

**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.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: SB 722

INTRODUCER: Senator Flores

SUBJECT: Aviation Fuel Tax

DATE: February 23, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	<b>Pre-meeting</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 722 reduces the excise tax rate imposed on aviation fuel, kerosene, and aviation gasoline. The bill also repeals the existing credit or refund of the tax paid for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier's Florida workforce by certain amounts.

**II. Present Situation:**

Section 206.9825(1)(a), F.S., generally imposes an excise tax of 6.9 cents per gallon for every gallon of aviation fuel, kerosene, and aviation gasoline sold or brought into this state for use.<sup>1</sup> State taxes are imposed on net gallons when aviation fuel is:

- Removed from the terminal at the rack.
- Imported into Florida by means other than the bulk transfer system (e.g., pipelines and vessels) or by means of the bulk transfer system, and the importer of record is not licensed as a terminal supplier or importer.
- Sold to an unlicensed person unless there was a prior taxable removal, entry, or sale of the fuel.<sup>2</sup>

Section 206.9825(1)(b), F.S., authorizes any licensed<sup>3</sup> wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and increases its Florida workforce by more than 1,000 percent, and by 250 or more full-time equivalent

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<sup>1</sup> Certain exemptions are authorized for kerosene used for home heating or cooking purposes. See subsection (2)(b), (c), and (d); and subsections (4) and (5) of s. 206.9825, F.S. Aviation fuel purchased by the United States is also exempt from the tax under s. 206.9875, F.S.

<sup>2</sup> See Florida Department of Revenue website: <http://dor.myflorida.com/dor/taxes/fuel/>. Last visited February 21, 2015. See also ss. 206.87(2) and 206.872, F.S.

<sup>3</sup> Commercial air carriers must obtain an aviation fuel tax license and comply with reporting requirements under s. 206.9865, F.S.

employee positions after January 1, 1996, to receive a credit or refund of the 6.9 cents per gallon, if the carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. If the number of full-time equivalent employees created or added to the air carrier’s Florida workforce falls below 250 before July 1, 2001, the exemption taken by credit or refund does not apply during the period in which the carrier has fewer than the 250 additional employees.<sup>4</sup>

This credit or refund was first authorized in 1996<sup>5</sup> and expired by its terms on July 1, 2001. Following the events of September 11, the Legislature reenacted the exemption but did not include any sunset provision.<sup>6</sup> Because the current language is tied to job creation for the five years after January 1, 1996, an air carrier that actually has been reducing its workforce since then could qualify for a refund because it employed more workers than it did before January 1, 1996, in numbers still sufficient to meet the thresholds. The Florida Department of Revenue (FDOR) provided the following information relating to entities receiving the credit or refund:

Sales of Aviation Fuel to Commercial Air Carriers

Row Labels	Sum of Gallons	% of Total Sales	Tax Due (Includes Tax Exempt Disbursements)
AMERICAN AIRLINES INC.	202,050,355.00	22.24%	\$13,941,474.50
SOUTHWEST AIRLINES COMPANY	142,227,745.00	15.66%	\$9,813,714.41
DELTA AIR LINES INC	137,858,527.00	15.17%	\$9,512,238.36
JETBLUE AIRWAYS CORPORATION	116,415,416.00	12.81%	\$8,032,663.70
CONTINENTAL AIRLINES INC	77,802,200.00	8.56%	\$5,368,351.80
US AIRWAYS INC	52,751,086.00	5.81%	\$3,639,824.93
ALLEGiant AIR LLC	49,826,891.00	5.48%	\$3,438,055.45
SPIRIT AIRLINES INC	43,622,669.00	4.80%	\$3,009,964.16
AIRTRAN AIRWAYS INC	40,516,854.00	4.46%	\$2,795,662.93
FEDERAL EXPRESS CORPORATION	19,010,670.00	2.09%	\$1,311,736.23
UNITED AIR LINES INC	5,009,154.00	0.55%	\$345,631.63
AIR BERLIN PLC & CO LUFTVERKEHRS KG	4,370,595.00	0.48%	\$391,571.06
VIRGIN AMERICA INC	3,327,819.00	0.37%	\$229,619.51
FRONTIER AIRLINES INC	3,029,215.00	0.33%	\$209,015.84
NATIONAL JETS INC	2,933,507.00	0.32%	\$202,411.98
UNITED PARCEL SERVICE CO	2,138,690.00	0.24%	\$147,569.61
ENVOY AIR INC	1,967,678.00	0.22%	\$135,769.78
SILVER AIRWAYS CORP	1,653,121.00	0.18%	\$114,065.35
MIAMI AIR INTERNATIONAL INC	1,329,196.00	0.15%	\$91,714.52
ATLAS AIR INC	473,891.00	0.05%	\$32,698.48
AMERIJET INTERNATIONAL INC	75,931.00	0.01%	\$5,239.24
HYANNIS AIR SERVICE INC	23,621.00	0.00%	\$1,629.85
AERO JET INTERNATIONAL INC	16,943.00	0.00%	\$1,169.07
PRESIDENTIAL AVIATION INC.	13,509.00	0.00%	\$932.12
ABX AIR INC	11,982.00	0.00%	\$826.76
PROFESSIONAL FLIGHT TRANSPORT INC	11,002.00	0.00%	\$759.14
AIR TRANSPORT INTERNATIONAL LLC	3,446.00	0.00%	
<b>Grand Total</b>	<b>908,471,713.00</b>	<b>100.00%</b>	<b>\$62,684,548.20</b>

<sup>4</sup> This exemption does not apply to aviation gasoline. See. s. 206.9825(3), F.S.

<sup>5</sup> See s. 21, ch. 96-323, Laws of Florida.

<sup>6</sup> See s. 10, ch. 2002-218, Laws of Florida.

The FDOR notes the following with respect to the above table:

- The table does not include sales from fixed based operators or jobbers to commercial air carriers.
- All returns have not been processed through 07/2014. Sales report on unworked returns will not be listed on this report.
- The tax due does not include reduction due to collection allowance.
- The four shaded entities are currently exempt. The highlighted amounts would have been the tax due from these entities.<sup>7</sup>

After deducting the General Revenue service charge, administrative costs, and the air carrier refunds under s. 206.9855, F.S.,<sup>8</sup> the proceeds are ultimately distributed monthly to the State Transportation Trust Fund.<sup>9</sup> The FDOT advises that deposits into the State Transportation Trust Fund for the last four years were:

- \$37.6 million in 2011.
- \$13.4 million in 2012.
- \$40.7 million in 2013.
- \$35.5 million in 2014.

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

The bill reduces the current aviation fuel tax rate from 6.9 cents to 5.4 cents per gallon. In addition, the bill repeals the exemption for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier's Florida workforce by the specified amounts.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>7</sup> See the FDOR email to committee staff, March 2, 2015. On file in the Senate Transportation Committee.

<sup>8</sup> That section authorizes a refund to for-hire air carriers of not more than 0.6 percent of the wages paid by the carrier to employees located or based within Florida and who are covered by the provisions of chapter 443, F.S., relating to reemployment assistance.

<sup>9</sup> See s. 206.9845, F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

On February 20, 2015, the Revenue Estimating Conference estimated a recurring positive \$1.4 million fiscal impact for both high and mid-range estimates, and a negative \$1.4 million for a low-range estimate, for fiscal years 2015-16 through 2019-20. However, complete data was not available for 2014, and the proposed bill language is expected to be re-analyzed.

**B. Private Sector Impact:**

Those paying the current tax rate of 6.9 cents will realize a positive fiscal impact as a result of the reduced rate of 5.4 cents. Those currently receiving the exemption through a credit or refund will realize a negative fiscal impact, offset by the reduced tax rate.

**C. Government Sector Impact:**

The FDOT advises it expects an indeterminate fiscal impact and notes that “[t]o the extent the tax revenue goes down, projects currently programed in the work plan may be impacted.”<sup>10</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 206.9825 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>10</sup> See the FDOT 2015 Legislative Bill Analysis for SB 722. On file in the Senate Transportation Committee.