



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

Sam Benham

### Sub. S.B. 226

132nd General Assembly  
(As Passed by the General Assembly)

**Sens.** Bacon, Eklund, LaRose, Yuko, Oelslager, Manning, Hottinger, Lehner, Terhar, Beagle, Hackett, Wilson, Balderson, Brown, Burke, Dolan, Gardner, Hoagland, Huffman, Kunze, Obhof, O'Brien, Peterson, Schiavoni, Sykes, Tavares, Thomas, Uecker, Williams

**Reps.** Schaffer, Rogers, Anielski, Cera, Hambley, Patmon, Retherford, Antani, Antonio, Arndt, Ashford, Boggs, Brenner, Brown, Carfagna, Celebrezze, Clyde, Craig, Edwards, Faber, Galonski, Gavarone, Green, Greenspan, Hagan, Holmes, Hood, Hoops, Hughes, Koehler, Landis, LaTourette, Leland, Lepore-Hagan, Lipps, Manning, Merrin, Miller, O'Brien, Patterson, Patton, Pelanda, Reineke, Rezabek, Riedel, Roegner, Romanchuk, Schuring, Slaby, K. Smith, R. Smith, Stein, Thompson, Wiggam, Young

**Effective date:** Emergency: March 30, 2018

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## ACT SUMMARY

- Exempts sales of clothing and school supplies and instructional materials from sales and use taxation during a three-day period in August of each year.
  - Specifically authorizes a county school financing district property tax for school safety, security, and mental health services.
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## CONTENT AND OPERATION

### Sales tax holiday for back-to-school supplies

The act establishes a three-day period each year during which clothing and school supplies and instructional materials are exempt from state and local sales and use taxes. Similar sales tax holidays were held in August of 2015, 2016, and 2017; however, those tax holidays were each authorized separately as one-time events. The act essentially makes this tax holiday permanent in each August.

Each year, the tax-exempt period begins on the first Friday of August. As with the prior temporary tax holidays, the act's tax exemption applies to each of the following:

(1) Items of clothing up to \$75 each. "Clothing" means all human wearing apparel suitable for general use, but does not include items such as those used in a trade or business, accessories, or sports or protective equipment.

(2) Items of school supplies and instructional materials up to \$20 each. "School supplies" means items commonly used by a student in a course of study, examples of which are specifically listed in the act, including book bags, crayons, erasers, notebooks, pencils, and pens, among other items. "School instructional materials" means reference books, reference maps and globes, textbooks, and workbooks only.

The exemption applies regardless of whether the sale occurs in Ohio or outside Ohio: if the sale occurs in Ohio, the sale is exempt from the sales taxes; if the sale occurs outside Ohio (for example, by mail-order or over the Internet) but the item is used in Ohio, the sale is exempt from the use taxes that would otherwise apply.<sup>1</sup>

### **Administration**

The act requires the Tax Commissioner to provide informational bulletins explaining the exemption to vendors.<sup>2</sup>

Unlike sales and use tax exemptions for many other sales, under the act's sales tax holiday exemption the purchaser is not required to present an exemption certificate to the seller in order to have the exemption applied to the purchase.<sup>3</sup>

### **County school financing district levy for school safety**

The act authorizes educational service centers (ESCs), through a county school financing district, to levy a property tax specifically to fund school safety, security, and mental health services.<sup>4</sup> Under continuing law, an ESC may create one or more county school financing districts (CSFDs), which are a special-purpose taxing unit empowered to levy property taxes for certain purposes for the benefit of some or all of the ESC member school districts. A member school district may exclude itself from a CSFD, and

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<sup>1</sup> R.C. 5739.02(B)(56).

<sup>2</sup> R.C. 5739.05.

<sup>3</sup> R.C. 5739.03.

<sup>4</sup> R.C. 3311.50 and 5705.215(A)(1) and (2)(f).



a nonmember district may join itself to a CSFD. If a nonmember school board intends to join a CSFD where a tax is already levied, the question of joinder must first be approved by voters of the district. In any case, a CSFD tax may not be levied in any school district unless the district school board consents to the tax. A tax must be approved by the collective majority of voters throughout the CSFD, but not necessarily by the majority of the voters of each district.

A CSFD tax may be levied for funding permanent improvements, special education programs, or "specified educational programs" in member school districts. These levies may be for up to ten years, but a special education or specified educational program levy may, alternatively, be for a continuing period of time. Continuing law requires revenue from a levy for specified educational programs to be used by the ESC to, among other things, make grants to the member school districts or distribute among them as may be specified in the resolution authorizing the levy.<sup>5</sup>

Continuing law imposes no limitations on the services that qualify as a "specified educational program," but the particular program for which the levy will be used must be identified in the resolution levying the tax. The act specifies that one of these identified purposes may be to finance school safety, security, and mental health services, including employing or contracting for the services of safety or mental health personnel, social workers, or counselors. Like other specified educational program levies, a safety, security, or mental health services levy may be for up to ten years or a continuing period of time.<sup>6</sup>

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## HISTORY

ACTION	DATE
Introduced	10-31-17
Reported, S. Ways & Means	01-24-18
Passed Senate (31-0)	02-07-18
Reported, H. Ways & Means	03-15-18
Passed House (93-3)	03-21-18
Senate concurred in House amendments (32-1)	03-21-18

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<sup>5</sup> R.C. 3311.51, not in the act.

<sup>6</sup> R.C. 3311.50 and 5705.215.

