

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 215 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Coley and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1456

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	<u>6 Y, 0 N</u>	<u>Gillespie</u>	<u>Ahearn</u>
2) <u>Committee on Postsecondary Education</u>	<u>8 Y, 0 N</u>	<u>Barnhill</u>	<u>Tilton</u>
3) <u>Schools & Learning Council</u>	<u>13 Y, 0 N, As CS</u>	<u>Gillespie</u>	<u>Cobb</u>
4) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Council Substitute for House Bill 215 establishes a 2007 sales tax holiday: August 4-13, 2007 (10 days). During the sales tax holiday, books, clothing, footwear, wallets, and bags that cost \$50 or less, and school supplies that cost \$10 or less, are exempt from the state sales tax and county discretionary sales surtaxes (commonly called "local option sales taxes"). The council substitute specifies that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. The council substitute provides a \$224,100 appropriation to the Department of Revenue for the administration of the sales tax holiday.

On March 30, 2007, the Revenue Estimating Conference reviewed the revenue impact of the original bill, as amended by the Committee on K-12 and further amended by the Committee on Postsecondary Education (which is the substance of the council substitute). The conference estimated a \$39.8 million reduction in state revenue sources and an \$8.9 million reduction in local revenue sources. Because of the potential significant impact to local government, under Section 18(b), Article VII of the State Constitution, the council substitute may require a two-thirds vote of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The council substitute temporarily reduces state and local tax collections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Current law imposes a 6-percent tax on the retail sale of tangible personal property,¹ which includes books, clothing, footwear, wallets, bags, and school supplies.

In addition, county governments may impose discretionary sales surtaxes (e.g., indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax).² County discretionary sales surtaxes (commonly called “local option sales taxes”) apply to all transactions in the county which are subject to the state sales tax.³

History of Sales Tax Holidays:

Since 1998, the Legislature has enacted seven temporary exemptions (commonly called “sales tax holidays”) from the state sales tax and county discretionary sales surtaxes.⁴ The 1998 sales tax holiday exempted clothing and footwear that cost \$50 or less from taxation for 7 days.

Since 1999, each sales tax holiday has lasted for 9 days. Beginning in 1999, in addition to exempting clothing and footwear from taxation, each sales tax holiday has also exempted wallets and bags.

Except for 1999 and 2000, the sales tax holiday has been limited to clothing, footwear, wallets, and bags that cost \$50 or less. In 1999 and 2000, the Legislature increased the exemption to \$100 or less.

Beginning in 2001, each sales tax holiday has also exempted school supplies that cost \$10 or less from taxation. Since 2004, the Legislature has also exempted books that cost \$50 or less from taxation.

For each sales tax holiday, the Legislature has provided the Department of Revenue with an appropriation ranging from \$200,000 to \$215,000 to administer the sales tax holiday.

¹ Sections 212.02(19) and 212.05(1)(a)1.a., Florida Statutes.

² Section 212.055, Florida Statutes.

³ Section 212.054(2)(a), Florida Statutes.

⁴ Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, and 2006-63, Laws of Florida.

The following table summarizes the history of the sales tax holidays:

Dates	Length	TAX EXEMPTION THRESHOLDS				Appropriation/ DOR
		Clothing/ Footwear	Wallets/ Bags	Books	School Supplies	
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	\$200,000
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	\$200,000
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	\$215,000
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	\$10 or less	\$200,000
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000

Tax Information Publications:

Since 2004, the Department of Revenue has published a Tax Information Publication (“TIP”) for each sales tax holiday.⁵ A TIP provides detailed information about the sales tax holiday, including instructions and specific examples, for dealers who collect the tax.

Proposed Changes:

The council substitute establishes a 2007 sales tax holiday: August 4-13, 2007 (10 days). During the sales tax holiday, the following items that cost \$50 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Books (defined as “printed sheets bound together and published in a volume,” but excluding newspapers, magazines, and other periodicals);
- Clothing and Footwear (defined as an “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 excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

During the 10-day sales tax holiday, the council substitute also exempts schools supplies that cost \$10 or less per item, which the council substitute defines as “pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.”

The council substitute specifies that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, any sales in these locations would be subject to taxation during the sales tax holiday.

The council substitute authorizes the Department of Revenue to adopt rules to carry out the sales tax holiday.

The council substitute provides an appropriation of \$224,100 to the Department of Revenue for administering the sales tax holiday. The funds are appropriated from the General Revenue Fund, although the council substitute does not specify the fiscal year for which the funds are appropriated or whether recurring or nonrecurring funds are provided.

⁵ See Florida Department of Revenue, *2004 Sales Tax Holiday*, TIP# 04A01-05 (June 10, 2004); *2005 Sales Tax Holiday*, TIP# 05A01-02 (June 1, 2005), and *2006 Sales Tax Holiday*, TIP# 06A01-04 (June 9, 2006).

The council substitute provides an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law which creates a temporary exemption from the state sales tax and county discretionary sales surtaxes.

Section 2. Provides an appropriation.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On March 30, 2007, the Revenue Estimating Conference reviewed the revenue impact of the original bill, as amended by the Committee on K-12 and further amended by the Committee on Postsecondary Education (which is the substance of the council substitute). The conference estimated that the sales tax holiday reduces state revenue sources by \$39.8 million.⁶

2. Expenditures:

According to the Department of Revenue, the bill is estimated to have a nonrecurring appropriations impact of \$224,110. This estimate is based on printing and postage for a Tax Information Publication ("TIP") on the 2007 Sales Tax Holiday to be mailed to the state's 670,000 projected active sales tax accounts. In addition, the estimate includes printing of an additional 10,000 copies of the TIP to be used for taxpayer education seminars and distribution to the public upon request.

Printing	\$68,000	(\$0.10 each x 680,000 copies)
Standard Postage	<u>\$156,110</u>	(\$0.23 each x 670,000 copies)
TOTAL	\$224,110	

The council substitute provides an appropriation of \$224,100 for the Department of Revenue to administer the sales tax holiday.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On March 30, 2007, the Revenue Estimating Conference reviewed the revenue impact of the original bill, as amended by the Committee on K-12 and further amended by the Committee on Postsecondary Education (which is the substance of the council substitute). The conference estimated that the sales tax holiday reduces local revenue sources by \$8.9 million.⁷

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

⁶ Revenue Estimating Conference, Florida Office of Economic and Demographic Research, available at <http://edr.state.fl.us/conferences/revenueimpact/2007/pdf/page%20388-397.pdf> (Mar. 30, 2007).

⁷ Revenue Estimating Conference, *supra* note 6.

The council substitute establishes a sales tax holiday for August 4-13, 2007, which ends approximately 1 week before many school districts are likely to open public schools for the 2007-2008 school year. Due to the timing of the sales tax holiday, families will be able to save money on books, clothing, footwear, wallets, bags, and school supplies before the beginning of the school year. In addition, the tax exemption would likely increase the sales of exempt items during the 10-day sales tax holiday.

Although retail sellers may incur costs of reprogramming cash registers and accounting systems, the costs would likely be mitigated by the use of existing procedures developed for previous sales tax holidays.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Section 18(b), Article VII of the State Constitution specifies that, “[e]xcept 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 March 30, 2007, the Revenue Estimating Conference reviewed the revenue impact of the original bill, as amended by the Committee on K-12 and the Committee on Postsecondary Education (which is the substance of the council substitute). The conference estimated that it would reduce local revenue sources by \$8.9 million.⁸ Because of the potential significant impact to local government, the council substitute may require a two-thirds vote of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The council substitute provides that “[n]otwithstanding chapter 120, Florida Statutes, the Department of Revenue may adopt rules to carry out this section.” Thus, the council substitute authorizes, but does not require, the department to adopt rules concerning the sales tax holiday. If the department decides to adopt rules, the council substitute appears to exempt the department from the rulemaking requirements in chapter 120, Florida Statutes (Administrative Procedure Act). According to the Department of Revenue, it has not adopted rules for the previous sales tax holidays but instead has issued a Tax Information Publication (“TIP”) and other written interpretations of law issued to taxpayers and dealers who collect the tax.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

⁸ Revenue Estimating Conference, *supra* note 6.
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DATE: 4/9/2007

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 13, 2007, the Committee on K-12 adopted one amendment by Representative Coley. The amendment reduces the maximum value from \$100 to \$50 of an item of books, clothing, footwear, wallets, or bags which is exempt from taxation under the proposed sales tax holiday. The amendment also moves the proposed dates of the sales tax holiday from July 21-30, 2007, to August 4-13, 2007, in closer proximity to the beginning of the 2007-2008 school year. On March 17, 2007, the Revenue Estimating Conference reviewed the fiscal impact of the original bill, as amended by the Committee on K-12 and estimated that it reduces state revenue sources by \$38.1 million and local revenue sources by \$8.5 million.⁹

On March 27, 2007, the Committee on Postsecondary Education adopted one amendment by Representative Coley. The amendment added binders, lunch boxes, construction paper, markers, folders and poster board in the definition of school supplies. The amendment also increased the appropriation for the Department of Revenue from \$206,000 to \$224,110.

On March 30, 2007, the Revenue Estimating Conference revised its estimate of the bill's revenue impact based on the amendment adopted by the Committee on Postsecondary Education (including the amendment adopted by the Committee on K-12). The revised forecast estimates that the sales tax holiday reduces state revenue sources by \$39.8 million and reduces local revenue sources by \$8.9 million.¹⁰

On April 4, 2007, the Schools & Learning reported the bill favorably as a council substitute, which incorporates the changes made by the amendments adopted by the Committee on K-12 and the Committee on Postsecondary Education, as described above.

⁹ Revenue Estimating Conference, Florida Office of Economic and Demographic Research, *available at* <http://edr.state.fl.us/conferences/revenueimpact/2007/pdf/page%20133-142.pdf> (Feb. 23, 2007).

¹⁰ Revenue Estimating Conference, *supra* note 6.