

Session Spotlight

DOWN TO THE WIRE: LEGISLATURE PASSES A CONTROVERSIAL \$121.5 MILLION TAX CUT PACKAGE AS THE REGULAR SESSION ENDS

MAY 4, 2019

On Thursday, May 2, the Senate took up the tax package passed by the House (HB 7123) and adopted a strike-all amendment that put the Senate package on the bill. It kept many of the provisions (with some changes), added some new provisions, and removed one controversial provision, and changed another.

After considerable behind the scenes negotiations, the House took the tax package up Friday night and added a couple more amendments, including a brand-new provision that had not been considered this session and one that changed a controversial charter school provision again. After some heated debate, the Senate accepted the amendments and passed the bill at 11:10 pm. It was a surprisingly close 23-17 vote. The previous Senate vote on the bill was 38-2.

Several of the Senate additions were part of its tax package last session but were not included in the final bill. The Senate bill provides \$48.5 million in one-time tax savings and \$73.0 million in recurring savings. The House bill had \$47.1 million in one-time and \$114.0 million in recurring savings. Here are the provisions of the final bill and how it differs from the original House package.

PROVISIONS IN BOTH BILLS:

Business Rent Tax - Cuts the sales tax on commercial leases from 5.7 percent to 5.5 percent, effective January 1, 2020. This will save renters of commercial property \$30.8 million in FY2019-20 and \$64.5 million annually. *This is a top Florida TaxWatch priority. House: reduced the tax rate to 5.35 percent.*

“Back to School” Sales Tax

Holiday - Creates a 5-day holiday from August 2-6, 2019. During this time, sales of clothing priced \$60 or less, school supplies priced \$15 or less, and computers and accessories with a sales price of \$1,000 or less per item and purchased for noncommercial use will be exempt from state and local sales taxes. Retailers whose sales of exempt items comprise less than 5 percent of total sales may opt-out. This will save consumers \$41.7 million one time. *House: 3-day holiday, the computer exemption was on the first \$1,000 of the sales price.*

Hurricane Sales Tax Holiday

Creates a 7-day holiday for disaster preparedness supplies from May 31 – June 6, 2019. Exempt items and their price limits are: flashlights (\$20), portable radios (\$50), tarps (\$50), tie-down kits (\$50), fuel tanks (\$25), batteries (\$30 a package), non-electric coolers

(\$30), portable generators (\$750), and reusable ice (\$10). This will save consumers \$5.5 million (one-time). **House: same**

Insurance Premium Tax Credit Flexibility –

In the Florida Tax Credit Scholarships Program, an insurer will be able to make a contribution up until the date the insurer is required to file a return for that year (no later than the following March 1) rather than the end of the calendar year. This will allow potential contributors to know their tax liability before deciding on the contribution. The taxpayer will also be able to apply the credit against any installment payment for the taxable year. This will reduce state revenues by \$1.1 million annually.

House: same

School Property Tax Referendums – After initially taking out this controversial provision, the Senate amended its amendment to put it back in, but with an important change. The bill requires that revenue from additional voter approved operational school millage levies be shared proportionately with charter schools. Supporters of this provision believe some school districts are writing referenda in a way to “skirt the law” and not share the money with charters. This has resulted in two lawsuits. The House provisions applied to collections after July 1, 2019, meaning that existing levies would be subject to the provisions, even those that specifically exclude charters. The new Senate provision makes it prospective, applying it only to levies approved by the voters after July 1, 2019. This is the right approach. Florida TaxWatch supports sharing the money with public charter schools, but what voters have already decided should be respected. **House:** provision would apply to existing levies. When the bill came back to the House, it accepted making it prospective but added an amendment mandating how the money would be distributed, requiring it to be shared with charter schools based on each charter school’s proportionate share of the district’s total unweighted full-time equivalent student enrollment. **Original House version: provision would apply to existing levies.**

Property Taxes Administration – DOR would be allowed more flexibility in estimating a county’s level of assessment following a natural disaster. The bill also extends from January 2020 to June 2020 the timing of reimbursements to fiscally constrained and Monroe counties to offset property tax losses resulting from hurricane tax relief passed by the 2018 Legislature. This will allow the Legislature to determine the necessary appropriation based on actual data instead of estimates. **House: same**

PROVISIONS ONLY IN SENATE BILL: Hurricane Tax Relief for Agriculture:

- **Property Tax** - In counties affected by Hurricane Michael and for 2019 only, tangible personal property owned by a farm or agriculture processing facility will be valued at no greater than its salvage value if the property was unable to be used for at least 60 days due to the hurricane. This will save \$0.5 million.
- **Sales Tax** - A refund is provided for sales taxes paid for materials used to replace or repair fencing or non-residential farm buildings on agricultural property damaged by Hurricane Michael. This will save \$0.5 million.
- **Fuel Tax** – A refund is provided for fuel taxes used for agricultural shipment or hurricane debris removal after Hurricane Michael. This will save \$0.3 million.

Documentary Stamp Tax – Currently, the transfer of homestead property deeds between spouses are exempt if the deed is recorded within one year of marriage. The bill removes the one-year limitation. This will save \$0.3 million annually.

Non-Profit Exemption – Creates a sales tax exemption for items purchased for resale and subsequently donated to a 501(c)(3) organization. This will save \$4.9 million annually.

Traffic Fines – Increases the discount on traffic infraction fines for attending a driver improvement course from 9 percent to 18 percent. This will save \$1.8 million annually.

Court Fees – Deposits all revenue from a \$100 filing fee for attorneys appearing pro hac vice (out-of-state attorneys appearing in one case) and a \$25 marriage license application fee into the State Courts Revenue Trust Fund. Half of the revenue for the fees currently goes to General Revenue. This will add \$1.8 million to the court fund.

PROVISION ADDED BY THE HOUSE AFTER PASSED BY THE SENATE:

Right-of-Way Permit Fees – After the Senate sent the amended version of the tax package back to the House, the House added two provisions. One was the change to the charter school funding provision described above and the other was language that had not been considered this session and was not in any other bill. The amendment creates an exemption from permit fees charged by local governments for the use of right-of-way to a person who does not remit communication services taxes imposed by a municipality or county, but “sells communications services for resale to a person who sells such services at retail or who integrates such services into communications services sold at retail in that municipality or county and who remits communications services taxes imposed by that municipality or county.” The practical impact of this was not described but the sponsors said it will cost local governments \$400,000.

PROVISION IN THE HOUSE BILL REMOVED BY THE SENATE AMENDMENT:

Hospital Property Tax Exemption - Non-profit hospitals are currently exempt from property taxes. The bill would limit that exemption to the value of charitable services they provide. Hospitals would have to demonstrate the value of charitable services by submitting information from their IRS filings.

REMOTE SALES TAXES AGAIN NOT ADDRESSED

Once again, the Legislature unfortunately did not address the non-collection of sales taxes on remote sales by removing the burden of remitting the tax from Florida consumers and putting it where it belongs—on the remote seller. This is despite the U.S. Supreme Court’s *Wayfair* decision opening the door to this solution (such as contained in SB 1112) and Florida being only one of four states that have yet to act. This is also the first time Florida had an official (can be budgeted) estimate of the revenue impact. The \$700 million in revenue could have been used to reduce other taxes, such as reducing the business rent tax to 3.5%. This inaction means Florida’s retailers will still be at a competitive disadvantage, some Floridians will pay the tax while others will not, and those that do not will continue to face potential collection action by the state.

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