

**The Florida Senate**  
**PROFESSIONAL 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: Finance and Tax Committee

BILL: SB 90

INTRODUCER: Senator King

SUBJECT: Motor Fuel Taxes/Commercial Aviation

DATE: March 15, 2007      REVISED: 3/20/2007 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see last section for Summary of Amendments**

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

This bill entitles persons who purchase and use motor fuel in the operation of aviation ground support vehicles and equipment to a refund of the motor fuel sales tax, the State Comprehensive Enhanced Transportation System (SCETS) Tax, and the local-option fuel tax, provided none of the fuel is used in vehicles or equipment operated on public roads.

This bill substantially amends s. 206.41 of the Florida Statutes.

**II. Present Situation:**

Section 206.41, F.S., authorizes the imposition of a number of state taxes on motor fuels. The following taxes are authorized:

- “constitutional fuel tax” - 2 cents/gallon;
- “County Fuel Tax” - 1 cent/gallon;
- “Municipal Fuel Tax” - 1 cent/gallon;
- “ninth cent fuel tax” - 1 cent/gallon;
- “local option fuel tax” - 1 to 11 cents/gallon (current statewide average is 7.99 cents/gallon);

- SCETS tax - equal to 2/3 of the sum of the local option fuel tax plus the ninth cent fuel tax, or 6 cents/gallon, whichever is less (2006-07 fiscal year average is 6.06 cents/gallon); and
- “fuel sales tax” (2006-07 fiscal year average is 11.03 cents/gallon).

The revenues collected from state fuel taxes, as well as other funding sources are used to finance state highway and other transportation projects. Theoretically, fuel taxes allow the costs of developing, building, operating, and maintaining the state’s transportation system to be borne by the system’s users.

Section 206.41, F.S., also provides for a refund of certain fuel taxes collected from the sale of motor fuel used in vehicles or equipment not impacting the state transportation system. Specifically, the local option fuel tax, the SCETS tax, and the fuel sales tax may be refunded to persons using motor fuel for agricultural, aquacultural, and commercial fishing purposes. In fiscal year 2005-2006, \$132,000 was refunded.

Agricultural fuel use is defined as:

*“...fuel used in any tractor, vehicle, or farm equipment which is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of the state.”*

The movement of farm vehicles or equipment between farms is not included.

Commercial fishing fuel use is defined as:

*“motor fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from salt or fresh waters under the jurisdiction of the state for resale to the public, and no part of which fuel is used in any vehicle or equipment driven or operated upon the highways of this state; however, the term may in no way be construed to include fuel used for sport or pleasure fishing.”*

Aquacultural uses are defined by both of the above definitions.

Aviation fuel, i.e., fuel used in the operation of aircraft, is taxed through authorization found in ss. 206.9915 through 206.9945, F.S. Net aviation fuel tax revenue for deposit into the State Transportation Trust Fund for fiscal year 2005-06 was \$57.4 million.

Taxation of off-road fuel, e.g., diesel fuel used for home heating and in self-propelled machinery, is authorized in s. 212.0501., F.S. Intrastate railroads, commercial vessels, and construction equipment account for most of the receipts generated by the off-road fuel tax. Net off-highway fuel tax revenue for deposit into the State Transportation Trust Fund for fiscal year 2005-06 was \$14.6 million.

### **III. Effect of Proposed Changes:**

Section 1 adds “commercial aviation purposes” to the list of motor fuel uses for which a person is entitled to a refund of the local option fuel tax, the SCETS tax, and the fuel sales tax.

A refund would be available for “fuel used in the operation of aviation ground support vehicles or equipment, no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this state.” Under this definition, qualifying vehicles and equipment would include “tugs” used for maneuvering aircraft and transporting baggage and other freight between an aircraft and the terminal, concessionaire and fuel vehicles, emergency and other vehicles used exclusively on airport property, as well as landscaping and other gasoline or diesel fuel equipment. The bill provides that an initial application for refund of taxes paid under this section must apply immediately upon the date of the initial application. Fuel used in aircraft or any vehicle which operates on the public highway system would not be eligible for tax refund.

Section 2 provides an effective date of July 1, 2007.

#### **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:

SB 90 would allow refunds of certain state and local option motor fuel taxes paid on motor fuel used by vehicles and equipment used for ground support of commercial aviation. The Revenue Estimating Conference estimates the fiscal impact of SB 90 to be a recurring loss of motor fuel tax revenues to the State Transportation Trust Fund of \$0.2 million, with an insignificant recurring loss of local option fuel tax revenues to local governments.

B. Private Sector Impact:

Commercial aviation ground support companies will receive, in the aggregate, an estimated \$0.2 million annually in motor fuel tax revenues.

C. Government Sector Impact:

The Department of Revenue estimates the eventual need for two full time equivalent positions to incorporate the provisions of the bill. Fiscal Year 2007-08 expenditures would be approximately \$54,802 including start-up costs and \$104,617 for FY 2008-09. For FY 2009-10 and FY 2010-11, DOR anticipates yearly expenditures of \$99,891.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

### **Barcode 083936 by Finance and Tax:**

The technical amendment removed unnecessary language from the bill.

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