

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs and Domestic Security Committee

BILL: CS/SB 1000

INTRODUCER: Military Affairs and Domestic Security Committee; and Senator Fasano and others

SUBJECT: Discretionary Sales Surtaxes/Fire Rescue

DATE: March 26, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/1 amendment
2.	Pardue	Skelton	MS	Fav/CS
3.			JU	
4.			FT	
5.			WPSC	
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill authorizes certain counties to levy by ordinance a discretionary sales surtax of up to 1 percent for emergency fire rescue services and facilities if such surtax is approved by a majority of the electors of the county voting in a referendum held for such purpose. The bill provides for the distribution of the discretionary surtax proceeds and requires a reduction in ad valorem taxes levied for fire rescue services upon the discretionary sales surtax taking effect.

This bill substantially amends section 212.055, Florida Statutes.

II. Present Situation:

Local Discretionary Sales Surtaxes¹

Seven different types of local discretionary sales surtaxes are authorized in law and apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions as provided in ch. 212, F.S., and communications services as defined for purposes of

¹ Information in this section is provided by the "2008 Local Government Financial Information Handbook," prepared by the Legislative Committee on Intergovernmental Relations, September 2008, pgs. 153-173.

ch. 202, F.S. The local discretionary rate varies from county to county, depending on the levies authorized within each jurisdiction. Discretionary sales surtax must be collected when the transaction occurs in, or delivery is into a county that imposes the surtax, and the sale is subject to the state's sale and use tax.

The Department of Revenue is charged with administering, collecting, and enforcing local discretionary sales surtaxes which must be enacted by an ordinance adopted by the governing body of the county levying the surtax. No initial levy or rate increase or decrease may take effect on a date other than January 1, and no levy may terminate on a day other than December 31.² Not later than 10 days after the adoption of a levy by ordinance or a referendum, but no later than the November 16th prior to the January 1 effective date, the governing body must notify the department of the imposition of the levy. Failure to comply will result in a one-year delay in the effective date of the levy.

The proceeds of each county's discretionary sales surtax collections are transferred to the Discretionary Sales Surtax Clearing Trust Fund³ and a separate account within the trust fund must be established for each county imposing the surtax. The department is authorized to take an administrative cost deduction of not more than 3 percent of the total surtax revenues generated by all levying counties, and administrative costs are prorated among the counties that levy the tax based on the amount collected in each county.

The seven types of discretionary sales surtax are: charter county transit system surtax, local government infrastructure surtax, small county surtax, indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax, and the voter-approved indigent care surtax.

III. Effect of Proposed Changes:

The bill creates subsection (8) in s. 212.055, F.S., relating to discretionary sales surtaxes, to provide the following:

Emergency Fire Rescue Services and Facilities Surtax

The governing authority of each county that provides emergency fire rescue services through the imposition of ad valorem taxes may adopt an ordinance imposing a discretionary sales surtax of up to 1 percent for emergency fire rescue services, providing the following conditions are met:

- If the surtax is authorized, the county governing authority must designate an Interlocal Agreement Facilitator who must develop an interlocal agreement to be executed by the county governing body and participating jurisdictions;
- The interlocal agreement includes the majority of the service providers in the county; and
- The county must manage and distribute surtax proceeds to participating jurisdictions.

² Section 212.054(5), F.S.

³ Section 212.054(4)(b), F.S.

Once a county governing authority has adopted an ordinance and after an interlocal agreement has been entered into, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance, and will take effect if approved by a majority of the electors of the county voting in the referendum. The interlocal agreement is a condition precedent to hold the referendum.

After the levy of the surtax has been approved by referendum, the following conditions must be met:

- The Department of Revenue must administer, collect, and enforce the surtax as required under s. 212.054(4), F.S.;
- The surtax, less the Department of Revenue's costs of administration, must be distributed to the county. Each county imposing the surtax is authorized to retain up to 2 percent of the total tax collected within the county for administrative expenses relating to the receipt and distribution of surtax revenues from the state;
- The appropriate portions of proceeds must be distributed to the participating municipalities and special fire control and rescue districts under an interlocal agreement between the county governing authority and the governing body of a municipality, dependent special districts, independent special districts, or the municipal service taxing units representing a majority of the population served by municipal emergency fire rescue service providers within the county;
- The interlocal agreement must, at a minimum, specify:
 - A distribution formula for dividing the entire amount of the surtax proceeds among the county and all municipalities and special fire control and rescue districts within the county choosing to participate, which shall:
 - Distribute the proceeds to all parties in the interlocal agreement based on the actual amounts collected within each participating jurisdiction as determined by the Department of Revenue's population allocation; or
 - If a county has special fire control and rescue districts within its boundaries, distribute the proceeds among the county and each participating municipality based on the ad valorem and non-ad valorem assessments expended by each entity for emergency fire rescue services in each of the immediately preceding 5 years in proportion to the total of such ad valorem and non-ad valorem assessments expended within the county; and
 - A service provider who provides services on a long-term basis to another jurisdiction is entitled to compensation for services from the requesting jurisdiction's share of surtax proceeds.

After the surtax is in effect and collections have begun, a county and any participating municipality and special fire control and rescue district entering into an interlocal agreement must reduce the ad valorem tax levy and any non-ad valorem assessments for emergency fire rescue services in the next and subsequent budgets by the estimated amount of surtax revenues.

The use of surtax proceeds does not relieve any local government of complying with the provisions of ch. 200, F.S., and any related provisions of law that establish millage caps, limits on undesignated budget reserves, procedures for establishing rollback rates for ad valorem taxes,

and budget adoption. In any year that surtax collections exceed the estimated collections, the surplus shall be used to further reduce ad valorem taxes in the next year. These proceeds shall be applied as a rebate to the final millage after the TRIM notice is completed in accordance with this provision.

Municipalities, special fire control and rescue districts, and contract service providers that do not enter into an interlocal agreement are not eligible to receive a portion of the surtax proceeds collected.

The provisions for distribution of surtax proceeds specified in this act do not apply if one or more of the participating jurisdictions are prohibited from providing the same level of service for prehospital emergency medical treatment within their boundaries as a result of:

- A limitation on providing such services through an interlocal agreement with the county and one or more participating jurisdictions; or
- Any certificate of public convenience and necessity or its equivalent issued by the county is issued solely to a county department or dependent special districts of the county.

Following approval of the levy in a referendum, surtax collections must be initiated on January 1 of the year following a successful referendum in order to coincide with s. 212.054 (5), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill allows for the imposition of a discretionary sales surtax of up to 1 percent if an ordinance is adopted by a county governing authority, and the levy of the tax is approved by a majority of the voters in the county voting in a referendum. Subsequent to approval, ad valorem taxes and non-ad valorem assessments for emergency fire rescue services must be reduced by the amount of the tax collected.

B. Private Sector Impact:

Residents of a county where the referendum is approved will see a reduction in ad valorem taxes and non-ad valorem assessments for emergency fire rescue services and will pay a higher sales tax rate.

C. Government Sector Impact:

The Department of Revenue reported non-recurring operating expenses of \$243,860 to administer provisions of this committee substitute, assuming that all 67 counties would adopt the surtax within the state's 2009-2010 fiscal year:

- The approximate cost of printing and mailing of a tax information publication to all sale and use tax dealers is \$237,860.
- Minimal impact on the SUNTAX Project Office⁴ to implement the bill: 60 contract hours (\$6,000) and 120 in-house hours to accommodate the necessary modifications which include adjusting the distribution program, modifications to the SUNTAX Business Warehouse distribution reporting, new posting, analysis and testing, and other business rules definitions, coding, configuration and testing.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 212.055, F.S., provides for several restrictions on the levy or surtaxes in excess of combined rates:

- A county may not levy the Local Government Infrastructure, Small County, Indigent Care and Trauma Center, and County Public Hospital surtaxes in excess of a combined rate of 1 percent. (ss. 212.055(2)(h) and (3)(f), F.S.)
- A county may not levy the Local Government Infrastructure, Small County, and County Public Hospital surtaxes in excess of a combined rate of 1 percent. (s. 212.055(5)(f), F.S.)
- A county may not levy the voter-approved Indigent Care, the Local Government Infrastructure, and the Small County surtaxes in excess of a combined rate of 1 percent, except that a county with a publicly supported medical school within its jurisdiction or a county with a population of fewer than 50,000 residents may levy a combined rate of not more than 1.5 percent. (s. 212.055(7)(f), F.S.)

The surtax proposed under this bill is not included in these restrictions.

⁴ The SUNTAX project is the Department of Revenue's unified tax accounting computer system.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military Affairs and Domestic Security Committee on March 26, 2009:

This committee substitute:

- Substitutes an Interlocal Agreement Facilitator designated by the county in place of the regional service provider and deletes the requirement that the regional service provider be the county government or unit of local government that funds emergency fire rescue service through ad valorem taxes;
- Deletes the requirement that any county with a population of 1 million or greater must enter into an interlocal agreement with county municipalities. Instead the interlocal agreement shall only include a majority of the service providers in the county;
- Clarifies that a service provider who provides services on a long-term basis to another jurisdiction is entitled to compensation; and
- Provides that any excess collected surtax proceeds be applied as a rebate to the final millage in the next fiscal year.

- B. **Amendments:**

None.