

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1279

Sales Surtax Levy/Schools

**SPONSOR(S):** Mayfield

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2406

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	<u>18 Y, 0 N</u>	<u>Mitchell</u>	<u>Cutchins</u>
3) <u>Education K-20</u>	<u>27 Y, 2 N</u>	<u>Porter</u>	<u>Bohannon</u>
4) <u>Finance and Tax</u>	<u></u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
5) <u>Education Appropriations (Sub)</u>	<u></u>	<u></u>	<u></u>
6) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

This bill authorizes local school boards to impose an additional sales surtax, at a rate not to exceed 1 percent, for school capital outlay or operational purposes. This additional authority is subject to the administrative procedures outlined in s. 212.054, F.S., public hearings and local referendums.

The bill prohibits any school board choosing to levy this additional surtax from imposing a school or educational facilities impact fee.

The bill also provides that funds generated by the sales surtax in a county defined in s. 125.011(1), F.S., with a population greater than 2 million<sup>1</sup> must be placed in reserve by the Executive Office of the Governor until the Commissioner of Education certifies that certain conditions relating to land acquisition and facilities planning have been met.

The bill provides for an effective date of October 1, 2004.

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<sup>1</sup> Currently, only Miami-Dade fits these conditions.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

**A. DOES THE BILL:**

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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 authorizes school boards to levy an additional sales surtax to be used for capital outlay or operating purposes. The district can use the proceeds of the surtax for capital outlay projects, including new construction and maintenance of existing structures, or for operating purposes, such as teacher salary enhancement.

**B. EFFECT OF PROPOSED CHANGES:**

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 surtax if the property or service is delivered within a county that does not impose a surtax. In addition, the surtax is not subject to any sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any other service. The Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections received by the department are returned monthly to the county imposing the tax.

The tax rates, duration of the levy, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. Table 1 identifies the seven taxes, the rate limits, 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 percent. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate is 1.5 percent. When combined with the State’s 6% sales tax, the maximum combined sales tax rate in the state is currently 7.5%. Under this bill the maximum combined sales tax rate will become 8.5%

Subsection (6) of 212.055, F.S., provides that the school board in each county may levy a discretionary sales surtax, subject to referendum, of up to .5 percent or ½ percent, for the purpose of funding capital outlay for construction, reconstruction or improvement of school facilities. However, this subsection also requires that if the school board levies the capital outlay surtax, it must freeze any non-capital local school property taxes with certain conditions.

<b>TABLE 1</b>			
<b>Local Discretionary Sales Surtaxes</b>			
<b>TAX</b>	<b>AUTHORIZED LEVY (%)</b>	<b>NUMBER OF COUNTIES AUTHORIZED TO LEVY TAX</b>	<b>NUMBER OF COUNTIES LEVYING TAX</b>
Charter County Transit System Surtax	up to 1%	7	2
Local Government	0.5% or 1%	67	25

Infrastructure Surtax			
Small County Surtax	0.5% or 1%	31	20
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	13
Voter-Approved Indigent Care Surtax	0.5% or 1%	61	0

(Source: Legislative Committee on Intergovernmental Relations, 12/2003)

This bill authorizes local school boards to impose an additional sales surtax, at a rate not to exceed 1 percent, for school capital outlay or operational purposes. This additional authority is subject to the administrative procedures outlined in s. 212.054, F.S., public hearings, and local referendums.

The bill requires the school board to conduct public hearings in each municipality in the county to discuss the term, projects, and uses of the surtax. The bill requires these meetings to be conducted in the same manner as meetings relating to ad valorem taxes as stipulated in s. 200.065, F.S.

The bill requires the issue to be placed on the ballot using language prescribed by the bill, including a statement that includes a brief and general description of the purposes to be funded by the surtax that conforms to s. 101.161, F.S.

The bill requires the resolution for the surtax to include a plan for the uses of the funds for capital outlay projects and/or operating purposes and the allocation of funds to each purpose.

The bill allows school districts to service new bond indebtedness based on the surtax proceeds and allows a district to use the services of the Division of Bond Finance.

The bill provides for the return of surtax revenues to the county of origin pursuant to s. 212.054(4), F.S.

The bill prohibits any school board choosing to levy this additional surtax from imposing a school or educational facilities impact fee and requires the district to repeal any existing school or educational facilities impact fee it may be imposing.

The bill also provides that funds generated by the surtax in a county defined in s. 125.011(1), F.S., with a population greater than 2 million must be placed in reserve by the Executive Office of the Governor until the Commissioner of Education certifies that certain conditions relating to land acquisition and facilities planning have been met, including a recommendation for release of funds by the Land Acquisition and Facilities Maintenance Operations Advisory Board.

### C. SECTION DIRECTORY:

Section 1 - creates subsection (8), of s. 212.055, F.S., relating to the authorized levy of an additional district school capital outlay and operations surtax by local school districts.

Section 2 - provides limitations on the receipt of funds received by certain counties.

Section 3 - amends s. 125.01, F.S., relating to the powers and duties of district school boards.

Section 4 - amends. s. 212.054(7), F.S., relating to discretionary sales surtax limitations.

Section 5 – provides an effective date of October 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not have an impact on the revenue of state government

#### 2. Expenditures:

The bill provides that districts may use the bond issuance services of the Division of Bond Finance, Board of Administration. However, it is not clear how many counties would avail themselves of this option or chose to levy the surtax. A representative of the Division indicates that the bill will have a minimal impact on the operation of the Division.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill will provide school boards with the ability to levy an additional surtax for school purposes, provided that they are willing to forgo the revenue which could be generated by levying a impact fee.

#### 2. Expenditures:

The bill does not impact local governments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

School boards imposing the surtax authorized in this bill will increase individuals' tax burden by up to one cent on sales. This will impact both local business that must collect the tax and individuals that must pay the tax. However, the effects would be limited to those counties where voters have approved the additional sales surtax.

### D. FISCAL COMMENTS:

The bill authorizes local school boards to impose an additional sales surtax at a rate not to exceed 1 percent for school capital outlay or operational purposes. However, there are too many variables to accurately calculate the fiscal impact to districts. These variables include the number of counties choosing to levy the additional surtax and the loss of impact fees to those counties that do levy the surtax.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

#### 2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not create any rulemaking authority.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**