

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 67 Motor Fuel Taxes
SPONSOR(S): Murzin and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 90

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---|-----------------|----------------|----------------|
| 1) <u>Committee on Infrastructure</u> | <u>8 Y, 0 N</u> | <u>Creamer</u> | <u>Miller</u> |
| 2) <u>Economic Expansion & Infrastructure Council</u> | <u></u> | <u>Creamer</u> | <u>Tinker</u> |
| 3) <u>Policy & Budget Council</u> | <u></u> | <u></u> | <u></u> |
| 4) <u></u> | <u></u> | <u></u> | <u></u> |
| 5) <u></u> | <u></u> | <u></u> | <u></u> |

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 67 adds a fourth category of vehicles and equipment: those used exclusively for commercial aviation purposes on airport property.

In January 2007 the state's Impact Estimating Conference reviewed HB 67 and adopted a consensus negative fiscal impact of \$200,000 annually. Most of the refund will impact the State Transportation Trust Fund (STTF), with a small portion impacting counties and municipalities that share the state-collected local-option fuel tax created pursuant to s. 206.41(1)(e), F.S.

The number of businesses that may qualify for the refund is unknown. Florida Department of Revenue (DOR) research indicated that 101 businesses may qualify, based on their state sales tax records, or as many as 893 businesses may qualify, based on IRS records. Under both scenarios, the fuel tax refunds would total less than \$200,000 annually.

HB 67 raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes:

HB 67 refunds certain motor fuel taxes paid by vehicles and equipment used only on commercial airport properties. According to a DOR 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 nearly \$2.38 billion in revenues in fiscal year 2006-2007.¹

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 were estimated at \$230,000 in FY 2004-2005.²

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

DOR has long-established procedures 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 67 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 also 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 in 2006 estimates that 101 companies may be 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 the term "commercial aviation purposes."

Section 2: Provides an effective date of July 1, 2007.

¹ 2006 Florida Tax Handbook, page 85. <http://edr.state.fl.us/reports/taxhandbooks/taxhandbook2006.pdf>

² Ibid, page 90.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Impact Estimating Conference met on January 26, 2007, and determined by consensus that HB 67 would have an annual negative fiscal impact on the STTF of about \$200,000 and have an insignificant (less than \$50,000) fiscal impact on the General Revenue Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Impact Estimating Conference estimated that this bill would have an insignificant fiscal impact on gas tax revenues shared with local governments.

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; 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 67 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 Impact Estimating Conference decided at its January 26, 2007, 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 in s. 206.41(4), F.S., to implement the provisions of this bill. The agency has indicated that it may develop the refund application and filing procedures by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

HB 67 was the substance of a bill in the 2006 Session that unanimously passed the House. This bill would allow tax rebates for motor fuel used in off-road vehicles for commercial aviation purposes. There are similar refund provisions currently in statute for agricultural, aquacultural and commercial fishing purposes.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 8, 2007, this bill was considered by the Committee on Infrastructure. An amendment was adopted which clarified that "highways" means public highways. The bill was reported favorably with one amendment.