a full, rather than partial, sales tax exemption on industrial machinery and equipment used in expanding or existing spaceport and manufacturing facilities. The bill removes the requirement that expansion of a facility increase productive output by at least 10 percent.

Phosphate companies and other solid minerals severance, mining, or processing operations would not have to prove creation of new Florida jobs through expansion to qualify for the full exemption.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 212.08(5)(b)2.a., F.S., by deleting the requirement that a spaceport or manufacturing facility be an expanding business to qualify for a sales tax exemption on industrial machinery and equipment, by removing the requirement that a taxpayer pay the first $50,000 in sales tax each year before an exemption takes effect, and by removing the requirement that a taxpayer demonstrate to the Department of Revenue that the machinery and equipment are used to increase productive output of the expanding facility by not less than 10 percent. Makes conforming changes.

Section 2. Amends s. 212.0805, F.S., by removing the requirement that expanding phosphate or other solid minerals severance, mining, or processing operations must demonstrate that such business has created new Florida jobs before such business qualifies for an exemption.

Section 3. Provides a July 1, 2001, effective date.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

The Revenue Estimating Conference has not addressed this bill.

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:

N/A

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:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority. The Department of Revenue advises that additional rulemaking authority is necessary for the agency to implement this act. Specifically, the department reports that the bill represents a significant change to the existing exemption and that a substantial rewrite of Rule 12A-1.096, F.A.C., the administrative rule covering purchases of machinery and equipment used by new and expanding businesses, would be necessary.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

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