

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 802

INTRODUCER: Senator Benacquisto

SUBJECT: Use Tax for Asphalt

DATE: January 8, 2016

REVISED: _____

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

I. Summary:

SB 802 phases out the tax on manufactured asphalt used for any federal, state, or local government public works project, which tax is reduced under current law by 40 percent. The bill further reduces the tax by 60 percent beginning July 1, 2016; by 80 percent beginning July 1, 2017; and by 100 percent beginning July 1, 2018.

The bill is estimated to result in a total cash impact of \$0.5 million in FY 2016-17, \$1.2 million in 2017-18, \$1.8 million in 2018-2019, \$1.9 million in 2019-20, and \$2.1 million in 2020-21.

The total estimated recurring negative fiscal impact is:

- \$1.7 million in FY 2016-17.
- \$1.2 million in FY 2017-18.
- \$1.8 million in FY 2018-19.
- \$1.9 million in FY 2019-20.
- \$2.1 million in FY 2020-21.

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

The bill takes effect July 1, 2016.

II. Present Situation:

In addition to a six percent use tax on materials used to manufacture asphalt, s. 212.06, F.S., imposes an indexed tax on asphalt manufactured for one’s own use. The rate of tax is adjusted on July 1 of each year based on the producer price index.¹ The current tax is 74 cents per ton for the

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

period July 1, 2015, through June 30, 2016.² Under current law, the 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 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.
- The tax is reduced by 100 percent beginning July 1, 2018, thereby creating an exemption from the indexed tax for manufactured asphalt used for government public works projects.

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 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. The bill will reduce the base of a state tax shared with cities and counties but does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(c), of the Florida Constitution does not apply to the bill.

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: <http://www.bls.gov/ppi/ppiover.htm>. Last visited January 5, 2016.

² See the Florida Department of Revenue’s (FDOR) Legislative Bill Analysis for SB 802. On file in the Senate Transportation Committee. 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: <http://dor.myflorida.com/dor/tips/tip15a01-03.html>. Last visited January 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, L.O.F., and Ch. 2000-310, L.O.F., respectively. See also Ch. 2000-355, L.O.F.

⁴ See the FDOR’s Legislative Bill Analysis for SB 802. On file in the Senate Transportation Committee.

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)	(1.0)	(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)	(0.1)	(0.1)	(0.3)	(0.3)
2019-20	(0.1)	(0.1)	(0.1)	(0.1)	(0.3)	(0.3)
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)	(1.2)
2018-19	(1.8)	(1.8)
2019-20	(1.9)	(1.9)
2020-21	(2.1)	(2.1)

B. Private Sector Impact:

Providers of manufactured asphalt used on government public work projects will experience a corresponding positive fiscal impact resulting from the reduced tax rate and the eventual entire exemption from the tax, in addition to reduced administrative expenses associated with record-keeping, reporting, and paying the tax.

C. **Government Sector Impact:**

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

VI. Technical Deficiencies:

The FDOR suggests the following clarifying language:

Strike lines 49-52 and insert:

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed under this paragraph.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.06.

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.