

The Florida Senate
PROFESSIONAL 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: General Government Appropriations Committee

BILL: CS/SB 1456

INTRODUCER: General Government Appropriations Committee, Senator Webster, and others

SUBJECT: Sales Tax/School Supplies and Clothing

DATE: March 28, 2007 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------------------|-----------------|-----------|-------------------------|
| 1. | <u>Keating</u> | <u>Johansen</u> | <u>FT</u> | Fav/2 amendments |
| 2. | <u>Blizzard/McVaney</u> | <u>DeLoach</u> | <u>GA</u> | Fav/CS |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

The bill provides that no sales and use tax will be collected on sales of books, clothing, wallets, or certain bags having a selling price of \$50 or less during the period from 12:01 a.m. August 4, 2007, through midnight, August 13, 2007. The bill 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.

This bill is expected to reduce overall state and local revenues by \$46.6 million on a non-recurring basis as follows: \$38.0 million reduction in general revenue; \$100,000 reduction to the Ecosystem and Restoration Management Trust Fund; and \$8.5 million reduction to local government revenues.

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 56 miscellaneous exemptions.

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum a local government may levy is 2.5 percent. Under

the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions “subject to the state tax imposed by chapter 212 on sales, use, services, rentals, admissions, and other transactions” and on communications services by chapter 202, F.S. However, 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.

In 1998, 1999, 2000, 2001, 2004, 2005, and 2006, the Legislature created the “Florida Residents Tax Relief Act” (ch. 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, and 2006-63, L.O.F.). In 2006, the act provided that no sales and use tax would be collected on sales of books, clothing, wallets, or bags having a selling price of \$50 or less during the period from 12:01 a.m. July 22, 2006, through midnight, July 30, 2006. The term “book” was defined to mean a set of printed sheets bound together and published in a volume but did not include newspapers, magazines, or other periodicals. 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, but excluding 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, computer discs, protractors, compasses, and calculators.

III. Effect of Proposed Changes:

Section 1 provides that no sales and use tax will be collected on sales of books, 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. August 4, 2007, through midnight, August 13, 2007. 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. The term “book” means a set of printed sheets bound together and published in a volume, but does not include newspapers, magazines, or other periodicals. 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 bill 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. August 4, 2007, through midnight, August 13, 2007. The term “school supplies” means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, computer discs, 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. The Department of Revenue may adopt rules to administer the provisions in the bill.

Section 2 appropriates to the department \$224,110 from the General Revenue Fund for the purpose of administering the provisions of the bill.

Section 3 provides an effective date of July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18(b), Art. VII of the State Constitution provides that, except upon approval of each house of the Legislature by two-thirds vote 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 revenue in the aggregate, as such authority exists on February 1, 1989.

The bill provides a sales tax exemption that will reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. It is estimated the fiscal impact on local governments of a sales tax exemption for school supplies and clothing will exceed \$1.8 million in the aggregate. Because of the potential significant impact to local governments, this bill may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

According to the Revenue Estimating Conference, this bill is expected to reduce overall state and local revenues by \$46.6 million on a non-recurring basis as follows: a \$38.0 million reduction in general revenue; a \$100,000 reduction to the Ecosystem and Restoration Management Trust Fund; and a \$8.5 million reduction to local government revenues.

B. Private Sector Impact:

During the specified period, books, clothing, wallets, and bags selling for \$50 or less and school supplies selling for \$10 or less can be purchased for 6 percent to 8.5 percent less depending on the local option sales surtax rate. Given the timing of the tax-free period, families will be able to save money on books, clothing, and school supplies prior to the beginning of the school year. Moreover, the tax exemptions provided by the bill should significantly increase sales of exempt items during the ten tax-free days.

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 may adopt rules to carry out the provisions of the bill and is appropriated \$224,110 from the General Revenue Fund for administrative purposes. Similar to the previous tax free holidays, the department is expected to promulgate a rule that provides a comprehensive list of clothing items, school supplies, and their taxable statuses pursuant to the bill. According to the department, the use of an administrative rule and a “Taxpayer Information Publication” has been very effective in implementing prior tax-free acts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
