

# 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 244 & 1566

SPONSOR: Finance and Taxation Committee, Senators Cowin, Webster and Fasano

SUBJECT: Florida Residents' Tax Relief Act

DATE: March 25, 2004

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/Combined CS</u>
2.	_____	_____	<u>AGG</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This Proposed Committee Substitute (PCS) would create the "Florida Sales Tax Relief Act," which provides that no sales and use tax will be collected on sales of clothing, wallets, or certain bags having a selling price of \$50 or less during the period from 12:01 a.m. on Saturday, July 24, 2004, through midnight on Sunday, August 1, 2004. The PCS also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during that same period of time. In addition, the PCS provides that no sales and use tax may be collected on sales of books during the period from 12:01 a.m. on May 1, 2005, through midnight, May 31, 2005.

## II. Present Situation:

Pursuant to chapter 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(7), F.S., provides for 54 miscellaneous exemptions.

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. 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 transactions" by chapter 212, F.S. and on communications services by chapter 202, F.S. In addition, 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 January 2004, 61 counties levied at least one discretionary sales surtax with 7 counties levying two.

In 1998, 1999, 2000, and 2001, the Legislature created the "Florida Residents Tax Relief Act". (Chapters 98-341, 99-229, 2000-175, and 2001-148, L.O.F.) In 2001, the act provide that no sales and use tax would be collected on sales of clothing, wallets, or bags having a selling price of \$50 or less during the period from 12:01 a.m., July 28, 2001, through midnight, August 5, 2001. The term "clothing" was defined to mean any article of wearing apparel intended to be worn on or about the human body, including all footwear, except skis, swim fins, roller blades, and other skates. For purposes of this act, the term "clothing" also did not include watches, watchbands, jewelry, umbrellas, or handkerchiefs. The term "bags" included handbags, backpacks, fanny packs, and diaper bags but excluded briefcases, suitcases, and other garment bags. Also exempt were school supplies having a selling price of \$10 per item or less. The term "school supplies" included 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.

### **III. Effect of Proposed Changes:**

This PCS creates the "Florida Sales Tax Relief Act," which provides that no sales and use tax will be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of \$50 or less during the period from 12:01 a.m. on Saturday, July 24, 2004, through midnight on Sunday, August 1, 2004. The term "clothing" means 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, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S.

This PCS also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during the period from 12:01 a.m. on Saturday, July 24, 2004, through midnight on Sunday, August 1, 2004. The term "school supplies" includes 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. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S.

This PCS also provides that no sales and use tax shall be collected on sales of books during the period from 12:01 a.m., May 1, 2005, through midnight, May 31, 2005. Books are defined to mean a set of printed sheets bound together and published in a volume. For purposes of this exemption, the term "book" does not include newspapers, magazines, or other periodicals. There is no selling price restriction on the cost of books which can be purchased tax-free. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S.

The Department of Revenue may adopt rules to administer the provisions in the PCS and is appropriated \$400,000 from the General Revenue Fund for the purpose of administering this PCS.

This PCS takes effect upon becoming a law.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

This PCS falls under subsection (b) of s. 18 of Art. VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By adding an exemption to the state sales tax, this PCS has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be more than \$1.7 million, this PCS will not be exempt from the requirements of subsection (b).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

The Revenue Estimating Impact Conference estimates the 2004-05 fiscal year revenue loss as a result of this PCS to total \$46.6 million: \$38.8 million in General Revenue, \$0.1 million to the Ecosystem and Restoration Management Trust Fund; and \$7.7 million to local governments. The \$46.6 million revenue loss contains \$26.6 million from the sale of clothing, \$15.1 million from the sale of books, and \$4.9 million from the sale of school supplies.

Issue	Fiscal Year 2004-2005			
	GR	TF	Local	Total
Clothing	\$ (22.1)	\$(0.1)	\$ (4.4)	\$ (26.6)
Retail Books	(12.4)	0.0	(2.7)	(15.1)
School Supplies	<u>(4.3)</u>	<u>0.0</u>	<u>(0.6)</u>	<u>(4.9)</u>
TOTAL	\$ (38.8)	\$(0.1)	\$ (7.7)	\$ (46.6)

**B. Private Sector Impact:**

During the specified period, clothing can be purchased for 6 percent to 7.5 percent less depending on the local option tax rate. Given the timing of the tax-free period, families will be able to save money on clothing, books and school supplies prior to the beginning of the school year. Moreover, the tax exemptions provided by this PCS should significantly increase sales of exempt items during the nine tax-free days. In addition, taxpayers will be able to purchase books tax-free during the month of May, 2005.

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 PCS and is appropriated \$400,000 from the General Revenue Fund for administrative purposes. As for the previous tax free holidays, the department would promulgate a rule that provides a comprehensive list of clothing items, school supplies and their taxable statuses pursuant to this PCS. According to the department, the use of an administrative rule and a "Taxpayer Information Publication" was very effective during the past four tax-free holidays in implementing the tax-free acts

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.