SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 1206

INTRODUCER: Senator Atwater and others

SUBJECT: Sales Tax - Machinery and Equipment

DATE: March 30, 2006 REVISED: 4/4/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barrett	Cooper	CM	**Favorable**
2.	Keating	Johansen	GE	**Fav/1 amendment**
3.			GA	
4.			WM	
5.				
6.				

Please see last section for Summary of Amendments

- [ ] Technical amendments were recommended
- [X] Amendments were recommended
- [ ] Significant amendments were recommended

I. Summary:

This bill expands, from partial to full, the sales tax exemptions for:

- Machinery and equipment used to increase productive output in spaceport and manufacturing facilities; and
- Machinery and equipment used by businesses producing tangible personal property pursuant to federal procurement regulation.

This bill also provides that machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations is exempt from the sales and use tax at the point of purchase rather than by way of credit against phosphate taxes paid.

This bill amends section 212.08 of the Florida Statutes and repeals section 212.0805 of the Florida Statutes.

II. Present Situation:

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of taxes on sales, use, and other transactions. This chapter also contains provisions for sales and use tax exemptions and credits applicable to certain items and under certain circumstances.

Industrial machinery and equipment purchased for exclusive use by a *new* business in spaceport activities or for use in a *new* business that manufactures, processes, compounds, or produces for sale, items of tangible property at a fixed location are exempt from the tax imposed by ch. 212, F.S.[1] To avail itself of the exemption, a business must demonstrate to the Department of Revenue (DOR) that the machinery and equipment are used in this state. Additionally, a new business must purchase the machinery and equipment before the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

A similar, but partial, sales tax exemption is provided for industrial machinery and equipment used exclusively by an *expanding* facility that is engaged in spaceport activities or used in an *expanding* manufacturing facility that manufactures, processes, compounds, or produces for sale, items of tangible personal property at a fixed location in this state. In these cases, however, the exemption applies to tax amounts in excess of $50,000 per calendar year on machinery and equipment purchases.[2] Also, industrial machinery and equipment purchased by an expanding business pursuant to federal procurement regulations is exempt from sales tax in excess of $100,000 per calendar year.[3] For the exemption to apply to these expanding businesses, the businesses must demonstrate that the machinery and equipment are used to increase productive output by at least 10 percent.[4]

Machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations are entitled to the new or expanded business exemptions only by way of a credit against phosphate taxes paid.[5] In addition, in order to qualify for the exemption, a new mining business must create at least 100 new jobs in Florida; and expanding mining businesses with less than 2,500 jobs must increase the number of Florida jobs by at least 5 percent; and an expanding mining business with more than 2,500 jobs must increase the number of Florida jobs by at least 3 percent.[6]

When the industrial machinery and equipment are purchased for use in an expanding printing manufacturing facility, the $50,000 threshold does not apply, and the taxpayer is exempt from all sales taxes on such purchases.[7]

To receive these exemptions, qualifying businesses must apply to the Department of Revenue for temporary tax exemption permits. A business must maintain all books and records to support the exemption. The DOR, upon an audit which determines that the business does not meet the criteria for the exemption, must collect from the business the amount of taxes exempted plus interest and any penalty.[8]

[1] Section 212.08(5)(b)1., F.S. The term “spaceport activities” refers to activities directed or sponsored by the Florida Space Authority on spaceport territory through its power and duties under the Florida Space Authority Act (s. 212.02(22), F.S.).
[2] Section 212.08(5)(b)2., F.S.
[3] Section 212.08(5)(d), F.S.
[4] Section 212.08(5)(b)2.a., F.S.
[5] Section 212.08(5)(b)5., F.S.
[6] Section 212.0805, F.S.
[7] Section 212.08(5)(b)2.b., F.S.
[8] Section 212.08(5)(b)3.a.-c., F.S.

The term “industrial machinery and equipment” refers to “tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities.”[9]

III. Effect of Proposed Changes:

Section 1 provides that this act may be cited as the “Florida Manufacturing Global Competitiveness Act.”

Section 2 provides that the Legislature finds that a competitive manufacturing industry is important to Florida’s economy.

Section 3 amends s. 212.08(5)(b) and (d), F.S., to expand sales tax exemptions for certain machinery and equipment.

This section expands the sales tax exemption, from partial to full, for machinery and equipment used by expanding facilities engaged in spaceport activities or expanding manufacturing facilities. These expanding facilities must still meet the 10% increase in production requirement to qualify for the exemption. Currently, this machinery and equipment is exempt from sales tax in excess of $50,000.

This section also expands, from partial to full, the sales tax exemption for machinery and equipment used by expanding businesses that manufacture tangible personal property pursuant to federal procurement contract. This machinery and equipment is currently exempt from sales taxes in excess of $100,000.

This section deletes a provision that exempts from sales tax machinery and equipment used in expanding printing manufacturing facilities. This provision is not necessary, as this machinery and equipment will be exempt under the broader sales tax exemption provisions in this section.

This section provides that machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations is exempt from the sales and use tax at the point of purchase rather than by way of credit against phosphate taxes paid.

Section 4 repeals s. 212.0805, F.S., which provides that businesses must meet certain job creation requirements in order to be eligible for the sales tax exemption for machinery and equipment used for phosphate mining.

Section 5 provides an appropriation of $210,000 from the General Revenue Fund to the DOR for purposes of implementing this act.

Section 6 provides an effective date of July 1, 2006.

[9] Section 212.08(5)(b)6.a., F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by 2/3 vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists as of February 1, 1989.

By expanding these sales tax exemptions for machinery and equipment, the bill reduces the sales tax base of municipalities and counties, thereby reducing their revenue-raising authority. The Revenue Estimating Conference estimated that the fiscal impact of the bill on counties and municipalities is an estimated $4.4 million in fiscal year 2006-07 and $4.7 million in fiscal year 2007-08. Of this amount, $2.0 million represents a reduction in revenue raising authority in the form of discretionary sales surtax revenues. Therefore, the measure appears to require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

On February 10, 2006, the Revenue Estimating Conference estimated that the expansion of the machinery and equipment sales tax exemptions would result in a loss to the General Revenue Fund of $19.7 million in fiscal year 2006-07 and $21.3 million in fiscal year 2007-08.

FY 2006-07
(Millions)

General Revenue		State Trust		Local		Total	
Cash	Recurr.	Cash	Recurr.	Cash	Recurr.	Cash	Recurr.
(19.7)	(21.3)	(*)	(0.1)	(4.4)	(4.7)	(24.1)	(26.1)

*Insignificant

B. Private Sector Impact:

Businesses that purchase eligible machinery and equipment will benefit, as they will be exempt from the sales tax on such purchases.

C. Government Sector Impact:

The DOR has estimated the costs related to the implementation of the expanded machinery and equipment sales tax exemptions to be $222,946, which includes $203,574 in recurring costs for four positions and nonrecurring costs of $19,372.

VI. Technical Deficiencies:

The appropriation in the bill is insufficient to fund the estimated costs.

To decrease the administrative burden resulting from the bill, the DOR recommends that the bill be amended to include definitions for “new business” and “expanding business” and that increases in productivity output be allowed to be measured in sales dollars when physical measurements are not possible or practical.

In order to allow sufficient time for the DOR to properly inform all taxpayers about the changes in the sales tax exemptions, the DOR recommends that the effective date of the bill be changed from July 1, 2006 to January 1, 2007.

VII. Related Issues:

None.

VIII. Summary of Amendments:

Barcode #200692 by Government Efficiency Appropriations:
The amendment increased the General Revenue Fund Appropriation to the Department of Revenue from $210,000 to $ 222,946 to cover the cost of administering the provisions of the bill.