

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce and Consumer Services Committee

BILL: CS/CS/SB 24

SPONSOR: Committee on Commerce and Consumer Services, Committee on Domestic Securities, Senator Baker, and others

SUBJECT: Hurricane Preparedness/Sales Tax

DATE: January 25, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	<u>Fav/CS</u>
2.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GE</u>	_____
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute provides for a sales tax exemption for the purchase of items typically associated with hurricane preparedness and for the purchase of certain items used to protect a structure from possible damage resulting from a hurricane or tropical storm. This committee substitute specifies these items will be exempt from sales tax from May 21, 2006 through June 1, 2006, and from May 20, 2007 through May 31, 2007. This committee substitute also provides an appropriation for program administration.

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. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by this chapter. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting 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 maximum they may levy in total is 2.5 percent. Under the provisions of 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 transaction" by ch. 212, F.S. and on communications services by ch. 202, F.S. The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This

\$5,000 cap does not apply to the sale of any service. As of December 2005, 58 counties levied at least one discretionary sales surtax and 13 counties levied at least two.¹

The Florida Office of Insurance Regulation estimated the expected gross loss for the four major hurricanes that struck Florida in 2004 to be \$21.5 billion.² The initial estimates for 2005 are up to \$14 billion.³ While it is impossible to estimate how much additional damage was averted by citizens' hurricane preparedness during the 2005 hurricane season, the Division of Emergency Management routinely recommends procuring materials to protect structures and for use in making emergency repairs. The division also recommends having such items as portable radios, flashlights, sufficient batteries to power them for two weeks, first aid kits, and containers for drinking water on hand for storm events.

The 2004 and 2005 hurricane seasons also had a significant impact on state revenue collections. The General Revenue Consensus Estimating Conference estimated that spending on repair and replacement of property destroyed by the four hurricanes in 2004 would result in \$752 million in additional revenue through June of 2006.⁴ Impact estimates from the 2005 hurricane season are not yet available.

Chapter 2005-40, L.O.F., authorized a sales tax exemption for hurricane preparedness items from June 1, 2005 through June 12, 2005.

III. Effect of Proposed Changes:

Section 1 establishes a sales tax exemption for specified items related to hurricane preparedness during the periods of May 21, 2006 through June 1, 2006, and May 20, 2007 through May 31, 2007. The specified items are:

- any portable, self-powered light source having a selling price of \$20 or less;
- any portable self-powered radio, two-way radio, or weather-band radio having a selling price of \$50 or less;
- any tarpaulin or flexible waterproof sheeting selling for \$50 or less;
- any ground anchor system or tie-down kit selling for \$50 or less;
- any gas or diesel fuel tank selling for \$25 or less;
- any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile or boat batteries, selling for \$30 or less;
- any cell phone battery selling for \$60 or less and any cell phone charger selling for \$40 or less;
- any non-electrical food-storage cooler selling for \$30 or less;
- any portable generator used to provide light, communications, or food preservation in the event of a power outage selling for \$1,000 or less; and
- any storm shutter device selling for \$300 or less.

¹ Florida Legislative Committee on Intergovernmental Relations, *2006 Local Discretionary Sales Surtax Rates in Florida's Counties*.

² Florida Office of Insurance Regulation, *Hurricane Reporting Summaries*, January 20, 2005.

³ Florida Insurance Council, *First Modern, Highly Developed State to Face Eight Major Hurricanes in a Year*, Nov. 8, 2005.

⁴ General Revenue Consensus Estimating Conference, *Final Results*, November 12, 2004.

This committee substitute also authorizes the Department of Revenue (DOR) to adopt rules under ss.120.536 (1) and 120.54, F.S., to implement the provisions of the committee substitute.

Section 2 provides for an appropriation of \$221,400 from the General Revenue Fund to DOR for administration of the tax exemption.

Section 3 provides that the committee substitute shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the legislature by 2/3 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 exists on February 1, 1989.

This committee substitute provides for a sales tax exemption that would reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. The Revenue Estimating Conference has not yet estimated the impact of this committee substitute; however, it estimated the impact of similar legislation introduced in the 2005 Regular Session. The fiscal impact to local governments of a sales tax exemption for hurricane preparedness items (including generators and plywood) was estimated to be between \$7.9 and \$8.8 million. Because of the potential significant impact to local governments, this committee substitute may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Chapter 2005-40, L.O.F., authorized a sales tax exemption for hurricane preparedness items from June 1, 2005 through June 12, 2005. This committee substitute reinstates the hurricane preparedness sales tax exemption for calendar year 2006 and 2007 and realigns the exemption period to coincide with the National Hurricane Preparedness Week. Establishing the 2006 exemption period from May 21, 2006 through June 1, 2006, will impact state Fiscal Year 2005-2006 state and local sales tax revenue.

The Revenue Estimating Conference has not yet estimated the impact of this committee substitute. However, the Revenue Estimating Conference estimated the impact of similar legislation introduced during the 2005 Legislative Session.

In March 2005, the Revenue Estimating Conference estimated the fiscal impact of similar legislation -- a sales tax exemption period for hurricane preparedness items including plywood and generators -- to be a decrease in state and local sales tax revenue of \$45.7-\$50.7 million.

In April 2005, the Revenue Estimating Conference estimated the fiscal impact of a sales tax exemption for hurricane preparedness items -- excluding plywood and generators -- to be a decrease in state and local sales tax revenue of \$9.6 million.

B. Private Sector Impact:

During the specified period, hurricane preparedness items can be purchased for 6 percent to 8.5 percent less, depending on the local option tax rate. The timing of the tax-free period will allow Floridians to save money and be encouraged to prepare themselves prior to the usual heightened tropical storm/hurricane threat period.

C. Government Sector Impact:

DOR is authorized adopt rules under ss.120.536(1) and 120.54, F.S., to carry out the provisions of this committee substitute and is appropriated \$221,400 from the General Revenue Fund for administrative purposes.

This committee substitute authorizes a second sales tax exemption period in 2007, which may require an increased appropriation for administration of the additional period.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
