

STORAGE NAME: h0227z.ca

****FAILED TO PASS THE LEGISLATURE****

DATE: May 15, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS**

BILL #: HB 227

RELATING TO: Small County Surtax

SPONSOR(S): Representative K. Smith and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS (PRC) YEAS 9 NAYS 0
 - (2) FINANCE & TAXATION (FRC) YEAS 14 NAYS 0
 - (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

The Senate companion to HB 227, SB 114, was passed by the Legislature. SB 114 is identical to HB 227. On June 14, 2000, the Governor vetoed SB 114.

This bill authorizes counties with a population of 75,000 or less on October 1, 2000, to levy the Small County Surtax at 0.5 or 1 percent. Currently, only those counties with populations of 50,000 or less on April 1, 1992, are authorized to levy the Small County Surtax at 0.5 or 1 percent.

The only county affected by the bill is Putnam County. According to the Legislative Office of Economic and Demographic Research, Putnam County's projected population as of April 1, 2000, is 73,129. Putnam County does not levy the Local Government Infrastructure Surtax. As a result, pursuant to this bill, Putnam County could levy the Small County Surtax at a rate of 0.5 or 1 percent.

The bill has no direct fiscal impact on state government. Should Putnam County choose to levy the Small County Surtax as authorized by this bill, based on 1999-00 estimates, the levy would yield \$2,251,503 at a .05 percent rate or \$4,503,007 at a 1 percent rate.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill does not increase any tax. The bill does provide Putnam County the option of levying the Small County Surtax in addition to its current option of levying the Local Government Infrastructure Surtax.

B. PRESENT SITUATION:

Overview of Local Discretionary Sales Surtaxes

Section 212.055, F.S., authorizes local governments to levy numerous types of local discretionary sales surtaxes. These include:

- (1) The Charter County Transit System Surtax [s. 212.055(1), F.S.];
- (2) The Local Government Infrastructure Surtax [s. 212.055(2), F.S.];
- (3) The Small County Surtax [s. 212.055(3), F.S.];
- (4) The Indigent Care Surtax [s. 212.055(4), F.S.];
- (5) The County Public Hospital Surtax [s. 212.055(5)]; and
- (6) The School Capital Outlay Surtax [s. 212.055(6), F.S.].

Pursuant to section 212.054, F.S., the local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. The surtax is computed by multiplying the rate imposed by the county where the sales occur by the amount of taxable sales. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not applicable to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. The \$5,000 cap does not apply to the sale of any other service.

Section 212.054, F.S., outlines the administrative procedures for local discretionary sales surtaxes authorized in section 212.055, F.S. The Department of Revenue (Department) is charged with administering, collecting, and enforcing local discretionary sales surtaxes in

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accordance with the same procedures used for the state sales tax, except as otherwise noted.

The governing body of any county levying a local discretionary sales surtax must enact an ordinance levying the surtax in accordance with the procedures described in section 125.66(2), F.S. 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.

Pursuant to section 212.054, F.S., the proceeds of each county's discretionary sales surtax collections are transferred to the Discretionary Sales Surtax Trust Fund. A separate account is established for each county imposing a surtax. The trust fund is not subject to the 7.3 percent General Revenue Service Charge, but the Department is authorized to deduct an amount, for its administrative costs, not to exceed 3 percent of the total revenue generated for all counties. The Department currently is not deducting any amount of revenue for administering these taxes.

Section 212.054, F.S., provides for the proceeds of discretionary sales surtaxes collected by a selling dealer located in a county which imposes the surtax to be returned, less the cost of administration, to the county where the selling dealer is located. The Department must distribute the moneys in the trust fund each month to the appropriate counties, unless otherwise provided in section 212.055, F.S. Proceeds of discretionary sales surtaxes collected by a selling dealer in a county that does not impose a discretionary sales surtax but who collects the surtax due to sales of tangible personal property or services delivered outside the county are deposited into a separate account in the Discretionary Sales Surtax Clearing Trust Fund. The Department distributes funds in this account using a distribution factor determined for each county that levies a surtax multiplied by the amount of funds in the account and available for distribution.

Local Government Infrastructure Surtax

Section 212.055(2), F.S., authorizes local governments to levy the Local Government Infrastructure Surtax at a rate of 0.5 or 1 percent. The surtax may be levied county wide by a county governing body or the governing bodies of municipalities representing a majority of the county population. To take effect, the proposal to levy the surtax must be approved by a majority of the electors in a county wide referendum.

All counties are eligible to levy this surtax. However, a county may not levy the following discretionary sales surtaxes in excess of a combined rate of 1 percent: the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care Surtax, and the County Public Hospital Surtax. As of July 8, 1999, twenty-eight counties were levying the surtax. All of the counties were levying at 1 percent with the exception of Bay and Hillsborough counties, which were levying at the rate of 0.5 percent.

Proceeds from the surtax must be shared between the county and the municipalities within the county pursuant to an interlocal agreement between the county governing body and the governing bodies of the municipalities representing a majority of the county's municipal population, or pursuant to the half-cent sales tax formula provided in 218.62, F.S. The interlocal agreement may include the school district.

The surtax proceeds and any accrued interest may be used by the school district, county, or municipalities within the county, or within another county in the case of a negotiated joint county agreement, for the purposes of:

1. Financing, planning, and constructing infrastructure;
2. Acquiring land for public recreation or conservation or protection of natural resource; and
3. Financing the closure of county or municipal-owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closures prior to July 1, 1993, is ratified.

Counties, municipalities, and school districts may pledge the surtax revenues for the purpose of servicing new bonded indebtedness.

Except in certain circumstances, neither the surtax proceeds nor any accrued interest may be used to fund the operational expenses of infrastructure. Also, counties and municipalities are prohibited from using the proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax.

For levies imposed or extended after July 1, 1998, an amount not to exceed 15 percent of the surtax proceeds may be allocated for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The referendum ballot statement must indicate the intention to make such an allocation.

Any county with a population of 50,000 or less as of April 1, 1992, or any county designated as an area of critical state concern, that imposed the surtax before July 1, 1992, may use the proceeds and accrued interest for any public purpose if: (1) the debt service obligations for any year are met, (2) the county's comprehensive plan is in compliance, (3) the county has amended its surtax ordinance. Counties that are designated areas of critical state concern may not expend more than 10 percent of the surtax proceeds for any public purpose other than infrastructure needs.

Section 212.055(2)(d)1., F.S., as amended by chapter 98-258, L.O.F., authorizes any county with a population of 75,000 or less that is required to close a landfill by order of the Department of Environmental Protection to use the proceeds and accrued interest for long-term maintenance costs associated with landfill closures.

Small County Surtax

Pursuant to section 212.055(3), F.S., any county having a total population of 50,000 or less on April 1, 1992, is authorized to levy the Small County Surtax at the rate of 0.5 or 1 percent. Unlike the Local Government Infrastructure Surtax, county governments may impose the levy by either an extraordinary vote of the governing body if the proceeds are to be expended for operating purposes, or by voter approval in a county wide referendum if the proceeds are to be used to service bonded indebtedness. As noted above, a county may not levy the following discretionary sales surtaxes in excess of a combined rate of 1 percent: the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care Surtax, and the County Public Hospital Surtax.

As of July 8, 1999, 12 of 31 small counties levied the Local Government Infrastructure Surtax at 1 percent. As a result, only the remaining 19 small counties were eligible to levy the Small County Surtax. Of the remaining 19 counties, 17 counties were levying at the maximum rate of 1 percent. Only 2 small counties (Franklin and Gulf) were not levying either the Local Government Infrastructure Surtax or the Small County Surtax.

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As with the Local Government Infrastructure Surtax, proceeds from the Small County Surtax must be shared between the county and the municipalities and may be shared with the school district. The distribution formula may be according to an interlocal agreement with the municipalities that represent a majority of the county's municipal population, or the half-cent sales tax formula provided in section 218.62, F.S.

Similar to the Local Government Infrastructure Surtax, if approved by referendum, Small County Surtax proceeds may be used for servicing bonded indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources.

As noted above, unlike the Local Government Infrastructure Surtax, the Small County Surtax may be adopted by an extraordinary vote of the county's governing body without voter approval. Without referendum approval, the proceeds may not be pledged to retire bonded indebtedness, but may be used for any public purpose authorized in the ordinance levying the surtax. In contrast to the Local Government Infrastructure Surtax, under the Small County Surtax there is no restriction against using the proceeds for supplanting or replacing user fees or ad valorem taxes.

Small County Designation in Florida Statutes

Chapter 98-259, L.O.F., changed the population requirement from 50,000 or less to 75,000 or less for a county to be designated or considered a "small county" in ten chapters of the Florida Statutes. This change allowed Columbia, Nassau, and Putnam Counties to qualify for benefits, exemptions, or special considerations available to "small counties." The benefits, exemptions, or special considerations relate to the Small County Technical Assistance Program; local government comprehensive plans; incorporation requirements; provisions of the Local Government Infrastructure Surtax relating to landfill closures and small counties; permit processing fees through the Department of Environmental Protection; supplemental funds from the Local Governments Half-Cent Sales Tax; distributions from the Emergency Management Assistance and Preparedness Trust Fund; transportation project funding; and solid waste management. The population threshold of 50,000 or less on April 1, 1992, to qualify for the Small County Surtax was not changed. Columbia and Nassau Counties meet the existing population threshold, but Putnam County does not.

C. EFFECT OF PROPOSED CHANGES:

Currently, only those counties with populations of 50,000 or less on April 1, 1992, are authorized to levy the Small County Surtax at 0.5 or 1 percent. This bill authorizes counties with a population of 75,000 or less on October 1, 2000, to levy the Small County Surtax at 0.5 or 1 percent.

The only county affected by the bill is Putnam County. According to the Legislative Office of Economic and Demographic Research, Putnam County's estimated population as of April 1, 2000, is 73,129. Putnam County does not levy the Local Government Infrastructure Surtax. As a result, pursuant to this bill Putnam County could levy the Small County Surtax at a rate of 0.5 or 1 percent.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (3) of section 212.055, F.S., is amended to authorize each county that has a population of 75,000 or less on October 1, 2000, to levy the Small County Surtax of 0.5 or 1 percent.

Section 2. An effective date of October 1, 2000, is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no direct effect on state revenues.

2. Expenditures:

This bill does not directly require the expenditure of any state revenue. While the only county affected by this bill, Putnam County, already has the authority to levy the Local Government Infrastructure Surtax, this bill provides the additional option of levying the Small County Surtax. If Putnam County exercises this option, the Department of Revenue, which is charged with administering, collecting, and enforcing local discretionary sales surtaxes, will experience additional workload. As noted in the Present Situation, the Department is authorized to deduct up to 3 percent of all surtax revenues for administrative costs. The Department currently does not deduct any amount for administering these taxes.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Should Putnam County choose to levy the Small County Surtax as authorized by this bill, based on 1999-00 estimates, the levy would yield \$2,251,503 at a .05 percent rate and \$4,503,007 at a 1 percent rate.

2. Expenditures:

This bill does not require any expenditures by local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has no direct economic impact on the private sector. This bill does, however, provide Putnam County the option of levying the Small County Surtax in addition to its current option of levying the Local Government Infrastructure Surtax.

D. FISCAL COMMENTS:

The revenue estimates for Putnam County are taken from the Local Government Financial Information Handbook, September 1999, by the Legislative Committee on Intergovernmental Relations and the Florida Department of Revenue.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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**AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT
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