

The Florida Senate
PROFESSIONAL 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: Committee Code Not Found Committee

BILL: CS/SB 92

INTRODUCER: Finance and Tax Committee and Senators Baker and Fasano

SUBJECT: Hurricane Preparedness/Sales Tax

DATE: March 21, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>MS</u>	Fav/1 amendment
2.	<u>Keating</u>	<u>Johansen</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides for an annual sales tax exemption period 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 for an annual period of 12 days beginning on June 1. However, the authorization for the annual hurricane preparedness sales tax holiday expires on May 18, 2008, unless reviewed and reenacted by the Legislature on or before that date.

The fiscal impact in FY 2007-2008 has been estimated to be a reduction of \$19.8 million in General Revenue Fund revenues, \$4.5 million in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes), with an insignificant loss in state trust fund revenues.

The bill appropriates \$289,100 in FY 2007-2008 from the General Revenue Fund to the Department of Revenue to administer the exemption.

This bill creates section 212.0807 of the Florida Statutes.

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 January 1, 2007, fifty-nine counties levied at least one discretionary sales surtax.¹

The Florida Office of Insurance Regulation estimated the expected gross probable loss for the four major hurricanes that struck Florida in 2004 to be \$25.1 billion.² The estimate for 2005 was \$10.8 billion. 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 2006.³

Chapter 2006-7, L.O.F., authorized a sales tax exemption for hurricane preparedness items purchased from May 21, 2006 through June 1, 2006. The estimated revenue loss from this hurricane preparedness sales tax exemption period was \$38.8 million in General Revenue, \$0.1 million in state trust fund revenues, and \$4.5 million in local option sales surtax revenues.⁴

III. Effect of Proposed Changes:

Section 1. of the bill establishes an annual sales tax exemption for specified items related to hurricane preparedness during a period of 12 consecutive days beginning annually on June 1. The timing of this period coincides with the traditional start of Hurricane Season. The specified items are:

- a) any portable, self-powered light source selling for \$20 or less;
- b) any portable self-powered radio, two-way radio, or weather-band radio selling for \$75 or less;

¹ Florida Department of Revenue Form DR-15DSS, *Discretionary Sales Surtax Information*.

² Florida Office of Insurance Regulation, *Hurricane Summary Data*, August, 2006.

³ General Revenue Consensus Estimating Conference, *Final Results*, November 12, 2004.

⁴ Revenue Estimating Conference Impact Conference, March 31, 2006.

- 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;
- 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 or any cell phone charger selling for \$40 or less;
- h) any non-electric food-storage cooler selling for \$30 or less;
- i) any portable generator used to provide light, communications, or preserve food in the event of a power outage selling for \$1,000 or less;
- j) any storm shutter device selling for \$200 or less (“storm shutter device” is defined as materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms);
- k) any carbon monoxide detector selling for \$75 or less;
- l) any reusable 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 or entertainment complex.

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.

The bill provides that the authorization for the annual hurricane preparedness sales tax holiday shall expire on May 18, 2008, unless reviewed and reenacted by the Legislature on or before that date

Section 2. of the bill provides for an appropriation of \$289,100 in FY 2007-2008 from the General Revenue Fund to the DOR for administration of the tax exemption.

Section 3. of the bill provides for an effective date 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 \$4.5 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:

The Revenue Estimating Conference estimated the fiscal year 2007-08 loss of sales tax revenues to be \$24.3 million - \$19.8 million in General Revenue Fund revenues, \$4.5 million in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes), with an insignificant loss in state trust fund revenues. The fiscal impact is nonrecurring, unless the 2008 Legislature reviews and reinstates the exemption effective on or before May 18, 2008.

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 sales surtax 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 \$289,100 in FY 2007-2008 from the General Revenue Fund for administrative purposes. The bill does not provide for additional administrative funds in subsequent years in order to administer the annual exemption.

VI. Technical Deficiencies:

The DOR has recommended the following clarifying amendments for SB 92: 1) Clarify that the 12-day Hurricane Preparedness Sales Tax Holiday covers all of the items listed in the bill; and 2) For ease of administration, clarify the exemption for “any ground anchor system or tie-down kit selling for \$50 or less” with more restrictive language.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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