

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 989 CS

Motor Fuel Taxes

SPONSOR(S): Detert

TIED BILLS:

IDEN./SIM. BILLS: SB 1932

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>15 Y, 0 N</u>	<u>Pugh</u>	<u>Miller</u>
2) <u>Finance & Tax Committee</u>	<u>6 Y, 0 N, w/CS</u>	<u>Noriega</u>	<u>Diez-Arguelles</u>
3) <u>State Infrastructure Council</u>	<u>10 Y, 0 N</u>	<u>Pugh</u>	<u>Havlicak</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Persons who use motor fuel in off-road agricultural vehicles and farm equipment, commercial fishing vessels and related equipment, and vessels and other equipment used in aquaculture operations are entitled to a refund of certain motor fuel taxes, pursuant to s. 206.41(4)(c), F.S. The refund is conditioned on the requirement that no amount of the fuel was used in any vehicle or equipment operated on state highways.

HB 989 w/CS adds a fourth category of vehicles and equipment: those used exclusively for commercial aviation purposes on airport property.

The Department of Revenue (DOR) estimates that the amount of the retroactive refund will range from \$242,380 to \$450,135. Thereafter, the fiscal impact may range from \$100,000 to \$180,000 annually. The Revenue Estimating Conference adopted \$200,000 as the consensus impact of this bill.

Most of the refund will impact the State Transportation Trust Fund, with a small portion impacting counties and municipalities who share the state-collected local-option fuel tax created pursuant to s. 206.41(1)(e), F.S.

An estimated 101 businesses qualify for the refund, according to DOR.

HB 989 w/CS raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: HB 989 w/CS refunds certain motor fuel taxes paid by vehicles and equipment used only on commercial airport properties. According to DOR's analysis, 101 companies, including airlines, fixed-based aviation operators, and independent contractors, will benefit from the refund.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida collects several different types of motor fuel taxes, most of which are used to finance state highway and other transportation projects. Motor fuel taxes are expected to generate more than \$2.2 billion in revenues in fiscal year 2005-06.¹

Section 206.41, F.S., lists the major motor fuel taxes, their uses, and their distributions. This section also authorizes refunds of certain motor fuel taxes to persons who purchase fuel for use in vehicles and equipment used exclusively on farm property, who purchase fuel for commercial fishing vessels and equipment never operated on public highways, and who purchase fuel for vessels and equipment used exclusively in aquaculture operations that is never operated on public highways. These refunds totaled \$326,000 in FY 2003-04.²

The three motor fuel taxes which are refunded are: the motor fuel sales tax, the State Comprehensive Enhanced Transportation System Tax (SCETS), and the local-option fuel tax.

The Department of Revenue (DOR) has long-established programs for collecting and, where authorized, refunding fuel tax revenues. Applications for refunds must be accompanied by a completed application, and applicants are directed to retain all invoices and receipts of fuel purchases in the event that DOR decides to audit or inspect these records.

Effect of Proposed Changes

HB 989 w/CS amends s. 206.41(4)(c), F.S., to provide that persons who own vehicles and equipment used exclusively for commercial aviation purposes, and which are never used on public highways, are eligible for motor fuel tax refunds. The type of vehicles and equipment that are envisioned as qualifying for the refund include the vehicles known as "tugs" that deliver luggage, concessions, and other products to airplanes, as well trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

The bill defines motor fuel used for "commercial aviation purposes" as that which is used in the operation of aviation ground support vehicles or equipment, and which is not used in any vehicle or equipment driven or operated upon the public highways of this state.

DOR estimates that 101 companies are eligible for the refunds.

C. SECTION DIRECTORY:

Section 1. Amends s. 206.41(4), F.S., by providing a refund for any motor fuel used for commercial aviation purposes; provides a definition for "commercial aviation purposes."

¹ 2005 Florida Tax Handbook, page 86. On file with the House Transportation Committee.

² Ibid, page 91.

Section 2. Provides an effective date of July 1, 2006.

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:

	<u>2006-07</u>	<u>2007-08</u>
General Revenue	(Insignificant)	(Insignificant)
State Trust	<u>(0.2m)</u>	<u>(0.2m)</u>
Total	(0.2m)	(0.2m)

The applicable trust fund in this case is the State Transportation Trust Fund.

2. Expenditures:

None.

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:

	<u>2006-07</u>	<u>2007-08</u>
Total Local Impact	(Insignificant)	(Insignificant)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate, although private companies doing business on airport property, and which purchase fuel for vehicles that never leave airport property, are the largest group of beneficiaries of the proposed motor fuel tax refund.

These companies include American, Continental, Delta, Southwest and United Airlines, US Airways and other airlines doing business in Florida, as well as independent contractors who provide security, landscaping, or other services to airport customers and tenants, and fixed-base operators that transport fuel, concessions, and other items on airport properties.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

HB 989 w/CS does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds, nor reduce the authority that municipalities have to raise revenues.

The bill does reduce the percentage of a state tax shared with counties or municipalities – in this case, the local-option fuel tax authorized under s. 206.41(1)(g), F.S. However, the Revenue Estimating Conference decided at its Feb. 22, 2006, review of this legislation that the annual impact would be “insignificant.”

Because the amount of the reduction is insignificant, the exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house for passage.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

It appears that DOR has sufficient existing rule-making authority to implement the provisions of this bill. The agency has indicated that it may provide the refund application and filing procedures by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In its analysis of this bill, DOR suggests the following clarifying language for the term “commercial aviation purposes”:

“Motor fuel used in the operation of aviation ground support vehicles or equipment that is used exclusively at an airport, and no part of which fuel is used in any vehicle or equipment which has been authorized by the Department of Highway Safety and Motor Vehicles to be driven or operated upon the public highways of this state.”

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Finance & Tax Committee

On April 4, 2006, the Finance & Tax Committee adopted one amendment to the bill. This amendment removed the retroactive refund provision for the last three calendar years for initial applicants.

The bill was then reported favorably with a committee substitute, and this analysis reflects the changes contained in the amendment adopted by the Finance & Tax Committee.