

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 595 Aviation Fuel Tax

SPONSOR(S): Moraitis, Jr.

TIED BILLS: **IDEN./SIM. BILLS:** SB 722

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	9 Y, 2 N	Lukis	Duncan
2) Finance & Tax Committee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use. Florida law also imposes an excise tax of 6.9 cents on each gallon of kerosene and aviation gasoline sold in the state in certain circumstances.

The bill amends s. 206.9825, F.S., and removes the availability of an aviation fuel tax credit for “any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier’s Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions.”

The bill also reduces the aviation fuel, kerosene, and aviation gasoline tax rates, as provided in s. 206.9825, F.S., from 6.9 cents per gallon to 5.4 cents per gallon.

The bill has not been scored by the Revenue Estimating Conference. However, staff estimates that the bill will be revenue neutral.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Aviation Fuel Tax

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use.¹ However, Florida law also provides for a refund or credit of the aviation fuel tax paid as follows:

Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid.²

Any employees that existed before January 1, 1996 are not counted toward reaching the employment threshold, and the wholesaler or terminal supplier can only receive the credit or refund if the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.³ Further, if before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce fell below the additional 250, the exemption granted would cease to apply as long as the number of employees remains below the additional 250.⁴

Accordingly, in practice, any air carrier offering transcontinental jet service that is able to meet the employment and other criteria described above, can purchase aviation fuel from a wholesaler or terminal supplier without having to pay the wholesaler or terminal supplier tax on the fuel.⁵ The wholesaler or terminal supplier, in turn, receives a credit or refund on the tax amount that it would otherwise have passed along to the air carrier as a result of its tax payment due on the sale of the fuel or tax amount previously paid.⁶

The Legislature first established the aviation fuel tax credit in 1996⁷ to attract new airlines to Florida. The provisions of the original fuel tax credit expired on July 1, 2001; however, following the events of September 11, 2001, the 2002 Legislature decided to reenact the tax credit policy and did so without providing for an expiration date.⁸

The following chart illustrates data relating to the aviation fuel tax from June 2013, through July 2014.⁹

Sales of Aviation Fuel to Commercial Air Carriers

¹ Section 206.9825, F.S. (Such fuel is not subject to taxes imposed by ss. 206.41(1)(d), (e), and (f) or 206.87(1)(b), (c), and (d), F.S., relating to motor fuel and diesel fuel, respectively.)

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *See* s. 206.9825(1)(a), F.S.

⁷ Section 21, Ch. 96-323, L.O.F.

⁸ *See* s. 5, Ch. 2002-2, L.O.F.

⁹ The data in the chart was provided by the Department of Revenue to the Economic Development and Tourism Subcommittee via e-mail on Feb. 26, 2015 (e-mail on file with staff). The data does not include sales from fixed based operators or jobbers to commercial air carriers. Further, all returns have not been processed through July 2014. Sales reported on unworked returns are not included and the data does not contemplate any potential airline mergers currently in progress. Lastly, tax due does not include reduction due to collection allowance.

June 2013-July 2014			
Carrier	Sum of Gallons	% of Total Sales	Tax Due (Includes Tax Exempt Disbursements)
American Airlines	202,050,355.00	22.24%	\$13,941,474.50
Southwest Airlines	142,227,745.00	15.66%	\$9,813,714.41 ¹⁰
Delta Airlines	137,858,527.00	15.17%	\$9,512,238.36
JetBlue Airways	116,415,416.00	12.81%	\$8,032,663.70 ¹¹
Continental Airlines	77,802,200.00	8.56%	\$5,368,351.80
US Airways	52,751,086.00	5.81%	\$3,639,824.93
Allegiant Air	49,826,891.00	5.48%	\$3,438,055.48
Spirit Airlines	43,622,669.00	4.80%	\$3,009,964.16 ¹²
AirTran Airways	40,516,854.00	4.46%	\$2,795,662.93 ¹³
Federal Express Corporation	19,010,670.00	2.09%	\$1,311,736.23
United Airlines	5,009,154.00	0.55%	\$345,631.63
Air Berlin PLC & CO	4,370,595.00	0.48%	\$301,571.06
Virgin America	3,327,819.00	0.37%	\$229,619.51
Frontier Airlines	3,029,215.00	0.33%	\$209,015.84
National Jets	2,933,507.00	0.32%	\$202,411.98
United Parcel Service	2,138,690.00	0.24%	\$147,569.61
Envoy Air	1,967,678.00	0.22%	\$135,769.78
Silver Airways	1,653,121.00	0.18%	\$114,065.35
Miami Air International	1,329,196.00	0.15%	\$91,714.52
Atlas Air	473,891.00	0.05%	\$32,698.48
Amerijet International	75,931.00	0.01%	\$5,239.24
Hyannis Air Service	23,621.00	0.00%	\$1,629.85
Aero Jet International	16,943.00	0.00%	\$1,169.07
Presidential Aviation	13,509.00	0.00%	\$932.12
ABX Air	11,982.00	0.00%	\$826.76
Professional Flight Transport	11,002.00	0.00%	\$759.14
Air Transport International	3,446.00	0.00%	\$237.77
Grand Total	908,471,713.00	100.00	\$62,684,548.20

Kerosene and Aviation Gasoline Tax

¹⁰ Section 206.9825, F.S. exempts Southwest Airlines from these taxes.

¹¹ Section 206.9825, F.S. exempts JetBlue Airways from these taxes.

¹² Section 206.9825, F.S. exempts Spirit Airlines these taxes.

¹³ Section 206.9825, F.S. exempts AirTran Airways from these taxes.

Section 206.9825, F.S., also imposes an excise tax of 6.9 cents per gallon of kerosene and aviation gasoline sold, removed or brought into the state under certain circumstances. Certain blends and certain amounts of kerosene sold are exempt from the tax.

Effect of Proposed Changes

The bill amends s. 206.9825, F.S., and removes the availability of the abovementioned aviation fuel tax credit for “any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier’s Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions.”

The bill also reduces the aviation fuel, kerosene, and aviation gasoline tax rates, as provided in s. 206.9825, F.S., from 6.9 cents per gallon to 5.4 cents per gallon.

B. SECTION DIRECTORY:

Section 1: Amends s. 206.9825, F.S., removing an exemption from the aviation fuel tax and reducing the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 5.4 cents per gallon.

Section 2: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

The bill has not been scored by the Revenue Estimating Conference. However, staff estimates that the bill will be revenue neutral.

The Department of Revenue (“DOR”) determined the bill would have an insignificant negative fiscal impact to DOR’s expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to DOR's analysis of the bill, DOR determined the following:

- the bill will require Form DR-176 to be removed from Rule 12B-5.150, F.A.C.;
- multiple forms will require rate changes; and
- Rule 12B-5.300, F.A.C., will require consistency with the statutory change.¹⁴

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁴ Feb. 22, 2015, Department of Revenue analysis of HB 595 on file with staff and available through the Agency Bill Analysis Request (ABAR) program: <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=4564&yr=2015>.