

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 Finance and Tax

BILL: SB 322

INTRODUCER: Senator Gruters

SUBJECT: Natural Gas Fuel Taxes

DATE: March 17, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Price | Vickers | TR | Favorable |
| 2. | Gross | Babin | FT | Favorable |
| 3. | | | AP | |

I. Summary:

SB 322 delays the imposition of Florida’s natural gas fuel tax from January 1, 2024, to January 1, 2026, and conforms related statutory provisions.

The Revenue Estimating Conference determined that the bill would, in Fiscal Year 2023-2024, reduce General Revenue Fund receipts by an insignificant amount, reduce state trust fund receipts by \$200,000, and reduce local government revenue by \$100,000.

The bill takes effect July 1, 2023.

II. Present Situation:

In 2013, the Legislature established a fuel tax for natural gas when sold as a fuel for a motor vehicle. The decal fee imposed on “alternative fuel” vehicles was simultaneously repealed.¹ The bill repealed related provisions, including s. 206.877, F.S. (motor vehicles fueled by liquefied petroleum gas or compressed natural gas), and s. 206.89, F.S. (licensure of retailers of alternative fuel); and it amended and relocated various provisions to the new part V.

The bill delayed the imposition of the newly established tax until December 31, 2018, and exempted from the sales and use tax natural gas and natural gas fuel when placed into the fuel system of a motor vehicle.² Thereafter, a person operating as a natural gas fuel retailer was required to pay a tax on all natural gas fuel purchases³ and report monthly to the Department of Revenue.⁴

¹ Ch.2013-198, L.O.F. Codified in Part V of ch. 206, F.S.

² Section 212.08(4)(a)2., F.S. (2022).

³ Section 206.9952(8), F.S. (2013).

⁴ The method for determining the tax rate imposed was originally created in s. 206.996(1), F.S., with an effective date of February 2019.

Beginning January 1, 2019, the following taxes were to be imposed 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 gallon⁵ 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 by statute.⁶
- An additional tax on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel” at a rate determined by statute.⁷

The Legislature also established the following penalties:

- A penalty, set to expire on December 31, 2018, for any person who acts as a natural gas retailer without holding a valid natural gas fuel retailer license in the amount of \$200 for each month of operation without a license.⁸
- Effective January 1, 2019, a penalty of 25 percent of the tax assessed on the total purchases made during the unlicensed period for any person who acts as a natural gas fuel retailer without a valid natural gas fuel retailer license.⁹

In 2018, the Legislature:

- Delayed until January 1, 2024, imposition of the natural gas fuel taxes described above, as well as a natural gas fuel retailer’s obligation to report monthly to the DOR.
- Made a correction to the formulas used by the DOR to determine the annual tax rates for SCETS and the additional fuel tax, which was necessary to properly perform the calculations.¹⁰
- Extended the expiration date of the \$200 penalty against a person acting as a natural gas retailer without a license from December 31, 2018, to December 31, 2023.
- Extended the effective date of the 25 percent penalty to January 1, 2019, to January 1, 2024.¹¹

⁵ “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.

⁶ Each calendar year, the department shall 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 tax 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. Section 206.9955(2)(d), F.S. (2013).

⁷ Each calendar year, the department shall 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. The tax rate is 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 issued by the United States Department of Labor for the most recent 12-month period ending September 30. Section 206.9955(2)(e)1., F.S. (2013).

⁸ Section 206.9952(3)(a), F.S. (2013).

⁹ Section 206.9952(3)(b), F.S. (2013).

¹⁰ *Supra* notes 6 and 7.

¹¹ Ch. 2018-118, L.O.F.

III. Effect of Proposed Changes:

The bill delays from January 1, 2024, to January 1, 2026, the imposition of natural gas fuel taxes, calculations required to be made by the DOR to set the annual tax rate for SCETS and the additional tax, and a retailer's obligation to report monthly. Monthly reporting must begin February 2026, rather than February 2024.

The bill extends the current expiration date from December 31, 2023, to December 31, 2025, for the penalty imposed on a person who acts as a natural gas retailer but does not hold proper licensure. The bill also makes the 25 percent penalty against a retailer who acts without a retailer license effective January 1, 2026, rather than January 1, 2024.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of Art. VII, s. 18 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 mandates requirements do not apply to laws having an insignificant impact,^{12,13} which is \$2.3 million or less for Fiscal Year 2023-2024.¹⁴ The Revenue Estimating Conference determined that the bill will reduce local revenues by \$100,000. Thus, the bill is likely not a mandate.

Furthermore, while the bill reduces the authority of local governments to raise revenue by delaying the imposition of county and municipal taxes on natural gas fuel, the authority to raise revenue through taxes on natural gas fuel did not exist on February 1, 1989.¹⁵

¹² FLA. CONST. art. VII, s. 18(d).

¹³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 8, 2023).

¹⁴ Based on the Demographic Estimating Conference's estimated population adopted on July 18, 2022. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/archives/220718demographic.pdf> (last visited Mar. 8, 2023).

¹⁵ See s. 206.877, F.S. (1989). Motor vehicles fueled by compressed natural gas were subject to payment of an annual decal fee in lieu of tax.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Article VII, section 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that the bill would, in Fiscal Year 2023-2024, reduce General Revenue Fund receipts by an insignificant amount, reduce state trust fund receipts by \$200,000, and reduce local government revenue by \$100,000.

B. Private Sector Impact:

Those who purchase or sell natural gas fuel will not pay taxes on such fuel until January 1, 2026. Retailers will not report nor be subject to the specified penalties until such date.

C. Government Sector Impact:

The Department of Revenue estimates nonrecurring and recurring costs to implement the provisions in the bill. Nonrecurring costs for Fiscal Year 2024-2025 equal \$53,000. Nonrecurring costs for Fiscal Year 2025-2026 equal \$191,256. Beginning in Fiscal Year 2025-2026, recurring costs equal \$18,000.¹⁶

The estimated costs will be used to update and maintain the states System for Unified Tax (SUNTAX). The cost to inform retailers of the delayed imposition of the natural gas tax will be absorbed by the DOR.

VI. Technical Deficiencies:

None.

¹⁶ Department of Revenue, *2023 Agency Legislative Bill Analysis* (Feb. 1, 2023) (on file with the Senate Committee on Finance and Tax).

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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