

1 A bill to be entitled
2 An act relating to taxation; amending s.
3 236.25, F.S.; allowing certain school districts
4 to levy, by referendum, additional district
5 school taxes; providing limitations on the uses
6 of the resulting revenues; amending s. 236.31,
7 F.S.; providing for millage elections pursuant
8 to s. 236.25, F.S.; amending s. 236.32, F.S.;
9 revising the procedures for conducting school
10 district millage elections; amending s.
11 199.185, F.S.; increasing exemptions for
12 taxpayers who are natural persons; creating
13 exemptions for taxpayers who are not natural
14 persons; amending s. 212.08, F.S.; revising the
15 application of the sales tax exemption for the
16 sale of drinking water in bottles or other
17 containers; amending s. 201.02, F.S., relating
18 to the tax on deeds and other instruments;
19 exempting deeds and other instruments from the
20 tax if property is conveyed from an electric
21 utility to a regional transmission
22 organization; amending s. 212.02, F.S.;
23 excluding from the definition of "lease,"
24 "let," "rental," or "license" certain payments
25 made by a regional transmission organization to
26 an electric utility; amending s. 212.031, F.S.;
27 exempting property occupied or used by certain
28 regional transmission organizations from the
29 tax on the lease or rental of or license in
30 real property; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Subsection (6) is added to section 236.25,
4 Florida Statutes, to read:

5 236.25 District school tax.--

6 (6) In addition to the maximum millage levied under
7 this section and the General Appropriations Act, a school
8 district may levy, by local referendum or in a general
9 election, additional millage for school operational purposes
10 up to an amount that, when combined with nonvoted millage
11 levied under this section, does not exceed the 10-mill limit
12 established in s. 9(b), Art. VII of the State Constitution.
13 Any such levy shall be for a maximum of 4 years and shall be
14 counted as part of the 10-mill limit established in s. 9(b),
15 Art. VII of the State Constitution. Millage elections
16 conducted under the authority granted pursuant to this section
17 are subject to ss. 236.31 and 236.32. Funds generated by such
18 additional millage do not become a part of the calculation of
19 the Florida Education Finance Program total potential funds in
20 2001-2002 or any subsequent year and must not be incorporated
21 in the calculation of any hold-harmless or other component of
22 the Florida Education Finance Program formula in any year.

23 Section 2. Section 236.31, Florida Statutes, is
24 amended to read:

25 236.31 District millage elections.--

26 (1) The school board, pursuant to resolution adopted
27 at a regular meeting, shall direct the county commissioners to
28 call an election at which the electors within the school
29 districts may approve an ad valorem tax millage as authorized
30 in s. 9, Art. VII of the State Constitution. Such election may
31 be held at any time, except that not more than one such

1 election shall be held during any 12-month period. Any
2 millage so authorized shall be levied for a period not in
3 excess of 2 years or until changed by another millage
4 election, whichever is the earlier. In the event any such
5 election is invalidated by a court of competent jurisdiction,
6 such invalidated election shall be considered not to have been
7 held.

8 (2) The school board, pursuant to resolution adopted
9 at a regular meeting, shall direct the county commissioners to
10 call an election at which the electors within the school
11 district may approve an ad valorem tax millage as authorized
12 under s. 236.25(6). Such election may be held at any time,
13 except that not more than one such election shall be held
14 during any 12-month period. Any millage so authorized shall be
15 levied for a period not in excess of 4 years or until changed
16 by another millage election, whichever is earlier. If any such
17 election is invalidated by a court of competent jurisdiction,
18 such invalidated election shall be considered not to have been
19 held.

20 Section 3. Section 236.32, Florida Statutes, is
21 amended to read:

22 (Substantial rewording of section. See
23 s. 236.32, F.S., for present text.)

24 236.32 Procedures for holding and conducting school
25 district millage elections.--

26 (1) HOLDING ELECTIONS.--All school district millage
27 elections shall be held and conducted in the manner prescribed
28 by law for holding general elections, except as provided in
29 this chapter.

30 (2) FORM OF BALLOT.--
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1 (a) The school board may propose a single millage or
2 two millages, with one for operating expenses and another for
3 a local capital improvement reserve fund. When two millage
4 figures are proposed, each millage must be voted on
5 separately.

6 (b) The school board shall provide the wording of the
7 substance of the measure and the ballot title in the
8 resolution calling for the election. The wording of the
9 ballot must conform to the provisions of s. 101.161.

10 (3) QUALIFICATION OF ELECTORS.--All qualified electors
11 of the school district are entitled to vote in the election to
12 set the school tax district millage levy.

13 (4) RESULTS OF ELECTION.--When the school board
14 proposes one tax levy for operating expenses and another for
15 the local capital improvement reserve fund, the results shall
16 be considered separately. The tax levy shall be levied only
17 in case a majority of the electors participating in the
18 election vote in favor of the proposed special millage.

19 (5) EXPENSES OF ELECTION.--The cost of the publication
20 of the notice of the election and all expenses of the election
21 in the school district shall be paid by the school board.

22 Section 4. Subsection (2) of section 199.185, Florida
23 Statutes, is amended to read:

24 199.185 Property exempted from annual and nonrecurring
25 taxes.--

26 (2) Every natural person is entitled each year to an
27 exemption of the first ~~\$250,000~~ \$20,000 of the value of
28 property otherwise subject to the annual tax. A husband and
29 wife filing jointly shall have an exemption of \$500,000
30 ~~\$40,000~~. Every taxpayer that is not a natural person is
31 entitled each year to an exemption of the first \$250,000 of

1 the value of property otherwise subject to the tax. Agents
2 and fiduciaries, other than guardians and custodians under a
3 gifts-to-minors act, filing as such may not claim this
4 exemption on behalf of their principals or beneficiaries;
5 however, if the principal or beneficiary returns the property
6 held by the agent or fiduciary and is a natural person, the
7 principal or beneficiary may claim the exemption. No taxpayer
8 shall be entitled to more than one exemption under this
9 subsection. This exemption shall not apply to that intangible
10 personal property described in s. 199.023(1)(d).

11 Section 5. Effective July 1, 2001, paragraph (a) of
12 subsection (4) of section 212.08, Florida Statutes, is amended
13 to read:

14 212.08 Sales, rental, use, consumption, distribution,
15 and storage tax; specified exemptions.--The sale at retail,
16 the rental, the use, the consumption, the distribution, and
17 the storage to be used or consumed in this state of the
18 following are hereby specifically exempt from the tax imposed
19 by this chapter.

20 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
21 ETC.--

22 (a) Also exempt are:

23 1. Water delivered to the purchaser through pipes or
24 conduits or delivered for irrigation purposes. The sale of
25 drinking water in bottles, cans, or other containers,
26 including water that contains minerals or carbonation in its
27 natural state or water to which minerals have been added at a
28 water treatment facility regulated by the Department of
29 Environmental Protection or the Department of Health, is
30 exempt. This exemption does not apply to the sale of drinking
31 water in bottles, cans, or other containers if carbonation,

1 ~~minerals~~, or flavorings, except those added at a water
2 treatment facility, have been added. Water that has been
3 enhanced by the addition of minerals and that does not contain
4 any added carbonation or flavorings is also exempt.

5 2. All fuels used by a public or private utility,
6 including any municipal corporation or rural electric
7 cooperative association, in the generation of electric power
8 or energy for sale. Fuel other than motor fuel and diesel
9 fuel is taxable as provided in this chapter with the exception
10 of fuel expressly exempt herein. Motor fuels and diesel fuels
11 are taxable as provided in chapter 206, with the exception of
12 those motor fuels and diesel fuels used by railroad
13 locomotives or vessels to transport persons or property in
14 interstate or foreign commerce, which are taxable under this
15 chapter only to the extent provided herein. The basis of the
16 tax shall be the ratio of intrastate mileage to interstate or
17 foreign mileage traveled by the carrier's railroad locomotives
18 or vessels that were used in interstate or foreign commerce
19 and that had at least some Florida mileage during the previous
20 fiscal year of the carrier, such ratio to be determined at the
21 close of the fiscal year of the carrier. This ratio shall be
22 applied each month to the total Florida purchases made in this
23 state of motor and diesel fuels to establish that portion of
24 the total used and consumed in intrastate movement and subject
25 to tax under this chapter. The basis for imposition of any
26 discretionary surtax shall be set forth in s. 212.054. Fuels
27 used exclusively in intrastate commerce do not qualify for the
28 proration of tax.

29 3. The transmission or wheeling of electricity.

30 Section 6. Subsection (8) is added to section 201.02,
31 Florida Statutes, to read:

1 201.02 Tax on deeds and other instruments relating to
2 real property or interests in real property.--

3 (8) The taxes imposed by this section do not apply to
4 deeds, instruments, or writings whereby any lands, tenements,
5 or other real property, or any interest therein, is granted,
6 assigned, transferred, or otherwise conveyed from an electric
7 utility to a regional transmission organization under the
8 jurisdiction of the Federal Energy Regulatory Commission.

9 Section 7. Paragraph (g) of subsection (10) of section
10 212.02, Florida Statutes, is amended to read:

11 212.02 Definitions.--The following terms and phrases
12 when used in this chapter have the meanings ascribed to them
13 in this section, except where the context clearly indicates a
14 different meaning:

15 (10) "Lease," "let," or "rental" means leasing or
16 renting of living quarters or sleeping or housekeeping
17 accommodations in hotels, apartment houses, roominghouses,
18 tourist or trailer camps and real property, the same being
19 defined as follows:

20 (g) "Lease," "let," or "rental" also means the leasing
21 or rental of tangible personal property and the possession or
22 use thereof by the lessee or rentee for a consideration,
23 without transfer of the title of such property, except as
24 expressly provided to the contrary herein. The term "lease,"
25 "let," or "rental" does not mean hourly, daily, or mileage
26 charges, to the extent that such charges are subject to the
27 jurisdiction of the Surface Transportation Board ~~United States~~
28 ~~Interstate Commerce Commission~~, when such charges are paid by
29 reason of the presence of railroad cars owned by another on
30 the tracks of the taxpayer, or charges made pursuant to car
31 service agreements. The terms "lease," "let," "rental," or

1 "license" do not include payments by a regional transmission
2 organization operating under the jurisdiction of the Federal
3 Energy Regulatory Commission which are made to an electric
4 utility in connection with the regional transmission
5 organization's use or control of the utility's high-voltage
6 bulk transmission facilities. However, where two taxpayers, in
7 connection with the interchange of facilities, rent or lease
8 property, each to the other, for use in providing or
9 furnishing any of the services mentioned in s. 166.231, the
10 term "lease or rental" means only the net amount of rental
11 involved.

12 Section 8. Paragraph (a) of subsection (1) of section
13 212.031, Florida Statutes, is amended to read:

14 212.031 Lease or rental of or license in real
15 property.--

16 (1)

17 (a) It is declared to be the legislative intent that
18 every person is exercising a taxable privilege who engages in
19 the business of renting, leasing, letting, or granting a
20 license for the use of any real property unless such property
21 is:

22 1. Assessed as agricultural property under s. 193.461.

23 2. Used exclusively as dwelling units.

24 3. Property subject to tax on parking, docking, or
25 storage spaces under s. 212.03(6).

26 4. Recreational property or the common elements of a
27 condominium when subject to a lease between the developer or
28 owner thereof and the condominium association in its own right
29 or as agent for the owners of individual condominium units or
30 the owners of individual condominium units. However, only the
31 lease payments on such property shall be exempt from the tax

1 imposed by this chapter, and any other use made by the owner
2 or the condominium association shall be fully taxable under
3 this chapter.

4 5. A public or private street or right-of-way and
5 poles, conduits, fixtures, and similar improvements located on
6 such streets or rights-of-way, occupied or used by a utility
7 or franchised cable television company for utility or
8 communications or television purposes. For purposes of this
9 subparagraph, the term "utility" means any person providing
10 utility services as defined in s. 203.012 and includes a
11 regional transmission organization operating under the
12 jurisdiction of the Federal Energy Regulatory Commission. This
13 exception also applies to property, wherever located, on which
14 the following are placed: towers, antennas, cables, accessory
15 structures, or equipment, not including switching equipment,
16 used in the provision of mobile communications services as
17 defined in s. 202.11. For purposes of this chapter, towers
18 used in the provision of mobile communications services, as
19 defined in s. 202.11, are considered to be fixtures.

20 6. A public street or road which is used for
21 transportation purposes.

22 7. Property used at an airport exclusively for the
23 purpose of aircraft landing or aircraft taxiing or property
24 used by an airline for the purpose of loading or unloading
25 passengers or property onto or from aircraft or for fueling
26 aircraft.

27 8.a. Property used at a port authority, as defined in
28 s. 315.02(2), exclusively for the purpose of oceangoing
29 vessels or tugs docking, or such vessels mooring on property
30 used by a port authority for the purpose of loading or
31 unloading passengers or cargo onto or from such a vessel, or

1 property used at a port authority for fueling such vessels, or
2 to the extent that the amount paid for the use of any property
3 at the port is based on the charge for the amount of tonnage
4 actually imported or exported through the port by a tenant.

5 b. The amount charged for the use of any property at
6 the port in excess of the amount charged for tonnage actually
7 imported or exported shall remain subject to tax except as
8 provided in sub-subparagraph a.

9 9. Property used as an integral part of the
10 performance of qualified production services. As used in this
11 subparagraph, the term "qualified production services" means
12 any activity or service performed directly in connection with
13 the production of a qualified motion picture, as defined in s.
14 212.06(1)(b), and includes:

15 a. Photography, sound and recording, casting, location
16 managing and scouting, shooting, creation of special and
17 optical effects, animation, adaptation (language, media,
18 electronic, or otherwise), technological modifications,
19 computer graphics, set and stage support (such as
20 electricians, lighting designers and operators, greensmen,
21 prop managers and assistants, and grips), wardrobe (design,
22 preparation, and management), hair and makeup (design,
23 production, and application), performing (such as acting,
24 dancing, and playing), designing and executing stunts,
25 coaching, consulting, writing, scoring, composing,
26 choreographing, script supervising, directing, producing,
27 transmitting dailies, dubbing, mixing, editing, cutting,
28 looping, printing, processing, duplicating, storing, and
29 distributing;

30 b. The design, planning, engineering, construction,
31 alteration, repair, and maintenance of real or personal

1 property including stages, sets, props, models, paintings, and
2 facilities principally required for the performance of those
3 services listed in sub-subparagraph a.; and

4 c. Property management services directly related to
5 property used in connection with the services described in
6 sub-subparagraphs a. and b.

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8 This exemption will inure to the taxpayer upon presentation of
9 the certificate of exemption issued to the taxpayer under the
10 provisions of s. 288.1258.

11 10. Leased, subleased, licensed, or rented to a person
12 providing food and drink concessionaire services within the
13 premises of a convention hall, exhibition hall, auditorium,
14 stadium, theater, arena, civic center, performing arts center,
15 publicly owned recreational facility, or any business operated
16 under a permit issued pursuant to chapter 550. A person
17 providing retail concessionaire services involving the sale of
18 food and drink or other tangible personal property within the
19 premises of an airport shall be subject to tax on the rental
20 of real property used for that purpose, but shall not be
21 subject to the tax on any license to use the property. For
22 purposes of this subparagraph, the term "sale" shall not
23 include the leasing of tangible personal property.

24 11. Property occupied pursuant to an instrument
25 calling for payments which the department has declared, in a
26 Technical Assistance Advisement issued on or before March 15,
27 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
28 Florida Administrative Code; provided that this subparagraph
29 shall only apply to property occupied by the same person
30 before and after the execution of the subject instrument and
31 only to those payments made pursuant to such instrument,

1 exclusive of renewals and extensions thereof occurring after
2 March 15, 1993.

3 12. Rented, leased, subleased, or licensed to a
4 concessionaire by a convention hall, exhibition hall,
5 auditorium, stadium, theater, arena, civic center, performing
6 arts center, or publicly owned recreational facility, during
7 an event at the facility, to be used by the concessionaire to
8 sell souvenirs, novelties, or other event-related products.
9 This subparagraph applies only to that portion of the rental,
10 lease, or license payment which is based on a percentage of
11 sales and not based on a fixed price.

12 13. Property used or occupied predominantly for space
13 flight business purposes. As used in this subparagraph, "space
14 flight business" means the manufacturing, processing, or
15 assembly of a space facility, space propulsion system, space
16 vehicle, satellite, or station of any kind possessing the
17 capacity for space flight, as defined by s. 212.02(23), or
18 components thereof, and also means the following activities
19 supporting space flight: vehicle launch activities, flight
20 operations, ground control or ground support, and all
21 administrative activities directly related thereto. Property
22 shall be deemed to be used or occupied predominantly for space
23 flight business purposes if more than 50 percent of the
24 property, or improvements thereon, is used for one or more
25 space flight business purposes. Possession by a landlord,
26 lessor, or licensor of a signed written statement from the
27 tenant, lessee, or licensee claiming the exemption shall
28 relieve the landlord, lessor, or licensor from the
29 responsibility of collecting the tax, and the department shall
30 look solely to the tenant, lessee, or licensee for recovery of
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1 such tax if it determines that the exemption was not
2 applicable.

3 Section 9. Effective July 1, 2003, paragraph (a) of
4 subsection (1) of section 212.031, Florida Statutes, as
5 amended by section 3 of chapter 2000-345, Laws of Florida, is
6 amended to read:

7 212.031 Lease or rental of or license in real
8 property.--

9 (1)(a) It is declared to be the legislative intent
10 that every person is exercising a taxable privilege who
11 engages in the business of renting, leasing, letting, or
12 granting a license for the use of any real property unless
13 such property is:

14 1. Assessed as agricultural property under s. 193.461.

15 2. Used exclusively as dwelling units.

16 3. Property subject to tax on parking, docking, or
17 storage spaces under s. 212.03(6).

18 4. Recreational property or the common elements of a
19 condominium when subject to a lease between the developer or
20 owner thereof and the condominium association in its own right
21 or as agent for the owners of individual condominium units or
22 the owners of individual condominium units. However, only the
23 lease payments on such property shall be exempt from the tax
24 imposed by this chapter, and any other use made by the owner
25 or the condominium association shall be fully taxable under
26 this chapter.

27 5. A public or private street or right-of-way and
28 poles, conduits, fixtures, and similar improvements located on
29 such streets or rights-of-way, occupied or used by a utility
30 or franchised cable television company for utility or
31 communications or television purposes. For purposes of this

1 subparagraph, the term "utility" means any person providing
2 utility services as defined in s. 203.012 and includes a
3 regional transmission organization operating under the
4 jurisdiction of the Federal Energy Regulatory Commission. This
5 exception also applies to property, wherever located, on which
6 the following are placed: towers, antennas, cables, accessory
7 structures, or equipment, not including switching equipment,
8 used in the provision of mobile communications services as
9 defined in s. 202.11. For purposes of this chapter, towers
10 used in the provision of mobile communications services, as
11 defined in s. 202.11, are considered to be fixtures.

12 6. A public street or road which is used for
13 transportation purposes.

14 7. Property used at an airport exclusively for the
15 purpose of aircraft landing or aircraft taxiing or property
16 used by an airline for the purpose of loading or unloading
17 passengers or property onto or from aircraft or for fueling
18 aircraft.

19 8.a. Property used at a port authority, as defined in
20 s. 315.02(2), exclusively for the purpose of oceangoing
21 vessels or tugs docking, or such vessels mooring on property
22 used by a port authority for the purpose of loading or
23 unloading passengers or cargo onto or from such a vessel, or
24 property used at a port authority for fueling such vessels, or
25 to the extent that the amount paid for the use of any property
26 at the port is based on the charge for the amount of tonnage
27 actually imported or exported through the port by a tenant.

28 b. The amount charged for the use of any property at
29 the port in excess of the amount charged for tonnage actually
30 imported or exported shall remain subject to tax except as
31 provided in sub-subparagraph a.

1 9. Property used as an integral part of the
2 performance of qualified production services. As used in this
3 subparagraph, the term "qualified production services" means
4 any activity or service performed directly in connection with
5 the production of a qualified motion picture, as defined in s.
6 212.06(1)(b), and includes:

7 a. Photography, sound and recording, casting, location
8 managing and scouting, shooting, creation of special and
9 optical effects, animation, adaptation (language, media,
10 electronic, or otherwise), technological modifications,
11 computer graphics, set and stage support (such as
12 electricians, lighting designers and operators, greensmen,
13 prop managers and assistants, and grips), wardrobe (design,
14 preparation, and management), hair and makeup (design,
15 production, and application), performing (such as acting,
16 dancing, and playing), designing and executing stunts,
17 coaching, consulting, writing, scoring, composing,
18 choreographing, script supervising, directing, producing,
19 transmitting dailies, dubbing, mixing, editing, cutting,
20 looping, printing, processing, duplicating, storing, and
21 distributing;

22 b. The design, planning, engineering, construction,
23 alteration, repair, and maintenance of real or personal
24 property including stages, sets, props, models, paintings, and
25 facilities principally required for the performance of those
26 services listed in sub-subparagraph a.; and

27 c. Property management services directly related to
28 property used in connection with the services described in
29 sub-subparagraphs a. and b.
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1 This exemption will inure to the taxpayer upon presentation of
2 the certificate of exemption issued to the taxpayer under the
3 provisions of s. 288.1258.

4 10. Leased, subleased, licensed, or rented to a person
5 providing food and drink concessionaire services within the
6 premises of a convention hall, exhibition hall, auditorium,
7 stadium, theater, arena, civic center, performing arts center,
8 publicly owned recreational facility, or any business operated
9 under a permit issued pursuant to chapter 550. A person
10 providing retail concessionaire services involving the sale of
11 food and drink or other tangible personal property within the
12 premises of an airport shall be subject to tax on the rental
13 of real property used for that purpose, but shall not be
14 subject to the tax on any license to use the property. For
15 purposes of this subparagraph, the term "sale" shall not
16 include the leasing of tangible personal property.

17 11. Property occupied pursuant to an instrument
18 calling for payments which the department has declared, in a
19 Technical Assistance Advisement issued on or before March 15,
20 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
21 Florida Administrative Code; provided that this subparagraph
22 shall only apply to property occupied by the same person
23 before and after the execution of the subject instrument and
24 only to those payments made pursuant to such instrument,
25 exclusive of renewals and extensions thereof occurring after
26 March 15, 1993.

27 12. Property used or occupied predominantly for space
28 flight business purposes. As used in this subparagraph, "space
29 flight business" means the manufacturing, processing, or
30 assembly of a space facility, space propulsion system, space
31 vehicle, satellite, or station of any kind possessing the

1 capacity for space flight, as defined by s. 212.02(23), or
2 components thereof, and also means the following activities
3 supporting space flight: vehicle launch activities, flight
4 operations, ground control or ground support, and all
5 administrative activities directly related thereto. Property
6 shall be deemed to be used or occupied predominantly for space
7 flight business purposes if more than 50 percent of the
8 property, or improvements thereon, is used for one or more
9 space flight business purposes. Possession by a landlord,
10 lessor, or licensor of a signed written statement from the
11 tenant, lessee, or licensee claiming the exemption shall
12 relieve the landlord, lessor, or licensor from the
13 responsibility of collecting the tax, and the department shall
14 look solely to the tenant, lessee, or licensee for recovery of
15 such tax if it determines that the exemption was not
16 applicable.

17 Section 10. This act shall take effect January 1,
18 2002.

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