

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: Ways and Means Committee

BILL: CS/CS/CS/CS/SB 24

INTRODUCER: Ways and Means Committee, Committee on Government Efficiency Appropriations, Committee on Commerce and Consumer Services, Committee on Domestic Securities, Senator Baker and others

SUBJECT: Hurricane Preparedness/Sales Tax

DATE: March 24, 2006

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|-----------|---------------|
| 1. | <u>Pardue</u> | <u>Skelton</u> | <u>DS</u> | <u>Fav/CS</u> |
| 2. | <u>Barrett</u> | <u>Cooper</u> | <u>CM</u> | <u>Fav/CS</u> |
| 3. | <u>Keating</u> | <u>Johansen</u> | <u>GE</u> | <u>Fav/CS</u> |
| 4. | <u>McVaney</u> | <u>Coburn</u> | <u>WM</u> | <u>Fav/CS</u> |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill provides for a sales tax exemption for the purchase of items typically associated with hurricane preparedness and for the purchase of certain items used to protect a structure from possible damage resulting from a hurricane or tropical storm. This bill specifies that these items will be exempt from sales tax from May 21, 2006 through June 1, 2006, and from May 20, 2007 through May 31, 2007. The bill also provides appropriations for program administration.

The fiscal impact in FY 2005-2006 has been estimated to be a reduction of \$33.8 million in General Revenue Fund revenues, \$0.1 million in state trust fund revenues, and \$7.5 million in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes).

The fiscal impact on FY 2006-07 state and local sales tax revenues is estimated to be a reduction of \$34.4 million in General Revenue Fund revenues, \$0.1 million in trust fund revenues, and \$7.7 million in local government revenues.

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.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum a local government 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. However, 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.¹

The Florida Office of Insurance Regulation estimated the expected gross loss for the four major hurricanes that struck Florida in 2004 to be \$21.5 billion.² The initial estimates for 2005 are up to \$14 billion.³ While it is impossible to estimate how much additional damage was averted by citizens’ hurricane preparedness during the 2005 hurricane season, the Division of Emergency Management routinely recommends procuring materials to protect structures and for use in making emergency repairs. The division also recommends having such items as portable radios, flashlights, sufficient batteries to power them for two weeks, first aid kits, and containers for drinking water on hand for storm events.

The 2004 and 2005 hurricane seasons also had a significant impact on state revenue collections. The General Revenue Consensus Estimating Conference estimated that spending on repair and replacement of property destroyed by the four hurricanes in 2004 would result in \$752 million in additional revenue through June of 2006.⁴ Impact estimates from the 2005 hurricane season are not yet available.

Chapter 2005-40, L.O.F., authorized a sales tax exemption for hurricane preparedness items from June 1, 2005 through June 12, 2005.

III. Effect of Proposed Changes:

Section 1 establishes a sales tax exemption for specified items related to hurricane preparedness during the periods of May 21, 2006 through June 1, 2006, and May 20, 2007 through May 31, 2007. The specified items are:

- a) any portable, self-powered light source having a selling price of \$20 or less;
- b) any portable self-powered radio, two-way radio, or weather-band radio having a selling price of \$50 or less;
- c) any tarpaulin or flexible waterproof sheeting selling for \$50 or less;
- d) any ground anchor system or tie-down kit selling for \$50 or less;
- e) any gas or diesel fuel tank selling for \$25 or less;

¹ Florida Legislative Committee on Intergovernmental Relations, *2006 Local Discretionary Sales Surtax Rates in Florida’s Counties*.

² Florida Office of Insurance Regulation, *Hurricane Reporting Summaries*, January 20, 2005.

³ Florida Insurance Council, *First Modern, Highly Developed State to Face Eight Major Hurricanes in a Year*, Nov. 8, 2005.

⁴ General Revenue Consensus Estimating Conference, *Final Results*, November 12, 2004.

- f) any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile or boat batteries, selling for \$30 or less;
- g) any cell phone battery selling for \$60 or less and any cell phone charger selling for \$40 or less;
- h) any non-electrical food-storage cooler selling for \$30 or less;
- i) any portable generator used to provide light, communications, or food preservation in the event of a power outage selling for \$1,000 or less;
- j) any storm shutter device selling for \$200 or less;
- k) any carbon monoxide detector selling for \$75 or less;
- l) "blue ice" selling for \$10 or less; and
- m) any single product consisting of two or more of the items listed in paragraphs (a) – (l) selling for \$75 or less.

The bill provides that the exemptions do not apply to sales made within a public lodging establishment, an airport, or a theme park.

This bill also authorizes the Department of Revenue (DOR) to adopt rules under ss. 120.536 (1) and 120.54, F.S., to implement the provisions of the bill.

Section 2 provides for appropriations of \$277,540 in FY 2005-2006 and \$218,028 in FY 2006-2007 from the General Revenue Fund to the DOR for administration of the tax exemption.

Section 3 provides that the bill shall take effect upon becoming law.

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 on February 1, 1989.

The bill provides for a sales tax exemption that would reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. Because the impact on local government revenues is estimated to exceed \$1.8 million in the aggregate, this bill may 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:**

Establishing the 2006 exemption period from May 21, 2006 through June 1, 2006, will impact FY 2005-2006 state and local sales tax revenues. The Revenue Estimating Conference has estimated the impact on FY 2005-2006 to be a reduction of \$33.8 million in General Revenue Fund revenues, \$0.1 million in state trust fund revenues, and \$7.5 million in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes).

The fiscal impact on FY 2006-07 state and local sales tax revenues is estimated to be a reduction of \$34.4 million in General Revenue Fund revenues, \$0.1 million in trust fund revenues, and \$7.7 million in local government revenues.

B. Private Sector Impact:

During the specified period, hurricane preparedness items can be purchased for 6 percent to 8.5 percent less, depending on the local option tax rate. The timing of the tax-free period will allow Floridians to save money and be encouraged to prepare themselves prior to the usual heightened tropical storm/hurricane threat period.

C. Government Sector Impact:

The DOR is authorized to adopt rules under ss.120.536(1) and 120.54, F.S., to carry out the provisions of the bill and is appropriated \$277,540 in FY 2005-2006 and \$218,028 in FY 2006-2007 from the General Revenue Fund for administrative purposes.

VI. Technical Deficiencies:

None. However, it should be noted that the applicable time period for the sales tax exemption during 2006 is May 21 through June 1. Depending upon when the bill becomes a law (after passage by the Legislature and presentment to the Governor), the bill may not be effective during some portion, or all, of that time period. This may reduce the fiscal impact of the bill for 2006.

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.
