

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 904

SPONSOR: Senator Hozendorf

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 6, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable</u>
2.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill provides an exemption from sales tax on the renting or leasing of travel center/truck stop facilities. The bill defines “travel center/truck stop facility” for the purposes of the subparagraph as “any facility that has declared its primary business activity, under s. 206.404(1)(g), as the sale of diesel fuel at retail, which facility operates a minimum of 6 diesel fuel dispensers.”

This bill substantially amends section 212.031 of the Florida Statutes.

II. Present Situation:

Section 212.031(1)(a), F.S., states every person is exercising a taxable privilege who engages in the renting, leasing, letting, or granting of a licence for the use of any real property. The tax rate is 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. There are several exemptions to the tax imposed on this privilege based on the type or use of the property. Property used for the following are exempt:

- 1) Assessed as agricultural property under s. 193.461, F.S.
- 2) Used exclusively as dwelling units.
- 3) Property subject to tax on parking, docking, or storage spaces under s. 212.03(6), F.S.
- 4) Recreational property or the common elements of a condominium under certain conditions.
- 5) Public or private street or right of way occupied or used by a utility for utility purposes.
- 6) A public street or road used for transportation purposes.
- 7) Airport property used for aircraft taxiing and landing, loading or unloading of passengers or property, or fueling aircraft.
- 8) Property used at a port authority, as defined in s. 315.02(2), F.S., exclusively for the purposes of oceangoing vessels or tugs docking, loading or unloading passengers or cargo, fueling, or to the extent that charges for the use of such property are based upon the tonnage actually imported or exported.

- 9) Property used as an integral part of any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b).
- 10) Property used to provide food and drink concessionaire services within a movie theater, publicly owned arena, sports stadium, convention or exhibition hall, auditorium or recreational facility or any business operated under a permit issued under chapter 550, F.S.
- 11) Any property occupied pursuant to an instrument calling for payments which the Department of Revenue has declared in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c) of the Florida Administrative Code.

In addition to the state rate of 6 percent, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from up to 0.5 percent to 1.0 percent each, for a maximum rate of 1.5 percent.

Pursuant to section 212.054, F.S., the local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. The surtax is computed by multiplying the rate imposed by the county where the sale occurs by the amount of taxable sale. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. The \$5,000 cap does not apply to the sale of any other service.

III. Effect of Proposed Changes:

The bill provides an exemption from sales tax on the renting or leasing of travel center/truck stop facilities. The bill defines "travel center/truck stop facility" for the purposes of the subparagraph as "any facility that has declared its primary business activity, under s. 206.404(1)(g), as the sale of diesel fuel at retail, which facility operates a minimum of 6 diesel fuel dispensers."

The bill provides for an effective date of July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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 an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Travel centers/truck stops whose primary business is the sale of diesel fuel, which operates a minimum of 6 diesel fuel pumps would be exempt from the sales tax on the rental or lease of the travel center/truck stop. A 1998 survey was performed by the Florida Truck & Fuel Stop Operator Association of the 136 Florida Facilities listed in TRUCK STOPS - A Complete Guide to Over 5,000 Truck Stops in the U.S. & Canada. The results are as follows:

- 91 facilities are owned and operated;
- 13 facilities with 6 or more diesel fuel pumps are leased; and
- 8 facilities with less than 6 diesel pumps are leased.

The Revenue Estimating Conference estimated the fiscal impact of this exemption to be a recurring loss to the General Revenue Fund of \$.4 million.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$	1st Year \$	Recurring \$
Sales Tax Exemption: Truck Stops/Leases	(0.4)	(0.4)	(*)	(*)	(*)	(*)	(0.4)	(0.4)

* Insignificant
 ** Indeterminate

B. Private Sector Impact:

Travel centers/truck stops that rent or lease their property and are operating 6 or more diesel fuel pumps will not be required to pay sales tax on their rent or lease payments.

C. Government Sector Impact:

The Department of Revenue will have to incur the cost of issuing a Taxpayer Information Publication (TIP) to be sent to specific registered businesses that would be impacted by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In October, 1998, the Senate Committee on Ways and Means, Finance and Tax Subcommittee, published Report No. 98-65, "Impact of the International Fuel Tax Agreement on Diesel Fuel Sales in Florida". One of the recommendations of the report was to provide tax relief to North Florida truck stop operators who claim to be losing fuel sales to the contiguous states of Alabama and Georgia, states with fuel tax rates significantly lower than Florida's. The proposed tax relief would be in the form of offering a sales tax exemption on the renting or leasing of certain travel center/truck stop facilities.

The 1999 Legislature passed HB 47, which was identical to SB 904. HB 47 was vetoed by Governor Bush.

HB 209 is identical to SB 904.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
