

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 893 Tax on Sales, Use, and Other Transactions  
**SPONSOR(S):** Policy & Budget Council; Schools & Learning Council; Coley  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2094

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| REFERENCE                                | ACTION                  | ANALYST        | STAFF DIRECTOR |
|--|-------------------------|----------------|----------------|
| 1) <u>Schools &amp; Learning Council</u> | <u>12 Y, 0 N, As CS</u> | <u>Eggers</u>  | <u>Cobb</u>    |
| 2) <u>Policy &amp; Budget Council</u>    | <u>27 Y, 2 N, As CS</u> | <u>Jacobik</u> | <u>Hansen</u>  |
| 3) _____                                 | _____                   | _____          | _____          |
| 4) _____                                 | _____                   | _____          | _____          |
| 5) _____                                 | _____                   | _____          | _____          |

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### SUMMARY ANALYSIS

HB 893 establishes a sales tax holiday on August 2-11, 2008 (10 days). During the sales tax holiday, books, clothing, footwear, wallets, and bags that cost \$50 or less, and school supplies that cost \$10 or less, are exempt from the state sales tax and county discretionary sales surtaxes (commonly called "local option sales taxes"). The bill specifies that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. The bill provides a \$232,593 appropriation to the Department of Revenue for the administration of the sales tax holiday.

The bill is estimated to reduce state revenues by \$40.7 million and local revenues by \$9.0 million in FY 08-09.

This bill reduces the authority that counties have to raise revenue through local option discretionary sales surtaxes by \$7.7 million. No exemption applies, therefore the bill must have a 2/3 vote of the membership of each house.

This bill provides an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The bill reduces state and local tax collections.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

Current law imposes a 6-percent tax on the retail sale of tangible personal property,<sup>1</sup> which includes books, clothing, footwear, wallets, bags, and school supplies.

In addition, county governments may impose discretionary sales surtaxes (e.g., indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax).<sup>2</sup> County discretionary sales surtaxes (commonly called “local option sales taxes”) apply to all transactions in the county which are subject to the state sales tax.<sup>3</sup>

##### History of Sales Tax Holidays:

Since 1998, the Legislature has enacted eight similar temporary exemptions (commonly called “sales tax holidays”) from the state sales tax and county discretionary sales surtaxes.<sup>4</sup> The 1998 sales tax holiday exempted clothing and footwear that cost \$50 or less from taxation for 7 days.

From 1999-2001 and 2004-2006, each sales tax holiday has lasted for 9 days. The 2007 sales tax holiday lasted for 10 days.

Beginning in 1999, in addition to exempting clothing and footwear from taxation, each sales tax holiday has also exempted wallets and bags.

Except for 1999 and 2000, the sales tax holiday has been limited to clothing, footwear, wallets, and bags that cost \$50 or less. In 1999 and 2000, the Legislature increased the exemption to \$100 or less.

Beginning in 2001, each sales tax holiday has also exempted school supplies that cost \$10 or less from taxation. Since 2004, the Legislature has also exempted books that cost \$50 or less from taxation.

For each sales tax holiday, the Legislature has provided the Department of Revenue with an appropriation ranging from \$200,000 to \$224,110 to administer the sales tax holiday.

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<sup>1</sup> Sections 212.02(19) and 212.05(1)(a)1.a., Florida Statutes.

<sup>2</sup> Section 212.055, Florida Statutes.

<sup>3</sup> Section 212.054(2)(a), Florida Statutes.

<sup>4</sup> Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63, and 2007-144, Laws of Florida.

The following table summarizes the history of the sales tax holidays:

| Dates                  | Length  | TAX EXEMPTION THRESHOLDS |                  |              |                    | Appropriation/<br>DOR |
|------------------------|---------|--------------------------|------------------|--------------|--------------------|-----------------------|
|                        |         | Clothing/<br>Footwear    | Wallets/<br>Bags | Books        | School<br>Supplies |                       |
| August 15-21, 1998     | 7 days  | \$50 or less             | N/A              | N/A          | N/A                | \$200,000             |
| July 31-August 8, 1999 | 9 days  | \$100 or less            | \$100 or less    | N/A          | N/A                | \$200,000             |
| July 29-August 6, 2000 | 9 days  | \$100 or less            | \$100 or less    | N/A          | N/A                | \$215,000             |
| July 28-August 5, 2001 | 9 days  | \$50 or less             | \$50 or less     | N/A          | \$10 or less       | \$200,000             |
| July 24-August 1, 2004 | 9 days  | \$50 or less             | \$50 or less     | \$50 or less | \$10 or less       | \$206,000             |
| July 23-31, 2005       | 9 days  | \$50 or less             | \$50 or less     | \$50 or less | \$10 or less       | \$206,000             |
| July 22-30, 2006       | 9 days  | \$50 or less             | \$50 or less     | \$50 or less | \$10 or less       | \$206,000             |
| August 4-13, 2007      | 10 days | \$50 or less             | \$50 or less     | \$50 or less | \$10 or less       | \$224,110             |

#### Tax Information Publications:

Since 2004, the Department of Revenue has published a Tax Information Publication (“TIP”) for each sales tax holiday.<sup>5</sup> A TIP provides detailed information about the sales tax holiday, including instructions and specific examples, for dealers who collect the tax.

#### Proposed Changes:

The bill establishes a 2008 sales tax holiday on August 2-11, 2008 (10 days). During the sales tax holiday, the following items that cost \$50 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Books (defined as “printed sheets bound together and published in a volume,” but excluding newspapers, magazines, and other periodicals);
- Clothing and Footwear (defined as an “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 excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

During the 10-day sales tax holiday, the bill also exempts school supplies that cost \$10 or less per item. From 2001 through 2007, the school supplies exempted were “pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.” In addition to these items, the bill includes the following for the 2008 exemption, “binders, lunch boxes, construction paper, markers, folders, and poster board.”

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, any sales in these locations will be subject to taxation during the sales tax holiday.

The bill authorizes the Department of Revenue to adopt rules to carry out the sales tax holiday.

The bill provides an appropriation of \$232,593 in non-recurring General Revenue to the Department of Revenue for administering the sales tax holiday during the 2007-08 fiscal year.

<sup>5</sup> See Florida Department of Revenue, *2004 Sales Tax Holiday*, TIP# 04A01-05 (June 10, 2004); *2005 Sales Tax Holiday*, TIP# 05A01-02 (June 1, 2005), *2006 Sales Tax Holiday*, TIP# 06A01-04 (June 9, 2006), and *2007 Sales Tax Holiday*, TIP# 07A01-07 (June 15, 2007).

The bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law which creates a temporary exemption from the state sales tax and county discretionary sales surtaxes.

Section 2. Provides an appropriation.

Section 3. Provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that the sales tax holiday will reduce state revenue by \$40.7 million.<sup>6</sup> The bill is expected to reduce General Revenue by \$40.6 million and state trust revenue by \$0.1 million.

2. Expenditures:

According to the Department of Revenue, the bill is estimated to require a nonrecurring appropriations impact of \$232,593 in FY 2007-08. This estimate is based on printing and postage for a Tax Information Publication ("TIP") on the 2008 Sales Tax Holiday to be mailed to the state's 650,000 projected active sales tax accounts. In addition, the estimate includes printing of an additional 10,000 copies of the TIP to be used for taxpayer education seminars and distribution to the public upon request. Vendor payment must be made in June 2008 in order to have the TIP mailed timely.

|          |         |   |         |                      |   |                  |
|----------|---------|---|---------|----------------------|---|------------------|
| Printing | 650,000 | X | \$.1148 | personalized TIP     | = | \$74,620         |
| Printing | 10,000  | X | \$.1323 | non-personalized TIP | = | \$1,323          |
| Postage  | 650,000 | X | \$.241  | standard postage     | = | <u>\$156,650</u> |
| Total    |         |   |         |                      | = | \$232,593        |

The bill provides an appropriation of \$232,593 for the Department of Revenue to administer the sales tax holiday in fiscal year 2008-09, which is later than the funds are required.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that the sales tax holiday will have the following impact on local government.<sup>7</sup>

|                       | FY 2008-09   |
|-----------------------|--------------|
| Revenue Sharing       | (1.3)        |
| Local Gov't Half Cent | (3.9)        |
| Local Option          | <u>(3.8)</u> |
| Total Local Impact    | (9.0)        |

2. Expenditures

<sup>6</sup> Revenue Estimating Conference, Florida Office of Economic and Demographic Research, available at <http://edr.state.fl.us/conferences/revenueimpact/2008/pdf/impact0229.pdf> (Feb. 29, 2008).

<sup>7</sup> Revenue Estimating Conference, *supra* note 6.

None.

#### **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Due to the timing of the sales tax holiday, families will be able to save money on books, clothing, footwear, wallets, bags, and school supplies before the beginning of the school year. In addition, the tax exemption will likely increase the sales of exempt items during the 10-day sales tax holiday.

Although retail sellers may incur costs of reprogramming cash registers and accounting systems, the costs would likely be mitigated by the use of existing procedures developed for previous sales tax holidays.

#### **C. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

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

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

Section 18(b), Article VII of the State Constitution specifies that, "[e]xcept upon approval of each house of the legislature by two-thirds 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 revenues in the aggregate, as such authority exists on February 1, 1989."

This bill reduces the authority that counties have to raise revenue through local option discretionary sales surtaxes by \$7.7 million. No exemption applies, therefore the bill must have a 2/3 vote of the membership of each house.

##### **2. Other:**

None.

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

The bill provides that "[n]otwithstanding chapter 120, Florida Statutes, the Department of Revenue may adopt rules to carry out this section." Thus, the bill authorizes, but does not require, the department to adopt rules concerning the sales tax holiday. If the department decides to adopt rules, the bill appears to exempt the department from the rulemaking requirements in chapter 120, Florida Statutes (Administrative Procedure Act). According to the Department of Revenue, it has not adopted rules for the previous sales tax holidays but instead has issued a Tax Information Publication ("TIP") and other written interpretations of law issued to taxpayers and dealers who collect the tax.

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

None.

#### **STATEMENT OF THE SPONSOR**

### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On April 10, 2008, the Policy and Budget Council adopted one amendment changing the Department of Revenue appropriation from fiscal year 2008-09 to fiscal year 2007-08 and changing the effective date from July 1, 2008 to upon becoming law. This analysis has been updated to reflect these changes.