

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 General Government Appropriations 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: April 6, 2010

REVISED: 4/23/10

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Poole	AG	Fav/CS
2.	ODonnell	McKee	FT	Fav/CS
3.	Blizzard	DeLoach	GA	Favorable
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 bill 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. Three 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 adopted an estimate for the bill’s revenue impact on sales tax of negative \$1.1 million in Fiscal Year 2010-2011, gradually increasing to negative \$2.3 million by Fiscal Year 2013-2014.

Extending the corporate tax credit could have an additional negative revenue impact. The corporate income tax credits have annual caps as follows:

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

This bill amends sections 212.08 and 220.192, 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 the following corporate income tax credits for certain investments in renewable energy technologies, made between July 1, 2006, and June 30, 2010.

- Up to \$3 million per fiscal year for investments in hydrogen powered vehicles.
- Up to \$1.5 million per fiscal year for investments in commercial stationary hydrogen fuel cells.
- Up to \$6.5 million per fiscal year for investments related to biodiesel and ethanol.

Renewable diesel fuel and renewable fuel oil are not currently included in 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 s. 220.192, F.S., to add the terms “renewable diesel fuel” and “renewable fuel oil” to the types of renewable fuel investments eligible for the corporate income tax credit. The bill provides corporate income tax credits for the following investments:

- \$3 million for investments 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 credit provides up to \$6.5 million per fiscal year and is currently limited to investments in biodiesel and ethanol.

This section extends the expiration date for the tax credits provided in s. 220.192, F.S., from July 1, 2010, to July 1, 2015.

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

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 bill 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 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)

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 stationay hydrogen fuel cells.
- \$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:

This bill has an insignificant operational impact on 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.)

CS/CS 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.

CS 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.