

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/CS/SB 788

INTRODUCER: Finance and Tax Committee, Agriculture Committee and Senator Baker

SUBJECT: Tax on Sales, Use, and Other Transactions; Biodiesel Fuels

DATE: March 16, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhvein	Poole	AG	Fav/CS
2.	ODonnell	McKee	FT	Fav/CS
3.			GA	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute defines the terms “renewable diesel fuel” and “renewable fuel oil” for purposes of a sales tax exemption for materials used in the distribution of these fuels and for purposes of a tax credit granted by s. 220.192, F.S. The sales tax exemption, scheduled to expire on June 30, 2010, is extended to June 30, 2015, and 3 corporate tax credits found in s. 220.192, F.S., also set to expire on June 30, 2010, are extended to June 30, 2015.

On February 12, 2010, the Revenue Estimating Conference, considering only an extension to the sales tax credit, adopted an estimate for the bill’s revenue impact of negative \$1.1 million in 2010-11, gradually increasing to negative \$2.3 million by 2013-14.

It is expected that extending the corporate tax credit will have an additional negative revenue impact. The corporate income tax credits have annual caps as follows:

- \$3 million for investments in hydrogen powered vehicles;
- \$1.5 million for investment in commercial stationary hydrogen fuel cells; and
- \$6.5 million for research and development costs incurred in investments related to biodiesel, ethanol, renewable diesel fuel, and renewable fuel oil.

This committee substitute amends section 212.08 and section 220.192 of the Florida Statutes.

II. Present Situation:

Section 212.08(7)(ccc)2.a., F.S., provides a state sales tax exemption of up to \$2 million per state fiscal year for all taxpayers for hydrogen-powered vehicles, materials incorporated into hydrogen-powered vehicles and hydrogen-fueling stations.

Section 212.08(7)(ccc)2.b., F.S., provides a state sales tax exemption of up to \$1 million per state fiscal year for all taxpayers for stationary hydrogen fuel cells.

Section 212.08(7)(ccc)2.c., F.S., provides a state sales tax exemption of up to \$1 million per state fiscal year for all taxpayers for materials used in the distribution of biodiesel and ethanol.

The law requires a person to make application for an exemption and for a qualified applicant to submit a claim for a refund of the taxes paid.

The sales tax exemption expires on July 1, 2010.

Section 220.192, F.S., provides corporate income tax credits for the following investments:

- \$3 million for investments in hydrogen powered vehicles;
- \$1.5 million for investment in commercial stationary hydrogen fuel cells; and
- \$6.5 million for research and development costs incurred in investments related to biodiesel and ethanol.

Renewable diesel fuel and renewable fuel oil are not currently included within the subjects giving rise to the investment tax credit.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08(7)(ccc)1.a., F.S., to add “renewable diesel fuel” and “renewable fuel oil” to the definition of biodiesel. This expands the sales tax exemption to equipment, machinery and other materials used in the distribution of such fuels.

The section also deletes the current July 1, 2010, expiration date for Section 212.08(7)(ccc), F.S., and extends the exemption to June 30, 2015.

Section 2 amends Section 220.192, F.S., which provides corporate income tax credits for the following investments:

- \$3 million for investments in hydrogen powered vehicles;
- \$1.5 million for investment in commercial stationary hydrogen fuel cells; and
- \$6.5 million for research and development costs incurred in investments related to biodiesel and ethanol.

The committee substitute adds the terms “renewable diesel fuel” and “renewable fuel oil” to the credit for research and development costs incurred in investments related to biodiesel and ethanol.

The committee substitute deletes the current July 1, 2010, expiration date for Section 220.192, F.S., and replaces it with a July 1, 2015 expiration date.

Section 3 provides that this act shall take effect July 1, 2010.

Other Potential Implications: None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The committee substitute expands the sales tax exemption to include equipment, machinery and other materials used in the distribution of renewable diesel fuel and renewable fuel oil and extends the duration of the credits to June 30, 2015. It also expands the eligibility for the investment tax credits to include investments for renewable diesel fuel and renewable fuel oil and extends the life of the credits from June 30, 2010, to June 30, 2015.

On February 12, 2010, the Revenue Estimating Conference reviewed the bill which, at the time, expanded the definition and extended the sales tax credit indefinitely, and adopted the following estimate:

	FY 2010-11 Cash	FY 2010-11 Annualized	FY 2011-12 Cash	FY 2012-13 Cash	FY 2013-14 Cash
General Revenue	(.9)	(1.8)	(1.1)	(1.4)	(1.8)
State Trust	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
Total State Impact	(.9)	(1.8)	(1.1)	(1.4)	(1.8)
Revenue Sharing	(Insignificant)	(.1)	(Insignificant)	(Insignificant)	(.1)
Local Gov't Half Cent	(.1)	(.2)	(.1)	(.1)	(.2)
Local Option	(.1)	(.2)	(.1)	(.1)	(.2)
Total Local Impact	(.2)	(.5)	(.2)	(.2)	(.5)
Total Impact	(1.1)	(2.3)	(1.3)	(1.6)	(2.3)

It can be expected that extending the corporate tax credit could result in an additional negative revenue impact. The three corporate income tax credits remain annually capped as follows:

- \$3 million for investments in hydrogen powered vehicles;
- \$1.5 million for investment in commercial stationary hydrogen fuel cells; and
- \$6.5 million for research and development costs incurred in investments related to biodiesel, ethanol, renewable diesel fuel, and renewable fuel oil.

B. Private Sector Impact:

The impact to the private sector cannot be quantified, but would be positive, in that certain items would be exempt from sales taxes and would qualify for investment tax credits.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services would have no direct impact from this bill, since the handling of tax credits and related matters are administered through the Department of Revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Committee Substitute by Finance and Tax Committee on March 16, 2010:

The committee substitute extends the expiration date of the investment tax credits from the June 30, 2010, to June 30, 2015.

Committee Substitute by Agriculture Committee on February 16, 2010:

Committee Substitute for Senate Bill 788 is different from Senate Bill 788 in that it defines the terms “renewable diesel” and “renewable fuel oil” for purposes of a sales tax exemption for materials used in the distribution of these fuels. It also defines “renewable diesel” and “renewable fuel oil” for purposes of the renewable energy technologies investment tax credit.

- B. Amendments:**

None.