

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/SB 2094

INTRODUCER: Finance and Tax Committee and Senator Webster

SUBJECT: Sales Tax/School Supplies and Clothing

DATE: April 22, 2008                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	ODonnell	Johansen	FT	Fav/CS
2.			GA	
3.				
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute provides that no tax levied under Chapter 212, Florida Statutes, shall be collected on sales of clothing, wallets, or certain bags having a sales price of \$50 or less from 12:01 a.m., August 1, 2008, through 11:59 p.m., August 7, 2008. The committee substitute also provides that no tax levied under Chapter 212, Florida Statutes, shall be collected on sales of school supplies having a selling price of \$10 per item or less during that same period of time.

On a non-recurring basis, the committee substitute is expected to reduce revenue going to the General Revenue Fund by \$23 million and to local government by an aggregate \$5.2 million.

**II. Present Situation:**

Pursuant to chapter 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 identify specific items, items when used for particular purposes and purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations.

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy 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 transactions” by chapter 212, F.S. and on communications services by chapter 202, F.S. In addition, 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.

In 1998, 1999, 2000, 2001, 2004, 2005, 2006 and 2007 the Legislature created the “Florida Residents Tax Relief Act”. (Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, L.O.F., 2005-271, 2006-63 and 2007-144 L.O.F.) In 2007, the act provided that no sales and use tax would be collected on sales of books, clothing, wallets, or bags having a selling price of \$50 or less during the last 9 days of July 2007. The term “book” was defined to mean a set of printed sheets bound together and published in a volume but did not include newspapers, magazines or other periodicals. The term “clothing” was defined to mean any article of wearing apparel intended to be worn on or about the human body, including all footwear, except skis, swim fins, roller blades, and other skates but did not include watches, watchbands, jewelry, umbrellas, or handkerchiefs. The term “bags” included handbags, backpacks, fanny packs, and diaper bags but excluded briefcases, suitcases, and other garment bags. Also exempt were school supplies having a selling price of \$10 per item or less. The term “school supplies” included pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs protractors, compasses, and calculators.

### **III. Effect of Proposed Changes:**

**Section 1.** The committee substitute provides that no sales and use tax will be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of \$100 or less during the period from 12:01 a.m. August 1, 2008, through midnight, August 7 2008. The term “clothing” means any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S.

This committee substitute also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during the period from 12:01 a.m. August 1, 2008, through midnight, August 7, 2008. The term “school supplies” means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, computer discs, compasses, and calculators. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S. The Department of Revenue may adopt rules to administer the provisions in the committee substitute.

**Section 2.** The committee substitute appropriates to the Department of Revenue \$224,110 from the General Revenue Fund for the purpose of administering the provisions of the committee substitute.

**Section 3.** The bill takes effect July 1, 2008.

#### **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 committee substitute provides a sales tax exemption that will reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. It is estimated the fiscal impact on local governments of a sales tax exemption for school supplies and clothing will reduce local option collections by \$2.2 million in the aggregate. Because of the potential significant impact to local governments, this committee substitute 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.

##### **D. Other Constitutional Issues:**

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The committee substitute is expected to reduce overall state and local revenues by \$28.2 million on a non-recurring basis. This includes a \$23 million reduction in General Revenue Fund receipts, and a \$5.2 million reduction to local governments.

##### **B. Private Sector Impact:**

During the specified period, books, clothing, wallets, and bags selling for \$100 or less and school supplies selling for \$10 or less can be purchased for 6 percent to 8.5 percent less depending on the local option sales surtax rate. Given the timing of the tax-free

period, families will be able to save money on clothing and school supplies prior to the beginning of the school year. Moreover, the tax exemptions provided by the committee substitute should significantly increase sales of exempt items during the ten tax-free days.

Although retail sellers may incur some costs for the reprogramming of cash registers and accounting systems, these costs should be mitigated by the existence of procedures developed for previous tax-free shopping periods.

**C. Government Sector Impact:**

The Department of Revenue may adopt rules to carry out the provisions of the committee substitute and is appropriated \$224,110 from the General Revenue Fund for administrative purposes. Similar to the previous tax free holidays, the department is expected to promulgate a rule that provides a comprehensive list of clothing items, school supplies and their taxable statuses pursuant to the committee substitute. According to the department, the use of an administrative rule and a “Taxpayer Information Publication” has been very effective in implementing prior tax-free acts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on April 22, 2008:**

The committee substitute eliminates the exemption for books and moves the beginning of the 7 day exemption forward one day to August 1, 2008.

**B. Amendments:**

None.