# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 664

SPONSOR: Senator Sullivan

SUBJECT: Sales Tax Exemption for Defense/Space Machinery and Equipment

DATE: March 12, 2001 REVISED: ________ ________ ________ ________

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Joseph | Maclure | CM | Favorable |
| 2. | | | FT | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

## I. Summary:

This bill increases from 25 percent to 100 percent the existing sales tax exemption for machinery and equipment used in defense or space technology production and research and development. As under current law, the exemption would apply to machinery and equipment that are: 1) used to manufacture, process, compound, or produce defense technology products or space technology products for sale or for use by these facilities; or 2) used predominately in defense or space research and development activities.

This bill amends section 212.08 of the Florida Statutes.

## II. Present Situation:

Chapter 212, F.S., provides for a 6 percent tax on sales, use, and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in Florida. Section 212.05(1)(b), F.S., provides for a 6 percent tax on the price of any item of tangible personal property that is not sold but used in Florida. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 0.5 percent to 1.0 percent each, with a maximum of 1.5 percent.

Section 212.08(5), F.S., provides exemptions from the tax imposed by this chapter based on use. Section 212.08(5)(j), F.S., provides an exemption from the sales and use tax for machinery and equipment purchased for use in semiconductor technology facilities to manufacture, produce, compound, or process semiconductor technology products. Additionally, machinery and equipment purchased for use predominately in semiconductor wafer research and development activities in a certified semiconductor technology research and development facility are also exempt. The exemption is for machinery and equipment used "predominately" in semiconductor wafer research and development, with "predominately" defined to mean such use of the equipment is at least 50 percent of the time.

On January 1, 2001, provisions amending s. 212.08(5)(j), F.S., (passed during the 2000 legislative session) went into effect, including a 25 percent exemption for space and defense technology facilities. The exemption was applied to machinery and equipment used in defense or space technology facilities if the machinery and equipment are: 1) used to manufacture, process, compound, or produce defense technology products or space technology products for sale or for use by these facilities; or 2) used predominately in defense or space research and development activities. Also exempt as a result of the 2000 legislation are 100 percent of the building materials purchased for use in manufacturing or expanding clean rooms in semiconductor-manufacturing facilities.

To receive the exemption, an eligible business must apply to Enterprise Florida, Inc. (EFI), which is responsible for reviewing the applications and making the recommendation of approval or disapproval to the Governor's Office of Tourism, Trade, and Economic Development (OTTED) within a specified time period. OTTED must either approve the application within five working days or notify the applicant of its denial and reasons why within 10 working days. Businesses must apply annually to OTTED for the exemption and provide to OTTED the average number of full-time equivalent employees at the facility, the average wage and benefits paid to those employees over the preceding calendar year, the total investment made in real and tangible personal property over the preceding calendar year since the date of certification, and the total value of tax-exempt purchases and taxes exempted during the previous year. OTTED is responsible for using this information to prepare an annual report on the exemption program and its cost and impact.

The exemption program allows certified businesses to designate one or more state universities or community colleges as recipients of up to 100 percent of the amount of the exemption for which they may qualify. To receive these funds, the institution agrees to match the funds with equivalent cash, programs, services, or other in-kind support on a one-to-one basis in the pursuit of research and development projects as requested by the certified business. Rights to patents, royalties, or real or intellectual property must be vested in the business unless otherwise agreed to by the business and the university or community college.

## III. Effect of Proposed Changes:

This bill amends s. 212.08(5) F.S., to increase an existing sales tax exemption for machinery and equipment used in defense or space technology production and research and development. The bill makes such machinery and equipment exempt from 100 percent of the sales tax rather than being exempt from 25 percent of the tax under current law. The exemption applies to machinery and equipment used in defense or space technology facilities if the machinery and equipment are: 1) used to manufacture, process, compound, or produce defense technology products or space technology products for sale or for use by these facilities; or 2) used predominately in defense or space research and development activities.

The bill provides an effective date of January 1, 2002.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of s. 18 of Art. 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 $1.6 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 s. 18 of Art. VII, Florida Constitution. (*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:

The Revenue Impact Conference estimates the fiscal impact of the bill to be a recurring loss to the General Revenue Fund of $5.1 million and a recurring loss to local governments of $1 million.

| | General Revenue | | Trust | | Local | | Total | |
|---|---|---|---|---|---|---|---|---|
| Issue/Fund | 1st Year | Recurring | 1st Year | Recurring | 1st Year | Recurring | 1st Year | Recurring |
| Defense and Space Facilities | $ (4.6) | $ (5.1) | (*) | (*) | $ (1.0) | $ (1.0) | $ (5.6) | $ (6.1) |

### B. Private Sector Impact:

Space and defense related industries certified for the tax exemption would be exempt from 75 percent more of the sales tax on machinery and equipment used in their technology facilities that manufacture, process, compound, or produce defense or space technology products, or used in research and development activities

### C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Amendments:

None.