

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 55 Voter-Approved Indigent Care Surtax
SPONSOR(S): Kendrick and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 470

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----------------------------------|-----------|--------------|----------------|
| 1) Health Care General Committee | 12 Y, 0 N | Schiefelbein | Brown-Barrios |
| 2) Finance & Tax Committee | | | |
| 3) Local Government Council | | | |
| 4) Health & Families Council | | | |
| 5) _____ | | | |

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 55 amends subsection (7) of s. 212.055, F.S., to allow small counties to levy the Voter-Approved Indigent Care Surtax. Specifically, the bill 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 twenty-six counties to exercise this authority.

In counties with fewer than 50,000 residents, the bill expands their ability to 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 bonds 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 provides a discretionary authority to impose and collect surtax in counties with a population of fewer than 50,000 residents. The 2003 Impact Conference estimated that if all eligible jurisdictions enact the levy, the statewide impact would be \$27.4 million cash and recurring in FY 2005-06.

The bill provides an effective date upon becoming law.

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

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DATE: 1/26/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The House of Representatives is committed to advancing the following principles:

- Provide limited government
- Ensure lower taxes
- Safeguard individual liberty
- Promote personal responsibility
- Empower families
- Maintain public security

The bill does not appear to implicate any of the house principles. It should be noted, however that the bill does provide additional taxing authority in certain small counties.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes the imposition and collection of a 1.0 percent indigent care sales surtax in any county with a population of fewer than 50,000 residents, and in so doing, expands the number of counties that may levy the discretionary sales taxes pursuant to subsection (7) of s. 212.055, F.S.

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, and Washington. 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 provides authority to pledge the surtax proceeds to service new or existing bond indebtedness incurred to finance, plan, construct, or reconstruct a public or not-for-profit hospital. In addition, 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 use the bond issuance service 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.

Background

According to the Florida Hospital Association, in 2002, there were 4.8 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 indigent patient health care. The Florida Hospital Association reports that \$1.5 billion per year is spent in free care to Florida's uninsured population.

Rural and smaller counties face a greater challenge of caring for indigent health care needs. 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 equipment and infrastructure, and constantly increasing costs due to technological innovations and costs of pharmaceuticals and other supplies. Often rural hospitals are the only source of indigent care, given the immobility of the poor, the need to travel to a hospital outside of their neighborhood limits their access to basic care.

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. 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.

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.

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 Department of Revenue (DOR/the department) 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 | 23 |
| Small County Surtax | 0.5% or 1% | 31 | 22 |
| 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 | 16 |
| Voter-Approved Indigent Care Surtax | 0.5% or 1% | 60 | 2 |

Source: Legislative Committee on Intergovernmental Relations, Local Discretionary Sales Surtax Rates in Florida's Counties for 2005

Recent changes in Florida Law affecting the counties' taxing authority:

- 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 became effective on July 1, 2004.

C. SECTION DIRECTORY:

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

- Adding s. 212.055(7)(a)2., F.S., authorizing counties with fewer than 50,000 residents to levy an indigent care surtax up to 1.0 percent;
- Adding s. 212.055(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 the 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 law.

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. According to the Division, the bill will have a minimal impact on the operation of the Division.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill provides a discretionary authority to impose and collect surtax in counties with a population of fewer than 50,000 residents. Currently, 26 counties meet this criterion. The 2003 Impact Conference estimated that if all eligible jurisdictions enact the levy, the statewide impact would be 27.4 million cash and recurring in FY 2005-06.

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 any 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:

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

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES