

By Senator Geller

31-730-05

See HB 9

1                                   A bill to be entitled

2           An act relating to the Joint Legislative Sales

3           and Use Tax Exemption Review Committee;

4           creating s. 11.95, F.S.; creating the Joint

5           Legislative Sales and Use Tax Exemption Review

6           Committee for the purpose of reviewing

7           exemptions from the general state sales and use

8           tax; providing for appointments to and

9           organization of the committee; specifying

10          duties and procedures with respect to such

11          review; providing for open meetings; providing

12          for reports; requiring continuing periodic

13          review of sales and use tax exemptions;

14          providing a period of exemption from review for

15          newly enacted exemptions; providing

16          applicability to other legislation proposing to

17          modify, repeal, or enact an exemption;

18          providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Section 11.95, Florida Statutes, is created

23 to read:

24           11.95 Joint Legislative Sales and Use Tax Exemption

25 Review Committee.--

26           (1) The Joint Legislative Sales and Use Tax Exemption

27 Review Committee is created to conduct comprehensive, periodic

28 reviews of all exemptions from the general state sales and use

29 tax. The committee shall consist of nine senators appointed by

30 the President of the Senate and nine representatives appointed

31 by the Speaker of the House of Representatives. The terms of

1 the members of the initial committee for each review cycle  
2 shall commence upon appointment and shall run to the general  
3 election preceding the organization of the next Legislature.  
4 The terms of the members of subsequent committees for each  
5 review cycle shall be for 2 years and shall run from the  
6 organization of one Legislature to the general election  
7 preceding the organization of the next Legislature. A vacancy  
8 shall be filled in the same manner as the original  
9 appointment. During even-numbered years, the chair of the  
10 committee shall be appointed by the President of the Senate,  
11 and the vice chair of the committee shall be appointed by the  
12 Speaker of the House of Representatives. During odd-numbered  
13 years, the chair of the committee shall be appointed by the  
14 Speaker of the House of Representatives, and the vice chair of  
15 the committee shall be appointed by the President of the  
16 Senate.

17       (2) The committee for each review cycle shall have its  
18 initial meeting no later than December 1 of the year of its  
19 first regular session and thereafter as necessary at the call  
20 of the chair at the time and place designated by the chair. A  
21 quorum shall consist of a majority of the committee members  
22 from each house. During the interim between regular sessions,  
23 the committee may conduct its meetings through teleconferences  
24 or other similar means. All meetings of the committee shall be  
25 open and noticed to the public and subject to order and  
26 decorum in accordance with s. 4(e), Art. III of the State  
27 Constitution.

28       (3) The committee shall be governed by joint rules  
29 adopted by the Legislature pursuant to authority to adopt  
30 rules under s. 4, Art. III of the State Constitution.

31       (4) For purposes of this section, the term:

1           (a) "General state sales and use tax" means the sales  
2 and use tax imposed under chapter 212.

3           (b) "Exemption" means a provision in chapter 212 that  
4 relieves from taxation a sale, use, or other transaction that  
5 would, but for such provision, be subject to tax under chapter  
6 212. A transaction that is beyond the reach of chapter 212 by  
7 reason of definitional or other exclusions shall not be deemed  
8 the subject of an exemption for purposes of this section.

9 Included among the transactions excluded from taxation under  
10 chapter 212 and therefore not the subject of an exemption to  
11 be reviewed by the committee under this section are the  
12 following:

13           1. Sales that are not retail sales pursuant to s.  
14 212.02(14).

15           2. Export sales under s. 212.06(5)(a).

16           3. Sales for resale under s. 212.07.

17           4. Occasional and isolated sales.

18           5. The sale or use of intangible property.

19           6. The sale of real property.

20           7. The sale or use of services, excepting only those  
21 services enumerated as taxable in chapter 212.

22           (c) "Single exemption" means an exemption that  
23 describes a single transaction or an exemption set forth in a  
24 section, subsection, or paragraph of chapter 212, whichever  
25 describes the fewest number of transactions.

26           (5) The committee shall have the power and duty to  
27 conduct a comprehensive review of all current exemptions from  
28 the general state sales and use tax. The committee shall  
29 establish criteria by which each exemption shall be evaluated.  
30 In developing the evaluation criteria, the committee shall  
31 consider the following principles of taxation:

1           (a) Equity.--The Florida tax system should treat  
2 individuals equitably. It should impose similar tax burdens on  
3 people in similar circumstances and should minimize  
4 regressivity.

5           (b) Compliance.--The Florida tax system should  
6 facilitate taxpayer compliance. It should be simple and easy  
7 to understand so as to minimize compliance costs and increase  
8 the visibility and awareness of the taxes being paid.  
9 Enforcement and collection of tax revenues should be done in a  
10 fair, consistent, professional, predictable, and  
11 cost-effective manner.

12           (c) Pro-competitiveness.--The Florida tax system  
13 should be responsive to interstate and international  
14 competition in order to encourage savings and investment in  
15 plants, equipment, people, and technology in Florida.

16           (d) Neutrality.--The Florida tax system should affect  
17 competitors uniformly and not become a tool for "social  
18 engineering." It should minimize government involvement in  
19 investment decisions, making any such involvement explicit,  
20 and should minimize pyramiding.

21           (e) Stability.--The Florida tax system should produce  
22 revenues in a stable and reliable manner that is sufficient to  
23 fund appropriate governmental functions and expenditures.

24           (f) Integration.--The Florida tax system should  
25 balance the need for integration of federal, state, and local  
26 taxation.

27           (g) Public purpose.--Any sales and use tax exemption  
28 under the Florida tax system should be based upon a  
29 determination that the exemption promotes an important state  
30 interest, including, but not limited to, economic development,  
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1 job creation and retention, economic diversification, and  
2 community revitalization.

3 (6) In conducting its review of each exemption from  
4 the general state sales and use tax, the committee shall make  
5 findings of fact and recommend whether the exemption should be  
6 retained, modified, or repealed. Each recommendation must be  
7 made by majority vote of the committee members. If a majority  
8 vote of the committee members cannot be achieved, the  
9 committee must recommend that the exemption be retained. The  
10 findings of fact and recommendations of the committee shall be  
11 made by reports to the President of the Senate and the Speaker  
12 of the House of Representatives.

13 (7) The committee may use its discretion in  
14 determining the order in which it reviews the exemptions;  
15 however, the committee should review approximately one-third  
16 of the exemptions each year of a 3-year review period. No  
17 exemption shall be reviewed more than once during any 3-year  
18 review period. For the initial 3-year review, the committee  
19 shall submit, to the President of the Senate and the Speaker  
20 of the House of Representatives, its reports not later than 30  
21 days prior to each regular session in the years 2006, 2007,  
22 and 2008. The committee shall begin a new 3-year review cycle  
23 of all exemptions from the general state sales and use tax  
24 every 10 years following the termination of the previous  
25 review cycle. For each subsequent 3-year review, the committee  
26 shall submit its reports not later than 30 days prior to the  
27 regular session of each year of that review period, beginning  
28 with the 10th year after the year of the final report for the  
29 previous review.

30 (8) At the regular session following submission of  
31 each annual report to the presiding officers of the

1 Legislature, the ranking member of each house of the  
2 Legislature on the committee shall sponsor and file for  
3 introduction in his or her respective house of the Legislature  
4 bills presenting for modification or repeal those exemptions  
5 from the general state sales and use tax that were recommended  
6 by the committee for modification or repeal in the report  
7 submitted immediately prior to the session in which  
8 introduced. However, if either such member voted against the  
9 recommendation of the committee, another member of the  
10 committee from that house of the Legislature who voted for the  
11 recommendation of the committee shall sponsor the bill in that  
12 house of the Legislature. Each bill filed under this  
13 subsection shall be exempt from any filing limits applicable  
14 in either house of the Legislature and shall be limited to a  
15 single exemption and for that purpose only. Upon introduction,  
16 each bill filed under this subsection shall be placed on the  
17 calendar of the respective house of the Legislature without  
18 reference to any committee and must be submitted to a vote of  
19 the members of the house of the Legislature in which  
20 introduced no later than the eighth week of the session in  
21 which introduced, unless the substance of the bill has already  
22 been voted on by the members of the other house of the  
23 Legislature in another bill during that session and defeated.  
24 In addition, each bill filed under this subsection that  
25 receives a majority vote in the house of the Legislature in  
26 which introduced must be submitted to a vote of the members of  
27 the other house of the Legislature during that session, unless  
28 the substance of the bill has already been voted on by the  
29 members of the other house of the Legislature in another bill  
30 during that session and defeated.

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1           (9) In no event shall the repeal of an exemption take  
2 effect sooner than 180 days following its passage by the  
3 Legislature.

4           (10) Any new exemption from taxation under chapter 212  
5 is exempt from review under this section for 6 years after it  
6 takes effect.

7           (11) Nothing contained in this section shall preclude,  
8 or be construed to limit, a legislator from filing for any  
9 legislative session a bill proposing to modify, repeal, or  
10 enact any exemption from the general state sales and use tax  
11 or the imposition of such taxation on the sales of any  
12 service.

13           Section 2. This act shall take effect upon becoming a  
14 law.