

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 664

INTRODUCER: Senator Simmons

SUBJECT: State Taxes on Motor Fuel

DATE: February 28, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Pre-meeting
2.			CJ	
3.			AFT	
4.			AP	
5.				
6.				

I. Summary:

SB 664 requires that certain motor fuel taxes paid by a county sheriff’s office be returned to the sheriff’s office and used to offset ongoing fuel costs and authorizes a sheriff’s office, if licensed as a local government user, to take a credit on the monthly diesel fuel tax return as specified.

This bill substantially amends the following sections of the Florida Statutes: 206.41 and 206.625.

II. Present Situation:

Section 206.41, F.S., imposes specified taxes on motor fuel and provides for certain refunds. Specifically, s. 206.41(4)(d), F.S., provides for a refund of the fuel sales tax imposed by s. 206.41(1)(g), F.S.,¹ paid by a municipality or county on motor fuel or diesel fuel² for use in a motor vehicle operated by the municipality or county. That paragraph further authorizes a municipality or county, when licensed as a local government user, to take a credit on the monthly diesel fuel tax return not to exceed the county fuel tax and the fuel sales tax on those gallons which would otherwise be eligible for refund.

¹ The provisions of s. 206.41, F.S., are made applicable to diesel fuel pursuant to s. 206.97, F.S., as far as lawful and practicable and to the extent that s. 206.41, F.S., does not conflict with any provision of part II of ch. 206, F.S.

² The fuel sales tax rate on each net gallon of motor fuel and diesel fuel for 2013 is 12.9 cents. Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, *2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 28, 2013.

Section 206.625(1), F.S., requires that the county fuel tax imposed by s. 206.41(1)(b), F.S.,³ collected from a municipality or county on motor fuel for use in a motor vehicle operated by it be returned to the governing body of each such municipality or county in accordance with the procedures in s. 206.41, F.S., for construction, reconstruction, and maintenance of roads and streets within the respective municipality or county.

Section 206.874(1), F.S., contains exemptions from provisions requiring the payment of taxes on diesel fuel, including without limitation diesel fuel that satisfies specified dyeing and marking requirements. Subsection (3) of that section lists allowable purposes for which dyed diesel fuel may be purchased and used, including without limitation, exclusive use of a local government; but that subsection does not include county sheriffs' offices. Further, subsection (4) of s. 206.874, F.S., provides that to qualify for the use of dyed or otherwise untaxed diesel fuel in motor vehicles, each county, municipality, and school district must first register with the Department of Revenue (DOR) as a local government user of diesel fuel. The definition of "local government user of diesel fuel" in s. 206.86(11), F.S., includes any county, municipality, or school district licensed by DOR to use untaxed diesel fuel in motor vehicles, but it does not include county sheriffs' offices.

Section 206.874(4)(c), F.S., requires any county, municipality, or school district not licensed as a local government user of diesel fuel to pay directly to DOR the diesel fuel taxes imposed by s. 206.87(1), F.S.,⁴ for any highway use of untaxed diesel fuels. And lastly, section 206.874(4)(d), F.S., provides that each county, municipality, or school district may receive a credit for additional taxes paid under s. 206.87 for the highway use of diesel fuel, if the diesel fuel purchases meet the requirements relating to refunds for motor fuel purchases under s. 206.41, F.S. Again, county sheriffs' offices are not included in the requirement to pay diesel fuel taxes for any highway use of untaxed diesel fuels if the sheriff's office is not licensed as a local government user of diesel fuel and are not included in the authorization to receive the specified credit.

III. Effect of Proposed Changes:

Section 1: Amends s. 206.41(4)(d), F.S., to provide that the portion of the specified fuel sales tax resulting from the collection of such tax paid by a county sheriff's office on motor fuel or diesel fuel for use in a motor vehicle operated by it shall be returned to the sheriff's office and used to offset ongoing fuel costs; and to provide that a county sheriff's office, if licensed as a local government user, is entitled to take a credit on the monthly diesel fuel tax return if the amount of the credit does not exceed the one-cent county fuel tax and the 12.9-cent fuel sales tax on those gallons which would otherwise be eligible for refund.

Section 2: Amends s. 206.625, F.S., to require that those portions of the county fuel tax imposed by s. 206.41(1)(b), F.S., which result from the collection of such tax paid by a county sheriff's office on motor fuel for use in a motor vehicle operated by the sheriff's office be returned to the sheriff's office to offset ongoing fuel costs.

³³ One cent per net gallon, designated as the "county fuel tax."

⁴ Upon each net gallon of diesel fuel, an excise tax of four cents, an additional one cent tax known as the "ninth-cent fuel tax," an additional six cents known as the "local option fuel tax," an additional SCETS Tax at a 2013 rate of 7.1 cents, and the additional fuel sales tax at a 2013 rate of 12.9 cents.

In short, the fuel sales taxes paid by a county sheriff's office on motor fuel or diesel fuel must be returned to the sheriff's office to offset ongoing fuel costs. A county sheriff's office registered as a local government user is authorized to take a credit on the monthly diesel fuel tax return if the credit does not exceed the county fuel tax and fuel sales tax on those gallons which would otherwise be eligible for refund. Lastly, the county fuel tax paid by a county sheriff's office must be returned to the sheriff's office to offset ongoing fuel costs.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

DOR recommends⁵ the following amendments to provisions in part II of ch. 206, F.S., to incorporate sheriffs' offices:

- insertion of the phrase, "county sheriff's office" in s. 206.86(11), F.S., to include sheriffs' offices in the definition of "local government user of diesel fuel," along with a county, municipality, or school district.
- insertion of the phrase, "county sheriff's office" in s. 206.874(3)(b), F.S., to make purchase and use of dyed diesel fuel for exclusive use by a county sheriff's office exempt from taxes under part II of ch. 206, F.S., as is a local government.

⁵ Department of Revenue 2013 Bill Analysis, SB 664, on file in the Senate Transportation Committee.

- insertion of the phrase, “county sheriff’s offices” or “county sheriff’s office,” as appropriate, in s. 206.874(4)(a), (c), and (d), F.S., to require a county sheriff’s office to register as a local government user of diesel fuel; to require a county sheriff’s office not licensed as a local government user of diesel fuel to pay the diesel fuel tax imposed by s. 206.87(1), for any highway use of untaxed diesel fuels; and to authorize a county sheriff’s office to receive a credit for additional taxes paid under s. 206.87, F.S., for the highway use of diesel fuel, as specified, all as are currently applicable to a county, municipality, or school district.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.