

**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 Commerce and Tourism

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BILL: SB 362

INTRODUCER: Senator Bradley

SUBJECT: Hurricane Preparedness

DATE: January 31, 2014

REVISED: 2/12/14

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baye</u>	<u>Hrdlicka</u>	<u>CM</u>	<b>Favorable</b>
2.	<u></u>	<u></u>	<u>AFT</u>	<u></u>
3.	<u></u>	<u></u>	<u>AP</u>	<u></u>

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**I. Summary:**

SB 362 provides for a 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 the period of June 1-12, 2014.

The bill appropriates \$221,400 from the General Revenue Fund to the Department of Revenue to administer this act.

The Revenue Estimating Conference met on November 20, 2013, and estimated the total impact of this bill to be nonrecurring, negative \$3.6 million for FY 2013-14. The nonrecurring impact is estimated to be: General Revenue (\$2.9 million); State Trust Funds (insignificant); and local (\$700,000).<sup>1</sup>

**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 the chapter. Exemptions are generally specifically exempted items, items which are exempted when used for particular purposes, and exempt 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 rate of the discretionary sales surtax depends on the county,

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<sup>1</sup> Office of Economic and Demographic Research, *Revenue Estimating Conference*, <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited 1/29/14).

while some counties do not have a surtax.<sup>2</sup> Rates currently range from .5-1.5 percent.<sup>3</sup> Under 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 this chapter and communications services as defined for purposes of ch. 202.”<sup>4</sup> The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property.<sup>5</sup>

In 2004, the Florida Office of Insurance Regulation (OIR) estimated a gross probable loss of over \$25 billion due to hurricanes that year with 1,651,711 claims reported and 48,839 total loss claims. In 2005, OIR estimated a gross probable loss of close to \$11 billion due to hurricanes with 1,155,824 claims reported and 23,093 total loss claims.<sup>6</sup> The Florida Division of Emergency Management (DEM) recommends having a plan and preparing your home to prevent damage. Additionally, DEM recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.<sup>7</sup>

### III. Effect of Proposed Changes:

SB 362 establishes a sales tax exemption for specified items related to hurricane preparedness during a period of 12 consecutive days beginning on June 1, 2014 (Section 1). The timing of this period coincides with the start of hurricane season.<sup>8</sup> The exempted items are:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A self-contained first-aid kit selling for \$30 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

The bill also provides that the Department of Revenue may adopt rules to implement the exemption period of this bill. Section 1 of this bill will expire on September 30, 2014.

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<sup>2</sup>Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, <http://dor.myflorida.com/dor/forms/current/gt800019.pdf> (last visited Jan. 22, 2014).

<sup>3</sup>Florida Department of Revenue, *Discretionary Sales Surtax Information*, [http://dor.myflorida.com/dor/forms/current/dr15dss\\_1113.pdf](http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf) (last visited Jan. 22, 2014).

<sup>4</sup>Section 212.054, F.S.

<sup>5</sup>Section 212.054(2)(b)1., F.S.

<sup>6</sup>Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, <http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited Jan. 22, 2014).

<sup>7</sup>Florida Division of Emergency Management, *Disaster Supply Kit*, <http://www.floridadisaster.org/supplykit.htm> (last visited Jan. 22, 2014).

<sup>8</sup>National Oceanic & Atmospheric Administration, *Frequently Asked Questions*, <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited Jan. 22, 2014).

The bill appropriates \$221,400 from the General Revenue Fund to the Department of Revenue for purposes of administering this bill.

This bill provides that the act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or to take an action unless certain conditions are met.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989. The exception to this prohibition is if the Legislature passes such a law by two-thirds of the membership of each chamber.

Subsection (c) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce the percentage of a state tax shared with counties and municipalities. The exception to this prohibition is if the Legislature passes such a law by 2/3 of the membership of each chamber.

Subsection (d) provides an exemption from the prohibitions. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 are exempt (April 1, 2013, statewide population estimate was about 19.3 million)<sup>9</sup>.

The Revenue Estimating Conference estimated that the provisions of this bill will have a fiscal impact of \$700,000 at the local level.

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

None.

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

None.

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<sup>9</sup> Office of Economic and Demographic Research, Florida Population Estimates for Counties and Municipalities, April 1, 2013, available at [http://edr.state.fl.us/Content/population-demographics/data/2013\\_Pop\\_Estimates.pdf](http://edr.state.fl.us/Content/population-demographics/data/2013_Pop_Estimates.pdf) (last visited 1/29/2014).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference met on November 20, 2013, and estimated the total impact of this bill to be nonrecurring, negative \$3.6 million for FY 2013-14. The nonrecurring impact is estimated to be: General Revenue (\$2.9 million); State Trust Funds (insignificant); and local (\$700,000).<sup>10</sup>

**B. Private Sector Impact:**

During the period of June 1-12, 2014, the enumerated hurricane preparedness items can be purchased for 6-7.5 percent less, depending on the local discretionary sales surtax rate. The timing of the tax-free period will provide an incentive for Floridians to save money and to prepare themselves prior to the usual heightened tropical storm and hurricane threat period.

**C. Government Sector Impact:**

The bill currently appropriates \$221,400 from the General Revenue Fund to the Department of Revenue for the purposes of administering this act.

Department of Revenue analysis projects that this bill will have an impact of \$285,262 to pay for printing and mailing tax information publications to the 566,000 sales and use tax dealers.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Revenue analysis and Revenue Estimating Conference state first aid kits are already sales-tax exempt under s. 212.08(2)(a), F.S.<sup>12</sup>

**VIII. Statutes Affected:**

This bill creates general law not contained in a designated section of the Florida Statutes.

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<sup>10</sup> Office of Economic and Demographic Research, *Revenue Estimating Conference*, <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited 1/29/14).

<sup>11</sup> Department of Revenue, *Senate Bill 362 Agency Analysis* (Dec. 31, 2013).

<sup>12</sup> Department of Revenue, *Senate Bill 362 Agency Analysis* (Dec. 31, 2013); Revenue Estimating Conference, <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page25-27.pdf> (last visited Jan. 22, 2014).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of 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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