

**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.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 916

INTRODUCER: Senator Flores and others

SUBJECT: Sales and Use Tax

DATE: March 15, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Klebacha	ED	<b>Favorable</b>
2.	_____	_____	AFT	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

SB 916 provides an exemption from state and local sales tax during the 3-day period beginning at 12:01 a.m. on August 2, 2013, through 11:59 p.m. on August 4, 2013, on purchases of clothing costing \$75 or less per item, school supplies costing \$15 or less per item, and computers costing \$750 or less per item.

The bill takes effect upon becoming law.

The bill creates one unnumbered section of law.

**II. Present Situation:**

The sales<sup>1</sup> and use<sup>2</sup> tax created in ch. 212, F.S is a levy of 6 percent<sup>3</sup> on retail sales of most tangible personal property, admissions, transient lodging, commercial rentals, and motor vehicles. The tax provided 73 percent of the state's general revenue in fiscal year 2011-2012.<sup>4</sup>

There are eight different types of local discretionary sales surtaxes (also referred to as local option sales taxes) currently authorized in law which provide revenue sources for county and municipal governments and school districts.<sup>5</sup> The local discretionary sales surtaxes apply to all

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<sup>1</sup> Sale is defined in s. 212.02(15), F.S.

<sup>2</sup> Use tax is defined in s. 212.02(21), F.S.

<sup>3</sup> s. 212.05, F.S..

<sup>4</sup> 2012 Florida Tax Handbook, p. 16, readable at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2012.pdf>

<sup>5</sup> *Ibid.*, p. 207.

transactions that are subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions authorized under ch. 212, F.S.

At times, the Legislature has enacted a “sales tax holiday” during which the purchase of certain items under a certain price does not incur a sales tax. In August 1998, the first sales tax holiday lasted for one week and applied to the purchase of items of clothing costing \$50 or less.<sup>6</sup> While a sales tax holiday usually occurs at the end of the summer and covers the types of items a parent might buy for a child returning to school, that is not always the case. In 2007, there were sales tax holidays for clothing, books, school supplies, energy efficient products, and hurricane preparedness articles.<sup>7</sup> The tax-free period of time has ranged from a few days to more than one week.

### III. Effect of Proposed Changes:

SB 916 provides an exemption from state and local sales tax during the 3-day period beginning at 12:01 a.m. on August 2, 2013, through 11:59 p.m. on August 4, 2013, for the following:

- Sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$75 or less per item. “Clothing” is defined to mean:
  - Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs.
  - All footwear, excluding skis, swim fins, roller blades, and skates.
- Sales of school supplies having a sales price of \$15 or less per item. “School supplies” is defined to mean pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue, paste, rulers, computer disks, protractors, compasses, and calculators.
- Sales of personal computers and related accessories having a sales price of \$750 or less. Qualifying items must be purchased for noncommercial home or personal use. The exemption includes personal computer base units and keyboards, personal digital assistants, handheld computers, monitors, other peripheral devices, modems for Internet and network access, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. Computer and computer related accessories do not include furniture or any systems, devices, software, or peripherals designed or intended primarily for recreational use.

The exemptions of the above items from sales tax do not apply to sales within a public lodging establishment as defined in section 509.013(4), F.S., within a theme park or entertainment complex as defined in section 509.013(9), F.S., or within an airport as defined in section 330.27(2), F.S.

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<sup>6</sup> *Ibid.*, p. 150.

<sup>7</sup> *Ibid.*, p.150.

The Department of Revenue is authorized to adopt rules to administer the exemption.

#### **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 two-thirds 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 existed on February 1, 1989.

The bill provides a sales tax exemption that will reduce the municipalities' and counties' local option sales tax collections over a three-day period, thereby reducing their revenue-raising authority. This bill does not appear to qualify under any exemption or exception. If the bill is determined to be a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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

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

None.

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

During the specified period, clothing, wallets, and bags selling for \$75 or less; school supplies selling for \$15 or less; and computers selling for \$750 or less can be purchased tax-free. 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 bill should significantly increase sales of non-exempt items during the tax-free days.

##### **C. Government Sector Impact:**

The Revenue Estimating Conference (REC) estimates that the impact from a 3-day sales tax holiday for clothing and school supplies will have a nonrecurring negative impact of \$23.9 million to General Revenue for FY 2013-14 and a nonrecurring negative impact of

\$5.4 million to local governments. The REC has not yet evaluated the impact of including computers as part of the sales tax holiday.<sup>8</sup>

**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.)

None.

**B. Amendments:**

None.

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

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<sup>8</sup> Revenue Estimating Conference, readable at:  
<http://edr.state.fl.us/Content/conferences/revenueimpact/2013RevenueImpactSummary.pdf>