HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 69 CS Exemptions from the Tax on Sales, Use, and Other Transactions
SPONSOR(S): Meadows and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1206

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	9 Y, 0 N, w/CS	Noriega	Diez-Arguelles
2) Economic Development, Trade & Banking Committee	10 Y, 0 N	Olmedillo	Carlson
3) Fiscal Council		Noriega	Kelly
4)			
5)			

SUMMARY ANALYSIS

The bill broadens an existing sales tax exemption for industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility. The bill eliminates a requirement that the business pay the first $50,000 in sales taxes per calendar year on these types of purchases before the exemption applies. The effect of the bill is to provide a full, rather than partial, sales tax exemption for industrial machinery and equipment purchases when the business can demonstrate that the items will be used to increase productive output at the facility by at least 10 percent.

The bill also broadens an existing sales tax exemption for machinery and equipment purchased for use by new or expanding solid minerals, mining, or processing operations. Under current law, this exemption can only be taken as a credit against severance taxes due and the taxpayer must demonstrate the creation of a certain number of jobs. The bill removes these two requirements, placing these types of businesses in the same position as other new and expanding manufacturers.

In addition, this bill broadens an existing sales tax exemption for machinery and equipment purchased by an expanding business pursuant to federal procurement regulations by eliminating a requirement that the business pay the first $100,000 in sales tax per calendar year on these types of purchases before the exemption applies.

Finally, the bill provides Legislative findings and purpose about the importance of a competitive manufacturing business climate in Florida, including: the development of free-trade agreements with the Americas; the potential to add thousands of well-paying jobs in the state; to secure Florida's place in emerging markets in the world marketplace; and that with the potential for increasing exports, an investment in manufacturing today will mean significant long-term positive economic benefits to the state tomorrow.

The Revenue Estimating Conference has estimated that this bill will have a negative fiscal impact of $19.7 million to state government and $4.4 million to local governments in FY 2006-07, and of $21.4 million to state government and $4.7 million to local governments in FY 2007-08.

The bill has an effective date of July 1, 2006.

The bill provides an appropriation of $210,069 from the General Revenue Fund and four positions are authorized to the Department of Revenue.

This bill appears to be a mandate that requires a two-thirds vote of the membership of each house to pass.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill eliminates the sales tax paid on the purchase of machinery and equipment by expanding businesses.

B. EFFECT OF PROPOSED CHANGES:

Current 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 or equipment before the date the business initially 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. 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.[2] In order 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.[3]

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.[4] In addition, in order to qualify for the exemption, a new mining business must create at least 100 new jobs in Florida; an expanding mining business 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.[5]

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 does not have to pay any sales tax amounts related to the purchases.[6]

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[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)(d), F.S.
[3] Section 212.08(5)(b)2.a., F.S.
[4] Section 212.08(5)(b)5., F.S.
[5] Section 212.0805, F.S.
[6] Section 212.08(5)(b)2.b., F.S.

To receive these exemptions, qualifying businesses must apply to DOR for temporary tax exemption permits. A business must maintain all books and records to support the exemption. DOR, upon an audit which determines that the business does not meet the criteria for the exemption, shall immediately collect from the business the amount of taxes exempted plus interest and any penalty.[7]

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.”[8]

<u>Proposed Changes</u>

This bill provides that this act may be cited as the “Florida Manufacturing Global Competitiveness Act.” The bill revises the existing sales and use tax exemption for industrial machinery and equipment purchased for exclusive use in an expanding facility that is engaged in spaceport activities or for use in an expanding manufacturing facility, by removing a limitation in the current law that the exemption applies solely to tax amounts above $50,000 per calendar year. The bill also removes the $100,000 threshold applicable to purchases of machinery and equipment pursuant to federal procurement regulations. The bill retains the requirement that the taxpayer demonstrate that the machinery and equipment will be used to increase productive output by at least 10 percent at the facility.

The bill removes the requirement that businesses involved in mining operations can only take the exemption as a credit against phosphate taxes due and repeals the requirement for job creation applicable to mining operations.

By eliminating the $50,000 threshold on the spaceport and the general manufacturing exemption, the bill has the effect of making a separately stated and specific exemption for printing manufacturing facilities redundant, as these printing facilities would now be captured within the general manufacturing exemption. Therefore, the bill deletes from current law the separately-stated and specific exemption for printing manufacturing facilities codified in s. 212.08(5)(b)2.b., F.S.

This bill also provides legislative findings and purpose about the importance of a competitive manufacturing business climate in Florida.

The bill has an effective date of July 1, 2006.

C. SECTION DIRECTORY:

<u>Section 1</u>. Provides that this act may be cited as the “Florida Manufacturing Global Competitiveness Act.”

<u>Section 2</u>. Provides legislative findings and purpose.

<u>Section 3</u>. Amends s. 212.08, F.S., relating to sales tax exemptions for machinery and equipment.

<u>Section 4</u>. Repeals s. 212.0805, F.S., relating to the number of jobs that have to be created by a new or expanding mining operation in order to be entitled to a sales tax exemption.

<u>Section 5</u>. Appropriates $210,069 from the General Revenue Fund, and authorizes four positions to the Department of Revenue to implement the provisions of the act during FY 2006-07.

<u>Section 6</u>. Provides an effective date of July 1, 2006.

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[7] Section 212.08(5)(b)3.a.-c., F.S.
[8] Section 212.08(5)(b)6.a., F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	2006-07	2007-08
General Revenue	(19.7m)	(21.3m)
State Trust	(Insignificant)	(0.1m)
Total	(19.7m)	(21.4m)

2. Expenditures:

The bill provides an appropriation of $210,069 from the General Revenue Fund and four positions are authorized to DOR. Of the funds provided, $191,825 are recurring and $18,244 are nonrecurring.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	2006-07	2007-08
Revenue Sharing	(0.6m)	(0.7m)
Local Gov't. Half Cent	(1.9m)	(2.0m)
Local Option	(1.9m)	(2.0m)
Total Local Impact	(4.4m)	(4.7m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses engaged in certain activities that purchase industrial machinery and equipment to expand productive output by 10 percent will not be subject to any sales tax on the purchase of such equipment.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill will reduce the authority of counties to raise revenues in the aggregate through local option sales taxes by $1.9 million, as estimated by the Revenue Estimating Conference. As such, the mandates provision appears to apply to this bill and it does not seem to qualify for an exemption. Therefore, the bill should have a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOR recommends technical amendments that revise the definition of "productive output," and that add definitions for "new business," and "expanding business" or "expanding facility."

In addition, DOR recommends an increase in the appropriation required to fund its four authorized positions. The recurring costs for these positions are now estimated to be $203,574, and the nonrecurring costs are now estimated to be $19,372. This reflects a total increase of $12,877 over the appropriation listed in the bill.

DOR also recommends changing the effective date to January 1, 2007, which will allow DOR sufficient time to properly inform all affected taxpayers about the changes in the exemptions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Finance and Tax Committee adopted an amendment to the bill. The amendment added that this act may be cited as the "Florida Manufacturing Global Competitiveness Act." In addition, the amendment provided legislative findings and purpose, which address the importance of a competitive manufacturing business climate in Florida.

This analysis reflects the changes contained in the amendment adopted by the Finance and Tax Committee.