

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 633 Biodiesel Fuel

SPONSOR(S): Finance & Tax Subcommittee; Perry and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 522

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 0 N	Collins	Collins
2) Finance & Tax Subcommittee	14 Y, 0 N, As CS	Flieger	Langston
3) Regulatory Affairs Committee	17 Y, 0 N	Collins	Hamon

SUMMARY ANALYSIS

Currently, each biodiesel manufacturer in Florida, including municipalities, counties, and school districts who are manufacturing biodiesel for the sole use by the municipality, county, or school district, is required to meet the reporting, bonding, and licensing requirements prescribed for wholesalers pursuant to chapter 206, F.S.¹ An exemption from the diesel fuel excise tax and registration requirements for a biodiesel manufacturer was created in 2010 for a public or private secondary school that manufactures less than 1,000 gallons on an annual basis for use at the school, by its employees, or its students.²

CS/HB 633 creates an exemption from certain reporting, bonding, and licensing requirements for all municipalities, counties, and school districts that manufacture biodiesel fuel. The bill specifies that the exemption applies only when the biodiesel fuel is manufactured to be used solely by the municipality, county, or school district.

The bill will require those municipalities, counties, and school districts that manufacture biodiesel fuel to account for the biodiesel manufactured on their local government user return.

The Revenue Estimating Conference has estimated that this bill will have a negative insignificant impact to General Revenue.

The effective date of this bill is July 1, 2013.

¹ Section 206.02(5), F.S.

² Chapter 2010-195, L.O.F., and s. 206.874(7), F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

“Biodiesel” is a product made from non-petroleum-based oils or fats suitable for use in diesel-powered engines.³ A “biodiesel manufacturer” is defined in s. 206.86(15), F.S., to mean “those industrial plants, regardless of capacity, where organic products are used in the production of biodiesel. This includes businesses that process or blend organic products that are marketed as biodiesel.”

Currently, each biodiesel manufacturer in Florida, including municipalities, counties, and school districts who are manufacturing biodiesel for the sole use by the municipality, county, or school district, is required to meet the reporting, bonding, and licensing requirements prescribed for wholesalers pursuant to chapter 206, F.S.⁴ An exemption from the diesel fuel excise tax and registration requirements for a biodiesel manufacturer was created in 2010 for a public or private secondary school that manufactures less than 1,000 gallons on an annual basis for use at the school, by its employees, or its students.⁵ There is a \$30 annual license tax.

To obtain a wholesaler of motor fuel license, an application form must be filed with the Department of Revenue (“DOR”) under oath.⁶ While a bond must simultaneously be filed with the DOR,⁷ local governments are exempt from the bond requirement⁸ as well as a background check required of certain applicants. Each license must be renewed annually. Licensed fuel wholesalers, which include local governments who manufacture biodiesel, must file a monthly return. Local government users of diesel fuel must also register with DOR and file a monthly report of acquisitions, inventory, and use of diesel fuel⁹ and pay 3 cents of the 4-cent excise tax plus all other taxes levied under s. 206.87(1), F.S.

The state imposes a tax on the sale, use, distribution, or consumption of motor and other fuels.¹⁰ Part II of chapter 206, F.S., addresses diesel fuel. The tax imposed by this part is levied “for the purpose of providing revenue to be used by the state to defray in whole or in part the cost of constructing, widening, reconstructing, maintaining, resurfacing, and repairing the public highways of this state and the cost and expense incurred in the administration and enforcement of this part and for no other purpose whatsoever.”¹¹

According to the *Florida Senate Bill Analysis and Fiscal Impact Statement for Senate Bill 522* published on February 18, 2013, staff indicated that,

One local government reports that complying with the wholesale licensing and reporting requirements for the small volume of biodiesel manufactured for internal use is burdensome to the point that it has suspended its program.¹² That county’s biodiesel manufacturing operation began in 2010 after it received a grant to purchase equipment to recycle waste vegetable oil as part of a fuel supply program that also was intended to achieve environmental benefits by keeping waste products out of the wastewater system. To have a diesel fuel manufacturing operation, the county was required to expend additional time and labor monthly to perform a more extensive review of diesel fuel purchased from commercial suppliers and internally produced biodiesel in order to file the monthly return required of fuel wholesalers. There are

³ Section 206.86(14), F.S.

⁴ Section 206.02(5), F.S.

⁵ Chapter 2010-195, L.O.F., and s. 206.874(7), F.S.

⁶ Section 206.02(4), F.S., and Rule 12B-5.060, F.A.C.

⁷ Section 206.02(6), F.S.

⁸ Section 206.05(1), F.S.

⁹ Section 206.874(4), F.S.

¹⁰ Chapter 206, F.S.

¹¹ Section 206.85, F.S.

¹² Oral conversation with Mark Sexton, Communications Coordinator, Alachua County Manager’s Office (February 2013).

other counties and cities that have similar programs¹³ and they face the same challenges in complying with the reporting requirements of a wholesaler as well as a local government user.

Biodiesel fuel manufactured by a public or private secondary school that produces less than 1,000 gallons annually for the sole use at the school, by its employees, or its students is exempt from fuel tax.

Local governments are required to file a return accounting for diesel fuel acquisitions, inventory, and use.

Effects of Proposed Changes

CS/HB 633 creates an exemption from certain reporting, bonding, and licensing requirements for all municipalities, counties, and school districts that manufacture biodiesel fuel. The bill specifies that the exemption applies only when the biodiesel fuel is manufactured to be used solely by the municipality, county, or school district.

The bill requires those municipalities, counties, and school districts that manufacture biodiesel fuel to account for the biodiesel manufactured on their local government user return and remit the appropriate taxes to the Department of Revenue.

B. SECTION DIRECTORY:

Section 1. Amends s. 206.02, F.S., exempting municipalities, counties, and school districts that manufacture biodiesel fuel from the reporting, bonding, and licensing requirements that apply to biodiesel manufacturers.

Section 2. Amends s. 206.874, F.S., requiring municipalities, counties, and school districts that manufacture biodiesel fuel to file certain monthly returns.

Section 3. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated this bill will have a negative insignificant impact on General Revenue.

2. Expenditures:

See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹³ The Gainesville Sun, *From chicken wings and fries to powering county trucks*. See <http://www.gainesville.com/article/20130129/ARTICLES/130129540>.

None.

D. FISCAL COMMENTS:

Local governments that manufacture biodiesel for use only by that municipality, county, or school district will be relieved of the time and labor needed to be expended to comply with licensing and reporting requirements of fuel wholesalers.

The DOR reports that implementation of this bill will present an insignificant operational impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2013, the Finance & Tax Subcommittee adopted an amendment making minor technical changes. This analysis reflects the current bill.