

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: CS/SB 980

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senator Garcia

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 22, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Maclure	CM	Favorable/CS
2.	_____	_____	ATD	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute authorizes a sales tax holiday to run from 12:01 a.m., July 30, 2003, through midnight, August 3, 2003. During the period, the committee substitute suspends sales taxes on uniform school clothing required by a public or private school having a selling price of \$25 or less and on school supplies having a selling price of \$10 or less per item. The suspension of sales taxes does not apply to sales made within theme parks, entertainment complexes, public lodging establishments, and airports.

The committee substitute takes effect upon becoming a law but only if a specific appropriation in the 2003-2004 General Appropriations Act becomes law which provides \$200,000 from the General Revenue Fund to the Department of Revenue to implement the provisions of this committee substitute.

II. Present Situation:

The state sales tax of 6 percent is generally imposed upon the sale of clothing and school supplies.¹ In addition, discretionary sales surtaxes are levied by some counties on the sale of those same items. County imposed sales surtaxes may include one or more of the following: (1) charter county transit system surtax, (2) local government infrastructure surtax, (3) small county surtax, (4) indigent care and trauma center surtax, (5) county public hospital surtax, (6) school capital outlay surtax, or (7) a voter-approved indigent care surtax.² Proceeds from these sales surtaxes may be used by the levying counties only for the purpose described by the type of

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.055, F.S.

surtax. Discretionary sales surtaxes increase the sales tax imposed on a transaction by 0.5 or 1 percent per surtax.

One or more discretionary sales surtaxes are levied by 54 of the 67 counties.³ Depending upon the county, discretionary sales surtaxes currently levied add 0.5 to 1.5 percent to the 6 percent state sales tax imposed on a transaction.

In 1998, 1999, 2000, and 2001, the Legislature approved sales tax holidays.⁴ The chart below compares the prior sales tax holidays with the sales tax holiday provided in the committee substitute, based on the types of items exempt from taxation, the maximum price of an item exempt from taxation, and the length in days of the sales tax holiday.

YEAR	EXEMPT ITEMS	MAX. PRICE	LENGTH
1998	Clothing	\$50	7 Days
1999	Clothing, Wallets, Bags	\$100	9 Days
2000	Clothing, Wallets, Bags	\$100	9 Days
2001	Clothing, Wallets, Bags	\$50	9 Days
	School Supplies	\$10	
2003 (<i>Proposed</i>)	School Uniform Items	\$25	5 Days
	School Supplies	\$10	

Compiled from chs. 98-341, 99-229, 2000-175, and 2001-148, L.O.F.

III. Effect of Proposed Changes:

The committee substitute authorizes a sales tax holiday to run from 12:01 a.m., July 30, 2003, through midnight, August 3, 2003. During the period, the committee substitute suspends sales taxes on the sale of the following items:

school supplies, including pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, compasses, and calculators having a selling price of \$10 or less, and uniform school clothing required by a public or private school having a selling price of \$25 or less, per item.

The suspension of sales taxes does not apply to sales made within theme parks, entertainment complexes, public lodging establishments, and airports.

The Department of Revenue is authorized to adopt rules to carry out the provisions of the committee substitute. A rule may be needed to define the term “uniform school clothing” because it is not defined in the bill.

³ Florida Legislative Committee on Intergovernmental Relations, *Local Option Sales Tax Rates in Florida’s Counties Effective January 1, 2003*, available at <http://fcn.state.fl.us/lcir/data/local%20option%20sales%20tax%20rates.pdf> (last visited April 22, 2003).

⁴ See chs. 98-341, 99-229, 2000-175, and 2001-148, L.O.F.

The committee substitute takes effect upon becoming a law but only if a specific appropriation in the 2003-2004 General Appropriations Act becomes law which provides \$200,000 from the General Revenue Fund to the Department of Revenue to implement the provisions of this committee substitute.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

According to s. 18(b) of Art. VII, State Constitution, a vote of two-thirds of the membership of each house will be required to enact this committee substitute if it significantly reduces the authority of counties to raise revenues. Section 18(b), Art., VII, State Constitution, states:

Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.

On February 1, 1989, all counties were authorized to impose the local government infrastructure surtax provided by s. 212.055(2), F.S. Thus, the authority of counties to raise revenues is reduced by the committee substitute by making certain items exempt from taxation for which the local infrastructure surtax could apply.

Under s. 18(d) of Art. VII, State Constitution, however, laws having an insignificant fiscal impact are exempt from the two-thirds voting requirement. The term “insignificant fiscal impact” has been defined by Senate practice as a fiscal impact of 10 cents or less per capita per year. Thus, for fiscal year 2003-2004 an insignificant local fiscal impact must be approximately \$1.7 million or less because Florida’s population is approximately 17 million. If the local fiscal impact of this committee substitute is estimated to be greater than \$1.7 million, a vote of two-thirds of the membership of each house of the Legislature will be required to enact this committee substitute.

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 (RIC) has not reviewed the component of this bill providing for a sales tax exemption on certain school uniform items. However, the RIC

estimated that the sales tax exemption on certain school supplies would result in a \$4.0 million negative fiscal impact on state and local revenues in fiscal year 2003-2004.

Fiscal Year 2003-2004								
Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
School Supplies	\$ (3.3)	0.0	\$ (*)	0.0	\$ (0.7)	0.0	\$ (4.0)	0.0

* Insignificant (less than \$50,000)

B. Private Sector Impact:

Consumers will not have to pay sales taxes upon the purchase of school uniform items and school supplies described in the committee substitute from 12:01 a.m., July 30, 2003, through midnight, August 3, 2003.

Although retail sellers may incur some costs for the reprogramming of cash registers and accounting systems, these costs should be mitigated by the existence of procedures developed for previous tax-free shopping periods.

C. Government Sector Impact:

The Department of Revenue may adopt rules to carry out the provisions of this committee substitute. The department would likely adopt a rule that provides a comprehensive list of school uniform items and school supplies and their taxable status under this committee substitute. According to the department, the use of an emergency rule and a “Taxpayer Information Publication” has been very effective in implementing the tax-free periods in previous years because those documents have notified dealers as to which clothing items and school supplies are exempt from sales tax. The responsibilities of the Department of Revenue under this committee substitute are contingent upon a \$200,000 appropriation in the 2003-2004 General Appropriations Act to implement the provisions of this committee substitute.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.