

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 576

INTRODUCER: Finance and Tax Committee and Senators Perry and Flores

SUBJECT: Back-to-school Sales Tax Holiday

DATE: April 17, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Colton</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
2.	<u>Colton</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 576 establishes a 10-day sales tax holiday beginning Friday, August 2, 2019, and ending Saturday, August 11, 2019. During the holiday, certain purchases of clothing, school supplies, and personal computers are exempt from the state sales tax and county discretionary sales surtaxes.

The bill allows a business to not participate in the holiday if less than 5% of the business's gross sales of tangible personal property in the prior calendar year consist of items that would be exempt.

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$60.5 million and local government revenue by \$15.5 million in Fiscal Year 2019-2020.

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2018-2019 to administer the sales tax holiday.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 270 exemptions, exclusions, deductions, and credits from the sales and use tax.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202, F.S."⁶ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 percent to 2.5.⁷

The "Florida Residents' Tax Relief Act of 1998" established Florida's first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁸ In 1999, backpacks were added to the tax holiday;⁹ school supplies were added in 2001.¹⁰ In 2013, the Legislature expanded the exemption to include personal computers and related accessories selling for \$750 or less, purchased for noncommercial home or personal use.¹¹ Since its inception, the duration of similar "back-to-school" sales tax holidays varied from 3 to 10 days. The type and value of exempt items have also varied.

III. Effect of Proposed Changes:

The bill provides for a 10-day sales tax holiday, which begins Friday, August 2, 2019, and ends Saturday, August 11, 2019. During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing, defined as an "article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and all footwear, excluding skis, swim fins, roller blades, and skates."

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 163-168 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Mar. 31, 2019).

⁵ Sections 212.06(3) and 212.07(2), F.S.

⁶ Section 212.054, F.S.

⁷ See Office of Economic and Demographic Research, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida's Counties, 225-226 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Mar. 31, 2019).

⁸ Chapter 98-341, Laws of Fla.

⁹ Chapter 99-229, Laws of Fla.

¹⁰ Chapter 2001-148, Laws of Fla.

¹¹ Chapter 2013-42, s. 42, Laws of Fla.

- Wallets, or bags including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases and other garment bags.

The bill also exempts certain “school supplies” that cost \$15 or less per item.

Personal computers and related accessories that have a sales price of \$1,000 or less purchased for noncommercial home or personal use are also exempt. This exemption includes electronic book readers, tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture, and devices or software intended primarily for recreational use are not exempt.

The exemptions contained in the bill do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill allows a business to not participate in the holiday if less than 5% of the business’s gross sales of tangible personal property in the prior calendar year consist of items that would be exempt.

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2018-2019 to administer the sales tax holiday.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its 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 existed on February 1, 1989. However, these requirements do not apply to laws that have an insignificant fiscal impact, which for Fiscal Year 2019-2020, is \$2.1 million or less.^{12,13,14}

¹² FLA. CONST. art. VII, s. 18(d).

¹³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 31, 2019).

¹⁴ Based on the Demographic Estimating Conference’s population adopted on Feb. 6, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 31, 2019).

The Revenue Estimating Conference has determined the bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$7.7 million in Fiscal Year 2019-2020. Therefore, this bill has a significant impact on local governments and the mandate provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined the bill will reduce the General Revenue Fund receipts by \$60.5 million and local government revenue by \$15.5 million in Fiscal Year 2019-2020.

B. Private Sector Impact:

The sales tax holiday may promote retail sales at businesses selling items exempted under this bill.

C. Government Sector Impact:

The bill provides the Department of Revenue a nonrecurring General Revenue appropriation of \$237,000 in Fiscal Year 2018-2019 to administer this act. The Department estimates the cost of notifying approximately 601,500 businesses of the sales tax holiday by printing and mailing a Tax Information Publication will be \$237,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of law.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on April 5, 2019:

The CS:

- Allows a business to not participate in the holiday if less than 5 percent of the business's gross sales of tangible personal property in the prior calendar year consist of items that would be exempt.
- Increases the appropriation amount from \$225,000 to \$237,000 and appropriates the funds in Fiscal Year 2018-2019 instead of Fiscal Year 2019-2020.

Amendments:

None.