

**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 500

INTRODUCER: Senator Ring

SUBJECT: Sales, Storage, and Use Tax

DATE: February 14, 2014

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

|    | ANALYST  | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|----------|----------------|-----------|--------------------|
| 1. | Hrdlicka | Hrdlicka       | CM        | <b>Pre-meeting</b> |
| 2. |          |                | AFT       |                    |
| 3. |          |                | AP        |                    |

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**I. Summary:**

SB 500 amends s. 212.05(1)(i), F.S., to exempt charges for security system services from sales tax.

The Revenue Estimating Conference estimates that the bill will decrease revenues deposited into the General Revenue Fund by \$56.5 million in Fiscal Year 2014-15, with a negative \$63.3 million recurring impact to General Revenue. In addition, the bill will decrease revenues to local governments by \$12.7 million in Fiscal Year 2014-15, with a negative \$14.3 million recurring impact to local governments.

**II. Present Situation:**

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Florida imposes a 6 percent tax on tangible personal property sold, used, consumed, distributed, stored for use or consumption, rented, or leased in Florida.<sup>1</sup> The statutes currently provide more than 200 different exemptions.<sup>2</sup>

Additionally, Florida counties are authorized to levy a discretionary sales surtax on all transactions subject to the state sales and use tax when the goods or services are sold, or delivered into the county.<sup>3</sup> Currently, the maximum surtax actually imposed is 1.5 percent in several counties; however, the theoretical maximum rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county.<sup>4</sup> The surtax does not apply to a

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<sup>1</sup> See ss. 212.05 and 212.06, F.S.

<sup>2</sup> For a list of exemptions and history, see Florida Revenue Estimating Conference (REC), 2013 Florida Tax Handbook.

<sup>3</sup> Sections 212.054 and 212.055, F.S.

<sup>4</sup> See Florida's Discretionary Sales Surtax, Department of Revenue, available at <http://dor.myflorida.com/dor/taxes/discretionary.html> (last visited 2/7/2014).

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, rentals of real property, or transient rentals.

Charges for detective, burglar protection, and other protection services are subject to sales tax.<sup>5</sup> Specifically, charges for services under the following North American Industry Classification System (NAICS) codes are taxable:<sup>6</sup>

- 561611 Investigation Services: “This U.S. industry comprises establishments primarily engaged in providing investigation and detective services.”
- 561612 Security Guards and Patrol Services: “This U.S. industry comprises establishments primarily engaged in providing guard and patrol services, such as bodyguard, guard dog, and parking security services.”
- 561613 Armored Car Services: “This U.S. industry comprises establishments primarily engaged in picking up and delivering money, receipts, or other valuable items. These establishments maintain personnel and equipment to protect such properties while in transit.”
- 561621 Security Systems Services (except Locksmiths): “This U.S. industry comprises establishments primarily engaged in (1) selling security alarm systems, such as burglar and fire alarms, along with installation, repair, or monitoring services or (2) remote monitoring of electronic security alarm systems.”

The Department of Revenue (DOR) defines detective, burglar protection, and other protection services by rule as

those services which are rendered to minimize or prevent loss or damage to life, limb, or property and are of a kind typically performed by security or alarm system companies, or are those investigative services which are rendered to obtain evidence or other information for legal, business, employment, or personal purposes of a kind typically performed by detective or investigative agencies.<sup>7</sup>

Charges for these services are exempt from the tax when the services are:

- Performed within this state but used outside this state by the purchaser, and
- When the purchaser’s primary benefit of the services is outside this state.<sup>8</sup>

The seller must maintain a monthly log documenting any exempt transaction.<sup>9</sup>

Charges for nonresidential cleaning, excluding any cleaning of the interior of transportation equipment, are subject to sales tax.<sup>10</sup> “Janitorial services” under NAICS code 561720 include

<sup>5</sup> Section 212.05(1)(i), F.S. Generally, the tax does not apply to work of law enforcement officers.

<sup>6</sup> U.S. Census Bureau, North American Industry Classification System (NAICS), available at <http://www.census.gov/eos/www/naics/> (last visited 2/7/2014). For purposes of the statute, the NAICS classification are those as published in 2007 by the Office of Management and Budget, Executive Office of the President.

<sup>7</sup> Rule 12A-1.0092, F.A.C. For examples of services, see DOR, Tax Information Publication: Sales and Use Tax on Detective, Burglar Protection and Other Protection Services: What Service Providers Need to Know (August 2010), available at <http://dor.myflorida.com/dor/forms/2010/gt800018.pdf> (last visited 2/7/2014).

<sup>8</sup> Section 212.05(1)(i)a.3., F.S., and Rule 12A-1.0092(2)(f), F.A.C. See also DOR, Tax Information Publication above.

<sup>9</sup> Section 212.05(1)(i)a.5., F.S.

<sup>10</sup> Section 212.05(1)(i), F.S. For examples of services, see DOR, Tax Information Publication: Sales and Use Tax on Cleaning Services (August 2010), available at <http://dor.myflorida.com/dor/forms/current/gt800015.pdf> (last visited 2/11/2014).

residential cleaning services, however, under current law residential cleaning services are not taxable.<sup>11</sup>

### III. Effect of Proposed Changes:

SB 500 amends s. 212.05(1)(i), F.S., to exempt charges for security system services from sales tax.

The bill updates references to services to reflect the industry title for the NAICS codes listed in the statute and updates the NAICS codes to those published in 2012 U.S. NAICS Manual.

The bill provides an effective date of July 1, 2014.

### 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>12</sup>

The Revenue Estimating Conference estimated that the provisions of the bill will decrease revenues to local governments by \$12.7 million in Fiscal Year 2014-15, with a negative \$14.3 million recurring impact to local governments.<sup>13</sup>

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<sup>11</sup> Rule 12A-1.0091(1)(b), F.A.C.

<sup>12</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 2/7/2014).

<sup>13</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, Impact on SB 500 (February 14, 2014).

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

None.

**C. Trust Funds Restrictions:**

None.

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

The Revenue Estimating Conference estimates that the bill will decrease revenues deposited into the General Revenue Fund by \$56.5 million in Fiscal Year 2014-15, with a negative \$63.3 million recurring impact to General Revenue. In addition, the bill will decrease revenues to local governments by \$12.7 million in Fiscal Year 2014-15, with a negative \$14.3 million recurring impact to local governments.<sup>14</sup>

**B. Private Sector Impact:**

Anyone providing security system services will not have to collect and remit sales tax on charges for those services; customers will not have to pay tax on such services.

**C. Government Sector Impact:**

According to DOR, the bill will have an insignificant operational impact on the agency.<sup>15</sup>

**VI. Technical Deficiencies:**

The bill updates the reference to “cleaning services” to “janitorial services.” By doing so the bill expands janitorial services to include residential cleaning, which subjects such services to sales tax.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 212.05, Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>14</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, Impact on SB 500 (February 14, 2014).

<sup>15</sup> DOR, Bill Analysis: SB 500 (January 10, 2014) (on file with the Senate Commerce and Tourism Committee).

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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