

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.)

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/SB 1646

INTRODUCER: Agriculture Committee and Senator Atwater

SUBJECT: Agriculture/Tax/Fuel & Electricity

DATE: March 21, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<u>Favorable</u>
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute bill revises the meaning of exempt diesel fuel and adds electricity to the list of items exempt from sales tax resulting in both of these products being exempt from sales tax when used on farms for production or processing of agricultural products.

This bill substantially amends sections 212.0501(3) and 212.08(5)(e) of the Florida Statutes.

II. Present Situation:

Pursuant to ch. 212, F. S., the State of Florida levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by this chapter. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(5), F.S., sets forth exemptions for sixteen different categories on account of use. This section provides an exemption for gas used exclusively on a farm or for processing farm products on the farm, but electricity used for those same purposes is not exempt.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy in total is 2.5 percent. Under the provisions of s. 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 transaction" by ch. 212, F.S. and on communications services by ch. 202, F.S. The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This

\$5,000 cap does not apply to the sale of any service. As of December 2005, 58 counties levied at least one discretionary sales surtax and 13 counties levied at least two.¹

Section 212.0501, F.S., imposes a 6 percent sales tax on the total cost price of diesel fuel purchased for consumption, use or storage by a trade or business. Subsection (3) of s. 212.0501, F.S., exempts from sales tax, diesel fuel used for residential purposes or on account of agricultural purposes as defined in s. 212.08(5), F.S.,² or the purchase or storage of diesel fuel for resale. This exemption does not expand to cover diesel fuel used in farm equipment or on a farm to process farm products.

III. Effect of Proposed Changes:

Section 1. The bill amends 212.0501(3) to expand the meaning of diesel fuel exempt from sales tax to include diesel fuel when used in any tractor, vehicle or other equipment used exclusively on a farm or for processing farm products on the farm, no part of which diesel fuel is used in any licensed motor vehicle on the public highways of this state.

Section 2. The bill amends 212.08(5)(e) to exempt electricity used on farms from sales tax. To be exempt, the electricity must be used directly and exclusively for production or processing of agricultural products and must be separately metered.

Section 3. Provides that this act shall take effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The 2006 Revenue Estimating Conference projects that the exemption from sales tax for diesel fuel and electricity used for certain agricultural purposes would result in a

¹ Florida Legislative Committee on Intergovernmental Relations, *2006 Local Discretionary Sales Surtax Rates in Florida's Counties*.

² Section 212.08(5), F.S., exempts from the sales and use tax, liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

recurring General Revenue loss of \$3.7 million and a recurring loss to local governments of \$0.7 million for a total recurring loss of \$4.4 million.

**Fiscal Year 2006-07
(Millions)**

General Revenue		State Trust		Local		Total	
Cash	Recurr.	Cash	Recurr.	Cash	Recurr.	Cash	Recurr.
(1.8)	(3.7)	(*)	(*)	(0.5)	(0.7)	(2.3)	(4.4)

* Insignificant

B. Private Sector Impact:

A monetary benefit would accrue to farmers in the same amount as the General Revenue loss.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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