

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1888

SPONSOR: Senators Klein and Campbell

SUBJECT: Discretionary Sales Surtaxes

DATE: February 28, 2002 REVISED: 03/05/02 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CA	Fav/4 amendments
2.			GO	
3.			FT	
4.			AGG	
5.			AP	
6.				

## I. Summary:

This bill allows the largest municipality in each county having a population of at least 1 million persons to enact a discretionary sales surtax of up to 0.5 percent to finance, plan, and construct infrastructure, to acquire land for public recreation or conservation or protection of natural resources, and to economic development projects.

This bill amends the following sections of the Florida Statutes: 212.054 and 212.055.

## II. Present Situation:

### Local Discretionary Sales Surtaxes

Section 212.054, F.S., currently limits, exclusively to counties, the authority to levy the discretionary sales surtaxes authorized in and subject to the specifications in s. 212.055, F.S.

Section 212.055, F.S., authorizes counties to impose seven local discretionary sales surtaxes (taxes) on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, and admissions. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. This \$5,000 cap does not apply to the sale of any other service. The Department of Revenue (DOR) is responsible to administer, collect, and enforce all sales taxes. Collections received by DOR are returned monthly to the county imposing the tax.

The tax rates, duration levied, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. TABLE 1 identifies the seven taxes, the rate limits, and the number of counties authorized to impose and the number imposing the tax. The maximum combined rate

for the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, is 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate is 1.5 percent. The maximum combined rate for counties authorized to levy the Charter County Transit System Surtax is 2.5%. The School Capital Outlay Surtax is capped at 0.5%, and is not included in these tax rate caps.

**TABLE 1**  
**Local Discretionary Sales Surtaxes**

TAX	AUTHORIZED LEVY (%)	# OF COUNTIES AUTHORIZED TO LEVY TAX	# OF COUNTIES LEVYING TAX
Charter County Transit System Surtax	up to 1%	5	1
Local Government Infrastructure Surtax	0.5% or 1%	67	28
Small County Surtax	0.5% or 1%	31	17
Indigent Care & Trauma Center Surtax	up to 0.5%	5	1
County Public Hospital Surtax	0.5% (Miami-Dade County)	1	1
School Capital Outlay Surtax	up to 0.5%	67	8
Voter-Approved Indigent Care Surtax	0.5% or 1%	61	0

(Source: Legislative Committee on Intergovernmental Relations, 2/2002)

### **Local Government Infrastructure Surtax**

Section 212.055(2), F.S., grants counties the authority to levy the Local Government Infrastructure Surtax by referendum, the rate of 0.5 to 1.0 percent (s. 212.055(2)(a)1., F.S.). Proceeds of the surtax may be used:

- To finance, plan, and construct infrastructure;
- To acquire land for public recreation or conservation or protection of natural resources;
- To finance the closure of certain county-owned or municipally owned solid waste landfills;
- To finance long term maintenance costs associated with landfill closure, for certain counties;
- To retire or service bonds issued prior to July 1, 1987, for infrastructure purposes, for certain counties;

- To fund economic development projects of a general public purpose, with certain limitations;
- For any public purpose, under certain conditions by counties with a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this subsection; or
- For operation and maintenance of parks and recreation programs and facilities in a county in which 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation.

Surtax proceeds are distributed to the county and the municipalities within the county either pursuant to an interlocal agreement or according to the formula provided in s. 218.62, F.S.

If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax may be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 212.054, F.S., to allow "qualified municipalities" the authority to levy a discretionary sales surtax authorized in and subject to the specifications in s. 212.055(8), F.S. The term "qualified municipality" is defined as the largest municipality in a county that has a population in excess of 1 million persons as provided for in s. 212.055(8), F.S. (which is created in Section 2 of the bill). Subsection (6) is amended to require the governing body of any qualified municipality levying a discretionary sales surtax to enact an ordinance levying the surtax in accordance with the procedures described in s. 166.041, F.S. This referenced provision specifies the procedures for adopting ordinances and resolutions by municipalities.

**Section 2** creates s. 212.055(8), F.S., to authorize the largest municipality in any county with a population of more than 1 million persons to levy, by referendum, a discretionary sales surtax of up to 0.5 percent. The municipality may levy the surtax for a maximum of 15 years, and may be extended only by a majority of the municipality's electors voting in referendum.

The term "largest" is defined in paragraph (b) as the most populous in accordance with the latest United States Bureau of Census data, as updated annually by the Office of Economic and Demographic Research (EDR) of the Florida Legislature. (pursuant to s. 186.901, F.S.) The determination of county population is to be based on the latest United States Bureau of Census Data, as updated annually by EDR. The county population and the identity of the largest municipality in the county must be established as of the date on which the municipality enacts the ordinance imposing the surtax.

Paragraph (c) prescribes information to be contained in a ballot statement, including a brief description of the projects to be funded by the surtax.

Paragraph (d) requires the surtax proceeds to be distributed to the municipality in which the surtax was collected.

Paragraph (e) authorizes surtax proceeds, and any accrued interest, to be used to finance, plan, and construct infrastructure, and to acquire land for public recreation or conservation or protection of natural resources. Tax proceeds and interest may also be used as collateral pledged or hypothecated for bonds or other indebtedness issued to finance or refinance such projects.

The term “infrastructure” is defined as:

- Any fixed capital expenditure, or fixed capital outlay, associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years;
- Any related land acquisition, land improvement, design, and engineering costs; or
- A fire department vehicle, emergency service vehicle, police department vehicle, or any other vehicle, and any equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of 5 or more years.

However, the term infrastructure specifically excludes sports arenas or stadiums.

Municipalities are authorized to set aside 15 percent or less of the proceeds for economic development projects of a general public purpose targeted to improve the local economy, including the funding of operational costs and incentives related to such economic development. However, the ballot statement must indicate the municipality’s intention to allocate proceeds for economic development purposes.

**Section 3** provides that the bill will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

##### A. Tax/Fee Issues:

This bill will authorize the cities of West Palm Beach, Ft. Lauderdale, Tampa and Miami to levy a sales surtax of 0.5 percent to finance, plan, and construct infrastructure, to acquire land for public recreation or conservation or protection of natural resources, and to fund economic development projects.

The Revenue Impact Conference has not reviewed this bill.

**B. Private Sector Impact:**

If any city imposes this tax, consumers in that city will pay additional sales taxes on taxable purchases.

**C. Government Sector Impact:**

DOT advises that this bill will have an operational impact on the department of \$150,000 in FY 2002/03.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

DOT expects taxpayers in areas of the state affected by the bill to experience some difficulty in determining the amount of surtax that must be collected. The agency contends there could be confusion about the local jurisdiction in which a taxable event occurs.

In addition, DOT has recommended that if a local government chooses to levy a surtax at a tax rate of other than 1 percent (in total combined with other discretionary sales surtaxes), the department must provide the "bracket rates" by rule. To enable DOT to operate more efficiently, they recommend that s. 212.12(11), F.S., be amended to permit them to establish and post to their Internet site new bracket rates for chapter 212, F.S., without requiring rulemaking.

**VIII. Amendments:**

#1 by Comprehensive Planning Local and Military Affairs:

This amendment defines municipality as any of the three largest municipalities in the county, rather than only the largest municipality in the county.

#2 by Comprehensive Planning Local and Military Affairs:

This amendment authorizes any of the three largest municipalities in the county to levy the tax, rather than only the largest municipality in the county.

#3 by Comprehensive Planning Local and Military Affairs:

This is a conforming, technical amendment to amendment #2.

#4 by Comprehensive Planning Local and Military Affairs:

Title amendment.