

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 926

INTRODUCER: Senator Broxson

SUBJECT: Natural Gas Fuel Taxes

DATE: January 11, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Pre-meeting
2.			AFT	
3.			AP	

I. Summary:

SB 926 revises provisions relating to the imposition of certain taxes on natural gas fuel used in motor vehicles. The bill delays the effective date of the imposition from January 1, 2019, to January 1, 2024.

Additional revisions conforming current provisions to the delayed imposition include:

- Delaying the date of expiration of a \$200 penalty for each month a person acts as a natural gas retailer without a valid natural gas fuel retailer license from December 31, 2018, to December 31, 2023.
- Replacing the \$200 penalty, effective January 1, 2024, with a penalty of 25 percent of the tax assessed on the total purchases made during the person's unlicensed period.
- Delaying the date that natural gas fuel retailers are to begin filing related monthly reports with the Department of Revenue (DOR) from February 2019 to February 2024.

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. Imposition of the specified taxes is delayed until January 1, 2024, resulting in an indeterminate positive fiscal impact to owners or operators of natural gas fueled vehicles who would otherwise be subject to the taxes beginning January 1, 2019. This delay will also result in delayed collection of natural gas fuel tax revenue in an indeterminate amount.

The bill takes effect July 1, 2018.

II. Present Situation:

Due to increased domestic exploration and production, the supply of natural gas¹ in the U.S. and in Florida is expanding. While Florida consumes less natural gas than some other states, consumption has grown significantly, such that Florida ranks 15th in the nation in natural gas consumption.² According to a recent report discussing a survey conducted by the Office of Program Policy Analysis & Government Accountability, “suppliers and consumers indicated that they expect their businesses to continue to grow, both in the total number of vehicles served and in gallons of natural gas fuel sold.” Further,

Eighty-nine percent of consumer survey respondents indicated that their natural gas vehicle fleets have increased in size since 2012. In addition, 75% of consumers responding to our survey said that they anticipate the number of natural gas vehicles in their fleet will continue to increase over the next five years. Of those consumer respondents, 46% said their fleet would continue to increase slightly and an additional 29% predicted that their fleet size would increase greatly. Only 13% of all consumers responding to our survey indicated that they anticipate a decrease in their fleet size.³

Because of the benefits of natural gas (e.g., lower fuel costs, environmental benefits, and lower maintenance costs),⁴ some states have undertaken efforts to incentivize use of natural gas fuel. One such effort in Florida relates to taxation of natural gas fuel.

Taxation of Natural Gas Fuel

Pre-2014

Before 2014, natural gas was addressed in Florida law as an “alternative fuel.” Section 206.877, F.S., required owners or operators of motor vehicles licensed in this state and powered by alternative fuels to pay, in lieu of the diesel fuel taxes imposed by s. 206.87(1)(a)-(d), F.S., an annual decal fee on each such motor vehicle in accordance with a specified rate schedule.⁵ In addition, the sale of alternative fuel was subject to sales tax imposed under Ch. 212, F.S.

Section 206.89, F.S., prohibited a person, with certain exceptions, from acting as a retailer of alternative fuel unless that person held a valid retailer-of-alternative-fuel license issued by DOR,

¹ Section 206.9951(2), F.S., currently defines “natural gas fuel” to mean “any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23). This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. The term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.” Section 206.9951(4), F.S., currently defines “natural gasoline” to mean “a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.”

² See the Office of Program Policy Analysis & Government Accountability Report No. 17-10 at p. 5, available at: <http://www.opaga.state.fl.us/MonitorDocs/Reports/pdf/1710rpt.pdf>. (Last visited January 11, 2018.)

³ *Id.* at pp. 5-6.

⁴ For more details on the benefits of natural gas fuel, see the final bill analysis for CS/CS/HB 579 (2013) available at: <http://www.flsenate.gov/Session/Bill/2013/579/Analyses/h0579f.RAC.PDF>. (Last visited January 12, 2018.)

⁵ The cost for the annual decals ranged between \$199.10 and \$380.10 per motor vehicle, depending on the size and weight of the vehicle. *Supra* note 2. at p. 4.

and any person acting as such who did not hold a license was subject to a penalty of 25% of the tax assessed on total purchases during the unlicensed period. Every person who operated as a retailer of alternative fuel, with certain exceptions, was required to report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., were deposited into the State Alternative Fuel User Fee Clearing Trust Fund. After deducting a specified service charge, the proceeds from state alternative fuel fees were distributed as follows:

- One-half of the proceeds to the State Transportation Trust Fund (STTF).
- 50 percent of the remainder to the State Board of Administration for distribution in accordance with the Florida Constitution.
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities.
- 25 percent of the remainder to the counties for specified public transportation purposes, distributed in accordance with s. 206.60(1), F.S.

Current Law

In 2013, CS/CS/HB 579 was enacted with an effective date of July 1, 2014, except as otherwise provided. The bill established the current fuel tax structure for motor vehicles powered by natural gas.⁶ Natural gas used as a motor fuel since 2014 has been exempt from taxes on motor fuel under Ch. 206, F.S., and also exempt from the sales and use taxes under Ch. 212, F.S.⁷

However, *beginning January 1, 2019*, current law imposes the following taxes on natural gas fuel:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon⁸ of natural gas fuel, which is designated as the “ninth-cent fuel tax.”
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the “local option fuel tax.”
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the “State Comprehensive Enhanced Transportation System (SCETS) Tax,” at a rate determined pursuant to paragraph (d) of the subsection.⁹
- An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (e) of the section.¹⁰

⁶ The bill created a new Part V of Ch. 206, F.S., consisting of ss. 206.9951 – 206.998, entitled ‘NATURAL GAS FUEL.’ It repealed various provisions, including ss. 206.877 and 206.89, F.S.; and it amended and relocated various provisions to the new Part V. *See supra* note 4 for a detailed analysis of the bill.

⁷ *See* s. 212.08(4)(a)2., F.S.

⁸ “Motor fuel equivalent gallon” is defined in s. 206.9951(1), F.S., to mean the volume of natural gas fuel it takes to equal the energy content of one gallon of motor fuel. Section 206.9955, F.S., currently defines the motor fuel equivalent gallon for compressed natural gas, liquefied natural gas, and liquefied petroleum gas.

⁹ Paragraph (d) of s. 206.9955(2), F.S., currently requires the DOR, each calendar year, to determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established rate of **5.8 cents per gallon** by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

¹⁰ Paragraph (e) of s. 206.9955(2), F.S., currently requires the DOR, each calendar year, to determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1.

Section 206.997, F.S., provides that revenues from the natural gas fuel tax will be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:

- The revenues from the SCETS tax and fuel sales tax will be transferred to the STTF.
- The revenues from the excise tax will be distributed as follows:
 - 50% shall be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
 - 25% shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
 - 25% shall be distributed to the counties for specified public transportation purposes, in accordance with s. 206.60(1), F.S.
- The revenues from the ninth-cent fuel tax and the local option sales tax will be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund and returned monthly to the appropriate counties.

In addition, among other provisions relating to natural gas fuel, current law:

- Provides that *until December 31, 2018*, any person acting as a natural gas retailer without such a license must pay a penalty of \$200 for each month of operation during the unlicensed period.¹¹
- Imposes the penalty of 25 percent of the tax assessed on total purchases during an unlicensed period *beginning January 1, 2019*.¹²
- Requires natural gas fuel retailers to submit an electronic, monthly report to DOR, *beginning with February 2019* and monthly thereafter, showing information on inventory, purchases, nontaxable disposals, table uses, and taxable sales in gallons of natural gas fuel for the preceding month, with certain exceptions and a specified deduction for services rendered and expenses incurred in complying with the reporting requirements.¹³

State Gasoline and Diesel Taxes

Motor Fuel

Section 206.41(1), F.S., provides for the following taxes on motor fuel:

- An excise or license tax of 2 cents per net gallon of motor fuel,¹⁴ designated as the “constitutional fuel tax.”
- An additional 1 cent per net gallon, designated as the “county fuel tax.”
- An additional 1 cent per net gallon, designated as the “municipal fuel tax.”
- An additional tax of 1 cent per net gallon may be imposed by each county, designated as the “ninth-cent fuel tax.”
- An additional tax of between 1 and 11 cents per net gallon may be imposed by each county, designated as the “local option fuel tax.”

The tax rate is to be calculated by adjusting the initially established tax rate of **9.2 cents per gallon** by the percentage change in the average of the Consumer Price Index for the most recent 12-month period ending September 30.

¹¹ Section 206.9952(3)(a), F.S.

¹² Section 206.9952(3)(b), F.S.

¹³ Section 206.996, F.S.

¹⁴ Section 206.01(9), F.S., defines “motor fuel” or “fuel” to mean “all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle.”

- An additional tax per net gallon of motor fuel is imposed by each county, designated as the SCETS Tax, at a rate determined as specified in paragraph (f) of the subsection.
- An additional tax per net gallon is imposed “on the privileged of selling motor fuel”, designated as the “fuel sales tax,” at a rate determined as specified in paragraph (g) of the subsection.
- An additional 0.125 cents per net gallon for defraying expenses incident to inspecting, testing, and analyzing motor fuel in this state.

The state tax rate on motor fuel beginning January 1, 2018, is 17.7 cents per gallon; the SCETS tax rate on motor fuel is 7.6 cents; and the fuel sales tax rate on motor fuel is 13.7 cents. The local option rate varies by county, and the total state and county rates on motor fuel varies from 31.4 cents to 37.4 cents.¹⁵

Diesel Fuel

Section 206.87(1), F.S., provides for the following taxes on diesel fuel:

- An excise tax of 4 cents per net gallon of diesel fuel.¹⁶
- An additional 1 cent per net gallon is imposed by each county, designated as the “ninth-cent fuel tax.”
- An additional 6 cents per net gallon is imposed by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon is imposed in each county, designated as the SCETS Tax, at a rate determined as specified in paragraph (d) of the subsection; and
- An additional tax per net gallon “on the privilege of selling diesel fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (e) of the subsection.

The state tax rate on diesel fuel beginning January 1, 2018, is 17.7 cents per gallon; the county tax rate (ninth cent, SCETS, and local option rates) is 14.6 cents statewide; and the fuel sales tax rate is 13.7 cents. The total state and county rates on diesel fuel is 32.3 cents.¹⁷

Section 212.0501(5), F.S., provides that diesel fuel upon which the fuel taxes pursuant to Ch. 206, F.S., have been paid is exempt from the tax on sales, use, and other transactions imposed by Ch. 212, F.S.

III. Effect of Proposed Changes:

SB 926 delays the effective date of the imposition of the specified taxes on natural gas fuel and makes revisions conforming certain provisions to the delayed imposition.

¹⁵ See the DOR’s *Fuel Tax Rates Adjusted Beginning January 1, 2018*, available at: https://revenue.law.floridarevenue.com/LawLibrary/Documents/2017/11/TIP-121500_TIP%2017B05-03%20FINAL%20RLL.pdf. (Last visited January 12, 2018.)

¹⁶ Section 206.86(1), F.S., defines “diesel fuel” to mean “all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.

¹⁷ *Supra* note 14.

Section 2 amends s. 206.9955, F.S., revising the effective date of the imposition of the specified taxes on natural gas fuel from January 1, 2019, to January 1, 2024, thereby providing an additional five years during which natural gas fuel is exempt from those fuel taxes.

Section 1 amends s. 206.9952, (3)(a), F.S., to conform to the delayed imposition by:

- Delaying the date of expiration of the \$200 penalty for each month a person acts as a natural gas retailer without a valid natural gas fuel retailer license from December 31, 2018, to December 31, 2023.
- Replacing the \$200 penalty, effective January 1, 2024, with a penalty of 25 percent of the tax assessed on the total purchases made during the person's unlicensed period.

Section 3 amends s. 206.996, F.S., to conform to the delayed imposition by delaying the date on which natural gas fuel retailers are to begin filing related monthly reports with the DOR from February 2019 to February 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill.

A. Tax/Fee Issues:

Imposition of the specified natural gas fuel taxes is delayed until January 1, 2024.

B. Private Sector Impact:

Imposition of the specified natural gas fuel taxes is delayed until January 1, 2024, resulting in an indeterminate positive fiscal impact to owners or operators of natural gas fueled vehicles who would otherwise be subject to the taxes beginning January 1, 2019.

C. Government Sector Impact:

Imposition of the specified natural gas fuel taxes is delayed until January 1, 2024, resulting in delayed collection of revenues from the taxes in an indeterminate amount. Under current law, these revenues would have been distributed to the STTF, the State Board of Administration, and local governments beginning in 2019.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 206.9952, 206.9955, and 206.996.

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.