

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 Agriculture

BILL: SB 1592

INTRODUCER: Senator Grimsley

SUBJECT: Sales and Use Tax Exemptions for Electric Generators

DATE: January 18, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Becker	Becker	AG	Favorable
2.	_____	_____	AFT	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1592 amends s. 212.08, F.S., to expand the sales and use tax exemption to generators used on all farms. It also adds an exemption for generators at nursing homes and assisted living facilities, which is limited to \$30,000 for the purchase of equipment at any one facility.

The Revenue Estimating Conference (REC) has not determined the impact of the bill; however, based on the fiscal impact of a similar House bill, staff estimates that SB 1592 will reduce General Revenue receipts by \$9.9 million in Fiscal Year 2018-2019, with a recurring \$9.9 million reduction. Staff estimates that SB 1592 will reduce local government revenues by \$12.5 million in Fiscal Year 2018-2019, with a recurring \$12.5 million reduction.

The bill has an effective date of July 1, 2018.

II. Present Situation:

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rentals of commercial real estate, and a limited number of services.¹

Chapter 212, F.S., contains statutory provisions authorizing 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.

¹ See ch. 212, F.S.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes.² A surtax applies to all transactions occurring in the county that are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.³

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.

Generators on Farms

Current law provides for a sales tax exemption for generators used on poultry farms.⁴ Current law also provides for a sales tax exemption for power farm equipment and irrigation equipment.⁵ In an analysis of a similar bill the REC states there will be no impact from striking out the word “poultry” from this section.⁶

Generators in Nursing Homes and Assisted Living Facilities

There is currently no sales tax exemption for the purchase of generators for assisted living facilities or nursing homes. In September 2017 The Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DEA) published Emergency Rules to require nursing homes and assisted living facilities to comply with an emergency power plan.⁷ Nursing homes and assisted living facilities must provide a detailed plan which includes the acquisition of a sufficient generator or generators that ensure ambient temperatures at facilities will be maintained at 80 degrees or less for a minimum of 96 hours in the event of a loss of power. Facilities must also acquire and maintain sufficient fuel to ensure that in an emergency the generators can function as required and must acquire services necessary to install, maintain, and test the equipment to ensure the safe and sufficient operation of the generator system. Facilities must have implemented their plan within sixty days of September 16, 2017. Additional Emergency Rules were subsequently published to provide for exceptions for the implementation timeline.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 212.08, F.S., to clarify the sales and use tax exemption applies to generators used on all farms, not just poultry farms.

The bill also creates an exemption for the purchase of equipment that uses natural gas or liquefied petroleum gas to generate emergency electricity at nursing homes and assisted living

² The tax rates, duration of the surtaxes, method of imposition, and proceed uses are individually specified in s. 212.055, F.S.

³ Section 212.054, F.S.

⁴ Section 212.08(5)(a), F.S.

⁵ Section 212.08(3), F.S.

⁶ Office of Economic and Demographic Research, *Revenue Impact Conference Results*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page254-266.pdf (last visited Jan. 23, 2018).

⁷ Florida Emergency Rules 58AER17-1 and 59AER17-1.

⁸ Florida Emergency Rules 58AER17-2 and 59AER17-2.

facilities, up to a maximum of \$30,000 for any one facility. The purchaser of the equipment must provide the dealer with an affidavit certifying that the equipment will only be used for the purpose allowed in the exemption. The Department of Revenue may adopt rules to administer this exemption.

Section 2 provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, 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.

The REC has not determined the impact of the bill; however, based on the fiscal impact of a similar House bill, staff estimates that SB 1592 will reduce local government revenues by \$12.5 million in Fiscal Year 2018-2019, with a recurring \$12.5 million reduction.⁹

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The REC has not determined the impact of the bill; however, based on the fiscal impact of a similar House bill, staff estimates that SB 1592 will reduce General Revenue receipts by \$9.9 million in Fiscal Year 2018-2019, with a recurring \$9.9 million reduction. Staff estimates that SB 1592 will reduce local government revenues by \$12.5 million in Fiscal Year 2018-2019, with a recurring \$12.5 million reduction.

B. Private Sector Impact:

Businesses and individuals who purchase generators covered under this bill will benefit from the sales tax exemption.

⁹ Office of Economic and Demographic Research, *Revenue Impact Conference Results*, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/pdf/page254-266.pdf> (last visited Jan. 23, 2018).

C. Government Sector Impact:

The Department of Revenue estimates that that the implementation of this bill will result in an insignificant impact to the department.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue analysis points out that it is unclear if the \$30,000 limit refers to the price of the equipment or the sales tax.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08.

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.

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

¹⁰ Department of Revenue, *Senate Bill 1592 Fiscal Analysis* (Jan. 10, 2018) (on file with the Senate Agriculture Committee)