

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: Military Affairs and Domestic Security Committee

BILL: SB 92

INTRODUCER: Senator Baker

SUBJECT: Hurricane Preparedness/Sales Tax

DATE: January 17, 2007 REVISED: 01/24/07 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>MS</u>	Fav/1 amendment
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

This bill provides for an annual sales tax exemption period 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 bill specifies that these items will be exempt from sales for an annual period of 12 days beginning the next-to-last Sunday in May. The bill also provides appropriations for program administration.

The fiscal impact in FY 2007-2008 has been estimated to be a reduction of \$19.8 million in General Revenue Fund revenues, \$.01 million in state trust fund revenues, and \$4.4 million in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes. The fiscal impact in subsequent fiscal years is unknown but is likely to be at least as much as the current fiscal year estimate.

The bill appropriates \$277,540 in FY 2007-2008 from the General Revenue Fund to the Department of Revenue to administer the exemption.

This bill creates section 212.0807 of the Florida Statutes.

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 a local government 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. However, 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 January 1, 2007, fifty-nine counties levied at least one discretionary sales surtax.¹

The Florida Office of Insurance Regulation estimated the expected gross probable loss for the four major hurricanes that struck Florida in 2004 to be \$25.1 billion.² The estimate for 2005 was \$10.8 billion. 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 2006.³

Chapter 2006-7, L.O.F., authorized a sales tax exemption for hurricane preparedness items from May 21, 2006 through June 1, 2006. The revised estimated impact from this hurricane preparedness sales tax exemption period is \$15 million.⁴

III. Effect of Proposed Changes:

This bill establishes an annual sales tax exemption for specified items related to hurricane preparedness during a period of 12 consecutive days beginning annually on the next-to-last Sunday in May. The timing of this period coincides with the annual National Hurricane

¹ Florida Department of Revenue Form DR-15DSS, *Discretionary Sales Surtax Information*.

² Florida Office of Insurance Regulation, *Hurricane Summary Data*, August, 2006.

³ General Revenue Consensus Estimating Conference, *Final Results*, November 12, 2004.

⁴ Revenue Estimating Conference Impact Conference, January 19, 2007

Preparedness Week (last week of May) and the traditional start of Hurricane Season (June 1st).
The specified items are:

- a) any portable, self-powered light source selling for \$20 or less;
- b) any portable self-powered radio, two-way radio, or weather-band radio selling for \$50 or less;
- c) any tarpaulin or flexible waterproof sheeting selling for \$50 or less;
- d) any ground anchor system or tie-down kit selling for \$50 or less;
- e) any gas or diesel fuel tank selling for \$25 or less;
- f) 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;
- g) any cell phone battery selling for \$60 or less or any cell phone charger selling for \$40 or less;
- h) any non-electric food-storage cooler selling for \$30 or less;
- i) any portable generator used to provide light, communications, or preserve food in the event of a power outage selling for \$1,000 or less;
- j) any storm shutter device selling for \$200 or less (“storm shutter device” is defined as materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms);
- k) any carbon monoxide detector selling for \$75 or less;
- l) “blue ice” selling for \$10 or less; and
- m) any single product consisting of two or more of the items listed in paragraphs (a) – (l) selling for \$75 or less.

The bill provides that the exemptions do not apply to sales made within a public lodging establishment, an airport, or a theme park or entertainment complex.

This bill 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 bill.

The bill provides for an appropriation of \$277,540 in FY 2007-2008 from the General Revenue Fund to the DOR for administration of the tax exemption.

This bill provides for an effective date 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.

The bill provides for a sales tax exemption that would reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. Because the impact on local government revenues is estimated to exceed \$4.4 million in the aggregate, this bill 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:

Establishing the annual exemption period as 12 consecutive days beginning the next-to-last Sunday in May will impact FY 2007-2008 state and local sales tax revenues as well as subsequent years' revenues.⁵ The Revenue Estimating Conference has estimated the impact on FY 2007-2008 to be a reduction of \$19.8 million in General Revenue Fund revenues, \$0.1 million in state trust fund revenues, and \$4.4 million in local government revenues (revenue sharing, local government half cent sales tax, and local option sales taxes).

This bill provides a fiscal obligation for future sessions of the Legislature. The fiscal impact in subsequent fiscal years is unknown but is likely to be at least as much as the current fiscal year estimate plus an adjustment factor for inflation.

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:

The DOR is authorized to adopt rules under ss.120.536(1) and 120.54, F.S., to carry out the provisions of the bill and is appropriated \$277,540 in FY 2007-2008 from the General Revenue Fund for administrative purposes. The bill does not provide for additional administrative funds in subsequent years in order to administer the annual exemption.

⁵ Note: The timing of this period coincides with the annual National Hurricane Preparedness Week (last week of May) and the traditional start of Hurricane Season (June 1st).

VI. Technical Deficiencies:

None. However, it should be noted that the applicable time period for the sales tax exemption during 2007 is May 20 through May 31. Depending upon when the bill potentially becomes a law (after passage by the Legislature and approval the Governor), the bill may not be effective during some portion, or all, of that time period. This may reduce the fiscal impact of the bill for 2007.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

Barcode 334710 by Military Affairs and Domestic Security Committee:

Changes the annual beginning date of the sales tax exemption period from “the next-to-last Sunday in May” to June 1.

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