

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 691 CS Tax on Sales, Use, and Other Transactions
SPONSOR(S): Negron and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1404

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	7 Y, 2 N, w/CS	Levin	Diez-Arguelles
2) Fiscal Council	19 Y, 3 N, w/CS	Levin	Kelly
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill provides that no sales tax will be collected on the first \$5,000 of the sales price of any item of tangible personal property or admission purchased by an individual for personal consumption during the seven-day period of July 31, 2006 through August 6, 2006.

The tax-free period does not apply to:

- Purchases made in the course of conducting business, as defined in s. 212.02(2), Florida Statutes;
- Purchases by an individual to be used in business;
- Rental car surcharges paid pursuant to s. 212.0606, Florida Statutes;
- Transient rentals tax paid pursuant to s. 212.03, Florida Statutes;
- Tax on rental or license fees for the use of real property paid pursuant to s. 212.031, Florida Statutes;
- Tax on the lease or rental of any tangible personal property;
- Sales from vending machines taxed pursuant to s. 212.0515, Florida Statutes;
- Dues and fees paid to private clubs and membership clubs described in s. 212.02(1), Florida Statutes;
- Sales of admissions described in s. 212.02 (1), Florida Statutes, which are valid for any day prior to July 31, 2006 or after August 6, 2006;
- Occasional sales of aircrafts, boats, mobile homes, or motor vehicles as described in s. 212.05 (1)(a) 1. b., Florida Statutes, when title is endorsed and ownership is transferred at a time other than the tax holiday;
- Service warranties taxed pursuant to s. 212.0506, Florida Statutes;
- Charges for the use of coin operated amusement machines, pursuant to s. 212.05(1)(h), Florida Statutes; and
- Any fees or surcharges imposed on tangible personal property administered by the Department of Revenue.

The preliminary estimate of the fiscal impact of the bill is approximately negative \$350 million in state revenues and negative \$88 million in local revenues during FY 2006-2007. The estimated reduction in Local Option Sales Tax is approximately negative \$38 million. The bill appropriates \$38 million from the General Revenue Fund to be deposited into the Discretionary Sales Surtax Clearing Trust Fund for distribution to local governments to replace the Local Option Sales Tax.

The bill provides an appropriation to the Department of Revenue of \$400,000 from the General Revenue Fund in FY 2006-2007 to administer the bill.

The bill is effective upon becoming law.

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

STORAGE NAME: h0691c.FC.doc
DATE: 4/6/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensures lower taxes – The bill eliminates sales tax on tangible personal property and admissions during the period of the sales tax holiday, which will be seven days beginning July 31, 2006.

B. EFFECT OF PROPOSED CHANGES:

Chapter 212, Florida Statutes, imposes sales tax on the retail sale, storage or use of tangible personal property and admissions purchased by individuals for personal consumption. These items will be exempt from sales tax for the seven day period of July 31, 2006 through August 6, 2006.

History of Sales Tax Holidays

Since 1998, the Legislature has enacted a number of tax relief acts which provided that various items of apparel and back to school supplies would not be subject to sales tax during a nine-day period. The tax holidays took place sometime between late July and mid-August. Back to school sales tax holidays have occurred in 1998, 1999, 2000, 2001, 2004 and 2005. In 2005, the Florida Legislature also enacted a separate sales and use tax holiday for certain enumerated “hurricane” supplies. That holiday occurred from June 1, 2005 through June 12, 2005.

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The bill provides that no sales tax will be collected on the first \$5,000 of the sales price of any item of tangible personal property or admission purchased by an individual for personal consumption during the seven-day period of July 31, 2006 through August 6, 2006.

The tax-free period does not apply to:

- Purchases made in the course of conducting business, as defined in s. 212.02(2), Florida Statutes;
- Purchases by an individual to be used in business;
- Rental car surcharges paid pursuant to s. 212.0606, Florida Statutes;
- Transient rentals tax paid pursuant to s. 212.03, Florida Statutes;
- Tax on rental or license fees for the use of real property paid pursuant to s. 212.031, Florida Statutes;
- Tax on the lease or rental of any tangible personal property;
- Sales from vending machines taxed pursuant to s. 212.0515, Florida Statutes;
- Dues and fees paid to private clubs and membership clubs described in s. 212.02(1), Florida Statutes;
- Sales of admissions described in s. 212.02 (1), Florida Statutes, which are valid for any day prior to July 31, 2006 or after August 6, 2006;
- Occasional sales of aircrafts, boats, mobile homes, or motor vehicles as described in s. 212.05 (1)(a) 1. b., Florida Statutes, when title is endorsed and ownership is transferred other than during the tax holiday;
- Service warranties taxed pursuant to s. 212.0506, Florida Statutes;
- Charges for the use of coin operated amusement machines, pursuant to s. 212.05(1)(h), Florida Statutes; and
- Any fees or surcharges imposed on tangible personal property administered by the Department of Revenue.

The bill grants the Department of Revenue authority to promulgate rules to implement the provisions of the bill. The bill provides an appropriation of \$400,000 from the General Revenue Fund to the Department of Revenue to administer the sales tax holiday, and an appropriation of \$38 million from the General Revenue Fund to be deposited into the Discretionary Sales Surcharge Clearing Trust Fund for distribution to local governments.

C. SECTION DIRECTORY:

Section 1. Creates a sales tax holiday on the first \$5,000 of the sales price of all tangible personal property and admissions purchased for personal consumption during the seven day period beginning July 31, 2006 and ending August 6, 2006. The holiday does not include purchases made by businesses or by individuals to be used in a business. The Department of Revenue is given broad rulemaking authority to administer the holiday. This section includes an appropriation of \$400,000 from the General Revenue Fund to the Department of Revenue to administer the bill, and an appropriation of \$38 million from the General Revenue Fund to be deposited into the Discretionary Sales Tax Clearing Trust Fund for distribution to local governments.

Section 2. Provides an effective date of becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is estimated to reduce state revenues by approximately \$350 million. The Revenue Estimating Conference has not provided an official estimate.

2. Expenditures:

The bill provides an appropriation from the General Revenue Fund to the Department of Revenue of \$400,000 to administer the sales tax holiday. The bill also provides a \$38 million appropriation from the General Revenue Fund to be deposited into the Discretionary Sales Surtax Clearing Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill is estimated to reduce local revenues by approximately \$88 million, of which \$38 million is Local Options Sales Tax. (The Revenue Estimating Conference has not provided an official estimate.) The bill also appropriates \$38 million from the General Revenue Fund for deposit into the Discretionary Sales Surtax Clearing Fund for distribution to local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Retailers may experience additional sales as a result of the holiday.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The estimated reduction in Local Option Sales tax by this bill is approximately \$38 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate. The bill appropriates \$38 million from the General Revenue Fund to be deposited into the Discretionary Sales Surtax Clearing Trust Fund for distribution to local governments. The appropriation will replace the lost local option tax revenues. Consequently, the bill is not a mandate to local governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill specifically authorizes the Department of Revenue to adopt rules to implement and administer the tax free period.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A strike-all amendment was adopted by the Finance and Tax Committee on March 24, 2006. The amendment eliminated the requirement of a Purchaser's Certificate for items over \$1,000, and included discretionary sales taxes in the tax holiday. The rental of real and tangible personal property was specifically excluded from the tax holiday. The tax treatment of admissions, occasional sales of motor vehicles and boats, and fees and surcharges imposed on tangible personal property and administered by the Department of Revenue was clarified.

An amendment was adopted by the Fiscal Council on April 4, 2006 which appropriated \$38 million from the General Revenue Fund to be deposited into the Discretionary Sales Surtax Clearing Trust Fund for distribution to local governments to replace the lost local option tax revenues.