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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2012	.	
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	.	
	.	

The Committee on Budget (Hays) recommended the following:

Senate Amendment (with title amendment)

Before line 57

insert:

Section 1. Section 211.3103, Florida Statutes, is amended to read:

211.3103 Levy of tax on severance of phosphate rock; rate, basis, and distribution of tax.-

(1) There is hereby levied an excise tax upon each ~~every~~ person engaging in the business of severing phosphate rock from the soils or waters of this state for commercial use. The tax shall be collected, administered, and enforced by the department.



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14 (2) The tax rate shall be \$1.61 per ton severed, except for
15 the time period from January 1, 2015, to December 31, 2022, when
16 the tax rate shall be \$1.80 per ton severed.

17 ~~(2) Beginning July 1, 2004, the proceeds of all taxes,~~
18 ~~interest, and penalties imposed under this section shall be paid~~
19 ~~into the State Treasury as follows:~~

20 ~~(a) The first \$10 million in revenue collected from the tax~~
21 ~~during each fiscal year shall be paid to the credit of the~~
22 ~~Conservation and Recreation Lands Trust Fund.~~

23 ~~(b) The remaining revenues collected from the tax during~~
24 ~~that fiscal year, after the required payment under paragraph~~
25 ~~(a), shall be paid into the State Treasury as follows:~~

26 ~~1. To the credit of the General Revenue Fund of the state,~~
27 ~~40.1 percent.~~

28 ~~2. For payment to counties in proportion to the number of~~
29 ~~tons of phosphate rock produced from a phosphate rock matrix~~
30 ~~located within such political boundary, 16.5 percent. The~~
31 ~~department shall distribute this portion of the proceeds~~
32 ~~annually based on production information reported by the~~
33 ~~producers on the annual returns for the taxable year. Any such~~
34 ~~proceeds received by a county shall be used only for phosphate-~~
35 ~~related expenses.~~

36 ~~3. For payment to counties that have been designated a~~
37 ~~rural area of critical economic concern pursuant to s. 288.0656~~
38 ~~in proportion to the number of tons of phosphate rock produced~~
39 ~~from a phosphate rock matrix located within such political~~
40 ~~boundary, 13 percent. The department shall distribute this~~
41 ~~portion of the proceeds annually based on production information~~
42 ~~reported by the producers on the annual returns for the taxable~~



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43 ~~year. Payments under this subparagraph shall be made to the~~
44 ~~counties unless the Legislature by special act creates a local~~
45 ~~authority to promote and direct the economic development of the~~
46 ~~county. If such authority exists, payments shall be made to that~~
47 ~~authority.~~

48 ~~4. To the credit of the Phosphate Research Trust Fund in~~
49 ~~the Division of Universities of the Department of Education, 9.3~~
50 ~~percent.~~

51 ~~5. To the credit of the Minerals Trust Fund, 10.7 percent.~~

52 ~~6. To the credit of the Nonmandatory Land Reclamation Trust~~
53 ~~Fund, 10.4 percent.~~

54 ~~(3) Beginning July 1, 2003, and annually thereafter, the~~
55 ~~Department of Environmental Protection may use up to \$2 million~~
56 ~~of the funds in the Nonmandatory Land Reclamation Trust Fund to~~
57 ~~purchase a surety bond or a policy of insurance, the proceeds of~~
58 ~~which would pay the cost of restoration, reclamation, and~~
59 ~~cleanup of any phosphogypsum stack system and phosphate mining~~
60 ~~activities in the event that an operator or permittee thereof~~
61 ~~has been subject to a final order of bankruptcy and all funds~~
62 ~~available therefrom are determined to be inadequate to~~
63 ~~accomplish such restoration, reclamation, and cleanup. This~~
64 ~~section does not imply that such operator or permittee is~~
65 ~~thereby relieved of its obligations or relieved of any~~
66 ~~liabilities pursuant to any other remedies at law,~~
67 ~~administrative remedies, statutory remedies, or remedies~~
68 ~~pursuant to bankruptcy law. The department shall adopt rules to~~
69 ~~implement this subsection, including the purchase and oversight~~
70 ~~of the bond or policy.~~

71 ~~(4) Funds distributed pursuant to subparagraphs (2) (b) 3.~~



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72 and ~~(11)(e)4.~~ shall be used for:

73 ~~(a) Planning, preparing, and financing of infrastructure~~
74 ~~projects for job creation and capital investment, especially~~
75 ~~those related to industrial and commercial sites. Infrastructure~~
76 ~~investments may include the following public or public-private~~
77 ~~partnership facilities: stormwater systems, telecommunications~~
78 ~~facilities, roads or other remedies to transportation~~
79 ~~impediments, nature-based tourism facilities, or other physical~~
80 ~~requirements necessary to facilitate trade and economic~~
81 ~~development activities.~~

82 ~~(b) Maximizing the use of federal, local, and private~~
83 ~~resources, including, but not limited to, those available under~~
84 ~~the Small Cities Community Development Block Grant Program.~~

85 ~~(c) Projects that improve inadequate infrastructure that~~
86 ~~has resulted in regulatory action that prohibits economic or~~
87 ~~community growth, if such projects are related to specific job~~
88 ~~creation or job retention opportunities.~~

89 ~~(5) Beginning January 1, 2004, the tax rate shall be the~~
90 ~~base rate of \$1.62 per ton severed.~~

91 ~~(6) Beginning January 1, 2005, and annually thereafter, the~~
92 ~~tax rate shall be the base rate times the base rate adjustment~~
93 ~~for the tax year as calculated by the department in accordance~~
94 ~~with subsection (8).~~

95 ~~(3)(7)~~ The excise tax levied by this section applies shall
96 apply to the total production of the producer during the taxable
97 year, measured on the basis of bone-dry tons produced at the
98 point of severance.

99 ~~(8)(a) On or before March 30, 2004, and annually~~
100 ~~thereafter, the department shall calculate the base rate~~



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101 ~~adjustment, if any, for phosphate rock based on the change in~~
102 ~~the unadjusted annual producer price index for the prior~~
103 ~~calendar year in relation to the unadjusted annual producer~~
104 ~~price index for calendar year 1999.~~

105 ~~(b) For the purposes of determining the base rate~~
106 ~~adjustment for any year, the base rate adjustment shall be a~~
107 ~~fraction, the numerator of which is the unadjusted annual~~
108 ~~producer price index for the prior calendar year and the~~
109 ~~denominator of which is the unadjusted annual producer price~~
110 ~~index for calendar year 1999.~~

111 ~~(c) The department shall provide the base rate, the base~~
112 ~~rate adjustment, and the resulting tax rate to affected~~
113 ~~producers by written notice on or before April 15 of the current~~
114 ~~year.~~

115 ~~(d) If the producer price index for phosphate rock is~~
116 ~~substantially revised, the department shall make appropriate~~
117 ~~adjustment in the method used to compute the base rate~~
118 ~~adjustment under this subsection which will produce results~~
119 ~~reasonably consistent with the result that would have been~~
120 ~~obtained if the producer price index for phosphate rock had not~~
121 ~~been revised. However, the tax rate shall not be less than \$1.51~~
122 ~~per ton severed.~~

123 ~~(e) If the producer price index for phosphate rock is~~
124 ~~discontinued, a comparable index shall be selected by the~~
125 ~~department and adopted by rule.~~

126 ~~(4)(9)~~ The excise tax levied on the severance of phosphate
127 rock is shall be in addition to any ad valorem taxes levied upon
128 the separately assessed mineral interest in the real property
129 upon which the site of severance is located, or any other tax,



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130 permit, or license fee imposed by the state or its political
131 subdivisions.

132 ~~(5)~~~~(10)~~ The tax levied by this section shall be collected
133 in the manner prescribed in s. 211.33.

134 ~~(11) (a) Beginning July 1, 2008, there is hereby levied a~~
135 ~~surcharge of \$1.38 per ton severed in addition to the excise tax~~
136 ~~levied by this section. The surcharge shall be levied until the~~
137 ~~last day of the calendar quarter in which the total revenue~~
138 ~~generated by the surcharge equals \$60 million. Revenues derived~~
139 ~~from the surcharge shall be deposited into the Nonmandatory Land~~
140 ~~Reclamation Trust Fund and shall be exempt from the general~~
141 ~~revenue service charge provided in s. 215.20. Revenues derived~~
142 ~~from the surcharge shall be used to augment funds appropriated~~
143 ~~for the rehabilitation, management, and closure of the Piney~~
144 ~~Point and Mulberry sites and for approved reclamation of~~
145 ~~nonmandatory lands in accordance with chapter 378. A minimum of~~
146 ~~75 percent of the revenues from the surcharge shall be dedicated~~
147 ~~to the Piney Point and Mulberry sites.~~

148 ~~(b) Beginning July 1, 2008, the excise tax rate shall be~~
149 ~~\$1.945 per ton severed and the base rate adjustment provided in~~
150 ~~subsection (6) shall not apply.~~

151 ~~(c) 1. Beginning July 1 of the 2010-2011 fiscal year, the~~
152 ~~tax rate shall be the base rate of \$1.71 per ton severed.~~

153 ~~2. Beginning July 1 of the 2011-2012 fiscal year, the tax~~
154 ~~rate shall be the base rate of \$1.61 per ton severed.~~

155 ~~3. The base rate adjustment provided in subsection (6)~~
156 ~~shall not apply until the conditions of paragraph (d) are met.~~

157 ~~(d) Beginning July 1 of the fiscal year following the date~~
158 ~~on which a taxpayer's surcharge offset equals or exceeds the~~



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159 ~~total amount of surcharge remitted by such taxpayer under~~
160 ~~paragraph (a), and each year thereafter, the excise tax rate~~
161 ~~levied on such taxpayer shall be adjusted as provided in~~
162 ~~subsection (6). The surcharge offset for each taxpayer is an~~
163 ~~amount calculated by the department equal to the cumulative~~
164 ~~difference between the amount of excise tax that would have been~~
165 ~~collected under subsections (5) and (6) and the excise tax~~
166 ~~collected under subparagraphs (c)1. and 2. from such taxpayer.~~

167 ~~(c) Beginning July 1 of the 2010-2011 fiscal year, the~~
168 ~~proceeds of all taxes, interest, and penalties imposed under~~
169 ~~this section shall be exempt from the general revenue service~~
170 ~~charge provided in s. 215.20, and shall be paid into the State~~
171 ~~Treasury as follows:~~

172 ~~1. To the credit of the Conservation and Recreation Lands~~
173 ~~Trust Fund, 21.9 percent.~~

174 ~~2. To the credit of the General Revenue Fund of the state,~~
175 ~~37.1 percent.~~

176 ~~3. For payment to counties in proportion to the number of~~
177 ~~tons of phosphate rock produced from a phosphate rock matrix~~
178 ~~located within such political boundary, 12 percent. The~~
179 ~~department shall distribute this portion of the proceeds~~
180 ~~annually based on production information reported by the~~
181 ~~producers on the annual returns for the taxable year. Any such~~
182 ~~proceeds received by a county shall be used only for phosphate-~~
183 ~~related expenses.~~

184 ~~4. For payment to counties that have been designated a~~
185 ~~rural area of critical economic concern pursuant to s. 288.0656~~
186 ~~in proportion to the number of tons of phosphate rock produced~~
187 ~~from a phosphate rock matrix located within such political~~



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188 ~~boundary, 9.4 percent. The department shall distribute this~~
189 ~~portion of the proceeds annually based on production information~~
190 ~~reported by the producers on the annual returns for the taxable~~
191 ~~year. Payments under this subparagraph shall be made to the~~
192 ~~counties unless the Legislature by special act creates a local~~
193 ~~authority to promote and direct the economic development of the~~
194 ~~county. If such authority exists, payments shall be made to that~~
195 ~~authority.~~

196 ~~5. To the credit of the Nonmandatory Land Reclamation Trust~~
197 ~~Fund, 5.8 percent.~~

198 ~~6. To the credit of the Phosphate Research Trust Fund in~~
199 ~~the Division of Universities of the Department of Education, 5.8~~
200 ~~percent.~~

201 ~~7. To the credit of the Minerals Trust Fund, 8.0 percent.~~

202 (6) (a) (f) Beginning July 1 of the 2011-2012 fiscal year,
203 the proceeds of all taxes, interest, and penalties imposed under
204 this section are exempt from the general revenue service charge
205 provided in s. 215.20, and such proceeds shall be paid into the
206 State Treasury as follows:

207 1. To the credit of the Conservation and Recreation Lands
208 Trust Fund, 25.5 percent.

209 2. To the credit of the General Revenue Fund of the state,
210 35.7 percent.

211 3. For payment to counties in proportion to the number of
212 tons of phosphate rock produced from a phosphate rock matrix
213 located within such political boundary, 12.8 percent. The
214 department shall distribute this portion of the proceeds
215 annually based on production information reported by the
216 producers on the annual returns for the taxable year. Any such



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217 proceeds received by a county shall be used only for phosphate-
218 related expenses.

219 4. For payment to counties that have been designated as a
220 rural area of critical economic concern pursuant to s. 288.0656
221 in proportion to the number of tons of phosphate rock produced
222 from a phosphate rock matrix located within such political
223 boundary, 10.0 percent. The department shall distribute this
224 portion of the proceeds annually based on production information
225 reported by the producers on the annual returns for the taxable
226 year. Payments under this subparagraph shall be made to the
227 counties unless the Legislature by special act creates a local
228 authority to promote and direct the economic development of the
229 county. If such authority exists, payments shall be made to that
230 authority.

231 5. To the credit of the Nonmandatory Land Reclamation Trust
232 Fund, 6.2 percent.

233 6. To the credit of the Phosphate Research Trust Fund in
234 the Division of Universities of the Department of Education, 6.2
235 percent.

236 7. To the credit of the Minerals Trust Fund, 3.6 percent.

237 (b) Notwithstanding paragraph (a), from January 1, 2015,
238 until December 31, 2022, the proceeds of all taxes, interest,
239 and penalties imposed under this section are exempt from the
240 general revenue service charge provided in s. 215.20, and such
241 proceeds shall be paid to the State Treasury as follows:

242 1. To the credit of the Conservation and Recreation Lands
243 Trust Fund, 22.8 percent.

244 2. To the credit of the General Revenue Fund of the state,
245 31.9 percent.



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246 3. For payment to counties pursuant to subparagraph (a)3.,
247 11.5 percent.

248 4. For payment to counties pursuant to subparagraph (a)4.,
249 8.9 percent.

250 5. To the credit of the Nonmandatory Land Reclamation Trust
251 Fund, 16.1 percent.

252 6. To the credit of the Phosphate Research Trust Fund in
253 the Division of Universities of the Department of Education, 5.6
254 percent.

255 7. To the credit of the Minerals Trust Fund, 3.2 percent.

256 ~~(c)~~ For purposes of this section, "phosphate-related
257 expenses" means those expenses that provide for infrastructure
258 or services in support of the phosphate industry, reclamation or
259 restoration of phosphate lands, community infrastructure on such
260 reclaimed lands, and similar expenses directly related to
261 support of the industry.

262
263 ===== T I T L E A M E N D M E N T =====

264 And the title is amended as follows:

265 Delete line 2

266 and insert:

267 An act relating to tax administration; amending s.
268 211.3103, F.S.; revising the excise tax rates levied
269 upon each ton of phosphate rock severed; specifying
270 the period during which the rates apply; revising the
271 distribution of the revenues received; deleting
272 obsolete provisions; amending s.