

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 101 CS Tax on Sales, Use, and Other Transactions  
**SPONSOR(S):** Sansom and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

---

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) Finance & Tax Committee	8 Y, 1 N, w/CS	Levin	Diez-Arguelles
2) Fiscal Council			
3)			
4)			
5)			

---

**SUMMARY ANALYSIS**

The bill provides that no sales tax will be collected: (1) on the sale of books, clothing, wallets, or bags including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$50 or less; or, (b) on the sale of school supplies having a selling price of \$10 or less during the nine-day period of July 23 through July 31 of 2005.

Specifically, the bill:

- defines "books" as a set of printed sheets bound together and published in a volume;
- excludes from the definition of "book" newspapers, magazines, or other periodicals,
- defines "clothing" to mean any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body;
- excludes from the definition of "clothing" watches, watchbands, jewelry, umbrellas, or handkerchiefs;
- defines "school supplies" to mean pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs, protractors, compasses, and calculators;
- provides that the provisions of the Act do not apply within theme parks, public lodging establishments, and airports; and
- provides specific rule-making authority to the Department of Revenue to adopt rules to implement the Act.

The bill provides an appropriation to the Department of Revenue of \$206,000 in FY 2005 – 06 to administer the bill.

The fiscal impact of the bill is a negative \$43 million in state revenues and a negative \$9 million in local revenues during FY 2005 – 06.

The estimated reduction in Local Option Sales tax by this bill is \$3.8 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. The Florida Constitution therefore requires a 2/3 vote of the membership of each house of the Legislature.

The bill is effective July 1, 2005.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Ensures lower taxes - The bill eliminates state sales tax on many back-to-school items during the period of the sales tax holiday, which will be the last nine days of July 2005.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Law:

Section 212.05, Florida Statutes, provides that a sales and use tax be imposed on the retail sale, storage, or use of tangible personal property. The sales tax rate is 6%. Chapter 212, Florida Statutes, also lists items and transactions that are exempt from sales and use tax. Under current law, the retail sale of clothing, wallets, bags, and school supplies is subject to sales tax.

##### History of Sales Tax Holidays:

Chapter 98-341, Laws of Florida, the Florida Family Tax Relief Act of 1998, provided that apparel, including footwear, with a taxable value of \$50 or less, was exempt from the imposition of sales tax during the period from 12:01 a.m., August 15, 1998, through midnight, August 21, 1998. The Act defined "clothing" to mean any article of wearing apparel, including footwear, intended to be worn on or about the human body. For purposes of the Act, "clothing" did not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles.

Chapter 99-229, Laws of Florida, the Florida Residents' Tax Relief Act of 1999, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 31, 1999, through midnight, August 8, 1999. The tax-free week was earlier in 1999 than in 1998 to allow families shopping for school clothing an opportunity to take advantage of tax savings prior to the start of the school year. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 1999.

Chapter 2000-175, Laws of Florida, the Florida Residents' Tax Relief Act of 2000, created an exemption from sales tax for clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$100 or less during the period from 12:01 a.m., July 29, 2000, through midnight, August 6, 2000. An appropriation of \$215,000 was provided to the Department of Revenue to administer the Act in 2000.

Chapter 2001-148, Laws of Florida, the Florida Residents' Tax Relief Act of 2001, created an exemption from sales tax during the period from 12:01 a.m., July 28, 2001, through midnight, August 5, 2001, for: 1) clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags having a taxable value of \$50 or less; and 2) school supplies having a taxable value of \$10 or less per item. An appropriation of \$200,000 was provided to the Department of Revenue to administer the Act in 2001.

Chapter 2004-73, Laws of Florida, created an exemption from sales tax for books, clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, having a selling price of \$50 or less or upon school supplies having a selling price of \$10 per item or less during the nine-day period of July 24 through August 1, 2004.

##### Proposed Changes:

The bill provides that no sales tax will be collected upon books, clothing, wallets or bags, including handbags, backpacks, fanny packs, and diaper bags having a selling price of \$50 or less per item, or upon school supplies having a selling price of \$10 per item or less during the nine day period of July 23 – July 31, 2005:

- defines "clothing" to mean any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body;
- excludes from the definition of "clothing" watches, watchbands, jewelry, handkerchiefs, and umbrellas;
- defines "school supplies" to mean pens, pencils, erasers, crayons, notebooks, paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs, protractors, compasses, and calculators;
- provides that the provisions of the Act do not apply theme parks, public lodging establishments, and airports; and
- provides specific rule-making authority to the Department of Revenue to adopt rules to implement the Act.

C. SECTION DIRECTORY:

**Section 1.** Creates a nine-day period of July 23 through July 31, 2005 during which clothing, wallets, bags, and school supplies are exempt from sales tax. The section defines the terms "books," "clothing" and "school supplies" and provides an exception for certain types of establishments. The section provides rulemaking authority to the Department of Revenue.

**Section 2.** Provides an appropriation of \$206,000 to the Department of Revenue to administer the Act.

**Section 3.** Provides the Act is effective July 1, 2005.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u><b>FY 2005-2006</b></u>
General Revenue	(\$42.9 m)
Solid Waste Management Trust Fund	( <u>\$0.1 m</u> )
Total State Impact	(\$43.0 m)

2. Expenditures: The Department of Revenue estimates it will cost the agency \$206,000 to administer the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

	<u><b>FY 2005-2006</b></u>
Revenue Sharing	(\$1.4m)
Local Gov't half-cent	(\$3.8m)
Local Option	(\$3.8m)
Total local impact	(\$9.0m)

2. Expenditures: None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The estimated reduction in the Local Option Sales tax by this bill is \$3.8 million. The bill therefore reduces the authority of cities and counties to raise revenues in the aggregate, and is a mandate to local governments. The Florida Constitution therefore requires a 2/3 vote of the membership of each houses of the Legislature.

2. Other: None.

#### **B. RULE-MAKING AUTHORITY:**

The Department of Revenue is authorized to adopt rules to implement the Act.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill is an attempt to make the sales tax holiday permanent. It is not clear whether the \$206,000 appropriated is sufficient to promulgate both emergency and permanent rules.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On April 11, 2005 the Finance and Tax Committee adopted two amendments to HB 101. Amendment 1 limited the price of books, clothing, wallets or bags and similar items to \$50 or less per item, and it limited the tax holiday to the last 9 days of July 2005. Amendment 2 similarly limited the tax holiday for school supplies to the last 9 days of July 2005.