HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 329 w/CS Tax Exemptions for Fuels Purchased by Utilities
SPONSOR(S): Littlefield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Energy (Sub)	20 Y, 0 N	Holt	Liepshutz
2) Business Regulations	31 Y, 0 N w/CS	Holt	Liepshutz
3) Finance & Tax	20 Y, 0 N	Overton	Diez-Arguelles
4) Commerce & Local Affairs Apps. (Sub)	9 Y, 0 N	Rayman	Belcher
5) Appropriations			

SUMMARY ANALYSIS

Sec. 203.01(3), F.S., provides an exemption to the gross receipts tax for sale of natural gas to a public or private utility for use as fuel in the generation of electricity. Under present law, the sale of manufactured gas to a public or private utility for use in the generation of electricity is subject to gross receipts tax. The bill creates an exemption from gross receipts tax for the sale of manufactured gas to a public or private utility for use in the generation of electricity.

Sec. 166.231(4)(a), F.S.; provides the purchase of natural gas or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, is exempt from public services tax. Accordingly, manufactured gas sold to a utility for the generation of electricity is subject to public services tax. The bill creates an exemption from the public services tax for the purchase of manufactured gas by a public or private utility, either for resale or for use as fuel in the generation of electricity.

The bill has a contingent fiscal impact on state revenues.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[X]
2. Lower taxes?	Yes[x]	No[]	N/A[]
3. Expand individual freedom?	Yes[]	No[]	N/A[X]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	Yes[]	No[]	N/A[X]

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

B. EFFECT OF PROPOSED CHANGES:

Gross Receipts Tax

Sec. 203.01, F.S., imposes a tax of 2.5 percent upon the gross receipts of every person that receives payment for any utility service, defined in s. 203.012, F.S., as electricity for light, heat, or manufactured gas for light, heat, or power. Sec. 203.01(3), F.S., provides an exemption to the gross receipts tax for sale of natural gas to a public or private utility, including a municipal corporation or rural electric cooperative association, either for resale or for use as fuel in the generation of electricity. Under present law, the sale of manufactured gas to a public or private utility for use in the generation of electricity is subject to gross receipts tax.

Presently there is no business selling manufactured gas to a public or private utility in Florida; therefore, no revenue is received by the state on gross receipts tax on manufactured gas sold to a utility and used to produce electricity. However, since1995 Tampa Electric has owned a manufactured gas plant in Polk County. The facility is known as a "coal gasification" plant, and produces a manufactured gas for use in an adjacent 250 MW power plant, also owned by Tampa Electric. The manufactured gas from the Polk County plant is not produced for any other purpose than to fuel the adjacent power plant. Since Tampa electric uses the manufactured gas in its own plant to generate electricity, the manufactured gas in not subject to gross receipts tax.

Tampa Electric now plans to sell the manufactured gas plant and purchase the manufactured gas from the new owner. Under present law, the purchase of the manufactured gas by Tampa Electric would be subject to gross receipts tax. If taxed, the manufactured gas probably would be the only power plant fuel taxed in Florida.

The bill creates an exemption from gross receipts tax for the sale of manufactured gas to a public or private utility for use in the generation of electricity.

Public Services Tax

Sec. 166..231, F.S., provides that a municipality may levy a public services tax of up to 10% on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service. Sec. 166.231(4)(a), F.S.; provides the purchase of natural gas or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, is exempt from public services tax. Accordingly, manufactured gas sold to a utility for the generation of electricity is subject to public services tax.

A charter county may impose the pubic services tax within the unincorporated area of the county. The authority to levy the tax is through case law rather than by statute. *Volusia County vs. Dickinson*, 269 So.2d 9 (Fla. 1972).

The bill creates an exemption from the public services tax for the purchase of manufactured gas by a public or private utility, either for resale or for use as fuel in the generation of electricity.

The bill takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1. Amends s. 201.01(3)(a), F.S., relating to the tax on gross receipts for utility services; exempts manufactured gas from the tax on gross receipts when resold or sold for use to generate electricity.

Section 2. Amends s. 166.231(4)(a), F.S., relating to the public service tax; exempts manufactured gas from the public service tax when used as fuel in the generation of electricity.

Section 3. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   If Tampa Electric sells its manufactured gas plant, the state could potentially collect an estimated $625,000, if manufactured gas sold to a utility for the generation of electricity is subject to the gross receipts tax. The bill creates an exemption from gross receipts tax for the sale of manufactured gas to a public or private utility for use in the generation of electricity; therefore, the estimated fiscal impact of the bill, contingent upon completion of the sale, is ($0.6) million to state trust funds.

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The only county affected by the bill is Polk County. Currently, the county assesses a 2.00% public services tax on the purchase of natural gas. If Tampa Electric sells its manufactured gas plant, Polk County could potentially collect approximately $500,000, if manufactured gas sold to a utility for the generation of electricity is subject to the public services tax. The bill creates an exemption from public services tax for the sale of manufactured gas to a public or private utility for use in the generation of electricity; therefore, the estimated fiscal impact of the bill, contingent upon completion of the sale, is ($0.5) million to local governments.

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If Tampa Electric completes the sale of its manufactured gas plant, the purchaser would save approximately $656,000 in gross receipts tax and $500,000 in public services tax attributable to the sale of the manufactured gas to Tampa Electric.

D. FISCAL COMMENTS:

Since no revenue is presently being derived by the state on the sale of manufactured gas to a utility, the gross receipts tax estimate for the state for FY 2003-04 would not decrease due to the passage of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

By the Committee on Business Regulations:

On March 11, 2003, the Subcommittee on Energy adopted one amendment. The amendment would include manufactured gas, as is the case with natural gas, in the public service tax exemptions. If Tampa Electric sells its Polk County manufactured gas production facility, the amendment exempts Tampa Electric from having to pay a 2% public service tax of approximately $500,000 annually. However, the public service tax would continue to be paid by the consumers of the electricity produced using manufactured gas as a fuel, which is the situation when natural gas is used as a fuel to produce electricity.

Municipalities are authorized to levy by ordinance a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water services. The tax levied is only on purchases within the municipality and shall not exceed 10 percent of the payments received by the seller of the taxable item. Additionally, a charter county may impose the tax within the unincorporated area of the county by virtue of numerous legal rulings in Florida case law.

Subcommittee on Commerce and Local Affairs Appropriations:

On April 15, 2003, the Subcommittee on Commerce and Local Affairs Appropriations adopted a remove-everything amendment to change the format of the bill presentation to align with Senate Bill 1430. No statutory language was changed.