

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 137 w/CS Florida Residents' Tax Relief Act  
**SPONSOR(S):** Representative Kilmer  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 474

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Future of Florida's Families</u>	<u>13 Y, 3 N</u>	<u>Preston</u>	<u>Liem</u>
2) <u>Finance and Tax</u>	<u>16 Y, 5 N w/CS</u>	<u>Overton</u>	<u>Diez-Arguelles</u>
3) <u>Appropriations</u>	<u></u>	<u>Kearney</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

The bill creates the "Florida Residents' Tax Relief Act of 2003." For the period of from 12:01 a.m., July 26, 2003, through midnight, August 3, 2003, no sales tax will be collected upon clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$50 or less or upon school supplies having a selling price of \$10 per item or less. Specifically, the bill:

- defines "clothing" to mean 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;
- excludes from the definition of "clothing" watches, watchbands, jewelry, handkerchiefs, and umbrellas;
- defines "school supplies" to mean pens, pencils, erasers, crayons, notebook filler paper, paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue, rulers, computer discs, protractors, compasses, and calculators.

Additionally, for the period from 12:01 a.m., May 1, through midnight, May 31, 2004, no sales tax will be levied on books. The bill defines a book as a set of printed sheets bound together and published in a volume. The term "book" does not include newspapers, magazines or other periodicals.

The provisions of the Act do not apply to theme parks, public lodging establishments, and airports. Specific rule-making authority is given to the Department of Revenue to adopt rules to implement the Act.

The bill provides an appropriation of \$400,000 to the Department of Revenue to implement the Act.

Excluding the direct appropriation to the Department of Revenue, the estimated fiscal impact upon General Revenue is (\$38.7) million for FY 03-04. The estimated fiscal impact upon State Trust Funds is (\$0.1) million for FY 03-04. The estimated fiscal impact upon local governments is (\$7.8) million for FY 03-04. The total estimated fiscal impact for this bill is (\$46.6) million for FY03-04.

This bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature.

The bill is effective upon becoming a law.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0137d.ap.doc  
**DATE:** April 14, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Section 212.05, Florida Statutes, provides that a sales and use tax be imposed on the retail sale, storage, or use of tangible personal property. The sales tax rate is 6%. Chapter 212, Florida Statutes, also lists items and transactions that are exempt from sales and use tax. Under current law, the retail sale of clothing, school supplies, and books is subject to sales tax.

Chapter 98-341, Laws of Florida, the Florida Family Tax Relief Act of 1998, provided that apparel, including footwear, with a taxable value of \$50 or less, was exempt from the imposition of sales tax during the period from 12:01 a.m., August 15, 1998, through midnight, August 21, 1998. The Act defined "clothing" to mean any article of wearing apparel, including footwear, intended to be worn on or about the human body. For purposes of the Act, "clothing" did not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles.

Chapter 99-229, Laws of Florida, the Florida Residents' Tax Relief Act of 1999, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 31, 1999, through midnight, August 8, 1999. The tax-free week was earlier in 1999 than in 1998 to allow families shopping for school clothing an opportunity to take advantage of tax savings prior to the start of the school year. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 1999.

Chapter 2000-175, Laws of Florida, the Florida Residents' Tax Relief Act of 2000, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 29, 2000, through midnight, August 6, 2000. An appropriation of \$215,000 was provided to the Department of Revenue to administer the Act in 2000.

Chapter 2001-148, Laws of Florida, the Florida Residents' Tax Relief Act of 2001, created an exemption from sales tax during the period from 12:01 a.m., July 28, 2001, through midnight, August 5, 2001, for: 1) clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$50 or less; and 2) school supplies having a taxable value of \$10 or less per item. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 2001.

The bill creates the "Florida Residents' Tax Relief Act of 2003." For the period of from 12:01 a.m., July 26, 2003, through midnight, August 3, 2003, no sales tax will be collected upon clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$50 or less or upon school supplies having a selling price of \$10 per item or less. Specifically, the bill:

- defines "clothing" to mean 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;

- excludes from the definition of “clothing” watches, watchbands, jewelry, handkerchiefs, and umbrellas;
- defines “school supplies” to mean pens, pencils, erasers, crayons, notebook filler paper, paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue, rulers, computer discs, protractors, compasses, and calculators.

Additionally, for the period from 12:01 a.m., May 1, through midnight, May 31, 2004, no sales tax will be levied on books. The bill defines a book as a set of printed sheets bound together and published in a volume. The term “book” does not include newspapers, magazines or other periodicals.

The provisions of the Act do not apply theme parks, public lodging establishments, and airports. Specific rule-making authority is given to the Department of Revenue to adopt rules to implement the Act.

The bill provides an appropriation of \$400,000 to the Department of Revenue to implement the Act.

C. SECTION DIRECTORY:

**Section 1.** Provides the Act may be cited as the “Florida Residents’ Tax Relief Act of 2003.”

**Section 2:** Creates a sales tax exemption for clothing having a selling price of \$50 or less and school supplies having a selling price of \$10 per item or less for a nine day period beginning July 26, 2003; defines the terms “clothing” and ”school supplies”; provides an additional sales tax exemption for books for the month of May 2004; defines the term “book;” provides an exception for certain types of establishments; and provides rulemaking authority for the Department of Revenue.

**Section 3:** Provides an appropriation of \$400,000 to the Department of Revenue to implement the Act.

**Section 4.** Provides the Act is effective upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

**FY 2002-03**

General Revenue	(\$38.7 m)
Solid Waste Management Trust Fund	<u>(\$0.1 m)</u>
Total State Impact	(\$38.8 m)

2. Expenditures:

The Department of Revenue estimates it will cost the agency \$400,000 to administer the provisions of the bill.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

**FY 2002-03**

Total Local Impact:	(\$7.8 m)
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2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

During the specified period, clothing, school supplies, and books can be purchased for 6% to 7½% less depending on the local option rate. Given the timing of the tax-free period, families will be able to save money on clothing and school supplies prior to the beginning of the school year.

Retail sellers may incur some costs for the reprogramming of cash registers and accounting systems.

D. FISCAL COMMENTS:

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature 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. This bill affects the local option surtax as well as the state sales tax. As such, it reduces the revenue-raising authority of local government. Therefore, the measure requires a two-thirds vote of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is authorized to adopt rules to implement the Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 18, 2003, the Committee on the Future of Florida's Families adopted three technical and conforming amendments to the bill:

- **Amendment #1** replaces the term "selling price" with the term "sales price" which is already defined in statute.
- **Amendment #2** replaces the term "selling price" with the term "sales price" which is already defined in statute.
- **Amendment #3** replaces the term "includes" with the term "means" to better clarify what is contained in the definition.

On April 9, 2003, the Committee on Finance and Tax adopted a “strike everything” amendment to place in bill in its present form. The original bill created an annual sales tax exemption for clothing and school supplies for a period of 3 to 9 days in August that was “contingent upon funding by the Legislature in the General Appropriations Act each year.” In addition, books for children in kindergarten through third-grade were included in the definition of school supplies, but no general exemption was created.