

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 Finance and Tax

BILL: CS/SB 542

INTRODUCER: Commerce and Tourism Committee and Senator Perry

SUBJECT: Back-to-school Sales Tax Holiday

DATE: February 12, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 542 establishes a 10-day “back-to-school” sales tax holiday, from Friday, July 31, 2020 to Sunday, August 9, 2020, for certain clothing, school supplies, personal computers, and personal computer-related accessories.

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$50.3 million in Fiscal Year 2020-2021 and reduce local government revenues by \$14.8 million.

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services. Chapter 212, F.S., contains 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. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁴

In addition to the state sales 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, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁵ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.5 to 2.5 percent.⁶

"Back-to-School" Sales Tax Holidays

Florida has enacted a "back-to-school" sales tax holiday 18 times since 1998. The Florida Residents' Tax Relief Act of 1998 established Florida's first tax holiday, during which clothing purchases of \$50 or less were exempt from tax.⁷ Backpacks were added to the tax holiday in 1999 and school supplies were added in 2001. In 2013, the Legislature expanded the exemption to include personal computers and related accessories selling for \$750 or less, purchased for noncommercial home or personal use. The duration of "back-to-school" sales tax holidays has varied from 3 to 10 days. The type and value of exempt items have also varied.⁸

Sixty-seven of the 73 school districts in Florida began the 2019-2020 school year on August 12, 2019, and the remaining school districts began by August 19, 2019.⁹

III. Effect of Proposed Changes:

The bill establishes a 10-day period, from July 31 to August 9, 2020, during which the following items are exempt from the state sales tax and local discretionary sales surtaxes:

¹ Section 212.05(1)(a)1.a, F.S.

² Section 212.04(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ See s. 212.07(2), F.S.

⁵ Section 212.054(2)(a), F.S.

⁶ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 219-226 (2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Feb. 10, 2020).

⁷ Chapter 98-341, Laws of Fla.

⁸ *Supra* note 6, at 156-160.

⁹ Florida Department of Education, *PK-12 Public School Data Publications and Reports*, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/index.stml> (last visited Jan 6, 2020).

- Clothing with a sales price of \$60 or less per item. “Clothing” is defined as any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and all footwear, excluding skis, swim fins, roller blades, and skates;
- Wallets and bags with a sales price of \$60 or less per item, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags;
- School supplies with a sales price of \$15 or less per item. “School supplies” is defined as 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, rulers, computer disks, staplers and staples used to secure paper products, protractors, compasses, and calculators;
- Personal computers with a sales price of \$1,000 or less per item. “Personal computers” includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers and excludes cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data; and
- Personal computer-related accessories with a sales price of \$1,000 or less per item. “Personal computer-related accessories” includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and non-recreational 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 peripherals that are designed or intended primarily for recreational use.

The bill allows a business to opt-out of participating in the sales tax holiday if less than 5 percent of the business’s gross sales of tangible personal property in the prior calendar year consist of items that would be exempt under the bill. A business meeting this threshold must notify the Department of Revenue (DOR), in writing, by July 30, 2020, of its election to collect sales tax during the holiday. The business must post a copy of that notice in a conspicuous location at its place of business.

The exemptions provided in the bill do not apply to the following:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill appropriates, for Fiscal Year 2019-2020, \$237,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the sales tax holiday. Funds remaining unexpended as of June 30, 2020, shall revert and be re-appropriated for the same purpose in Fiscal Year 2020-2021.

The DOR may adopt emergency rules pursuant s. 120.54(4), F.S., for the purpose of implementing the bill.

The bill takes effect 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, limit the ability of counties and municipalities to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

Subsection (b) of s. 18, Art. VII of the 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,^{10, 11} which is \$2.2 million or less for Fiscal Year 2020-2021.¹²

The Revenue Estimating Conference determined that this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$8.3 million in Fiscal Year 2020-2021. Therefore, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁰ FLA. CONST. art. VII, s. 18(d).

¹¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$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. 12, 2019).

¹² Based on the Demographic Estimating Conference's April 1, 2020, estimated population adopted on July 8, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Nov. 12, 2019).

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

The Revenue Estimating Conference determined that this bill will reduce General Revenue Fund receipts by \$50.3 million in Fiscal Year 2020-2021 and reduce local government revenues by \$14.8 million.¹³

B. Private Sector Impact:

Persons purchasing exempted items during the sales tax holidays will realize savings.

C. Government Sector Impact:

The bill appropriates \$237,000 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2019-2020 to administer the “back-to-school” sales tax holiday.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates two undesignated sections of chapter 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 12, 2019:

The committee substitute lengthens the period during which personal computers and personal computer-related accessories are exempt from the state sales tax and local discretionary sales surtaxes.

B. Amendments:

None.

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

¹³ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *School Sales Tax Holiday, 10 days, \$60 Clothing/\$15 Supplies/\$1,000 or Less Computers, SB 542*, Feb. 3, 2020, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/pdf/page40-46.pdf> (last visited Feb. 10, 2020).