

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Finance and Tax Committee

BILL: CS/SB 514

INTRODUCER: Finance and Tax Committee and Senator Fasano

SUBJECT: Sales Tax Exemption/Books/Clothing/School Supplies

DATE: April 6, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	ODonnell	McKee	FT	Fav/CS
2.			WPSC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill provides that no sales and use tax will be collected on sales of clothing, wallets, or certain bags having a selling price of \$50 or less during the 5 day period beginning Wednesday, August 11, 2010 and ending midnight Sunday, August 14, 2010. The bill also provides that no sales and use tax shall be collected on sales of an expanded list of school supplies having a selling price of \$10 per item or less during that same period of time.

The Revenue Estimating Conference determined on March 26, 2010 that the impact of a three day (Friday, Saturday and Sunday) tax holiday covering books along with clothing and the expanded list of school supplies, would have a total state cash impact in FY 2010-11 of (\$26.1) million and a statewide local option impact of (\$2.1) million.

II. Present Situation:

Pursuant to chapter 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 specific exemptions from the sales and use tax imposed by that 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, or exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(7), F.S., provides for 56 miscellaneous exemptions.

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions “subject to the state tax imposed by chapter 212 on sales, use, services, rentals, admissions, and other transactions” and on communications services by chapter 202, F.S. However, the surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property.

Since 1998, the Legislature has enacted several temporary “Tax Holidays.” In 1998, 1999, 2000, 2001, 2004, 2005, 2006 and 2007 the Legislature provided a temporary exemption for such holidays. See (Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63 and 2007-144 L.O.F.) In 2008, a similar bill did not pass. The 2007 act provided that no sales and use tax would be collected on sales of books, clothing, wallets, or bags having a selling price of \$50 or less during the last 9 days of July 2007. The term “book” was defined to mean a set of printed sheets bound together and published in a volume but did not include newspapers, magazines or other periodicals. The term “clothing” was defined to mean any article of wearing apparel intended to be worn on or about the human body, including all footwear, except skis, swim fins, roller blades, and other skates, but did not include watches, watchbands, jewelry, umbrellas, or handkerchiefs. The term “bags” included handbags, backpacks, fanny packs, and diaper bags but excluded briefcases, suitcases, and other garment bags. Also exempt were school supplies having a selling price of \$10 per item or less. The term “school supplies” included 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.

III. Effect of Proposed Changes:

The bill creates a 5 day sales tax exemption for certain items of tangible personal property.

The bill provides that no sales and use tax will be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of \$50 or less during the 5 day period beginning Wednesday, August 11, 2010 and ending midnight Sunday, August 14, 2010. The term “clothing” means 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, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs.

This bill also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during the same 5 day period. The term “school supplies” means 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, protractors, computer discs, compasses, and calculators.

This sales tax exemption does not apply to sales within a theme park or entertainment complex, as defined in ss. 509.013(4), a public lodging establishment, as defined in ss. 509.013(4), or an airport, as defined in 330.27(2), F.S. The Department is authorized to adopt rules to administer the exemption.

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 two-thirds 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 a sales tax exemption that will reduce the municipalities’ and counties’ local option sales tax collections, thereby reducing their revenue-raising authority. It is estimated the fiscal impact on local governments of a sales tax exemption of 3 days or more for school supplies and clothing could exceed \$1.9 million in the aggregate.

Because no exemption appears to apply and the potential impact to local governments is significant, the 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.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Conference has estimated the revenue impact of a one-time 3 day tax holiday held in August, 2010, and including books and clothing items sold for less than \$50 and school supplies, including the expanded list of school supplies, sold for less than \$10 as follows:

	FY 2010-11 Cash	FY 2010-11 Annualized	FY 2010-11 Cash	FY 2011-12 Cash	FY 2012-13 Cash
General Revenue	(21.3)				
State Trust	(Insignificant)				
Total State Impact	(21.3)				
Revenue Sharing	(.7)				
Local Gov’t Half Cent	(2.0)				
Local Option	(2.1)				

Total Local Impact	(4.8)				
Total Impact	(26.1)				

B. Private Sector Impact:

During the specified period, clothing, wallets, and bags selling for \$100 or less and school supplies selling for \$10 or less can be purchased for 6 percent to 8.5 percent less depending on the local option sales surtax rate. Given the timing of the tax-free period, families will be able to save money on clothing and school supplies prior to the beginning of the school year. Moreover, the tax exemptions provided by the bill should significantly increase sales of non-exempt items during the tax-free days.

Although retail sellers may incur some costs for the reprogramming of cash registers and accounting systems, these costs should be mitigated by the existence of procedures developed for previous tax-free shopping periods.

C. Government Sector Impact:

The Department of Revenue is granted authority to adopt rules to carry out the provisions of the bill on an emergency basis. The Department is appropriated money from the General Revenue Fund to alert dealers of the temporary exemption period and to provide dealers with a comprehensive list of exempt items via a “Taxpayer Information Publication” that is mailed to dealers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
 (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on April 6, 2010:

The bill creates a 5 day sales tax exemption for certain items of tangible personal property. The bill provides that no sales and use tax will be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of \$50 or less during the 5 day period beginning Wednesday, August 11, 2010 and ending midnight Sunday, August 14, 2010. The term “clothing” means 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, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs.

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B. Amendments:

None.