

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 751 Ad Valorem Taxation of Construction Equipment

SPONSOR(S): Clemons

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	14 Y, 3 N	Davis	Aldridge
2) Appropriations Committee	21 Y, 5 N	Trexler	Pridgeon

SUMMARY ANALYSIS

All tangible personal property is assessed as of January 1 of each year for purposes of ad valorem taxation unless it is expressly exempted. Items of tangible personal property exempt from ad valorem taxation include household goods and personal effects, items of inventory, and up to \$25,000 of assessed value for each tangible personal property tax return. "Inventory" is defined as only those chattels consisting of items commonly referred to as goods, wares, and merchandise which are held for sale or lease to customers in the ordinary course of business. Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, are deemed inventory only prior to the initial lease of such items.

The bill expands the definition of the term "inventory," for all levies other than school district levies, to also mean construction equipment owned by a heavy equipment rental dealer that is for sale or short-term rental in the normal course of business on the annual assessment date. The bill specifies that the prior short-term rental of any construction equipment does not disqualify such property from qualifying as inventory and that the term "inventory" does not include heavy equipment rented with an operator.

The Revenue Estimating Conference estimates that for Fiscal Year 2022-23, the provisions of the bill will have zero cash impact and -\$20.1 million recurring impact on local government revenues.

The bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

All tangible personal property is subject to ad valorem taxation unless expressly exempted.¹ Items exempt from ad valorem taxation include household goods and personal effects,² items of inventory,³ and up to \$25,000 of assessed value for each tangible personal property tax return.⁴ Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 of each year.⁵ Tangible personal property is defined as all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.⁶

“Inventory” is defined as only those chattels consisting of items commonly referred to as goods, wares, and merchandise (as well as inventory) which are held for sale or lease to customers in the ordinary course of business.⁷ Items of inventory held for lease to customers in the ordinary course of business, rather than for sale, shall be deemed inventory only prior to the initial lease of such items.⁸ The term also includes certain construction and agricultural equipment weighing 1,000 pounds or more that is returned to a dealership under a rent-to-purchase option and held for sale to customers in the ordinary course of business.⁹

Proposed Change

The bill amends s. 192.001(11)(c), F.S., to expand the definition of the term “inventory,” for all levies other than school district levies, to also mean construction equipment owned by a heavy equipment rental dealer that is for sale or short-term rental in the normal course of business on the annual assessment date. “Heavy equipment dealer” is defined as a person or entity principally engaged in the business of short-term rentals and sales of equipment described under 532412 of the North American Industry Classification System, including attachments for the equipment or other ancillary equipment. “Short-term rental” is defined as the rental of a heavy equipment dealer’s rental property for fewer than 365 days under an open-ended contract or under a contract with unlimited terms. The bill specifies that the prior short-term rental of any construction equipment does not disqualify such property from qualifying as inventory and that the term “inventory” does not include heavy equipment rented with an operator.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Amends s. 192.001(11)(c), F.S.; relating to the definition of “inventory.”

Section 2: Provides an effective date of July 1, 2022.

¹ S. 196.001(1), F.S.

² S. 196.181, F.S.

³ S. 196.185, F.S.

⁴ S. 196.183, F.S.

⁵ S. 193.062, F.S.; *See also* DOR, Tangible Personal Property, *available at*

https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Jan. 14, 2022).

⁶ S. 192.001(11)(d), F.S.

⁷ S. 192.001(11)(c)1., F.S.

⁸ *Id.*

⁹ S. 192.001(11)(c)2., F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates the bill will not impact state government revenues.¹⁰

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates the bill will have the following fiscal impact on local government (non-school) revenues:¹¹

Fiscal Year	Cash Impact	Recurring Impact
2022-23	0.0	-\$20.1 million
2023-24	-\$20.7 million	-\$20.7 million
2024-25	-\$21.4 million	-\$21.4 million
2025-26	-\$22.0 million	-\$22.0 million
2026-27	-\$22.7 million	-\$22.7 million

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Heavy equipment rental dealers will realize lower tangible personal property taxes on construction equipment that is for sale or short-term rental in the normal course of business starting with tax bills issued in 2023.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b), art. VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate.

The county/municipality mandates provision of section 18, art. VII, of the Florida Constitution may also apply because this bill expands the definition of the term "inventory" to include certain construction equipment owned for sale or short-term rental in the normal course of business. These provisions do not appear to qualify under any exemption or exception with respect to these provisions. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

¹⁰ Results of the Jan. 28, 2022, Revenue Estimating Impact Conference, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/_pdf/Impact0128.pdf (last visited Jan. 28, 2022).

¹¹ *Id.*

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES