

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 Committee on Commerce and Tourism

BILL: SB 792

INTRODUCER: Senator Flores

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: March 7, 2014

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Baye | Hrdlicka | CM | Favorable |
| 2. | | | AFT | |
| 3. | | | AP | |

I. Summary:

SB 792 provides for a state and local sales tax exemption for a 3-day period from August 1 through August 3, 2014, for the purchases of clothing costing \$75 or less, school supplies costing \$15 or less, and personal computers and related accessories costing \$750 or less.

The bill appropriates \$235,695 from the General Revenue Fund to the Department of Revenue for the purpose of administering this act. Any funds from this appropriation that are unexpended or unencumbered as of June 30, 2014, shall revert and be reappropriated for the same purpose in Fiscal Year 2014-15.

The Revenue Estimating Conference has not yet adopted an impact for this bill. See Tax/Fee Issues.

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, including books, clothing, footwear, wallets, bags, school supplies, and computers.¹ 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,

¹ Section 212.05, F.S.

while some counties do not have a surtax.² Rates currently range from .5-1.5 percent.³ 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.”⁴ The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property.⁵

III. Effect of Proposed Changes:

SB 792 provides an exemption from state and local sales tax during the 3-day period beginning at 12:01 a.m. on August 1, 2014 through 11:59 p.m. on August 3, 2014, for the following items:

- Clothing, wallets, or bags having a sales price of \$75 or less per item.
 - Clothing includes footwear, but excludes watches, watchbands, jewelry, umbrellas, handkerchiefs, skis, swim fins, roller blades, and skates.
 - Bags include handbags, backpacks, fanny packs, and diaper bags, but excludes briefcases, suitcases, and other garment bags.
- School supplies having a sales price of \$15 or less per item. The term school supplies means 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 or paste, rules, computer disks, protractors, compasses, and calculators.
- Personal computers and related accessories that have a sales price of \$750 or less and are purchased for noncommercial home or personal use.
 - Personal computers include electronic book readers, laptops, desktops, handhelds, tablets, or tower computers, but exclude cell phones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.
 - Related accessories include keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software regardless of whether the accessories are used in association with a personal computer base unit. The term excludes furniture or systems, devices, software, monitors with a television tuner, or other peripherals that are designed or intended primarily for recreational use.

The exemptions do not apply to sales within a theme park or entertainment complex, a public lodging establishment, or an airport.

The Department of Revenue is authorized to adopt emergency rules to administer this section. The bill provides an appropriation of \$235,695 in nonrecurring funds to the Department of Revenue from the General Revenue Fund for purposes of administering this act. Funds from the appropriation that remain unexpended or unencumbered as of June 30, 2014, shall revert and be reappropriated for the same purpose in Fiscal Year 2014-15.

This act will take effect upon becoming a law.

²Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, <http://dor.myflorida.com/dor/forms/current/gt800019.pdf> (last visited Mar. 5, 2014).

³ Florida Department of Revenue, *Discretionary Sales Surtax Information*, http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf (last visited Mar. 5, 2014).

⁴ Section 212.054, F.S.

⁵ Section 212.054(2)(b)1., F.S.

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 two-thirds 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)⁶.

The Revenue Estimating Conference estimated that the provisions of a similar proposal will have a negative fiscal impact of \$7.2 million at the local level.⁷

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) met on November 20, 2013, and adopted a impact for a similar proposal. The REC estimated the total impact of a 3-day school sales tax holiday to be nonrecurring, negative \$39 million for Fiscal Year 2013-14. The

⁶ 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 (last visited Mar. 5, 2014).

⁷ Office of Economic and Demographic Research, Revenue Estimating Conference, Proposed Language (Nov. 20, 2013), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited Mar. 5, 2014).

nonrecurring impact is estimated to be: General Revenue (\$31.8 million); State Trust Funds (insignificant); and local (\$7.2 million).⁸ While the REC has not estimated the effects of this particular bill, the exemptions in the 3-day school sales tax holiday and the current bill are very similar. The only difference is the REC estimates are based on exemptions of clothing items that do not exceed \$100; however, the bill only provides for exemptions on clothing items \$75 or less.⁹

B. Private Sector Impact:

During the specified exemption period, clothing, wallets, and bags selling for \$75 or less, school supplies selling for \$15 or less, and computers and related accessories selling for \$750 or less can be purchased tax free. Families will be able to save money on clothing and school supplies as the tax exemption period is just before the beginning of a new school year.

C. Government Sector Impact:

The bill provides an appropriation of \$235,695 in nonrecurring funds to the Department of Revenue from the General Revenue Fund for purposes of administering this act. Funds from the appropriation that remain unexpended or unencumbered as of June 30, 2014, shall revert and be reappropriated for the same purpose in Fiscal Year 2014-15.

The Department of Revenue analysis states that the bill will only require \$223,048 in administering this act. This will not have a practical impact or require a change in appropriation because the unexpended or unencumbered funds revert and are reappropriated for the same purpose in the next fiscal year.¹⁰

The Department of Revenue will use the appropriated funds to print and mail tax information publications to approximately 569,000 sales tax dealers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the Department of Revenue to adopt emergency rules.

VIII. Statutes Affected:

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

⁸ Office of Economic and Demographic Research, Revenue Estimating Conference, Proposed Language (Nov. 20, 2013), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited Mar. 5, 2014).

⁹ Office of Economic and Demographic Research, Revenue Estimating Conference, Proposed Language (Nov. 20, 2013), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited Mar. 5, 2014).

¹⁰ Department of Revenue, *Senate Bill 792 Agency Analysis* (Feb. 10, 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.

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