

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 Finance and Tax

BILL: CS/SB 802

INTRODUCER: Transportation Committee and Senator Benacquisto

SUBJECT: Use Tax for Asphalt

DATE: February 5, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	Fournier	Diez-Arguelles	FT	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 802 phases out the indexed tax on manufactured asphalt used for any federal, state, or local government public works project. Currently, the calculated indexed tax is reduced by 40 percent. The bill reduces the indexed tax by 60 percent beginning July 1, 2016; by 80 percent beginning July 1, 2017; and provides a total tax exemption beginning July 1, 2018.

The bill is estimated to reduce state and local revenue by \$0.5 million in FY 2016-17, \$1.2 million in 2017-18, \$1.9 million in FY 2018-2019.

See Section V., "Fiscal Impact Statement," for further fiscal impact information.

The bill takes effect July 1, 2016.

II. Present Situation:

Section 212.06(b), F.S., imposes a six percent use tax on any person who manufactures, produces, compounds, processes, or fabricates...tangible personal property for his or her own use. The tax is based upon the cost of the product, without any deduction for the cost of material, labor or transportation. Section 212.06(c)1, F.S., provides that, notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use is calculated only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of transportation of such components and ingredients. In addition, an

indexed tax is also imposed upon the manufactured asphalt, adjusted each July 1 by the average of the “materials and components for construction” as published by the United States Department of Labor Bureau of Statistics.¹ The current indexed tax is 74 cents per ton for the period July 1, 2015, through June 30, 2016.² Under current law, the indexed tax on manufactured asphalt used for any federal, state, or local government public works project is reduced by 40 percent as required by s. 212.06(1)(c)2.b., F.S.³ After the reduction, the current indexed tax rate for such asphalt used for the identified public works projects is 45 cents per ton for the period July 1, 2015, through June 30, 2016. The tax is due in the month the asphalt is manufactured for use by the contractor.⁴

III. Effect of Proposed Changes:

The bill phases out the indexed tax on manufactured asphalt used in federal, state, or local government public works project over a three-year period as follows:

- The tax is reduced by 60 percent from July 1, 2016, through June 30, 2017, instead of the current 40 percent.
- The tax is reduced by 80 percent from July 1, 2017, through June 30, 2018.
- Beginning July 1, 2018, manufactured asphalt used in federal, state, or local government public works is exempt from the indexed tax.

The six percent use tax continues to apply to the cost of materials that become a component part or ingredient of manufactured asphalt and upon the cost of the transportation of such components or ingredients.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or to take an action requiring expenditure. The bill will reduce the authority of municipalities and counties to raise revenues. However, the impact on counties and municipalities in the aggregate is expected to be insignificant, and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

¹ Section 212.06(c), F.S., requires the indexed tax to be adjusted “to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the “materials and components for construction” series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.” The producer price index (PPI) measures the average change over time in selling prices received by domestic producers of goods and services. See the U.S. Department of Labor website for additional information on the PPI: available at <http://www.bls.gov/ppi/ppiover.htm>. (last visited Jan. 5, 2016).

² Department of Revenue, *Senate Bill 802 Fiscal Analysis* (Dec. 10, 2015) (on file in the Senate Committee on Transportation). See also the FDOR’s Tax Information Publication #15A01-03 for information on calculating the use tax on asphalt manufactured by a contractor for his or her own use: available at <http://dor.myflorida.com/dor/tips/tip15a01-03.html>. (last visited Jan. 5, 2016).

³ The Legislature first provided an exemption from the indexed tax of 20 percent of the manufactured asphalt used for any state or local government public works project in 1999. The exemption was increased to 40 percent and expanded to expressly include federal public works projects in 2000. See Ch. 99-334, Laws of Fla. and Ch. 2000-310, Laws of Fla., respectively. See also Ch. 2000-355, Laws of Fla.

⁴ Department of Revenue, *Senate Bill 802 Fiscal Analysis*. (Dec. 10, 2015) (on file with the Senate Committee on Transportation).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) adopted the following proposed estimate of the impact of the bill language on October 29, 2015:

	GR		Trust		Revenue Sharing	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(0.5)	(1.5)	(Insignif.)	(Insignif.)	(Insignif.)	(Insignif.)
2017-18	(1.0)	(15)	(Insignif.)	(Insignif.)	(Insignif.)	(Insignif.)
2018-19	(1.5)	(1.5)	(Insignif.)	(Insignif.)	(0.1)	(0.1)
2019-20	(1.6)	(1.6)	(Insignif.)	(Insignif.)	(0.1)	(0.1)
2020-21	(1.6)	(1.6)	(Insignif.)	(Insignif.)	(0.1)	(0.1)

	Local Half Cent		Local Option		Total Local	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(Insignif.)	(0.1)	(Insignif.)	(0.1)	0.0	(0.2)
2017-18	(0.1)	(0.1)	(0.1)	(0.1)	(0.2)	(0.2)
2018-19	(0.1)	(0.1)	(0.2)	(0.2)	(0.4)	(0.4)
2019-20	(0.1)	(0.1)	(0.2)	(0.2)	(0.4)	(0.4)
2020-21	(0.2)	(0.2)	(0.2)	(0.2)	(0.5)	(0.5)

	Total	
	Cash	Recurring
2016-17	(0.5)	(1.7)
2017-18	(1.2)	(1.7)
2018-19	(1.9)	(1.9)
2019-20	(2.0)	(2.0)
2020-21	(2.1)	(2.1)

B. Private Sector Impact:

Providers of manufactured asphalt used on government public work projects will experience lower costs of production resulting from the reduced tax rate and the eventual entire exemption from the tax.

C. Government Sector Impact:

If manufacturers reflect the savings resulting from the tax reduction and eventual exemption in public works contract bids, local, state, and federal governments will experience positive fiscal impacts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.06 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.)

CS by Transportation on January 14, 2016:

The CS incorporates a technical amendment making the specified manufactured asphalt exempt from the indexed tax beginning July 1, 2018, rather than reducing the tax by 100 percent on that date.

- B. **Amendments:**

None.