

## 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>Mitchell</u> | <u>Cutchins</u> |
| 2) <u>Local Government &amp; Veterans' Affairs</u> | _____  | _____           | _____           |
| 3) <u>Education K-12</u>                           | _____  | _____           | _____           |
| 4) <u>Finance &amp; Tax</u>                        | _____  | _____           | _____           |
| 5) <u>Education Appropriations (Sub)</u>           | _____  | _____           | _____           |
| 6) <u>Appropriations</u>                           | _____  | _____           | _____           |

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### SUMMARY ANALYSIS

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. This section also provides certain limitations on the imposition of the various surtaxes authorized therein.

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% or ½ %, 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.

This bill authorizes local school boards to impose at a rate not to exceed 1 %, in addition to any other discretionary sales surtax, another sales surtax under s. 212.055, F.S, 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 the funds of 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.

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<sup>1</sup> According to the *2003 Local Government Financial Information Handbook* s. 125.011(1), F.S., describes Miami-Dade County (p. 287) and estimates the population of that county to be 2.3 million (p. 297). Section 125.011(1), F.S., also technically applies to Monroe and Hillsborough Counties; however, these counties have populations estimated at 81k, and 1 million respectively.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1279.lgv  
**DATE:** March 9, 2004

## 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 discretionary surtax under certain conditions, including adoption of a referendum. The proceeds are limited to school capital outlay or operations purposes.

#### B. EFFECT OF PROPOSED CHANGES:

This bill authorizes local school boards to impose at a rate not to exceed 1 %, in addition to any other discretionary sales surtax, another sales surtax under s. 212.055, F.S, 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.

Before adopting a resolution imposing the surtax, the school board must conduct public hearings in each municipality in the county to discuss the term, projects, and uses of the surtax and the issue must be placed on a ballot in accordance with language prescribed by the bill.

The bill provides one set of conditions by which the school district must abide if its resolution proposes to use any of the proceeds of the surtax for school capital outlay and another set of conditions if the resolution proposes to use any of the proceeds for operating purposes.

Capital outlay conditions include a establishing a plan for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction or improvement of specific educational facilities that have a useful life expectancy of 5 years or more; a plan for any related design, engineering, land acquisition, and land improvement costs; and an implementation schedule. Operating expenditure conditions include setting forth the proposed allocations of surtax proceeds for those purposes.

The bill permits school districts to service new bond indebtedness based on the surtax proceeds, pursuant to law, and to use the services of the Division of Bond Finance.

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 the funds of 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.

#### **County Discretionary Sales Surtax Taxing Authority**

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. 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 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 percent. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate is 1.5 percent.

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% or ½ %, 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. The School Capital Outlay Surtax cap of 0.5 percent, and is not included in these tax rate caps.

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

C. SECTION DIRECTORY:

**Section 1** creates subsection (8), of s. 212.055, F.S., to authorize the levy of an additional district school capital outlay and operations surtax by local school districts under certain conditions.

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

**Section 3** amends s. 125.01, F.S., adding a new subsection (8) to prohibit counties from levying impact fees for school purposes if the school board in that county is levying the surtax authorized by this act.

**Section 4** amends. s. 212.054(7), F.S., to conform this subsection to the addition of the new discretionary surtax authorized by this act.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate at this time. The bill does provide for the bond issuance services of the Division of Bond Finance, Board of Administration. 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:

Indeterminate. This bill authorizes local school boards to impose at a rate not to exceed 1 %, in addition to any other discretionary sales surtax, another sales surtax under s. 212.055, F.S, for school capital outlay or operational purposes.

2. Expenditures:

Unknown.

### 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.

### D. FISCAL COMMENTS:

See above.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**