

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: Communications and Public Utilities Committee

BILL: CS/SB 2332

INTRODUCER: Communications and Public Utilities Committee and Senator Dockery

SUBJECT: Gross Receipts Taxes/ Manufacturing

DATE: April 4, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.			EP	
3.			GE	
4.			WM	
5.				
6.				

I. Summary:

The bill creates a limited or capped exemption from the gross receipts tax for mining or manufacturing businesses meeting specified criteria. The tax would be paid, but the amount of the exemption would be available for refund, with refunds to be paid from the General Revenue Fund.

The bill takes effect upon becoming a law and applies retroactively to January 1, 2006, with regard to taxes paid and expenditures for energy conservation measures made in calendar year 2006. The exemption expires on December 31, 2015, except to the extent of any remaining carryforward of qualifying expenditures for energy conservation measures.

The bill substantially amends section 203.01 of the Florida Statutes.

II. Present Situation:

Section 203.01, F.S., provides for a gross receipts tax on utility services delivered¹ to a retail consumer in this state. The tax is 2.5 percent of the total amount of gross receipts received by a distribution company for its sale of utility services. Those who produce electricity for their own use as a substitute for electrical energy produced by an electric utility are also subject to the gross receipts tax.

¹ The term "utility service" is defined in s. 203.012(3), F.S., to include electricity for light, heat, or power; including transportation, delivery, transmission, and distribution of the electricity. Delivery is accomplished by a "distribution company," defined by s. 203.012(1) to include any person owning or operating local electric utility distribution facilities within this state for the transmission, delivery, and sale of electricity.

III. Effect of Proposed Changes:

The bill amends s. 203.01, F.S., to create an exemption from the gross receipts tax. The tax would be paid, but the amount of the exemption would be available for refund.

Under the bill, the gross receipts tax does not apply to the sale or transportation to, or use of electricity by, a person described in s. 212.08(7)(ff)2., F.S.,² if the electricity is for use at a fixed location for which at least \$50,000 in gross receipts tax has been paid on electricity consumed at that location during the calendar year and if the person can demonstrate that the person has spent for energy conservation measures at that fixed location the amount of tax savings allowed to that person as an exemption under the bill.

A “fixed location” is one or more contiguous manufacturing sites and functionally related contiguous parcels owned or operated by the person eligible for the exemption.

An “energy conservation measure” includes any expenditure for a measure that is certified by a licensed Florida professional engineer to reduce electrical demand, measured in kilowatts; reduce fossil fuel demand; reduce the required energy measured in kilowatt hours which would otherwise be needed absent the conservation measures; or reduce expenses necessary to provide renewable energy generation as defined by law, including operation and maintenance expenses.

If the amount of taxes above \$50,000 which otherwise would be due by a person exceeds the amount of qualifying expenditures for energy conservation measures by the person in a calendar year, the exemption is capped in that calendar year at the amount of qualifying expenditures for energy conservation measures. However, if the amount of qualifying expenditures for energy conservation measures by a person exceeds the amount of taxes above \$50,000 which otherwise would be due in a calendar year by the person, the exemption is capped for the year at the amount of taxes above \$50,000 which otherwise would be due, but excess qualifying expenditures for energy conservation measures may be carried forward and applied as qualifying expenditures for up to 2 subsequent calendar years.

The exemption is available by refund paid by the Department of Revenue. An application for refund must be made to the Department of Revenue on or before May 1 for refunds earned during the prior calendar year. Notwithstanding the provisions of s. 215.26, F.S., refunds paid under the bill are to be paid from the General Revenue Fund and not from the Public Education Capital Outlay and Debt Service Trust Fund. The bill limits the total amount of refunds for any calendar year to \$6 million, requiring the Department to calculate and pay refunds on a pro rata basis if refund claims exceed that amount.

The Department of Revenue is authorized to develop by rule the forms and procedures for the refund application. All provisions relating to challenging a denial of a refund apply to refunds authorized under the bill.

² Section 212.08(7)(ff)2., F.S., makes reference to “industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39 and Industry Group Number 212.” This includes a variety of mining and manufacturing industries.

The exemption expires on December 31, 2015, except to the extent of any remaining carryforward of qualifying expenditures for energy conservation measures.

The bill takes effect upon becoming a law and applies retroactively to January 1, 2006, with regard to taxes paid and expenditures for energy conservation measures made in calendar year 2006, and to calendar years thereafter.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Qualifying mining and manufacturing businesses would be eligible for gross receipt tax refunds.

C. Government Sector Impact:

The Committee Substitute limits the total amount of refunds for any calendar year to \$6 million, requiring the Department to calculate and pay refunds on a pro rata basis if refund claims exceed that amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
