

By Senator Lee

23-1419-00

1 A bill to be entitled
 2 An act relating to school construction,
 3 renovation, and repair; amending s. 125.01,
 4 F.S.; prohibiting imposition and collection of
 5 impact fees for schools when a local option
 6 sales surtax for funding school construction is
 7 in effect; amending s. 212.054, F.S.;
 8 correcting a cross-reference; amending ss.
 9 212.055, 236.25, F.S.; authorizing school
 10 districts to levy a sales surtax in lieu of
 11 certain ad valorem taxes for school capital
 12 outlay under certain conditions; amending ss.
 13 235.056, 235.199, 235.435, F.S.; conforming to
 14 the change made by this act; providing an
 15 effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Subsection (8) is added to section 125.01,
 20 Florida Statutes, to read:

21 125.01 Powers and duties.--

22 (8) Notwithstanding the authority of counties to
 23 impose impact fees to finance infrastructure improvements, the
 24 governing body of a county may not levy or collect school
 25 impact fees as long as revenue sources for school
 26 construction, renovation, and repair are received pursuant to
 27 referendum approval that results in a school district levying
 28 a local option sales surtax as provided in ss. 212.055(7) and
 29 236.25.

30 Section 2. Subsection (7) of section 212.054, Florida
 31 Statutes, is amended to read:

1 212.054 Discretionary sales surtax; limitations,
2 administration, and collection.--

3 (7)(a) The governing body of any county levying a
4 discretionary sales surtax or the school board of any county
5 levying the school capital outlay surtax authorized by s.
6 212.055(6)~~s. 212.055(7)~~shall notify the department within 10
7 days after final adoption by ordinance or referendum of an
8 imposition, termination, or rate change of the surtax, but no
9 later than November 16 prior to the effective date. The
10 notice must specify the time period during which the surtax
11 will be in effect and the rate and must include a copy of the
12 ordinance and such other information as the department
13 requires by rule. Failure to timely provide such notification
14 to the department shall result in the delay of the effective
15 date for a period of 1 year.

16 (b) In addition to the notification required by
17 paragraph (a), the governing body of any county proposing to
18 levy a discretionary sales surtax or the school board of any
19 county proposing to levy the school capital outlay surtax
20 authorized by s. 212.055(6)~~s. 212.055(7)~~shall notify the
21 department by October 1 if the referendum or consideration of
22 the ordinance that would result in imposition, termination, or
23 rate change of the surtax is scheduled to occur on or after
24 October 1 of that year. Failure to timely provide such
25 notification to the department shall result in the delay of
26 the effective date for a period of 1 year.

27 Section 3. Subsection (7) is added to section 212.055,
28 Florida Statutes, to read:

29 212.055 Discretionary sales surtaxes; legislative
30 intent; authorization and use of proceeds.--It is the
31 legislative intent that any authorization for imposition of a

1 discretionary sales surtax shall be published in the Florida
2 Statutes as a subsection of this section, irrespective of the
3 duration of the levy. Each enactment shall specify the types
4 of counties authorized to levy; the rate or rates which may be
5 imposed; the maximum length of time the surtax may be imposed,
6 if any; the procedure which must be followed to secure voter
7 approval, if required; the purpose for which the proceeds may
8 be expended; and such other requirements as the Legislature
9 may provide. Taxable transactions and administrative
10 procedures shall be as provided in s. 212.054.

11 (7) SCHOOL CAPITAL MILLAGE EXCHANGE SURTAX.--

12 (a) If approved by referendum, the school board in
13 each county may levy a discretionary sales surtax at a rate of
14 1 percent, in exchange for a rollback of 2 mills in ad valorem
15 property tax, or 0.5 percent, in exchange for a rollback of 1
16 mill in ad valorem property tax.

17 (b) If a discretionary sales surtax is levied, the
18 school board resolution shall include a statement that
19 provides a brief and general description of the school capital
20 outlay projects to be funded from the sales surtax. If
21 applicable, the resolution must state that the district school
22 board has been recognized by the State Board of Education as
23 having a Florida Frugal Schools Program.

24 (c) The school board resolution providing for the
25 imposition of the sales surtax must set forth a plan for use
26 of the surtax proceeds for fixed capital costs associated with
27 construction, renovation, or improvement of school facilities
28 and campuses that have a useful life expectancy of 5 years or
29 more and any land acquisition, land improvement, design, and
30 engineering costs related to such construction, renovation, or
31 improvement. Additionally, the plan must include the costs of

1 retrofitting and providing for technology implementation,
2 including hardware and software, for the various sites within
3 the school district. Sales surtax revenues may be used for the
4 purpose of servicing indebtedness on bonds issued to finance
5 projects authorized by this subsection, and any interest
6 accrued thereto may be held in trust to finance such projects.
7 Neither the proceeds of the sales surtax nor any interest
8 accrued thereto may be used for operational expenses. If the
9 district school board has been recognized by the State Board
10 of Education as having a Florida Frugal Schools Program, the
11 district's plan for use of the sales surtax proceeds must be
12 consistent with this subsection and with uses assured under
13 the Florida Frugal Schools Program.

14 (d) Sales surtax revenues collected by the Department
15 of Revenue pursuant to this subsection shall be distributed to
16 the school board imposing the surtax in accordance with law.

17 Section 4. Subsections (2), (3), and (5) of section
18 236.25, Florida Statutes, are amended to read:

19 236.25 District school tax.--

20 (2) In addition to the maximum millage levy as
21 provided in subsection (1), each school board may levy up to
22 not more than 2 mills against the taxable value for school
23 purposes or, if approved by referendum, a local option 1 cent
24 sales surtax in exchange for a rollback of 2 mills ad valorem
25 property tax or 0.5 cent local option sales surtax in exchange
26 for a rollback of 1 mill ad valorem property tax as authorized
27 by s. 212.055(7) to fund:

28 (a) New construction and remodeling projects, as set
29 forth in s. 235.435(3)(b) and (6)(b) and included in the
30 district's educational plant survey pursuant to s. 235.15,
31 without regard to prioritization, sites and site improvement

1 or expansion to new sites, existing sites, auxiliary
2 facilities, athletic facilities, or ancillary facilities.

3 (b) Maintenance, renovation, and repair of existing
4 school plants or of leased facilities to correct deficiencies
5 pursuant to s. 235.056(2).

6 (c) The purchase, lease-purchase, or lease of school
7 buses; drivers' education vehicles; motor vehicles used for
8 the maintenance or operation of plants and equipment; security
9 vehicles; or vehicles used in storing or distributing
10 materials and equipment.

11 (d) The purchase, lease-purchase, or lease of new and
12 replacement equipment.

13 (e) Payments for educational facilities and sites due
14 under a lease-purchase agreement entered into by a school
15 board pursuant to s. 230.23(9)(b)5. or s. 235.056(2), not
16 exceeding, in the aggregate, an amount equal to three-fourths
17 of the proceeds from the millage or the local option sales
18 surtax levied by a school board pursuant to this subsection.

19 (f) Payment of loans approved pursuant to ss. 237.161
20 and 237.162.

21 (g) Payment of costs directly related to complying
22 with state and federal environmental statutes and regulations
23 governing school facilities.

24 (h) Payment of costs of leasing relocatable
25 educational facilities, of renting or leasing educational
26 facilities and sites pursuant to s. 235.056(2), or of renting
27 or leasing buildings or space within existing buildings
28 pursuant to s. 235.056(3).

29
30 Violations of these expenditure provisions shall result in an
31 equal dollar reduction in the Florida Education Finance

1 Program (FEFP) funds for the violating district in the fiscal
2 year following the audit citation.

3 (3) These ad valorem taxes shall be certified,
4 assessed, and collected as prescribed in s. 237.091 and shall
5 be expended as provided by law.

6 (5)(a) It is the intent of the Legislature that, by
7 July 1, 2003, revenue generated by the millage or local option
8 sales surtax levy authorized by subsection (2) should be used
9 only for the costs of construction, renovation, remodeling,
10 maintenance, and repair of the educational plant; for the
11 purchase, lease, or lease-purchase of equipment, educational
12 plants, and construction materials directly related to the
13 delivery of student instruction; for the rental or lease of
14 existing buildings, or space within existing buildings,
15 originally constructed or used for purposes other than
16 education, for conversion to use as educational facilities;
17 for the opening day collection for the library media center of
18 a new school; for the purchase, lease-purchase, or lease of
19 school buses; and for servicing of payments related to
20 certificates of participation issued for any purpose prior to
21 the effective date of this act. Costs associated with the
22 lease-purchase of equipment, educational plants, and school
23 buses may include the issuance of certificates of
24 participation on or after the effective date of this act and
25 the servicing of payments related to certificates so issued.
26 For purposes of this section, "maintenance and repair" is
27 defined in s. 235.011.

28 (b) For purposes not delineated in paragraph (a) for
29 which proceeds received from millage or a local option sales
30 surtax levied under subsection (2) may be legally expended, a
31 district school board may spend no more than the following

1 percentages of the amount the district spent for these
2 purposes in fiscal year 1995-1996:

- 3 1. In fiscal year 1997-1998, 85 percent.
- 4 2. In fiscal year 1998-1999, 70 percent.
- 5 3. In fiscal year 1999-2000, 55 percent.
- 6 4. In fiscal year 2000-2001, 40 percent.
- 7 5. In fiscal year 2001-2002, 25 percent.
- 8 6. In fiscal year 2002-2003, 10 percent.

9 (c) Beginning July 1, 2003, revenue generated by the
10 millage or local option sales surtax levy authorized by
11 subsection (2) must be used only for the purposes delineated
12 in paragraph (a).

13 (d) Notwithstanding any other provision of this
14 subsection, if through its adopted facilities work program a
15 district has clearly identified the need for an ancillary
16 plant, has provided opportunity for public input as to the
17 relative value of the ancillary plant versus an educational
18 plant, and has obtained public approval, the district may use
19 revenue generated by the millage or local option sales surtax
20 levy authorized by subsection (2) for the construction,
21 renovation, remodeling, maintenance, or repair of an ancillary
22 plant.

23
24 A district that violates these expenditure restrictions shall
25 have an equal dollar reduction in funds appropriated to the
26 district under s. 236.081 in the fiscal year following the
27 audit citation. The expenditure restrictions do not apply to
28 any school district that certifies to the Commissioner of
29 Education that all of the district's instructional space needs
30 for the next 5 years can be met from capital outlay sources
31 that the district reasonably expects to receive during the

1 next 5 years or from alternative scheduling or construction,
2 leasing, rezoning, or technological methodologies that exhibit
3 sound management.

4 Section 5. Paragraph (a) of subsection (2) and
5 paragraph (a) of subsection (3) of section 235.056, Florida
6 Statutes, are amended to read:

7 235.056 Lease, rental, and lease-purchase of
8 educational facilities and sites.--

9 (2)(a) A board may rent or lease educational
10 facilities and sites as defined in s. 235.011. Educational
11 facilities and sites rented or leased for 1 year or less shall
12 be funded through the operations budget or funds derived from
13 millage proceeds pursuant to s. 236.25(2) or local option
14 sales surtax or proceeds pursuant to s. 212.055(7). A lease
15 contract for 1 year or less, when extended or renewed beyond a
16 year, becomes a multiple-year lease. Operational funds or
17 funds derived from millage proceeds pursuant to s. 236.25(2)
18 or local option sales surtax or proceeds pursuant to s.
19 212.055(7) may be authorized to be expended for multiple-year
20 leases. All leased facilities and sites must be inspected
21 prior to occupancy by the board's Uniform Building Code
22 inspector, who shall report to the department.

23 1. Beginning July 1, 1995, all newly leased spaces
24 must be inspected and brought into compliance with the state
25 minimum building code pursuant to chapter 553, and the life
26 safety codes pursuant to chapter 633, prior to occupancy,
27 using the board's operations budget or funds derived from
28 millage proceeds pursuant to s. 236.25(2). As an alternative,
29 the board may elect to comply with the State Uniform Building
30 Code for Public Educational Facilities Construction instead of
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1 the state minimum building code or the life safety code, or
2 both.

3 2. Plans for renovation or remodeling of leased space
4 shall conform to state minimum building and life safety codes
5 for educational occupancies, or other occupancies as
6 appropriate, as required in chapters 553 and 633, prior to
7 occupancy. As an alternative, the board may elect to comply
8 with the State Uniform Building Code for Public Educational
9 Facilities Construction instead of the state minimum building
10 code or the life safety code, or both.

11 3. All leased facilities must be inspected annually
12 for firesafety deficiencies in accordance with the applicable
13 code and have corrections made in accordance with s. 235.06.
14 Operational funds or funds derived from millage proceeds
15 pursuant to s. 236.25(2) or local option sales surtax proceeds
16 pursuant to s. 212.055(7) may be used to correct deficiencies
17 in leased space.

18 4. When the board declares that a public emergency
19 exists, it may take up to 30 days to bring the leased facility
20 into compliance with the requirements of Commissioner of
21 Education rules.

22 5. By July 1, 1998, the department shall present to
23 the Governor, the Speaker of the House of Representatives, and
24 the President of the Senate a report on the amount of leased
25 space used by districts for prekindergarten programs and for
26 instructional purposes of elementary schools, middle schools,
27 and high schools. The report shall indicate the number of
28 capital outlay full-time-equivalent students who are
29 instructed in leased spaces, the number of permanent and
30 relocatable facilities which are leased, the number of
31 prekindergarten stations assigned in permanent facilities, the

1 condition of leased facilities in accordance with applicable
2 building and life safety codes, and the methods by which
3 leased spaces are financed. The report shall make
4 recommendations as to prescriptive changes that districts must
5 make with regard to leased facilities, as well as
6 recommendations regarding the assignment of student stations
7 to such facilities.

8 (3)(a) A board may rent or lease existing buildings,
9 or space within existing buildings, originally constructed or
10 used for purposes other than education, for conversion to use
11 as educational facilities. Such buildings rented or leased for
12 1 year or less shall be funded through the operations budget
13 or funds derived from millage pursuant to s. 236.25(2) or the
14 local option sales surtax pursuant to s. 212.055(7). A rental
15 agreement or lease contract for 1 year or less, when extended
16 or renewed beyond a year, becomes a multiple-year rental or
17 lease. Operational funds or funds derived from millage
18 proceeds pursuant to s. 236.25(2) or local option sales surtax
19 proceeds pursuant to s. 212.055(7) may be authorized to be
20 expended for multiple-year rentals or leases. Notwithstanding
21 any other provisions of this section, if a building was
22 constructed in conformance with all applicable building and
23 life safety codes, it shall be deemed to meet the requirements
24 for use and occupancy as an educational facility subject only
25 to the provisions of this subsection.

26 Section 6. Paragraph (b) of subsection (1) of section
27 235.199, Florida Statutes, is amended to read:

28 235.199 Cooperative funding of vocational educational
29 facilities.--

30 (1) Each district school board operating a designated
31 area technical center may submit, prior to August 1 of each

1 year, a request to the commissioner for funds from the Public
2 Education Capital Outlay and Debt Service Trust Fund to plan,
3 construct, and equip a career educational facility identified
4 as being critical to the economic development and the
5 workforce needs of the school district. Prior to submitting a
6 request, each school district shall:

7 (b) Except as provided in paragraph (5)(b), levy the
8 maximum millage against the nonexempt assessed property value
9 as provided in s. 236.25(2) or a local option sales surtax as
10 provided in s. 212.055(7).

11 Section 7. Paragraph (a) of subsection (2) of section
12 235.435, Florida Statutes, is amended to read:

13 235.435 Funds for comprehensive educational plant
14 needs; construction cost maximums for school district capital
15 projects.--Allocations from the Public Education Capital
16 Outlay and Debt Service Trust Fund to the various boards for
17 capital outlay projects shall be determined as follows:

18 (2)(a) The department shall establish, as a part of
19 the Public Education Capital Outlay and Debt Service Trust
20 Fund, a separate account, in an amount determined by the
21 Legislature, to be known as the "Special Facility Construction
22 Account." The Special Facility Construction Account shall be
23 used to provide necessary construction funds to school
24 districts which have urgent construction needs but which lack
25 sufficient resources at present, and cannot reasonably
26 anticipate sufficient resources within the period of the next
27 3 years, for these purposes from currently authorized sources
28 of capital outlay revenue. A school district requesting
29 funding from the Special Facility Construction Account shall
30 submit one specific construction project, not to exceed one
31 complete educational plant, to the Special Facility

1 Construction Committee. No district shall receive funding for
2 more than one approved project in any 3-year period. The first
3 year of the 3-year period shall be the first year a district
4 receives an appropriation. The department shall encourage a
5 construction program that reduces the average size of schools
6 in the district. The request must meet the following criteria
7 to be considered by the committee:

8 1. The project must be deemed a critical need and must
9 be recommended for funding by the Special Facility

10 Construction Committee. Prior to developing plans for the
11 proposed facility, the district school board must request a
12 preapplication review by the Special Facility Construction
13 Committee or a project review subcommittee convened by the
14 committee to include two representatives of the department and
15 two staff from school districts other than the district
16 submitting the project. Within 60 days after receiving the
17 preapplication review request, the committee or subcommittee
18 must meet in the school district to review the project
19 proposal and existing facilities. To determine whether the
20 proposed project is a critical need, the committee or
21 subcommittee shall consider, at a minimum, the capacity of all
22 existing facilities within the district as determined by the
23 Florida Inventory of School Houses; the district's pattern of
24 student growth; the district's existing and projected capital
25 outlay full-time equivalent student enrollment as determined
26 by the department; the district's existing satisfactory
27 student stations; the use of all existing district property
28 and facilities; grade level configurations; and any other
29 information that may affect the need for the proposed project.

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1 2. The construction project must be recommended in the
2 most recent survey or surveys by the district under the rules
3 of the State Board of Education.

4 3. The construction project must appear on the
5 district's approved project priority list under the rules of
6 the State Board of Education.

7 4. The district must have selected and had approved a
8 site for the construction project in compliance with s. 235.19
9 and the rules of the State Board of Education.

10 5. The district shall have developed a school board
11 adopted list of facilities that do not exceed the norm for net
12 square feet occupancy requirements under the State
13 Requirements for Educational Facilities, using all possible
14 programmatic combinations for multiple use of space to obtain
15 maximum daily use of all spaces within the facility under
16 consideration.

17 6. Upon construction, the total cost per student
18 station, including change orders, must not exceed the cost per
19 student station as provided in subsection (6).

20 7. There shall be an agreement signed by the district
21 school board stating that it will advertise for bids within 30
22 days of receipt of its encumbrance authorization from the
23 department.

24 8. The district shall, at the time of the request and
25 for a continuing period of 3 years, levy the maximum millage
26 against their nonexempt assessed property value as allowed in
27 s. 236.25(2) or the local option sales surtax as allowed in s.
28 212.055(7). Effective July 1, 1991, any district with a new or
29 active project, funded under the provisions of this
30 subsection, shall be required to budget no more than the value
31 of 1.5 mills per year to the project to satisfy the annual

1 participation requirement in the Special Facility Construction
2 Account.

3 9. If a contract has not been signed 90 days after the
4 advertising of bids, the funding for the specific project
5 shall revert to the Special Facility New Construction Account
6 to be reallocated to other projects on the list. However, an
7 additional 90 days may be granted by the commissioner.

8 10. The department shall certify the inability of the
9 district to fund the survey-recommended project over a
10 continuous 3-year period using projected capital outlay
11 revenue derived from s. 9(d), Art. XII of the State
12 Constitution, as amended, paragraph (3)(a) of this section,
13 and s. 236.25(2).

14 11. The district shall have on file with the
15 department an adopted resolution acknowledging its 3-year
16 commitment of all unencumbered and future revenue acquired
17 from s. 9(d), Art. XII of the State Constitution, as amended,
18 paragraph (3)(a) of this section, and s. 236.25(2).

19 12. Final phase III plans must be certified by the
20 board as complete and in compliance with the building and life
21 safety codes prior to August 1.

22 Section 8. This act shall take effect July 1, 2000.

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25 SENATE SUMMARY

26 Authorizes a district school board to impose, subject to
27 approval at a referendum, a sales surtax of 1 cent in
28 lieu of 2 mills in ad valorem assessment or 0.5 cent in
29 lieu of 1 mill in ad valorem assessment. The proceeds
30 from the surtax are to be used for school construction,
31 renovation, and repair. While a school district imposes a
sales surtax, impact fees to finance infrastructure
improvements may not be imposed or collected.