

Bill No. SB 2362

Barcode 804640

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Aronberg)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Subsection (2) of section 212.052, Florida
Statutes, is amended to read:

212.052 Research or development costs; exemption.--

(2) Notwithstanding any provision of this chapter to
the contrary, any person, including an affiliated group as
defined in s. 1504 of the Internal Revenue Code of 1954, as
amended, who manufactures, produces, compounds, processes, or
fabricates in any manner tangible personal property for such
taxpayer's own use directly and solely in research or
development shall not be subject to the tax imposed by this
chapter upon the cost of the product so manufactured,
produced, compounded, processed, or fabricated. ~~However, the
tax imposed by this chapter shall be due on the purchase,
rental, or repair of real property or tangible personal~~

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1 ~~property employed in research or development which is subject~~
2 ~~to the tax imposed by this chapter at the time of purchase or~~
3 ~~rental.~~

4 Section 2. Subsection (18) is added to section 212.08,
5 Florida Statutes, to read:

6 212.08 Sales, rental, use, consumption, distribution,
7 and storage tax; specified exemptions.--The sale at retail,
8 the rental, the use, the consumption, the distribution, and
9 the storage to be used or consumed in this state of the
10 following are hereby specifically exempt from the tax imposed
11 by this chapter.

12 (18)(a) Machinery and equipment used predominantly for
13 research and development, as defined in s. 212.052, are exempt
14 from the tax imposed by this chapter. For the purposes of
15 this subsection, the term "predominantly" means at least 50
16 percent of the time. The term "machinery and equipment"
17 includes, but is not limited to, molds, dies, machine tooling,
18 other appurtenances or accessories to machinery and equipment,
19 testing and measuring equipment, test beds, computers, and
20 software, whether purchased or self-fabricated, and, if
21 self-fabricated, includes materials and labor for design,
22 fabrication, and assembly.

23 (b) The department may adopt rules that provide for
24 administering this exemption. Persons claiming the exemption
25 provided in this subsection shall furnish the vendor of the
26 machinery or equipment, including the vendor of materials and
27 labor used in self-fabrication of the machinery or equipment,
28 an affidavit stating that the item or items for which an
29 exemption is claimed are machinery and equipment that will be
30 used predominantly for research and development as required by
31 this subsection. A purchaser who claims the exemption by

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1 refund shall include the affidavit with the refund
 2 application. The affidavit must contain the purchaser's name,
 3 address, sales and use tax registration number, and, if
 4 applicable, federal employer identification number. Any
 5 person fraudulently furnishing an affidavit to the vendor for
 6 the purpose of evading payment of any tax imposed under this
 7 chapter shall be subject to the penalty set forth in s.
 8 212.085 and as otherwise provided by law. Purchasers shall
 9 maintain all documentation necessary to prove the exempt
 10 status of purchases and fabrication activity and make such
 11 documentation available for inspection pursuant to the
 12 requirements of s. 212.13(2).

13 (c) A business may designate one or more state
 14 universities or community colleges as recipients to receive
 15 from the business an amount of up to 100 percent of the
 16 exemption for which the business qualifies. To receive these
 17 funds, the state university or community college must agree to
 18 match the funds so earned with equivalent cash, programs,
 19 services, or other in-kind support on a one-to-one basis in
 20 the pursuit of research and development projects as requested
 21 by the business. The rights to any patents, royalties, or
 22 real or intellectual property must be vested in the business
 23 unless otherwise agreed to by the business and the state
 24 university or community college.

25 (d) The exemption provided for in this subsection
 26 shall be reviewed by the Legislature no later than July 1,
 27 2015. The Office of Program Policy Analysis and Government
 28 Accountability and Enterprise Florida, Inc., shall study this
 29 exemption to determine the impact of the exemption on the
 30 promotion of research and development activities in this
 31 state. Enterprise Florida, Inc., may contract with an

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1 independent research organization to perform the assessment.
2 The study must include the estimated annual cost of the
3 exemption and an estimate of the economic impact of increased
4 research and development activities, if any. By January 1,
5 2015, the Office of Program Policy Analysis and Government
6 Accountability and Enterprise Florida, Inc., shall submit to
7 the Governor, the President of the Senate, and the Speaker of
8 the House of Representatives reports that provide the findings
9 and recommendations as to whether the exemption should be
10 reenacted by the Legislature.

11 Section 3. Subsection (1) of section 1011.94, Florida
12 Statutes, is amended to read:

13 1011.94 Trust Fund for University Major Gifts.--

14 (1) There is established a Trust Fund for University
15 Major Gifts. The purpose of the trust fund is to enable each
16 university and New College to provide donors with an incentive
17 in the form of matching grants for donations for the
18 establishment of permanent endowments and sales tax exemption
19 matching funds received pursuant to s. 212.08(5)(j) or s.
20 212.08(18), which must be invested, with the proceeds of the
21 investment used to support libraries and instruction and
22 research programs, as defined by the State Board of Education.
23 All funds appropriated for the challenge grants, new donors,
24 major gifts, sales tax exemption matching funds pursuant to s.
25 212.08(5)(j) or s. 212.08(18), or eminent scholars program
26 must be deposited into the trust fund and invested pursuant to
27 s. 17.61 until the State Board of Education allocates the
28 funds to universities to match private donations.
29 Notwithstanding s. 216.301 and pursuant to s. 216.351, any
30 undisbursed balance remaining in the trust fund and interest
31 income accruing to the portion of the trust fund which is not

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1 matched and distributed to universities must remain in the
2 trust fund and be used to increase the total funds available
3 for challenge grants. Funds deposited in the trust fund for
4 the sales tax exemption matching program authorized in s.
5 212.08(5)(j) or s. 212.08(18), and interest earnings thereon,
6 shall be maintained in a separate account within the Trust
7 Fund for University Major Gifts, and may be used only to match
8 qualified sales tax exemptions that a ~~certified~~ business
9 designates for use by state universities and community
10 colleges to support research and development projects
11 requested by the ~~certified~~ business. The State Board of
12 Education may authorize any university to encumber the state
13 matching portion of a challenge grant from funds available
14 under s. 1011.45.

15 Section 4. This act shall take effect July 1, 2005.

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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

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22 and insert:

23 A bill to be entitled

24 An act relating to the tax on sales, use, and
25 other transactions; amending s. 212.052, F.S.;
26 deleting an exception to an exemption from the
27 tax for research or development costs; amending
28 s. 212.08, F.S.; providing an exemption for
29 machinery and equipment used predominantly for
30 research and development activities; defining
31 the terms "predominantly" and "machinery and

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1 equipment"; authorizing the Department of
2 Revenue to adopt rules to administer the
3 exemption; providing for an affidavit to be
4 given by a taxpayer claiming entitlement to the
5 exemption; authorizing a business to designate
6 one or more state universities or community
7 colleges as recipients of part or all of the
8 amount of the exemption under specified
9 conditions; providing that the business retains
10 the rights to patents, royalties, or real or
11 intellectual property unless an agreement
12 specifies otherwise; providing for a review of
13 the exemption by the Office of Program Policy
14 Analysis and Government Accountability;
15 amending s. 1011.94, F.S.; adding
16 cross-references and deleting the reference to
17 a requirement for certification of the exempt
18 business; providing an effective date.

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