

**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 Finance and Tax

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BILL: CS/SB 98

INTRODUCER: Finance and Tax Committee; and Senator Hukill and others

SUBJECT: Exemption from the Sales and Use Tax for Certain Machinery and Equipment

DATE: January 26, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Fav/CS</b>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 98 removes the April 30, 2017, repeal date for the sales and use tax exemption for industrial machinery and equipment used in manufacturing.

In addition, the bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$62.8 million in Fiscal Year 2017-2018, with a \$62.8 million recurring impact. The bill will reduce local government revenue by \$14.1 million in Fiscal Year 2017-2018, with a \$14.1 million recurring impact.<sup>1</sup>

The bill takes effect July 1, 2016.

This bill may contain a mandate requiring a two-thirds vote of the membership of the House and the Senate. See section IV. A. of this analysis.

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<sup>1</sup> Florida Revenue Estimating Conference, *HB 115/SB 98, 64-72*, (Oct. 9, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page64-72.pdf> (last visited Jan. 19, 2016).

## II. Present Situation:

### Florida Sales and Use Tax

Florida levies a six percent state sales and use tax which applies to the sale or rental of most tangible personal property, admissions,<sup>2</sup> transient rentals,<sup>3</sup> commercial real estate rentals,<sup>4</sup> and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions, exclusions, deductions, and credits from sales and use tax.<sup>5</sup> Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes.<sup>6</sup> A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [chapter 212, F.S.], and on communications services as defined in ch. 202."<sup>7</sup>

### Industrial Manufacturing and Equipment Sales Tax Exemption

Since April 30, 2014, the state has provided a sales and use tax exemption for industrial machinery and equipment that is purchased by an eligible manufacturing business.<sup>8</sup> The machinery or equipment must be used at a fixed location in this state.

Eligible businesses are those classified in the North American Industry Classification System (NAICS) under codes 31, 32, or 33. Manufacturing establishments classified under these codes include food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture manufacturing.<sup>9</sup> For the purposes of the exemption, "industrial machinery and equipment" means tangible personal property that has a depreciable life of three or more years and is used in the manufacturing, processing, compounding, or production of tangible personal property for sale.

The term "industrial machinery and equipment" also includes parts and accessories that are purchased prior to the industrial machinery and equipment being placed in service.<sup>10</sup>

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<sup>2</sup> Section 212.04, F.S.

<sup>3</sup> Section 212.03, F.S.

<sup>4</sup> Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at [http://dor.myflorida.com/dor/taxes/sales\\_tax.html](http://dor.myflorida.com/dor/taxes/sales_tax.html) (last visited Jan. 19, 2015).

<sup>5</sup> Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm> (last visited Jan. 19, 2016).

<sup>6</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

<sup>7</sup> Section 212.054, F.S.

<sup>8</sup> Section 212.08(7)(kkk), F.S.

<sup>9</sup> The Manufacturers Association of Florida has provided a complete list of the manufacturing sectors that are classified under the relevant NAICS codes, available at [https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS\\_Codes.pdf](https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS_Codes.pdf) (last visited Jan. 19, 2016).

<sup>10</sup> Section 212.08(7)(kkk)2.c., F.S.

The state also provides a sales and use tax exemption for a mixer drum affixed to a mixer truck used at locations in this state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacturing, processing, compounding, or production of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.<sup>11</sup>

These exemptions are repealed April 30, 2017.

### **Manufacturing Industry in Florida**

According to Enterprise Florida, Inc., (EFI) there are more than 18,600 manufacturing companies and more than 321,000 manufacturing employees in Florida. These companies produce a variety of manufactured goods including aerospace products, batteries, food and beverages, communications equipment, pharmaceuticals, semiconductors, and boats.<sup>12</sup>

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

The bill removes the repeal date for the sales and use tax exemption for industrial machinery and equipment used in manufacturing.

The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

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

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

Subsection (b) of section 18, Art VII of the Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017, is \$2 million or less.<sup>13,14,15</sup> The Revenue Estimating Conference estimates that this bill reduces the authority that counties have to raise revenue by \$6.0 million in Fiscal Year 2017-18.<sup>16</sup>

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<sup>11</sup> Section 212.08(7)(kkk)1., F.S.

<sup>12</sup> Enterprise Florida, Inc., *Florida The Perfect Climate for Business: Manufacturing*, (Revised Sep. 2015) available at <http://www.enterpriseflorida.com/wp-content/uploads/brief-manufacturing-florida.pdf> (last visited Jan. 19, 2016).

<sup>13</sup> FLA. CONST. art. VII, s. 18(d).

<sup>14</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 19, 2015).

<sup>15</sup> Based on the Demographic Estimating Conference's population adopted on December 1, 2015. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 19, 2015).

<sup>16</sup> Florida Revenue Estimating Conference, *HB 115/SB 98*, 64-72, (Oct. 9, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page64-72.pdf> (last visited Jan. 19, 2016).

Therefore, this bill may be a mandate requiring a two-thirds vote of the membership of the House and the Senate.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The current exemption for industrial machinery and equipment continues through April 2017, thus CS/SB 98 does not have a cash impact in Fiscal Year 2016-2017. The Revenue Estimating Conference has determined that SB 98 will reduce General Revenue receipts by \$62.8 million in Fiscal Year 2017-2018, with a \$62.8 million recurring impact. SB 98 will reduce local government revenue by \$14.1 million in Fiscal Year 2017-2018, with a \$14.1 million recurring impact.<sup>17</sup>

**B. Private Sector Impact:**

Indeterminate, but positive. Eligible manufacturing companies will see a reduction in the cost of purchasing certain machinery and equipment.

**C. Government Sector Impact:**

The Department of Revenue reported that CS/SB 98 will have an insignificant expenditure impact on the department.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.08 of the Florida Statutes.

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<sup>17</sup> *Id.*

<sup>18</sup> Florida Department of Revenue, *Senate Bill 98 Fiscal Analysis* (Sep. 24, 2015) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=7237> (last visited Jan. 19, 2016).

**IX. Additional Information:**

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

**CS by Finance and Tax on January 25, 2016:**

The CS makes sure that the definitions in s. 212.08(7)(kkk)2., F.S., are considered when determining whether the exemption applies.

- B. **Amendments:**

None.