

1 A bill to be entitled
 2 An act relating to county power to levy and collect taxes;
 3 amending s. 125.01, F.S.; including municipal public
 4 service taxes in certain chartered counties under such
 5 power; deleting a referendum exception for a county levy
 6 of ad valorem taxes for municipal services in a municipal
 7 service taxing unit; amending s. 166.231, F.S.; including
 8 certain chartered counties under provisions authorizing
 9 imposition of a public service tax on purchases of
 10 electricity, gas, and water; providing an effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:
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14 Section 1. Paragraph (r) of subsection (1) of section
 15 125.01, Florida Statutes, is amended to read:

16 125.01 Powers and duties.--

17 (1) The legislative and governing body of a county shall
 18 have the power to carry on county government. To the extent not
 19 inconsistent with general or special law, this power includes,
 20 but is not restricted to, the power to:

21 (r) Levy and collect taxes, including a public service tax
 22 as provided in s. 166.231 in a county that has adopted a charter
 23 pursuant to part II of this chapter, both for county purposes
 24 and for the providing of municipal services within any municipal
 25 service taxing unit, and special assessments; borrow and expend
 26 money; and issue bonds, revenue certificates, and other
 27 obligations of indebtedness, which power shall be exercised in
 28 such manner, and subject to such limitations, as may be provided

29 | by general law. There shall be no referendum required for the
 30 | levy by a county of ad valorem taxes, ~~both~~ for county purposes
 31 | ~~and for the providing of municipal services within any municipal~~
 32 | ~~service taxing unit.~~

33 | Section 2. Section 166.231, Florida Statutes, is amended
 34 | to read:

35 | 166.231 Municipalities and charter counties; public
 36 | service tax.--

37 | (1)(a) A municipality or a county chartered under part II
 38 | of chapter 125 may levy a tax on the purchase of electricity,
 39 | metered natural gas, liquefied petroleum gas either metered or
 40 | bottled, manufactured gas either metered or bottled, and water
 41 | service. Except for those municipalities in which paragraph (c)
 42 | applies, the tax shall be levied only upon purchases within the
 43 | municipality or such county and shall not exceed 10 percent of
 44 | the payments received by the seller of the taxable item from the
 45 | purchaser for the purchase of such service. Municipalities
 46 | imposing a tax on the purchase of cable television service as of
 47 | May 4, 1977, may continue to levy such tax to the extent
 48 | necessary to meet all obligations to or for the benefit of
 49 | holders of bonds or certificates which were issued prior to May
 50 | 4, 1977. Purchase of electricity means the purchase of electric
 51 | power by a person who will consume it within the municipality or
 52 | such county.

53 | (b) The tax imposed by paragraph (a) shall not be applied
 54 | against any fuel adjustment charge, and such charge shall be
 55 | separately stated on each bill. The term "fuel adjustment
 56 | charge" means all increases in the cost of utility services to

57 the ultimate consumer resulting from an increase in the cost of
 58 fuel to the utility subsequent to October 1, 1973.

59 (c) The tax in paragraph (a) on water service may be
 60 applied outside municipal boundaries to property included in a
 61 development of regional impact approved pursuant to s. 380.06,
 62 if agreed to in writing by the developer of such property and
 63 the municipality prior to March 31, 2000. If a tax levied
 64 pursuant to the subsection is challenged, recovery, if any,
 65 shall be limited to moneys paid into an escrow account of the
 66 clerk of the court subsequent to such challenge.

67 (2) Services competitive with those enumerated in
 68 subsection (1), as defined by ordinance, shall be taxed on a
 69 comparable base at the same rates. However, fuel oil shall be
 70 taxed at a rate not to exceed 4 cents per gallon. However, for
 71 municipalities or counties chartered under part II of chapter
 72 125 levying less than the maximum rate allowable in subsection
 73 (1), the maximum tax on fuel oil shall bear the same proportion
 74 to 4 cents which the tax rate levied under subsection (1) bears
 75 to the maximum rate allowable in subsection (1).

76 (3) A municipality or a county chartered under part II of
 77 chapter 125 may exempt from the tax imposed by this section any
 78 amount up to, and including, the first 500 kilowatt hours of
 79 electricity purchased per month for residential use. Such
 80 exemption shall apply to each separate residential unit,
 81 regardless of whether such unit is on a separate meter or a
 82 central meter, and shall be passed on to each individual tenant.

83 (4)(a) The purchase of natural gas, manufactured gas, or
 84 fuel oil by a public or private utility, either for resale or

85 for use as fuel in the generation of electricity, or the
86 purchase of fuel oil or kerosene for use as an aircraft engine
87 fuel or propellant or for use in internal combustion engines is
88 exempt from taxation hereunder.

89 (b) A municipality or a county chartered under part II of
90 chapter 125 may exempt from the tax imposed by this section the
91 purchase of metered or bottled gas (natural liquefied petroleum
92 gas or manufactured) or fuel oil for agricultural purposes. As
93 used in this paragraph, "agricultural purposes" means bona fide
94 farming, pasture, grove, or forestry operations, including
95 horticulture, floriculture, viticulture, dairy, livestock,
96 poultry, bee, and aquaculture.

97 (5) Purchases by the United States Government, this state,
98 and all counties, school districts, and municipalities of the
99 state, and by public bodies exempted by law or court order, are
100 exempt from the tax authorized by this section. A municipality
101 or a county chartered under part II of chapter 125 may exempt
102 from the tax imposed by this section the purchase of taxable
103 items by any other public body as defined in s. 1.01, or by a
104 nonprofit corporation or cooperative association organized under
105 chapter 617 which provides water utility services to no more
106 than 13,500 equivalent residential units, ownership of which
107 will revert to a political subdivision upon retirement of all
108 outstanding indebtedness, and shall exempt purchases by any
109 recognized church in this state for use exclusively for church
110 purposes.

111 (6) A municipality or a county chartered under part II of
112 chapter 125 may exempt from the tax imposed by this section any

113 amount up to, and including, the total amount of electricity,
114 metered natural gas, liquefied petroleum gas either metered or
115 bottled, or manufactured gas either metered or bottled purchased
116 per month, or reduce the rate of taxation on the purchase of
117 such electricity or gas when purchased by an industrial consumer
118 which uses the electricity or gas directly in industrial
119 manufacturing, processing, compounding, or a production process,
120 at a fixed location in the municipality or county, of items of
121 tangible personal property for sale. The municipality or county
122 shall establish the requirements for qualification for this
123 exemption in the manner prescribed by ordinance. Possession by a
124 seller of a written certification by the purchaser, certifying
125 the purchaser's entitlement to an exemption permitted by this
126 subsection, relieves the seller from the responsibility of
127 collecting the tax on the nontaxable amounts, and the
128 municipality or county shall look solely to the purchaser for
129 recovery of such tax if it determines that the purchaser was not
130 entitled to the exemption. Any municipality or county granting
131 an exemption pursuant to this subsection shall grant the
132 exemption to all companies classified in the same SIC Industry
133 Major Group Number.

134 (7) The tax authorized hereunder shall be collected by the
135 seller of the taxable item from the purchaser at the time of the
136 payment for such service. The seller shall remit the taxes
137 collected to the municipality or county in the manner prescribed
138 by ordinance. Except as otherwise provided in ss. 166.233 and
139 166.234, the seller shall be liable for taxes that are due and
140 not remitted to the municipality or county. This shall not bar

141 the seller from recovering such taxes from purchasers; however,
 142 the universities in the State University System shall not be
 143 deemed a seller of any item otherwise taxable hereunder when
 144 such item is provided to university residences incidental to the
 145 provision of educational services.

146 (8)(a) Beginning July 1, 1995, a municipality may by
 147 ordinance exempt not less than 50 percent of the tax imposed
 148 under this section on purchasers of electrical energy who are
 149 determined to be eligible for the exemption provided by s.
 150 212.08(15) by the Department of Revenue. The exemption shall be
 151 administered as provided in that section. A copy of any
 152 ordinance adopted pursuant to this subsection shall be provided
 153 to the Department of Revenue not less than 14 days prior to its
 154 effective date.

155 (b) If an area that is nominated as an enterprise zone
 156 pursuant to s. 290.0055 has not yet been designated pursuant to
 157 s. 290.0065, a municipality may enact an ordinance for such
 158 exemption; however, the ordinance shall not be effective until
 159 such area is designated pursuant to s. 290.0065.

160 (c) This subsection shall expire and be void on December
 161 31, 2005, except that any qualified business which has satisfied
 162 the requirements of this subsection prior to December 31, 2005,
 163 shall be allowed the full benefit of the exemption allowed under
 164 this subsection as if this subsection had not expired on
 165 December 31, 2005.

166 (9) A purchaser who claims an exemption under subsection
 167 (4) or subsection (5) shall certify to the seller that he or she
 168 qualifies for the exemption, which certification may encompass

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169 all purchases after a specified date or other multiple
170 purchases. A seller accepting the certification required by this
171 subsection is relieved of the obligation to collect and remit
172 tax; however, a governmental body that is exempt from the tax
173 authorized by this section shall not be required to furnish such
174 certification, and a seller is not required to collect tax from
175 such an exempt governmental body.

176 (10) Governmental bodies which sell or resell taxable
177 service to nonexempt end users must collect and remit the tax
178 levied under this section.

179 Section 3. This act shall take effect July 1, 2005.