

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 237w/CS Sales Tax Holiday

SPONSOR(S): Kilmer

TIED BILLS: IDEN./SIM. BILLS: SB 244; SB 1566

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax	20 Y, 5 N w/CS	Overton	Diez-Arguelles
2) Appropriations	39 Y, 0 N w/CS		Baker
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill provides that no sales tax will be collected, on the sale of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$100 or less or on the sale of school supplies having a selling price of \$10 or less during the nine-day period of July 24 through August 1, 2004.

Specifically, the bill:

- defines "clothing" to mean any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body;
- excludes from the definition of "clothing" watches, watchbands, jewelry, handkerchiefs, and umbrellas;
- defines "school supplies" to mean pens, pencils, erasers, crayons, notebooks, paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs, protractors, compasses, and calculators;
- provides that the provisions of the Act do not apply theme parks, public lodging establishments, and airports; and
- provides specific rule-making authority to the Department of Revenue to adopt rules to implement the Act.

The bill provides an appropriation to the Department of Revenue of \$206,000 to administer the bill.

The fiscal impact of the bill is a negative \$37.1 million to state funds and a negative \$7.3 million to local funds.

The estimated reduction in Local Option Sales tax by this bill is \$2.4 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. The Florida Constitution requires a 2/3 vote of the membership of both houses of the Legislature for this bill to be enacted.

The bill is effective upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0237c.ap.doc

DATE: April 6, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Section 212.05, Florida Statutes, provides that a sales and use tax be imposed on the retail sale, storage, or use of tangible personal property. The sales tax rate is 6%. Chapter 212, Florida Statutes, also lists items and transactions that are exempt from sales and use tax. Under current law, the retail sale of clothing, wallets, bags, and school supplies is subject to sales tax.

Chapter 98-341, Laws of Florida, the Florida Family Tax Relief Act of 1998, provided that apparel, including footwear, with a taxable value of \$50 or less, was exempt from the imposition of sales tax during the period from 12:01 a.m., August 15, 1998, through midnight, August 21, 1998. The Act defined "clothing" to mean any article of wearing apparel, including footwear, intended to be worn on or about the human body. For purposes of the Act, "clothing" did not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles.

Chapter 99-229, Laws of Florida, the Florida Residents' Tax Relief Act of 1999, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 31, 1999, through midnight, August 8, 1999. The tax-free week was earlier in 1999 than in 1998 to allow families shopping for school clothing an opportunity to take advantage of tax savings prior to the start of the school year. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 1999.

Chapter 2000-175, Laws of Florida, the Florida Residents' Tax Relief Act of 2000, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 29, 2000, through midnight, August 6, 2000. An appropriation of \$215,000 was provided to the Department of Revenue to administer the Act in 2000.

Chapter 2001-148, Laws of Florida, the Florida Residents' Tax Relief Act of 2001, created an exemption from sales tax during the period from 12:01 a.m., July 28, 2001, through midnight, August 5, 2001, for: 1) clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$50 or less; and 2) school supplies having a taxable value of \$10 or less per item. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 2001.

The bill provides that no sales tax will be collected upon clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$100 or less or upon school supplies having a selling price of \$10 per item or less during the nine-day period of July 24 through August 1, 2004. Specifically, the bill:

- defines "clothing" to mean any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body;
- excludes from the definition of "clothing" watches, watchbands, jewelry, handkerchiefs, and umbrellas;

- defines “school supplies” to mean pens, pencils, erasers, crayons, notebooks, paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs, protractors, compasses, and calculators;
- provides that the provisions of the Act do not apply theme parks, public lodging establishments, and airports; and
- provides specific rule-making authority to the Department of Revenue to adopt rules to implement the Act.

C. SECTION DIRECTORY:

Section 1. Creates a nine-day period of July 24 through August 1, 2004 during which clothing, wallets, bags, and school supplies are exempt from sales tax. The section defines the terms “clothing” and ”school supplies” and provides an exception for certain types of establishments. The section provides rulemaking authority to the Department of Revenue.

Section 2. Provides an appropriation of \$206,000 to the Department of Revenue to administer the Act..

Section 3. Provides the Act is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FY 2004-05

General Revenue	(\$37.0 m)
Solid Waste Management Trust Fund	<u>(\$.1 m)</u>
Total State Impact	(\$37.1 m)

2. Expenditures: The Department of Revenue estimates it will cost the agency \$206,000 to administer the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

FY 2004-05

Total Local Impact:	(\$7.2 m)
---------------------	-----------

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

During the specified period, clothing and school supplies can be purchased for 6% to 7½% less depending on the local option rate. Given the timing of the tax-free period, families will be able to save money on clothing and school supplies prior to the beginning of the school year.

Retail sellers may incur some costs for the reprogramming of cash registers and accounting systems.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The estimated reduction in Local Option Sales tax by this bill is \$2.4 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. The Florida Constitution requires a 2/3 vote of the membership of both houses of the Legislature for this bill to be enacted.

2. Other: None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is authorized to adopt rules to implement the Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 11, 2004, the Committee on Finance and Tax adopted a “strike everything” amendment to place the bill in its present form. The original bill created an annual sales tax exemption for clothing and school supplies for a period of 3 to 9 days in August that was “contingent upon funding by the Legislature in the General Appropriations Act each year.”

On March 26, 2004, the Committee on Appropriations adopted the amendment which increased the selling price of exempt items, except school supplies, from \$50 to \$100.