STORAGE NAME: h3249s2.gg
DATE: April 20, 1998

HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: CS/CS/HB's 3249 & 3305

RELATING TO: Tax on sales, use, and other transactions

SPONSOR(S): Committees on Finance and Taxation and Business Development and International Trade, and Representatives Fasano and others

COMPANION BILL(S): SB 934 (c), CS/SB 338 (s), 1ST ENG/HB 2109 (c), SB 638 (s), HB 3305 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 7 NAYS 0
(2) FINANCE AND TAXATION YEAS 15 NAYS 0
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

This bill combines provisions of HB 3249 and HB 3305, revising the state sales tax exemption for electricity used in certain manufacturing and related operations, and exempting the sale of steam energy used in manufacturing. It specifies a threshold for use of electricity to qualify for the exemption, and deletes a requirement relating to separate metering of such electricity. Additionally, the bill states that if less than 75 percent, but 50 percent or more, of the electricity is used at a fixed location to operate qualifying machinery or equipment, then it is presumed that 50 percent of the charge for electricity is for nonexempt purposes.

The bill also repeals the electricity exemption for the following industries: cigarettes; cigars; chewing and smoking tobacco and snuff; and tobacco stemming and redrying.

This bill has a negative fiscal impact on the state General Revenue Fund of ($3.2m) in FY 1998-99 and ($4.7m) in FY 1999-00. The bill has a negative fiscal impact on local governments of ($0.5m) in FY 1998-1999 and ($0.8m) in FY 1999-00.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

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 within this state.

Section 212.05(1)(e)1.d., F.S., provides for the levy of a sales tax on charges for electrical power or energy at the rate of 7 percent.

Specified exemptions to the sales and use tax are provided in section 212.08, F.S. including section 212.08(7)(ii), F.S., which provides that charges for electricity used directly and exclusively at a fixed location to operate manufacturing machinery and equipment are exempt. The exemption is applicable if the electricity used for exempt purposes is separately metered. If it is not separately metered, it is presumed that 50 percent of the charge for electricity is for nonexempt purposes. The exemption applies solely to manufacturing industries under specified Standard Industrial Classification (SIC) numbers. The percentage of eligible electricity charges exempt under the statute is increased by 20 percent each year beginning July 1, 1996, until it reaches 100 percent on July 1, 2000.

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.

B. EFFECT OF PROPOSED CHANGES:

This bill amends section 212.08(7)(ii), F.S. relating to the sales tax exemption for electricity and steam used to operate manufacturing equipment. The statute is amended to include electricity and steam used to operate equipment in preparing goods for shipment. A provision requiring separate metering of electricity, or creating a presumption that 50 percent of charges are for nonexempt purposes, is replaced with a requirement that at least 75 percent of the electricity used at the fixed location be used to operate qualifying machinery or equipment. Additionally, the bill states that if less than 75 percent, but 50 percent or more, of the electricity is used at a fixed location to operate qualifying machinery or equipment, then it is presumed that 50 percent of the charge for electricity is for nonexempt purposes.

The electricity exemption for SIC Industry Major Group 21 is repealed. Major Group Number 21 includes the following industries: cigarettes; cigars; chewing and smoking tobacco and snuff; and tobacco stemming and redrying.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

   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?

N/A

(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?

The bill repeals the exemption for electricity used in manufacturing and related operations for the tobacco products industry.

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, the bill reduces the total taxes paid by the taxpayers qualifying for the exemption.

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

No.

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?

No.

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?

No.

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, F.S.

E. SECTION-BY-SECTION RESEARCH:

See Effect of Proposed Changes section.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Revenues	FY 98-99	FY 99-00
General Revenue Fund	($3.2M)	($4.7M)

Expenditures

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Revenues	FY 98-99	FY 99-00
Local Government Half-Cent Tax and Local Option Sales Tax	($0.5M)	($0.8M)

Expenditures

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The bill would make the exemption for electrical energy for manufacturers more attractive by removing the requirement for separate metering.

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

To the extent that this bill induces additional economic activity, the bill should have a positive impact on these markets.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The 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:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

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

This bill initially falls under subsection (b) of Section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989 to raise revenues in the aggregate. By adding exemptions to the state sales tax, the bill has the effect of adding exemptions to the local option sales surtax. The estimated local government revenue loss from this bill appears to be less than 1.4 million therefore, the bill is exempt from the requirements of subsection (b) of Section 18 of Article VII.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

This bill is the combination of certain provisions of HB's 3249 and 3305. The bills were amended in the House Business Development and International Trade Committee Meeting to create CS/HB's 3249 & 3305.

The Finance & Taxation Committee adopted one amendment to CS/HB's 3249 & 3305 and it was incorporated into the bill to create CS/CS/HB's 3249 & 3305. The amendment provides that if less than 75 percent, but 50 percent or more, of the electricity is used at a fixed location to operate qualifying machinery or equipment, then it is presumed that 50 percent of the charge for electricity is for nonexempt purposes.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:	Legislative Research Director:
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AS REVISED BY THE COMMITTEE ON FINANCE AND TAXATION:

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AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

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