

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 737 Tax on Sales, Use, and Other Transactions

SPONSOR(S): Porter

TIED BILLS: **IDEN./SIM. BILLS:** SB 982

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Flieger	Langston
2) Appropriations Committee			

SUMMARY ANALYSIS

HB 737 establishes a pair of 3 day periods during which certain items will be exempt from sales tax (commonly called a "sales tax holiday"), the first beginning on August 10, 2012 and lasting through August 12, 2012, and the second from August 17, 2012, through August 19, 2012. During the sales tax holiday, clothing, footwear, wallets, and bags that cost \$75 or less, and school supplies that cost \$15 or less are exempt from the state sales tax and county discretionary sales surtaxes (commonly called "local option sales taxes").

The bill specifies that the exemption during the period does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport.

The 2012 Revenue Estimating Conference estimates that this bill would have negative, nonrecurring impacts of \$39.8 million to General Revenue and \$9 million to local governments in Fiscal Year 2011-12.

The Department of Revenue is given authority to adopt emergency rules.

The bill will take effect upon becoming a law.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 212, F.S, imposes a 6 percent tax on the retail sale of tangible personal property,¹ which includes books, clothing, footwear, wallets, bags, school supplies, and computers.

In addition, county governments may impose discretionary sales surtaxes (e.g., indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax).² County discretionary sales surtaxes (commonly called “local option sales taxes”) apply to all transactions in the county which are subject to the state sales tax.³

History of Sales Tax Holidays:

Since 1998, the Legislature has enacted ten temporary periods (commonly called “sales tax holidays”) during which certain clothing, footwear, books and school supply items were exempted from the state sales tax and county discretionary sales surtaxes.⁴

The length of the exemption periods has varied from 3 to 10 days. The type and value of exempt items has also varied. Clothing and footwear has always been exempted. In seven of the nine holidays such items valued at \$50 or less were exempted. Twice, items valued at \$100 or less were exempt. Books valued at \$50 or less were exempt in five periods. School supplies were included in the most recent six holidays, with the value threshold increasing from \$10 to \$15 in the most recent holiday.

The following table summarizes the history of the “back to school” sales tax holidays:

Dates	Length	TAX EXEMPTION THRESHOLDS				Appropriation/ DOR
		Clothing/ Footwear	Wallets/ Bags	Books	School Supplies	
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	\$200,000
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	\$200,000
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	\$215,000
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	\$10 or less	\$200,000
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$224,110
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$250,304
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	\$15 or less	\$218,905

¹ Sections 212.02(19) and 212.05(1)(a)1.a., Florida Statutes.

² Section 212.055, Florida Statutes.

³ Section 212.054(2)(a), Florida Statutes.

⁴ Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63, 2007-144, and 2010-93, Laws of Florida.

Tax Information Publications:

Since 2004, the Department of Revenue has published a Tax Information Publication (“TIP”) for each sales tax holiday.⁵ A TIP provides detailed information about the sales tax holiday, including instructions and specific examples, for dealers who collect the tax.

Proposed Changes

The bill provides for a pair of nonconsecutive 3 day sales tax holidays to cover 2 weekends near the beginning of the school year, the first beginning August 10, 2012, at 12:01 a.m. and ending August 12, 2012, at 11:59 p.m. and the second beginning August 17, 2012, at 12:01 a.m. and ending August 19, 2012, at 11:59 p.m. During the sales tax holiday, the following items that cost \$75 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags)

During the sales tax holiday, the bill also exempts “school supplies” that cost \$15 or less per item. “School supplies” are 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, protractors, compasses, and calculators.

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, sales in these locations will be subject to taxation during the sales tax holiday.

The bill gives the Department of Revenue authority to adopt emergency rules.

The bill will take effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1 provides for a sales tax holiday, identifies exempt items, provides exceptions from the holiday, and grants emergency rule authority.

Section 2 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The 2012 Revenue Estimating Conference estimates that this bill will have a negative, nonrecurring impact of \$39.8 million to General Revenue for FY 2012-13 and a negative insignificant impact to state trust funds.

⁵ See, e.g. Florida Department of Revenue, *2004 Sales Tax Holiday*, TIP# 04A01-05 (June 10, 2004); *2005 Sales Tax Holiday*, TIP# 05A01-02 (June 1, 2005), *2006 Sales Tax Holiday*, TIP# 06A01-04 (June 9, 2006), and *2007 Sales Tax Holiday*, TIP# 07A01-07 (June 15, 2007).

2. Expenditures:

The bill does not currently contain an appropriation, but the Department of Revenue estimates that it will cost the state \$226,284 to administer the holiday. That estimate is based on the cost of printing and postage for a Tax Information Publication for the sales tax holiday to be mailed to the state's approximately 556,000 active sales tax accounts each year.

Printing 556,000 x \$0.14239 per personalized TIP	\$ 75,128
Printing 5,000 x \$0.17741 per non-personalized TIP	\$845
<u>Postage 556,000 x \$0.263 per personalized TIP</u>	<u>\$142,932</u>
Total	\$226,284

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenue

The 2012 Revenue Estimating Conference estimates that this bill will have a negative, nonrecurring impact of \$9 million to local governments for FY 2012-13.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Due to the timing of the sales tax holiday, families will be able to save money on clothing, footwear, wallets, bags, computers, computer software, and school supplies. In addition, the tax exemption may increase the sales of non-exempt items during the sales tax holiday.

Although retail sellers may incur costs reprogramming cash registers and accounting systems, those costs would likely be mitigated by the use of existing procedures developed for previous sales tax holidays.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because the bill is expected to result in a reduction in local option sales taxes on those items included in the sales tax holiday. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants emergency rulemaking authority to the Department of Revenue.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES