HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 329 Tax on Gross Receipts for Utility and Communications Services
SPONSOR(S): Littlefield
TIED BILLS: **IDEN./SIM. BILLS:** SB 1430; SB 1774

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Energy (Sub)		Holt	Liepshutz
2) Business Regulation			
3) Finance & Tax			
4) Commerce & Local Affairs (Sub)			
5) Appropriations			

SUMMARY ANALYSIS

Under Chapter 203, Florida Statutes, there is a gross receipts tax (GRT) on payments received for the sale of a "utility service." Pursuant to section 203.012(1), Florida Statutes, the term "utility service" means electricity for light, heat, or power; and natural or manufactured gas for light, heat, or power. As a result, the gross receipts tax is designed to be a tax on the retail sale to a consumer of utility services. However, section 203.01(3)(a), Florida Statutes, provides the following exemption:

> (3) The term "gross receipts" as used herein does not include gross receipts of any person derived from:
>
> (a) The 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. . .

Tampa Electric built and owns a coal gasification plant (manufactured gas) in Polk County and produces the gas used in the company's adjacent 250 Megawatt (MW) power plant. Tampa Electric now plans to sell the manufactured gas plant. Following the sale, Tampa Electric will begin purchasing the manufactured gas which is currently not exempt from the GRT. If the fuel is taxed, it will be the only power plant fuel used for the generation of electricity taxed in Florida.

The bill adds the term "manufactured gas" to the GRT exemptions for fuels used in the generation of electricity.

The bill has a contingent fiscal impact.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[X]
2. Lower taxes?	Yes[]	No[]	N/A[X]
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:

In 1995 with financial assistance from the U.S. Department of Energy, Tampa Electric built and owns 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. In essence, a gasification-based power plant uses the hot, high pressure coal gases exiting a gasifier to power a gas turbine (in the same manner as natural gas). Hot exhaust from the gas turbine is then fed into a conventional steam turbine, producing a second source of power. This dual, or "combined cycle," arrangement of turbines - a configuration not possible with conventional coal combustion - offers major improvements in power plant efficiencies. By contrast in a conventional plant, heat from a coal furnace is used to boil water, creating steam for a steam-turbine generator. The manufactured gas from the Polk County plant is not produced for any other purpose than to fuel the adjacent power plant.

Chapter 203, F.S., relates to Gross Receipts Taxes (GRT). Section 203.01(3), F.S., provides in part that:

> (3) The term "gross receipts" as used herein does not include gross receipts of any person derived from:
>
> (a) The 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. . .

Tampa Electric now plans to sell the manufactured gas plant because at the current time the plant may be worth more to an investor than to Tampa Electric and its customers. Following the sale, Tampa Electric will begin purchasing the manufactured gas which is currently not exempt from the GRT. If taxed, the fuel would be the only power plant fuel taxed in Florida.

According to the Department of Revenue the term "manufactured gas" is not covered by the same exemption given to the sale of natural gas to a public or private utility either for resale or for use as fuel in the generation of electricity.

The bill adds the phrase "manufactured gas" to the GRT statutes so that the manufactured fuel is not taxed when used for resale or for use as fuel in the generation of electricity.

The bill takes effect upon becoming 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. Provides an effective date: upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Please see fiscal comments.

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The prospective purchaser of the manufactured gas plant would not be liable for payment of approximately $656,000 of gross receipts attributable to the sale of the manufactured gas to Tampa Electric.

D. FISCAL COMMENTS:

Currently the use of the gas produced by Tampa Electric is self serving, meaning no purchase transaction is occurring. An impact to state government would be contingent upon the sale of the plant. In the revenue impact analysis, if the sale occurs and the bill passes, the state would not collect $656,000 in the FY 2003-04. However, the gross receipts tax estimate for FY 2003-04 does not contemplate receipt of these revenues since the sale has not yet occurred.

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