

SENATE 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: Government Efficiency Appropriations Committee

BILL: CS/SB 1554

INTRODUCER: Government Efficiency Appropriations Committee, Senator Haridopolos and others

SUBJECT: Sales Tax Exemption/Textbooks

DATE: April 4, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	Favorable
2.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	Fav/CS
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends s. 212.08(7), F.S., to provide a sales tax exemption for textbooks purchased by full-time and part-time postsecondary students for their courses. The exemption applies only to textbooks that are required or recommended for a course in which a student is enrolled at an eligible institution of higher education and purchased from a participating bookstore. The bill also defines “eligible institution of higher education” and “participating bookstore.” At the time of purchase, a postsecondary student must present a valid student identification card from an eligible institution of higher education and documentation that confirms such textbooks are required or recommended for the class.

The bill also provides a sales tax exemption on the renting, leasing, letting, or granting a license for use of any real property paid by bookstore operators to postsecondary educational institutions.

This bill amends the following section of Florida Statute: 212.08.

II. Present Situation:

Pursuant to ch. 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 54 miscellaneous sales tax exemptions.

Paragraph (r) of subsection (7) of s. 212.08, F.S., provides a sales tax exemption for school books used in regularly prescribed courses of study in public, parochial, or nonprofit schools operated for and attended by pupils of grades K through 12.¹

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy in total 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 on sales, use, services, rentals, admissions, and other transaction” by ch. 212, F.S. and on communications services by ch. 202, F.S. 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. As of December 2005, 58 counties levied at least one discretionary sales surtax and 13 counties levied at least two.²

Section 212.031, F.S., provides that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property.

III. Effect of Proposed Changes:

Section 1. amends s. 212.08(7), F.S., creating paragraphs (ccc) and (ddd). Paragraph (ccc) adds a sales tax exemption on textbooks purchased by full-time and part-time postsecondary students for their courses. The exemption applies only to textbooks that are required or recommended for a course in which a student is enrolled at an eligible institution of higher education and purchased from a participating bookstore. At the time of purchase, a postsecondary student must present a valid student identification card from an eligible institution of higher education and documentation that confirms such textbooks are required or recommended for the class.

The bill provides definitions for “eligible institution of higher education” and “participating bookstore.” “Eligible institution of higher education” means:

- A public university or community college in Florida;
- A baccalaureate-degree granting independent nonprofit college or university that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools and is located in and chartered as a domestic corporation by Florida; or
- An independent postsecondary education institution in Florida that is licensed by the Commission for Independent Education and is authorized to grant degrees.

A “participating bookstore” means a retail establishment that derives 10 percent or more of its annual gross sales, per location, from the sale of textbooks.

New paragraph (ddd) provides a sales tax exemption on the renting, leasing, letting, or granting of a license for the use of any real property paid by bookstore operators to postsecondary

¹ Section 212.08(7)(r), F.S., also provides a sales tax exemption for school lunches served; and yearbooks, magazines, newspapers, directories, bulletins, and similar publications distributed; by such educational institutions to their students.

² Florida Legislative Committee on Intergovernmental Relations, *2006 Local Discretionary Sales Surtax Rates in Florida's Counties*.

educational institutions. “Bookstore operators” means the sale, distribution, and provision of textbooks, merchandise, and services traditionally offered in college and university bookstores for the benefit of the institution’s students, faculty, and staff.

Section 2. provides that the bill shall take effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by 2/3 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 as of February 1, 1989.

By expanding these sales tax exemptions for machinery and equipment, the bill reduces the sales tax base of municipalities and counties, thereby reducing their revenue-raising authority. The Revenue Estimating Conference estimated that the fiscal impact of the textbook exemption on counties and municipalities is an estimated \$8.9 million in fiscal year 2006-07 and on a recurring basis. Of this amount, \$3.8 million represents a reduction in revenue raising authority in the form of discretionary sales surtax revenues. Therefore, the measure appears to 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:

On March 10, 2006, the Revenue Estimating Conference (REC) estimated that the sales tax exemption for textbooks would result in a loss to the General Revenue Fund of \$39.3 million in fiscal year 2006-07 and on a recurring basis.

**Sales Tax Exemption on Textbooks
FY 2006-07
(Millions)**

General Revenue		State Trust		Local		Total	
Cash	Recurr.	Cash	Recurr.	Cash	Recurr.	Cash	Recurr.
(39.3)	(39.3)	(0.1)	(0.1)	(8.9)	(8.9)	(48.3)	(48.3)

The REC has not done a fiscal impact on the sales tax exemption on the renting, leasing, letting, or granting of a license for the use of any real property paid by bookstore operators to postsecondary educational institutions.

B. Private Sector Impact:

Retailers may incur costs associated with reprogramming cash registers or computer accounting systems.

C. Government Sector Impact:

The Department of Revenue estimates that current resources will be sufficient to cover costs associated with implementing the textbook tax exemption.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
