

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1465 Local Government Infrastructure Surtax
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 2710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government & Veterans' Affairs		Grayson	Cutchins
2) State Administration			
3) Finance & Tax			
4)			
5)			

SUMMARY ANALYSIS

Currently, the law provides that the governing authority of each county may levy a discretionary sales surtax known as the Local Government Infrastructure Surtax. The surtax proceeds are not to be used for operation and maintenance of infrastructure, but are to be used to:

- finance, plan and construct infrastructure,
- to acquire land for public recreation or conservation or protection of natural resources, or
- to finance the closure of certain county or municipally owned solid waste landfills.

This bill adds a requirement that a minimum of the surtax proceeds and accrued interests, of at least 50%, must be spent to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection.

The bill amends existing law to allow the surtax proceeds and accrued interest to be used for operational expenses of any infrastructure, by removing the existing limitation that prohibited that use except in certain circumstances.

The bill provides that up to 35% of the surtax proceeds and accrued interests may be used to reduce property taxes, and that up to 15% may be used for operational expenses. However, the bill provides that the percentage used for operational expenses may not exceed the percentage used to reduce property taxes.

The bill provides that the taxing authority may not increase property taxes for the first year following the year in which the taxing authority elected to use the surtax proceeds and accrued interests for operational expenses; and may not increase property taxes above the rollback rate by more than 3% in the second and subsequent years during the period of the levy.

The bill redistributes the proceeds of a local option sales surtax and does not appear to impact the state budget.

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

STORAGE NAME: h1465.lgv.doc
DATE: March 17, 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 type="checkbox"/> | N/A <input checked="" 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:

B. EFFECT OF PROPOSED CHANGES:

Effect of HB 1465

Currently, the law provides that the governing authority of each county may levy a discretionary sales surtax known as the Local Government Infrastructure Surtax. The surtax proceeds are not to be used for operation and maintenance of infrastructure, but are to be used to:

- finance, plan and construct infrastructure,
- to acquire land for public recreation or conservation or protection of natural resources, or
- to finance the closure of certain county or municipally owned solid waste landfills.

This bill adds a requirement that a minimum of the surtax proceeds and accrued interests, of at least 50%, must be spent to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection.

The bill amends existing law to allow the surtax proceeds and accrued interest to be used for operational expenses of any infrastructure, by removing the existing limitation that prohibited that use except in certain circumstances.

The bill provides that up to 35% of the surtax proceeds and accrued interests may be used to reduce property taxes, and that up to 15% may be used for operational expenses. However, the bill provides that the percentage used for operational expenses may not exceed the percentage used to reduce property taxes.

The bill provides that the taxing authority may not increase property taxes for the first year following the year in which the taxing authority elected to use the surtax proceeds and accrued interests for operational expenses; and may not increase property taxes above the rollback rate by more than 3% in the second and subsequent years during the period of the levy.

Voter-Approved Indigent Care Surtax - Background

Nationally, indigent surtaxes have been used to subsidize safety-net health care providers. In Florida, Chapter 2000-316, L.O.F., created s. 212.055(7), F.S., to authorize counties with less than 800,000 residents to impose, with referendum approval, the Voter-Approved Indigent Care Surtax. The rate of the levy is capped at 0.5 percent, or 1 percent if a publicly supported medical school is located in the county. Counties levying the tax must develop a plan, by ordinance, for providing health care services to “qualified” indigent or medically poor residents.

Tax proceeds must be used to fund health care services for indigent and medically poor persons, including, but not limited to, primary care, preventive care, and hospital care. Indigent persons are defined as persons certified as indigent by the authorizing county. Persons defined as medically poor are those who:

- have insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses;
- are not eligible for any other state or federal program or having medical needs that are not covered by any such program; or
- have insufficient third-party insurance coverage.

Persons participating in innovative, cost-effective programs approved by the authorizing county are also included as “qualified” residents.

DOR is required to collect and remit the tax proceeds to the Clerk of Court, who must deposit the funds in an indigent health care trust fund, invest the deposits as prescribed in general law, and disburse the funds to qualified providers of health care services.

The maximum rate for any combination of the Infrastructure Surtax, the Small County Surtax, and the Voter-Approved Indigent Care Surtax, is one percent, or 1.5 percent in counties with a publicly supported medical school.

While sixty-one counties are authorized to levy the Voter-Approved Indigent Care Surtax, to date no county has done so.¹

Chapter 2003-77, Laws of Florida, removed the October 1, 2005 expiration for the authority provided in s. 212.055(7), F.S.

Chapter 2003-254, Laws of Florida, (CS for SB 1176) eliminates the restrictions on the use of surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes. This change became effective on July 1, 2003.

Chapter 2003-402, Laws of Florida, (HB 113A) expands the allowable uses of the surtax proceeds to include the construction, lease, or maintenance of, provision of utilities or security for, those court facilities as defined in s. 29.008, F.S.. This change becomes effective on July 1, 2004.

County Taxing Authority - Background

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

¹ 2003 Local Governmental Financial Information Handbook, Legislative Committee on Intergovernmental Relations, 12/2003.

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. The School Capital Outlay Surtax is capped at 0.5 percent, and is not included in these tax rate caps.

TABLE 1			
Local Discretionary Sales Surtaxes			
TAX	AUTHORIZED LEVY (%)	NUMBER OF COUNTIES AUTHORIZED TO LEVY TAX	NUMBER OF COUNTIES LEVYING TAX
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. Amends s. 212.055(2)(d), F.S., as amended by ch. 2003-402, s. 91, L.O.F., regarding the local government infrastructure surtax.

Section 2. Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. The bill appears to redistribute the use of a previously authorized local option sales surtax.

2. Expenditures:

See above.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

None.