

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1921

Bill Subtitle: TO ENCOURAGE CHARITABLE GIVING AND ELIMINATE PERVERSE AND ABSURD TAXES AND DISINCENTIVES ON CHARITABLE GIVING; AND TO EXEMPT CERTAIN WITHDRAWALS OF STOCK FROM THE SALES AND USE TAX.

Basic Change : Sponsor: Representative Lemons

The bill provides a sales tax exemption for items withdrawn from inventory by a business if the property is withdrawn for purposes of consumption or use by:

- A nonprofit organization classified in 26 U.S.C. § 501(c);
- A public educational institution;
- A nonprofit church; and
- A private individual who has suffered damage or loss as the result of a natural disaster if:
 - The individual resides in an area of the state which has been declared a disaster area by the Governor; *and*
 - The business provides a sworn affidavit to the Department of Finance and Administration regarding the type of merchandise withdrawn and the area of the state where the recipient resides.

Under current law, withdrawals from stock by a business for its own use or use by others is subject to state and local sales tax based on the value of the property withdrawn regardless of the purpose for the withdrawal. State law provides that property purchased by a business as inventory may be purchased tax free. Sales tax should then be collected when the property is sold at retail to a consumer. If the business instead removes the property from inventory, current law requires the business to pay the sales tax due on the value of the items withdrawn that were originally purchased tax free. The bill establishes a value of \$0.00 if the property withdrawn is for the purpose as stated. The proposal contains an emergency clause and would be effective on the first day of the calendar quarter following the effective date of the act.

Revenue Impact :

FY2016

Total Impact to State Revenues - \$.733 million

(Estimated Effective Date 10/01/15 --- 8 months reduced tax collections)

- \$.491 million --- State General Revenue (4.5%)
- \$.096million --- Educational Adequacy (.875% tax)
- \$.055 million --- Property Tax Relief Trust Fund (.5%)
- \$.014 million --- Conservation Tax (.125%)
- \$.055 million --- Highway Fund (.5%)
- \$ 0 --- Educational Excellence Trust Fund
- \$ 0 --- Educational Adequacy (GR transfer)
- \$.016 million --- State Central Services
- \$.007 million --- Constitutional Officers

Total Impact to City and County Sales Tax - \$150,000

FY17 Tax Decrease

Total Impact to State Revenues - \$1.1 million

- \$.662 million --- State General Revenue (4.5%)
- \$.143 million --- Educational Adequacy (.875% tax)
- \$.082 million --- Property Tax Relief Trust Fund (.5%)

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-\$.020 million --- Conservation Tax (.125%)
-\$.082 million --- Highway Fund (.5%)
-\$.069 million --- Educational Excellence Trust Fund
-\$.006 million --- Educational Adequacy (GR transfer)
-\$.024 million --- State Central Services
-\$.011 million --- Constitutional Officers

Total Impact to City and County Sales Tax -\$225,000

Taxpayer Impact :

Retailers would be required to submit a sworn affidavit to DFA describing in detail the merchandise or property withdrawn from stock and the disaster area where each recipient resides.

Resources Required :

None required if storage of recipient affidavits is maintained by the business within their accounting records and be available for subsequent compliance audit in the same manner as business records are maintained for other tax exemptions

Time Required :

Adequate time is provided for implementation

Procedural Changes :

Modification of sales tax rules would be required.

Other Comments :

Page 2 -- Lines 13 through 17 --Storage of affidavits with the required detail information regarding the products withdrawn from stock including recipient identification information should be maintained by the business within their own accounting records and be available for subsequent compliance audit in the same manner as business records are maintained for other tax exemptions

Legal Analysis :

HB1921 provides a sales tax exemption for the value of items previously purchased tax free by a business for resale provided the items are withdrawn from the business's inventory and given to a non-profit charitable organization, a public school, a church, or an individual who suffered damage or loss as a result of a natural disaster. HB1921 will be effective on the first day of the calendar quarter following the effective date of the act.