

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 475 Temporary Sales Tax Exemption for Items Related to Electric Transportation

**SPONSOR(S):** Ways & Means Committee, Killebrew

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	23 Y, 0 N, As CS	Rexford	Aldridge
2) Infrastructure Strategies Committee		Walker	Harrington

### SUMMARY ANALYSIS

The bill exempts from the sales and use tax the retail sale, excluding leases and rentals, of electric bicycles, electric scooters, and protective clothing and equipment from May 1, 2024, through May 31, 2024.

The sales price of the exempted items is limited to:

- \$1,750 or less for electric bicycles;
- \$500 or less for electric scooters;
- \$150 or less for helmets;
- \$50 or less for knee pads or elbow pads;

The bill provides the Department of Revenue with emergency rulemaking authority to implement the act.

The Revenue Estimating Conference (REC) has not estimated the potential revenue impacts of the bill. Based on review of similar language by the REC this year, staff estimates that the bill will have a nonrecurring impact on General Revenue of -\$2.2 million, a nonrecurring negative insignificant impact on state trust funds and a nonrecurring impact on local government revenues of -\$0.6 million.

The bill takes effect upon becoming a law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,<sup>1</sup> admissions,<sup>2</sup> transient rentals,<sup>3</sup> and a limited number of services, and a 5.5 percent sales and use tax on the rental of commercial real estate.<sup>4</sup> Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sale and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>5</sup>

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.<sup>6</sup> A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."<sup>7</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered. Discretionary sales surtax rates currently levied vary by county in a range of 0.0 to 1.5 percent.<sup>8</sup>

Electric-powered bicycles and scooters, helmets, knee pads, and elbow pads are subject to Florida sales tax. However, the sale of bicycle helmets marketed for use by youth are exempt from the sales and use tax.<sup>9</sup>

##### Electric Bicycles and Scooters

Florida law defines the term "electric bicycle" as a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 3 bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.<sup>10</sup>

A "motorized scooter" (also referred to as an electric scooter) is defined as any vehicle or micromobility device<sup>11</sup> that is powered by a motor with or without a seat or saddle for the use of the rider, which is

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

<sup>2</sup> Section 212.04(1)(b), F.S.

<sup>3</sup> Section 212.03(1)(a), F.S.

<sup>4</sup> Section 212.031, F.S.

<sup>5</sup> Section 212.07(2), F.S.

<sup>6</sup> Section 212.055, F.S.

<sup>7</sup> Section 212.054(2)(a), F.S.

<sup>8</sup> Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2024*, [https://floridarevenue.com/Forms\\_library/current/dr15dss\\_24.pdf](https://floridarevenue.com/Forms_library/current/dr15dss_24.pdf) (last visited Jan. 23, 2024).

<sup>9</sup> Section 212.08(7)(III), F.S.

<sup>10</sup> Section 316.003(23), F.S.

<sup>11</sup> The term "micromobility device" is defined as any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground. The term includes motorized scooters and bicycles. Section 316.003(41), F.S.

designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.<sup>12</sup>

Over the years electric scooters and bicycles have become a popular transportation option, especially for those who live in cities.<sup>13</sup> They also offer an alternative mode of transportation for people who would otherwise be prevented from using more traditional modes of transportation.<sup>14</sup>

### Effect of Proposed Changes

The bill exempts from the sales and use tax the retail sale, excluding leases and rentals, of electric bicycles, electric scooters, and protective clothing and equipment from May 1, 2024, through May 31, 2024.

The bill uses the existing statutory definition for electric bicycle, but defines:

- “Electric scooter” as a vehicle having two or fewer wheels, with or without a seat or saddle, which is equipped to be propelled by a motor and which weighs less than 75 pounds, is less than 2 feet wide, and is designed for a maximum speed of less than 35 miles per hour; and
- “Protective clothing and equipment” as apparel designed and intended for use during the operation of an electric bicycle or electric scooter which incorporates padding to protect from or mitigate injury.

The sales price of the exempted items is limited to:

- \$1,750 or less for electric bicycles;
- \$500 or less for electric scooters;
- \$150 or less for helmets;
- \$50 or less for knee pads or elbow pads;

The bill provides the Department of Revenue (DOR) with emergency rulemaking authority to implement the act.

The bill takes effect upon becoming a law.

### B. SECTION DIRECTORY:

**Section 1:** Provides a temporary sales tax exemption for electric bicycles and scooters and certain protective clothing and equipment. Provides the Department of Revenue with emergency rulemaking authority for the purpose of implementing the act.

**Section 2:** Provides that the bill is effective upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference (REC) has not estimated the potential revenue impacts of the bill. Based on review of similar language by the REC this year, staff estimates that the bill will have a nonrecurring impact on General Revenue of -\$2.2 million and a nonrecurring negative insignificant impact on state trust funds.

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<sup>12</sup> Section 316.003(48), F.S.

<sup>13</sup> U.S. Department of Transportation, Federal Highway Administration, *Public Roads-2021*, <https://highways.dot.gov/public-roads/spring-2021/02#:~:text=Other%20definitions%20of%20micromobility%20focus,%5B1%20meter%5D%20wide>. (last visited Jan. 23, 2024).

<sup>14</sup> *Id.*

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC has not estimated the potential revenue impacts of the bill. Based on review of similar language by the REC this year, staff estimates that the bill will have a nonrecurring impact on local government revenues of -\$0.6 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the DOR with emergency rulemaking authority to implement the provisions of the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 31, 2024, the Ways & Means Committee considered a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS:

- Removed the definition of “micromobility vehicle” and “related personal safety equipment” and replaced them with definitions of “electric bicycle,” “electric scooter,” and “protective clothing and equipment.”
- Narrowed the period of the sales tax holiday from a one-year tax holiday for fiscal year 2024-25; to a one-month tax holiday in May 2024.
- Narrowed the exemption to electric bicycles with a sales price of \$1,750 or less, electric scooters with a sales price of \$500 or less, or knee pads or elbow pads with a sales price of \$50 or less.

This analysis is drafted to the committee substitute as approved by the Ways & Means Committee.