

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

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Prepared By: Higher Education Committee

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BILL: CS/SB 2102

INTRODUCER: Committee on Higher Education and Senator Gaetz

SUBJECT: Sales Tax/Postsecondary Bookstore

DATE: April 10, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Matthews</u>	<u>HE</u>	<u>Fav/CS</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

This bill provides a sales tax exemption for payments to a postsecondary educational institution by a bookstore operator on real property owned or leased by the institution.

The term “bookstore operations” is defined to include the sale, distribution, and provision of textbooks, merchandise, and services that are traditionally offered in higher education bookstores, for students, faculty and staff.

This bill takes effect upon becoming a law, and operates retroactively to amounts paid on or after January 1, 2006.

Clarification is provided to prohibit refunds from the Department of Revenue for tax, penalty, or interest paid before July 1, 2007.

This bill substantially amends section 212.08 of the Florida Statutes.

**II. Present Situation:**

Section 212.031(1)(a), F.S., provides that a person engaging in the business of renting, leasing, letting, or granting a license for the use of any real property is exercising a taxable privilege. Sales tax is set in the state at six percent on all items of tangible personal property sold through

retail transactions.<sup>1</sup> In addition to the six percent taxed on each retail item, local governments are authorized to levy various local discretionary sales surtaxes.<sup>2</sup>

Sales tax exemptions exist for a variety of items, including food products for human consumption; medical products and supplies; certain farm equipment; machinery or equipment used in semiconductor, defense, or space technology production; and United States and Florida flags.<sup>3</sup> An exemption is also provided for school books used in regularly prescribed courses of study by students in grades K through 12.<sup>4</sup> Sales or lease exemptions specific to the use of property by certain groups are also provided. These include sales or leases to religious institutions when used in carrying on customary nonprofit religious activities or to qualified veterans' organizations when used in carrying on their customary veterans' organization activities.<sup>5</sup>

### **III. Effect of Proposed Changes:**

This bill provides a sales tax exemption for payments to a postsecondary educational institution by a bookstore operator on real property owned or leased by the institution.

The term "bookstore operations" is defined to include the sale, distribution, and provision of textbooks, merchandise, and services that are traditionally offered in college and university bookstores, for the benefit of students, faculty and staff.

This bill takes effect upon becoming a law, and operates retroactively to amounts paid on or after January 1, 2006. Clarification is provided that this bill's retroactive application is remedial. As such, refunds from the Department of Revenue for tax, penalty, or interest payments prior to July 1, 2007, are not authorized.

In the absence of a limitation to public postsecondary institutions, this bill applies to bookstore payments to all institutions of higher learning.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

By expanding these sales tax exemptions, the bill reduces the sales tax base of municipalities and counties, thereby reducing their revenue-raising authority. The Consensus Estimating Conference determined an annual local option impact over the next five years of \$.1 million for each year.

It does not appear that this bill will trigger the requirements of Section 18, Article 7, of the State Constitution.<sup>6</sup> For purposes of the mandate analysis, where the fiscal impact is

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<sup>1</sup> s. 212.05(1)(a), F.S.

<sup>2</sup> s. 212.055, F.S.

<sup>3</sup> s. 212.08, F.S.

<sup>4</sup> s. 212.08(7)(r), F.S.

<sup>5</sup> s. 212.08(7)(m) and (n), F.S.

<sup>6</sup> s. 18, art. VII, of the State Constitution, provides that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or take an action requiring the expenditure of funds unless the Legislature

determined to be insignificant, the constitutional requirements do not apply. The term “insignificant” is defined as an amount not greater than the statewide population for the applicable fiscal year multiplied by \$0.10. According to the Office of Economic and Demographic Research, the current population in Florida is estimated to be about 18.8 million.<sup>7</sup> Therefore, an insignificant fiscal impact is considered to be in the aggregate of \$1.88 million or less.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill would benefit private bookstore operators, as they would not be required to pay sales tax on their payments to the institutions of higher learning.

**C. Government Sector Impact:**

On March 2, 2007, the Consensus Estimating Conference met and projected the following four-year fiscal impact:

	FY 2007-2008 Annualized	FY 2007- 2008 Cash	FY 2008- 2009 Cash	FY 2009- 2010 Cash	FY 2010- 2011 Cash
General Revenue	(\$.6 m)	(\$1.5 m)	(\$.6 m)	(\$.6 m)	(\$.6 m)
State Trust	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
<b>Total State Impact</b>	<b>(\$.6 m)</b>	<b>(\$1.5 m)</b>	<b>(\$.6 m)</b>	<b>(\$.6 m)</b>	<b>(\$.6 m)</b>
Revenue Sharing	(Insignificant)	(\$.1 m)	(Insignificant)	(Insignificant)	(Insignificant)
Local Gov't Half Cent	(\$.1 m)	(\$.1 m)	(\$.1 m)	(\$.1 m)	(\$.1 m)

determines that the law fulfills an important state interest and that specified funding requirements can be demonstrated. This provision also requires two-thirds approval by the membership of each house.

<sup>7</sup> Florida Population and Components of Change, Office of Economic and Demographic Research (Oct. 24, 2006).

Local Option	(\$.1 m)	(\$.1 m)	(\$.1 m)	(\$.1 m)	(\$.1 m)
<b>Total Local Impact</b>	<b>(\$.2 m)</b>	<b>(\$.3 m)</b>	<b>(\$.2 m)</b>	<b>(\$.2 m)</b>	<b>(\$.2 m)</b>
<b>Total Impact</b>	<b>(\$.8 m)</b>	<b>(\$1.8 m)</b>	<b>(\$.8 m)</b>	<b>(\$.8 m)</b>	<b>(\$.8 m)</b>

The Consensus Estimating Conference assumed that the intent of the bill was to refund taxes paid retroactive to January 1, 2006. As this committee substitute expressly precludes refunds from the Department of Revenue for tax, penalty, or interest payments prior to July 1, 2007, the cash impact of the bill is likely less.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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