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HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3249

RELATING TO: Tax on Sales, Use, and Other Transactions

SPONSOR(S): Representative Fasano

COMPANION BILL(S): SB 934 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
(2) FINANCE AND TAXATION
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

This bill expands the exemption from the sales and use tax on electricity found at s. 212.08(7)(ii), F.S., to include steam energy.

Currently, industries classified under Standard Industrial Classification (SIC) Industry Major Group Numbers 10, 12, 13, 14, and 20 - 39 are eligible to receive a sales tax exemption on electricity used to manufacture, process, compound, or produce items of tangible personal property, or to operate pollution control equipment, recycling equipment, maintenance equipment or monitoring or control equipment used in such operations. The eligible manufacturers must register with the local WAGES (Work and Gain Economic Self-sufficiency) Program Business Registry and file a written certification of eligibility to receive the tax exemption with the utility supplier. This bill would include steam energy in this sales tax exemption.

The Revenue Estimating Conference has estimated the impact on general revenue to be ($0.2) million in Fiscal Year 1998-99, ($0.3)million in Fiscal Year 1999-2000 and ($0.5)million thereafter. The impact on local tax revenue was considered insignificant.

This bill does not increase the rulemaking authority of a state agency.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Part I of Chapter 212, F.S., provides for the imposition of a 6 percent state sales and use tax on sales, uses, consumptions, distributions, and storage occurring in this state. Florida currently offers a number of sales tax incentives to businesses located in Florida in addition to other types of job-creation incentives. These include exemptions for new and expanding businesses, enterprise zone exemptions and refunds, raw materials, research and development, co-generation of electricity, boiler fuels, packaging and industrial materials, as well as industry specific exemptions for agriculture, commercial space activities, motion picture and recording industry, and funds for new professional sports franchises and new spring training franchises.

Chapter 96-320, L.O.F., created an exemption for electricity used directly and exclusively at a fixed location to operate machinery and equipment used to manufacture tangible personal property, or to operate certain equipment. The exemption found at section 212.08(7)(ii), F.S., is limited to 24 industries classified under Standard Industrial Classification (SIC). The industry group numbers are 10, 12, 13, 14, and 20 through 39. As directed by chapter 96-320, L.O.F., the exemption is being phased in over a five year period. In order to receive the exemption, businesses must register with the WAGES (Work and Gain Economic Self-sufficiency) Program Business Registry in their local area and submit a completed written certification to their electric utility stating that it is eligible to receive the tax exemption. The electric utility is relieved from collecting the tax on the exempt charges.

Section 414.029, F.S., requires each local WAGES office to create a WAGES Program Business Registry for business firms "committed to assist in the effort of finding jobs for WAGES program participants." Although businesses seeking the exemption are not required to hire WAGES program participants, registration with the WAGES Program Business Registry is designed to establish a commitment on the part of a business receiving this sales tax incentive to hire WAGES program participants to the maximum extent possible consistent with the nature of their business.

The five-year, phase-in schedule for the exemption as outlined in chapter 96-320 L.O.F., is below:

- From July 1, 1996, through June 30, 1997, 20% of the direct cost will be exempt;
- From July 1, 1997, through June 30, 1998, 40% of the direct cost will be exempt;
- From July 1, 1998, through June 30, 1999, 60% of the direct cost will be exempt;
- From July 1, 1999, through June 30, 2000, 80% of the direct cost will be exempt; and
- Beginning July 1, 2000, 100% of the direct cost will be exempt.

The industries enjoying the exemption are limited to metal mining (10), coal mining (12), oil and gas extraction (13), mining and quarrying of nonmetallic minerals, except fuels (14), food and kindred products (20), tobacco products (21), textile mill products (22), apparel and other finished products made from fabrics and similar materials (23), lumber and wood products, except furniture (24), furniture and fixture (25), paper and allied products (26), printing, publishing, and allied industries (27), chemicals and allied products (28), petroleum refining and related industries (29), rubber and miscellaneous plastics products (30), leather and leather products (31), stone, clay, glass and concrete products (32), primary metal industries (33), fabricated metal products, except machinery and transportation equipment (34), industrial and commercial machinery and computer equipment (35), electronic and other electrical equipment and components, except computer equipment (36), transportation equipment (37), measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks (38), and miscellaneous manufacturing industries (39).

Section 212.08(7)(ii), F.S., also directs the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to report on the number of companies within each SIC Industry Major Group receiving the exemption as of September 1, 1996 and the number of employees employed by them. The first report was due no later than January 1, 1997, and the second report is due January 1, 2001. In compliance with the legislative direction, OPPAGA states in its report number 96-27, 963 companies received the new sales tax exemption and cumulatively the companies employ approximately 162,000 individuals.

STEAM:

Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax on the sales price of each item or article of tangible personal property sold at retail. Steam is considered tangible property and therefore taxed at 6 percent.

According to an analysis by the Joint Legislative Management Committee, Division of Economic and Demographic Research, there are 16 power-generating plants assumed to have steam-sales contracts in Florida. The calculation of annual tax revenue in fiscal year 1998-1999 from cogeneration projects steam sales was $8,019,652 (sales) @ 6% (tax) = $481,179.

B. EFFECT OF PROPOSED CHANGES:

HB 3249 would expand the sales and use tax exemption for electricity to include steam sales. The industries eligible for the exemption and certain qualifying criteria would remain unchanged.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The businesses eligible to receive the tax exemption must register with the WAGES (Work and Gain Economic Self-sufficiency) Program Business Registry in their local area and submit a completed written certification to their steam-energy supplier stating their eligibility to receive the tax exemption.

The Department of Revenue would possibly have to expand any efforts ensuring industry compliance with eligibility requirements to include those additional contracts for the sale of steam energy.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. <u>Lower Taxes:</u>

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes. It ultimately reduces sales tax revenue by approximately $481,179.

d. Does the bill reduce total fees, both rates and revenues?

N/A.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 212. 08(7)(ii),F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 - Amends s. 212.08(7)(ii), F.S., to include steam energy sales to the sales and use tax exemption for electricity available to certain qualifying companies.

Section 2 - Provides an effective date of July 1, of the year enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Based on the total estimated annual tax revenue for steam energy sales of $481,179, the exemption rate provided for in s. 212.08(7)(ii), F.S., would have the following negative impact on sales tax revenue:

- Beginning July 1, 1998, 60% of charges, or $288,708 would be exempt;
- Beginning July 1, 1999, 80% of charges, or $384,943 would be exempt; and,
- Beginning July 1, 2000, 100% of $481,179 would be exempt.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

See A. 2., above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Insignificant.

2. Recurring Effects:

Insignificant.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Insignificant. Only the costs associated with registering with the WAGES program Business Registry and preparing and submitting to their steam-energy provider a written certification stating eligibility to receive the tax exemption.

2. Direct Private Sector Benefits:

   For qualifying businesses, there would be an exemption from the 6% sales and use tax on steam energy.

3. Effects on Competition, Private Enterprise and Employment Markets:

   N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill is not projected to significantly reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

While the bill may reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

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