

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 297 w/CS Indigent Care Surtax/Small Counties

**SPONSOR(S):** Kendrick

**TIED BILLS:** None.

**IDEN./SIM. BILLS:** SB 634(s)

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government &amp; Veterans' Affairs</u>	<u>18 Y, 0 N w/CS</u>	<u>Grayson</u>	<u>Cutchins</u>
2) <u>Health Care</u>	<u>23 Y, 0 N w/CS</u>	<u>Garner</u>	<u>Collins</u>
3) <u>Finance &amp; Tax</u>	_____	_____	_____
4) <u>Health Appropriations (Sub)</u>	_____	_____	_____
5) <u>Appropriations</u>	_____	_____	_____

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### SUMMARY ANALYSIS

Currently, s. 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. Three of these discretionary taxes can be used for purposes related to providing health care services or infrastructure: 1) the Indigent Care & Trauma Center Surtax; 2) the County Public Hospital Surtax; and 3) the Voter-Approved Indigent Care Surtax. Each of these surtaxes has specific restrictions that limit which counties may seek each sales tax.

HB 297 w/CS amends subsections (4) and (7) of s. 212.055, F.S., to allow small counties to levy the Indigent Care & Trauma Center Surtax and the Voter-Approved Indigent Care Surtax. Specifically, the bill allows counties with less than 800,000 residents to levy the Indigent Care & Trauma Center Surtax at a rate not to exceed 0.25 percent for the funding of trauma centers licensed pursuant to ch. 395, F.S. In effect, the bill allows 61 counties to exercise this option. The bill also authorizes counties with a population of fewer than 50,000 residents to levy the Voter-Approved Indigent Care surtax of up to 1 percent rather than the 0.5 percent surtax authorized in existing law. In effect, the bill allows 27 Florida counties to exercise this authority.

The bill expands the use of the taxes in counties with fewer than 800,000 residents to fund trauma care and in counties with fewer than 50,000 residents, it expands their ability to include issue bonds to finance, plan, construct, or reconstruct a public or not-for-profit hospital in the county and any land acquisition, land improvement, design, or engineering costs related to such hospital, if the governing body determines that a hospital in existence at the time of the issuance of the bonds would, more likely than not, otherwise cease to operate. The bill requires the clerk of the circuit court, as the ex officio custodian of the funds of the authorizing county, to disburse the funds to service bond indebtedness upon a directive from the authorizing county. The directive from the authorizing county may be irrevocably given at the time the bond indebtedness is incurred.

The fiscal impact is indeterminate. The bill as amended provides a discretionary authority to impose and collect a surtax in counties with a population of fewer than 800,000 to fund trauma centers and counties with fewer than 50,000 residents to fund indigent care. The bill as amended does not have a fiscal impact statement for the changes to subsection (4) of s. 212.055, F.S., but the 2003 Impact Conference estimated that if all eligible jurisdictions enact the levy under subsection (7), the statewide impacts would be \$23.8 million cash, \$26.0 million recurring, in FY 2004-05; and \$27.4 million cash and recurring in FY 2005-06.

The bill provides an effective date upon becoming a law.

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

**STORAGE NAME:** h0297c.hc.doc  
**DATE:** March 23, 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 provides additional taxing authority in certain counties.

#### B. EFFECT OF PROPOSED CHANGES:

This bill expands the number of counties that may levy the discretionary sales taxes pursuant to subsections (4) and (7) of s. 212.055, F.S. The bill authorizes counties with fewer than 800,000 residents to levy the Indigent Care & Trauma Center Surtax at a rate not to exceed 0.25 percent for the sole purpose of funding of trauma centers licensed pursuant to chapter 395, F.S.; and also authorizes the imposition and collection of a 1.0 percent Voter-Approved Indigent Care sales surtax in any county with a population of fewer than 50,000 residents.

#### **Background**

According to the Florida Hospital Association, in 2000, there were 2.6 million uninsured Floridians. While it is difficult to determine how many of the uninsured are indigent, Florida's hospitals spend millions of dollars each year to support the care of indigent patients. For example, Florida Hospital, Inc., posted \$17 million in uncompensated care charges in January 2002 – the highest amount ever in the hospital's 84-year history.<sup>1</sup>

Rural and smaller counties face an even more difficult challenge of caring for the health care needs of the indigent. Rural hospitals typically suffer financial hardships due to small community sizes, lack of health insurance in their communities, overall lower incomes in their communities, lower levels of Medicare reimbursement, outdated/aging physical plants, and constantly increasing costs due to technological innovations and costs of pharmaceuticals and other supplies. Often rural hospitals are the only source of care for the indigent given the relative immobility of the poor, the need to go to a hospital outside of their neighborhood limits their access to basic care.

#### **County 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. Three of these sales taxes directly pertain to health care services. 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

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<sup>1</sup> Uncompensated care is a total of: Charity care – treatment for which the hospital does not expect to be reimbursed. Bad debt – treatment for which a hospital cannot obtain reimbursement for the care provided – because people are unable or unwilling to pay their bills. Uncompensated care does not include voluntary or involuntary "reductions in revenue," such as underpayment from Medicare or Medicaid, or discounts to insurers.

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.

<b>TABLE 1 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 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**

Recent changes in Florida Law affect the counties' taxing authority. Specifically:

- ✓ 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; and
- ✓ 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.

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.

## **Indigent Care & Trauma Center Surtax**

Subsection (4) of s. 212.055, F.S., allows counties with populations over 800,000 to levy a discretionary sales tax for the funding of trauma centers as authorized by chapter 395, Florida Statutes. The surtax, under current law, may not be levied at a rate higher than .5 percent. This provision only allows 6 counties in Florida to seek voter approval for this surtax.

The surtax may be used for a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care, as well as hospital care. A county that levies this surtax must provide a plan for how these funds may be used. The plan must address services that will be provided by the Level 1 trauma center through the funding.

HB 297 w/CS expands the number of counties able to levy this surtax, but restricts the surtax rate not to exceed 0.25 percent, and requires that the funds are used for the sole purpose of funding trauma services licensed under ch. 395, F.S.

## **Voter-Approved Indigent Care Surtax**

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. While sixty-one counties are authorized to levy the Voter-Approved Indigent Care Surtax, to date no county has done so.<sup>2</sup>

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.

The Department of Revenue (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.

HB 297 w/CS expands the ability of 27 Florida counties with a population of fewer than 50,000 residents to impose and collect the full 1.0 percent Voter-Approved Indigent Care sales surtax. The counties that meet the requirements of the bill include: Baker, Bradford, Calhoun, DeSoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Suwannee, Taylor, Union, Wakulla, Walton and

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<sup>2</sup> Legislative Committee on Intergovernmental Relations. *2003 Local Governmental Financial Information Handbook*.

Washington.<sup>3</sup> The bill provides that these surtaxes may be imposed and collected upon approval by a majority vote of the electors of the county voting in a referendum.

The bill also provides authority to the county to pledge the Voter-Approved Indigent Care surtax proceeds to service new or existing bond indebtedness incurred to finance, plan, construct, or reconstruct a public or not-for-profit hospital. Additionally, the bill authorizes the use of the surtax proceeds to acquire or improve land, or for the design or engineering costs related to such a hospital. Both of the foregoing authorities are conditioned upon a determination that the hospital existing at the time of bond issuance would, more likely than not, otherwise cease to operate. The bill states that by an extraordinary vote, the governing body of the county may provide that some or all of the surtax revenues and earned interest must be expended for the purpose of servicing the bond indebtedness. The bill states that such a county may utilize the bond issuance services of the State Board of Administration pursuant to the State Bond Act. Bond issuance is limited to no more than once per year.

The bill states that any county meeting the requirements of this bill and that issues bonds, retains the bond authority throughout the life of the bonds, including any refinancing bonds, regardless of subsequent increases in population. The bill provides authority to the clerk of the circuit court, as the ex officio custodian of such funds to distribute the funds and any earned interest to service bond indebtedness pursuant to the irrevocable directive of the authorizing county given at the time of bond indebtedness.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 212.055(7), F.S., by:

- adding s. 212.055(4)(b), F.S., authorizing counties with a population of less than 800,000 residents to levy, by approval of a majority of the voters, the Indigent Care & Trauma Center Surtax at a rate not to exceed .25 percent for the sole purpose of trauma services licensed under ch. 395, F.S.; requires the monies collected pursuant to this provision to be distributed by the Department of Revenue to the county on a regular basis to fund the trauma services in the area; provides that any surtax levied under this provision will expire four years after the effective date of surtax, unless reenacted by an ordinance approved by a majority of the voters in the county; and limits the optional sales tax not to exceed a combined rate of 1 percent;
- adding s. 212.055(7)(a)2., F.S., authorizing certain counties to levy an indigent care surtax up to 1.0 percent;
- adding s. 212.005(7)(c)2., F.S., providing the uses for the imposed surtax;
- adding s. 212.055(7)(e)4., F.S., providing powers to the clerk of circuit court; and
- amending s. 212.055(f), F.S., providing an optional sales surtax cap of 1.5 percent for counties having a population of fewer than 50,000.

**Section 2.** Provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

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<sup>3</sup> Adjusted 2002 Population Estimates for Florida Counties & Municipalities, Florida Legislative Committee on Intergovernmental Relations, <http://fcn.state.fl.us/lcir/reports/lgfi03.pdf>, accessed 1/26/04.

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.<sup>4</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill as amended provides a discretionary authority to impose and collect a surtax in counties with a population of fewer than 50,000 residents. Currently, 27 counties meet this criterion. The 2003 Impact Conference estimated that if all eligible jurisdictions enact the levy, the statewide impacts would be \$23.8 million cash, \$26.0 million recurring, in FY 2004-05; and \$27.4 million cash and recurring in FY 2005-06. A fiscal analysis to determine the impact of additional counties being able to levy the Indigent Care and Trauma Center surtax was not available.

2. Expenditures:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Counties imposing the surtax authorized in this bill will increase individuals' tax burden by one half cent on sales.

D. FISCAL COMMENTS:

See above.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

There appear to be no technical drafting issues in the bill as amended.

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<sup>4</sup> Tim Tinsley, Division of Bond Finance, Board of Administration, 2/6/04.

## Other Comments

A substantially similar bill, HB 583 (SB 2186) was considered during the 2003 Session. HB 583 was acted upon favorably by the Committees on Local Government & Veterans' Affairs, Health Care, and Finance & Tax. SB 2186 was received In Messages.

Division of Bond Finance, Board of Administration – Although contacted, no impact analysis has yet been provided.

Florida Association of Counties – The Association generally supports the bill as an extension of authority provided to small counties.<sup>5</sup>

## **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Committee on Local Government & Veterans' Affairs adopted a strike everything amendment on February 17, 2004. The strike everything amendment changes the population trigger for application of the bill from less than 30,000 residents to less than 50,000 residents.

On March 10, 2004, the Committee on Health Care adopted a strike everything amendment and reported the bill favorably with a committee substitute. HB 297 w/CS amends s. 212.055, F.S., to allow small counties to levy the Indigent Care & Trauma Center Surtax and the Voter-Approved Indigent Care Surtax. Specifically, the bill allows counties with less than 800,000 residents to levy the Indigent Care & Trauma Center Surtax at a rate not to exceed 0.25 percent for the funding of trauma centers licensed pursuant to ch. 395, F.S. The bill also authorizes counties with a population of fewer than 50,000 residents to levy the Voter-Approved Indigent Care surtax of up to 1 percent rather than the 0.5 percent surtax authorized in existing law.

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<sup>5</sup> Bob McKee, Governmental Liaison, Florida Association of Counties, 1/26/04.