

# 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: Domestic Security Committee

BILL: CS/SB 24

SPONSOR: Senators Baker and Campbell

SUBJECT: Hurricane Preparedness/Sales Tax

DATE: December 7, 2005

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Pardue	Skelton	DS	<b>Fav/CS</b>
2. _____	_____	CM	_____
3. _____	_____	GE	_____
4. _____	_____	WM	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

## I. Summary:

This committee substitute bill provides for a calendar year 2006 and a calendar year 2007 sales tax exemption for the purchase of items of tangible personal property typically associated with hurricane preparedness. In addition, the bill provides for a sales tax exemption for the purchase of certain items used to protect a structure from possible damage resulting from a hurricane or tropical storm. This bill specifies a period of tax exemption from May 21 through June 1, 2006 and for the additional period from May 20, 2007 through May 31, 2007. This bill also provides for an appropriation for program administration.

## 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 transaction" 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 March, 2005, 58 counties levied at least one discretionary sales surtax with 10 counties levying two.

The Florida Office of Insurance Regulation estimated the expected gross loss for the four major hurricanes that struck Florida in 2004 to be \$21.5 billion.<sup>1</sup> The initial estimates for 2005 are up to \$14 billion.<sup>2</sup> While it is impossible to estimate how much additional damage was averted by citizens' hurricane preparations during the 2005 hurricane season, the Division of Emergency Management routinely recommends procuring materials to protect structures and for use in making emergency repairs. The division also recommends having such items as portable radios, flashlights, sufficient batteries to power them for two weeks, first aid kits, and containers for drinking water on hand for storm events.

The 2004 and 2005 hurricane seasons also had a significant impact on state revenue collections. The General Revenue Consensus Estimating Conference estimated that spending on repair and replacement of property destroyed by the four hurricanes in 2004 would result in \$752 million in additional revenue through June of 2006.<sup>3</sup> Impact estimates from the 2005 hurricane season are not yet available.

### III. Effect of Proposed Changes:

**Section 1** establishes a tax exemption for specified items levied under chapter 212, F.S., during the periods from May 21, 2006 through June 1, 2006 and May 20, 2007 through May 31, 2007. The specified items are:

- any portable, self-powered light source having a selling price of \$20 or less
- any portable self-powered radio, two-way radio, or weather-band radio having a selling price of \$50 or less
- any tarpaulin or flexible waterproof sheeting selling for \$50 or less
- any ground anchor system or tie-down kit selling for \$50 or less
- any gas or diesel fuel tank selling for \$25 or less
- any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile or boat batteries, selling for \$30 or less
- any cell phone battery selling for \$60 or less and any cell phone charger selling for \$40 or less
- any non-electrical food-storage cooler selling for \$30 or less
- any portable generator used to provide light, communications, or food preservation in the event of a power outage selling for \$1,000 or less
- any building materials consisting of plywood and hardware used to secure plywood to a structure selling for \$300 or less

Building materials purchased by a construction company, building contractor, or commercial business or entity are not entitled to the exemption. Tax exempt purchases may not be made using a business or company credit or debit card or a business or company check. Furthermore,

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<sup>1</sup> Florida Office of Insurance Regulation, *Hurricane Reporting Summaries*, January 20, 2005.

<sup>2</sup> Florida Insurance Council, *First Modern, Highly Developed State to Face Eight Major Hurricanes in a Year*, Nov. 8, 2005.

<sup>3</sup> General Revenue Consensus Estimating Conference, *Final Results*, November 12, 2004.

any construction company, building contractor, or commercial business or entity that purchases or attempts to purchase tax exempt building materials commits an unfair method of competition in violation of s. 501.204, F.S., and is punishable as provided for in s.501.2075, F.S.

This bill authorizes the Department of Revenue to adopt rules under sections 120.536 (1) and 120.54, F.S.

**Section 2** provides for an appropriation of \$221,400 from the General Revenue Fund to the Department of Revenue for administration of the tax exemption.

**Section 3** provides that the bill shall take effect upon becoming law.

#### **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:

This committee substitute bill realigns the exemption period in calendar year 2006 to coincide with the National Hurricane Preparedness Week. Moving the 2006 exemption period to May 21, 2006 through June 1, 2006 will impact Fiscal Year 2006 sales tax revenue collections. The effect of this realignment will be to authorize a second hurricane preparedness sales tax exemption period in Fiscal Year 2006. In order to resolve the issue in future years, this committee substitute establishes a hurricane preparedness sales tax exemption period in Fiscal Year 2007. The effect will allow the Legislature to prospectively declare the sales tax exemption in future years, thereby allowing better planning, preparation, and coordination by the Division of Emergency Management and Florida retailers. The 2007 period is May 20, 2007 through May 31, 2007.

The Revenue Estimating Conference analysis of this bill is not available at this time. However, a comparison can be made with similar bills introduced during the 2005 Legislative Session.

On April 22, 2005, the Revenue Estimating Impact Conference estimated the fiscal impact of the 2005 session bill HCB 6001 for fiscal year 2005-2006 to be \$9.6 million:

Issues	GR	TF	Local	Total
Hurricane Items, Including Generators	(7.9)	(*)	(1.7)	(9.6)

HCB 6001 did not include an exemption for plywood and limited the exemption on generators to those selling for \$750 or less. However, an earlier version of the bill did include an exemption for plywood not limited by a \$300 purchase cap, which the Revenue Estimating Conference estimated the fiscal impact to be \$45.7 million. This information is provided only for rough comparison until such time as the Revenue Estimating Conference completes its analysis of this bill.

**B. Private Sector Impact:**

During the specified period, hurricane preparedness items can be purchased for 6 percent to 8.5 percent less depending on the local option tax rate. The timing of the tax-free period will allow Floridians to save money and be encouraged to prepare themselves prior to the usual heightened tropical storm/hurricane threat period.

**C. Government Sector Impact:**

The Department of Revenue may adopt rules under sections 120.536(1) and 120.54. Florida Statutes to carry out the provisions of this bill and is appropriated \$221,400 from the General Revenue Fund for administrative purposes. The Department of Revenue estimates the total cost of administering the program to be \$277,540. This committee substitute bill authorizes a second sales tax exemption period which may require an increased appropriation for administration of the additional period.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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