

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 483 & HB 469 Tax on Sales, Use, and Other Transactions

SPONSOR(S): Finance & Tax Council; Rivera; Flores and others

TIED BILLS: **IDEN./SIM. BILLS:** HB 469, SB 160, SB 514

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Finance & Tax Council	14 Y, 0 N, As CS	Aldridge	Langston
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

CS/HB 483 & HB 469 establishes a three day sales tax holiday occurring on August 13-15, 2010. During the sales tax holiday, books, clothing, footwear, wallets, and bags that cost \$50 or less, and school supplies that cost \$10 or less, are exempt from the state sales tax and county discretionary sales surtaxes (commonly called "local option sales taxes"). The bill specifies that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. The bill provides a \$250,304 nonrecurring appropriation to the Department of Revenue for administration of the sales tax holiday.

The Revenue Estimating Conference estimates that in FY 2010-2011 this bill will have a negative impact on state General Revenue of \$21.3 million, a negative insignificant impact on state trust fund revenue, and a negative impact on local government revenue of \$4.8 million.

The bill may be a mandate requiring a 2/3 vote of the membership of each house.

The bill will take effect upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation:

Current law imposes a 6-percent tax on the retail sale of tangible personal property,¹ which includes books, clothing, footwear, wallets, bags, and school supplies.

In addition, county governments may impose discretionary sales surtaxes (e.g., indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax).² County discretionary sales surtaxes (commonly called "local option sales taxes") apply to all transactions in the county which are subject to the state sales tax.³

History of Sales Tax Holidays:

Since 1998, the Legislature has enacted eight similar temporary exemptions (commonly called "sales tax holidays") from the state sales tax and county discretionary sales surtaxes.⁴ The 1998 sales tax holiday exempted clothing and footwear that cost \$50 or less from taxation for 7 days.

From 1999-2001 and 2004-2006, each sales tax holiday has lasted for 9 days. The 2007 sales tax holiday lasted for 10 days.

Beginning in 1999, in addition to exempting clothing and footwear from taxation, each sales tax holiday has also exempted wallets and bags.

Except for 1999 and 2000, the sales tax holiday has been limited to clothing, footwear, wallets, and bags that cost \$50 or less. In 1999 and 2000, the Legislature increased the exemption to \$100 or less.

Beginning in 2001, each sales tax holiday also exempted school supplies that cost \$10 or less from taxation. Since 2004, the Legislature has also exempted books that cost \$50 or less from taxation.

For each sales tax holiday, the Legislature has provided the Department of Revenue with an appropriation ranging from \$200,000 to \$224,110 to administer the sales tax holiday.

¹ Sections 212.02(19) and 212.05(1)(a)1.a., Florida Statutes.

² Section 212.055, Florida Statutes.

³ Section 212.054(2)(a), Florida Statutes.

⁴ Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63, and 2007-144, Laws of Florida.

The following table summarizes the history of the “back to school” sales tax holidays:

Dates	Length	TAX EXEMPTION THRESHOLDS				Appropriation/ DOR
		Clothing/ Footwear	Wallets/ Bags	Books	School Supplies	
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	\$200,000
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	\$200,000
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	\$215,000
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	\$10 or less	\$200,000
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$224,110

Tax Information Publications:

Since 2004, the Department of Revenue has published a Tax Information Publication (“TIP”) for each sales tax holiday.⁵ A TIP provides detailed information about the sales tax holiday, including instructions and specific examples, for dealers who collect the tax.

Proposed Changes:

The bill establishes a three day sales tax holiday occurring August 13-15, 2010. During the sales tax holiday, the following items that cost \$50 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Books (defined as a set of printed sheets bound together and published in a volume, but does not include newspapers, magazines, or other periodicals)
- Clothing and Footwear (defined as an “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 excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

During the sales tax holiday, the bill also exempts school supplies that cost \$10 or less per item. From 2001 through 2007, the school supplies exempted during the sales tax holiday were “pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.” In addition to these items, the bill includes the following for the annual sales tax holiday: binders, lunch boxes, construction paper, markers, folders, and poster board.

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, sales in these locations will be subject to taxation during the sales tax holiday.

The bill authorizes the Department of Revenue to adopt emergency rules to administer the sales tax holiday.

The bill will take effect upon becoming law.

⁵ See Florida Department of Revenue, *2004 Sales Tax Holiday*, TIP# 04A01-05 (June 10, 2004); *2005 Sales Tax Holiday*, TIP# 05A01-02 (June 1, 2005), *2006 Sales Tax Holiday*, TIP# 06A01-04 (June 9, 2006), and *2007 Sales Tax Holiday*, TIP# 07A01-07 (June 15, 2007).

B. SECTION DIRECTORY:

Section 1. Provides for a three day sales tax holiday August 13-15, 2010, for certain books, clothing and school supplies.

Section 2. Provides a nonrecurring appropriation of \$250,304 for the Department of Revenue to administer the sales tax holiday.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that in FY 2010-2011 this bill will have a negative impact on state General Revenue of \$21.3 million and a negative insignificant impact on state trust fund revenues.

2. Expenditures:

According to the Department of Revenue, the bill is estimated to require a nonrecurring appropriation of \$250,304 in FY 2009-10. This estimate is based on printing and postage for a Tax Information Publication ("TIP") for the 2010 sales tax holiday to be mailed to the state's approximately 645,000 active sales tax accounts. In addition, the estimate includes printing of an additional 5,000 copies of the TIP for mailing to retail associations and for distribution to others upon request.

Printing	645,000	x	\$.13382	per personalized TIP	=	\$ 86,314
Printing	5,000	x	\$.16091	per non-personalized TIP	=	805
Postage	645,000	x	\$.253	per personalized TIP	=	<u>163,185</u>
				Total	=	\$250,304

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that in FY 2010-2011 this bill will have a negative impact on local revenues of \$4.8 million.

2. Expenditures:

None.

DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Due to the timing of the sales tax holiday, families will be able to save money on books, clothing, footwear, wallets, bags, and school supplies before the beginning of the school year. In addition, the tax exemption may increase the sales of non-exempt items during the sales tax holiday.

Although retail sellers may incur costs reprogramming cash registers and accounting systems, those costs would likely be mitigated by the use of existing procedures developed for previous sales tax holidays.

C. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Section 18(b), Article VII of the State Constitution specifies that, “[e]xcept upon approval of each house of the legislature by two-thirds 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 revenues in the aggregate, as such authority exists on February 1, 1989.”

Because of the estimated \$2.1 million reduction in local option sales taxes, this bill reduces the authority that counties have to raise revenue. No exemption applies, therefore the bill may be a mandate requiring a 2/3 vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt emergency rules to administer the sales tax holiday.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

A Proposed Council Substitute was adopted by the Finance and Tax Council on March 25, 2010. The council substitute is different than HB 483 and HB 469 in the following ways:

- Both HBs 483 and 469 provided for an annual (recurring) 10-day sales holiday. The PCS provides for a one-time 3-day sales tax holiday this year.
- Both HBs 483 and 469 provided for specified clothing priced under \$100 to be exempt during the holiday. The PCS exempts the same specified clothing, but limits the sales price of exempt items to \$50.
- Compared to both HBs 483 and 469, the PCS provides for an expanded list of school supplies to be exempt.
- Unlike both HBs 483 and 469 the PCS exempts books valued at \$50 or less.

The analysis has been updated to reflect the council substitute.