

**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 Appropriations Subcommittee on Finance and Tax

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**BILL:** CS/SB 620

**INTRODUCER:** Commerce and Tourism Committee; and Senator Passidomo and others

**SUBJECT:** Disaster Preparedness Tax Exemption

**DATE:** January 12, 2018      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 620 establishes a 10-day sales tax holiday beginning June 1, 2018, and ending June 10, 2018. During the holiday, certain items related to disaster preparedness and protection are exempt from state sales and use tax and county discretionary sales surtaxes.

Exempt items include: light sources, radios, tarps, “tie-down” kits, fuel tanks, batteries, cellular telephone chargers, food storage coolers, portable generators, storm shutter devices, carbon monoxide detectors, reusable ice, personal locator beacons, and emergency position-indicating radio beacons.

The Revenue Estimating Conference estimates that this bill will reduce General Revenue Fund receipts by \$9.8 million and reduce local government revenues by \$2.5 million in Fiscal Year 2018-2019.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to administer this holiday.

The bill is effective upon becoming law.

## II. Present Situation:

### Florida Sales and Use Tax

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,<sup>1</sup> transient rentals,<sup>2</sup> rental of commercial real estate,<sup>3</sup> and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy 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. There are currently more than 250 exemptions, exclusions, deductions, and credits from the sales and use tax.<sup>4</sup> Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>5</sup>

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S."<sup>6</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 percent to 1.5.<sup>7</sup>

### *Disaster Preparedness*

Previous legislatures have approved sales tax exemptions for individuals in preparation of the Atlantic hurricane season, which typically begins on June 1<sup>st</sup> of each year.<sup>8</sup>

The Florida Division of Emergency Management recommends having a plan and preparing property to prevent damage. Additionally, the Division of Emergency Management recommends having a disaster supply kit with items such as a battery-operated radio, flashlight, batteries, and first-aid kit.<sup>9</sup>

The Federal Emergency Management Agency (FEMA) educates Americans on how to prepare for emergencies through Ready, a public service advertising campaign.<sup>10</sup> In addition to the items

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<sup>1</sup> Section 212.04, F.S.

<sup>2</sup> Section 212.03, F.S.

<sup>3</sup> Section 212.031, F.S.

<sup>4</sup> See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-170 (2017).

<sup>5</sup> Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at [http://dor.myflorida.com/dor/taxes/sales\\_tax.html](http://dor.myflorida.com/dor/taxes/sales_tax.html) (last visited Nov. 15, 2017).

<sup>6</sup> Section 212.054, F.S.

<sup>7</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2017 Local Discretionary Sales Surtax Rates in Florida's Counties, 224-225 (2017), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Nov. 15, 2017).

<sup>8</sup> National Oceanic and Atmospheric Administration, *Frequently Asked Questions*, available at <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited Nov. 15, 2017).

<sup>9</sup> Florida Division of Emergency Management, *Emergency Kit, Make a Plan, Be Informed*, available at <http://www.floridadisaster.org/documents/EmergencyKit-FDEM.pdf> (last visited Nov. 15, 2017).

<sup>10</sup> Federal Emergency Management Agency, *Ready.gov*, available at <http://www.ready.gov> (last visited Nov. 15, 2017).

listed in the paragraph above, FEMA recommends cell phone chargers, inverters, or solar chargers as items to include in an emergency preparedness supply kit.<sup>11</sup>

### III. Effect of Proposed Changes:

**Section 1** establishes a 10-day period exempting from the sales and use tax and local discretionary sales surtaxes certain items related to disaster preparedness and protection. The exemption period begins at 12:01 a.m. on Friday, June 1, 2018, through 11:59 p.m. on Sunday, June 10, 2018, and applies to the following items:

- 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 \$75 or less.
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.
- An item typically sold or advertised as 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 AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.
- A cellular telephone battery selling for \$60 or less.
- A cellular telephone charger selling for \$40 or less.
- A non-electric food storage cooler selling for \$30 or less.
- A portable generator that is used to provide light, support communications, or preserve food during a power outage selling for \$1,000 or less.
- A storm shutter device selling for \$200 or less.<sup>12</sup>
- A carbon monoxide detector selling for \$75 or less.
- Reusable ice selling for \$10 or less.
- A single product consisting of two or more of the previously listed items selling for \$75 or less.
- A personal locator beacon selling for \$600 or less.
- An emergency position-indicating radio beacon selling for \$1,500 or less.
- An external portable computer drive for data backup and recovery selling for \$200 or less.
- An inverter, inverter/charger, or uninterruptible power supply system selling for \$200 or less.

Sales within public lodging establishments,<sup>13</sup> theme parks or entertainment complexes,<sup>14</sup> or airports<sup>15</sup> are not exempt from taxes under this bill.

The bill authorizes the Department of Revenue (DOR) to adopt emergency rules in order to implement the sales tax exemption.

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<sup>11</sup> Federal Emergency Management Agency, *Build A Kit*, available at, <https://www.ready.gov/build-a-kit> (last visited Nov. 15, 2017).

<sup>12</sup> The bill defines the term “storm shutter device” to mean a material or product manufactured, rated, and marketed specifically for preventing window damage from storms.

<sup>13</sup> Section 509.013(4), F.S.

<sup>14</sup> Section 509.013(9), F.S.

<sup>15</sup> Section 330.27(2), F.S.

**Section 2** appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR in Fiscal Year 2017-18 to administer the holiday.

**Section 3** provides that the bill is effective upon becoming law.

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

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of s. 18, Art. VII, Florida 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. However, the mandates requirements do not apply to laws having an insignificant impact,<sup>16</sup> which for Fiscal Year 2017-2018, is \$2.1 million or less.<sup>17</sup>

The Revenue Estimating Conference estimates this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$1.2 million. Therefore, this bill has an insignificant fiscal impact on local governments and may not be a mandate requiring a two-thirds vote of the membership.

##### **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 this bill will reduce General Revenue Fund receipts by \$9.8 million and reduce local government revenues by \$2.5 million in Fiscal Year 2018-2019.

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<sup>16</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 9, 2017).

<sup>17</sup> Based on the Demographic Estimating Conference's population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 22, 2017).

**B. Private Sector Impact:**

Indeterminate, but positive. Consumers may see a reduction in the cost of the specified products related to disaster preparation and protection.

**C. Government Sector Impact:**

The DOR estimates the cost associated with notifying businesses of the sales tax exemption, by printing and mailing a tax information publication, will be approximately \$70,072.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates an undesignated section of Florida law.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Commerce and Tourism Committee on November 13, 2017:**

The bill is amended to specify the amount of the appropriation to the DOR to administer the sales tax exemption. For the 2017-2018 fiscal year, the bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR.

**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>18</sup> Florida Department of Revenue, *2018 Agency Legislative Bill Analysis: SB 620* (Nov. 3, 2017) (on file with the Senate Commerce and Tourism Committee).