

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 823 CS Local Government Infrastructure Surtax
SPONSOR(S): Altman
TIED BILLS: IDEN./SIM. BILLS: SB 2382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	DiVagno	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

Counties have authority to impose a limited number of discretionary sales surtaxes. To impose any of the surtaxes requires either a favorable referendum vote or, for some, an extraordinary vote of the governing body. The Local Government Infrastructure Surtax is one of the discretionary sales surtaxes.

With limited exceptions, all proceeds of the Local Government Infrastructure Surtax, and any interest accrued, are only allowed to be spent by the school district or within the county and municipalities in the county on local infrastructure needs. This bill provides that up to 35% of the proceeds and accruals may be used by the municipality, county, or school district to replace or supplant existing property tax levies and any debt related to such levies, user fees assessed for providing infrastructure, or to purchase environmentally sensitive lands. The bill also provides that up to 10% of the proceeds may be used for the operational expenses of infrastructure.

The bill provides that in the year following the imposition on the surtax, property taxes must be reduced by the amount of the proceeds used to replace or supplant property taxes or fund operating expenses.

The bill requires ballot summary language if the county, municipality, or school district decides to use proceeds to replace or supplant existing ad valorem taxes or user fees, or to fund operating expenses of infrastructure.

This bill would take effect July 1, 2006.

The bill does not appear to have a fiscal impact on state government. The bill has no required fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes- This bill allows 35% of the proceeds and interest of the Local Government Infrastructure Surtax (surtax) to be used to replace or supplant property taxes and debts associated with such levies, user fees imposed for providing infrastructure, or the purchase of environmentally sensitive land. The bill also allows up to 10% of such proceeds to be used for infrastructure operational expenses. The year following the use of proceeds for the replacement or supplanting of property taxes or operational expenses of infrastructure, property taxes must be reduced by a like amount.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 212.055, F.S., authorizes counties to impose one or more of seven local discretionary sales surtaxes on all transactions occurring in the county which are subject to the state tax imposed on sales, use, services, rentals, and admissions.¹ The tax rate, duration of levy, method of imposition, and use of proceeds and accrued interest are set in statute and summarized below:

Local Discretionary Sales Surtaxes:	Authorized Levy (%):
Charter County Transient System	Up to 1%
Local Government Infrastructure Surtax	0.5% or 1%
Small County Surtax	0.5% or 1%
Indigent Care and Trauma Center Surtax	Up to 0.5%
County Public Hospital Surtax	0.5%
School Capital Outlay Surtax	Up to 0.5%
Voter-Approved Indigent Care Surtax	0.5% or 1%

Section 212.055, F.S., provides maximum combined tax rates for the different surtaxes imposed. The Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are maximized at a combined rate of 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined maximum rate is 1.5%. The School Capital Outlay Surtax, capped at 0.5%, is not included in tax rate caps.

The Local Government Infrastructure Surtax (surtax) is authorized in s. 212.055(2)(d), F.S., upon enactment of an ordinance by a majority of the members of the county governing authority and approval in a local referendum. If not provided for differently in the ordinance, the surtax may not be levied for more than 15 years. They levy may be extended by majority vote in another referendum.

The referendum must include a general description of the projects to be funded by the surtax. Section 212.055(2)(d), F.S., limits the purposes for which the proceeds and any accrued interest can be used for. Proceeds and accruals can not be used for operational expenses. Except for a limited number of exceptions for counties under certain specifications, funds are only to be used by the school district or within the county and municipalities in the county to:

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

¹ Section 212.054, F.S.

- Retire or service bond indebtedness related to prior infrastructure construction.
- Up to 15% may be used for economic development projects if specifically provided for in the referendum.

Effect of Bill

This bill allows up to 10% of the proceeds from the Local Government Infrastructure Surtax be used to fund the operational expenses of any infrastructure. The bill then provides that up to 35% of the proceeds for the surtax may be used to replace or supplant existing property tax levies and any debt related to such levies, user fees assessed for providing infrastructure, or for the purchase of environmentally sensitive lands.

If funds are used to replace or supplant existing property tax levies or for operating expenses, the bill requires the county, municipality, or school district to reduce property taxes by the like amount the following year. There is no reduction in property taxes if funds are used to reduce user fees assessed for infrastructure or the purchase of environmentally sensitive lands and nothing else.

The bill requires the ballot summary language in a referendum to impose the surtax when proceeds will be used to replace or supplant existing ad valorem taxes or user fees or operating expenses of infrastructure to provide an estimate of the amount of the reduction in taxes or user fees or the amount of the infrastructure operating expenses.

C. SECTION DIRECTORY:

Section 1: Amends subsection (b) to require ballot language; renumbers and amends subsection (d) to provide for operational expenses percentage and to create subsection (d)(i) to provide the percentage for replacement of tax levies and associated debt, user fees, or the purchase of environmentally sensitive lands .

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill affects the Department of Revenue in its oversight capacity for taxes imposed by a county.²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill gives local governments the option to redistribute proceeds from a current revenue source, the Local Government Infrastructure Surtax, to fund operational expenses, replace property taxes and associated debts, users fees for infrastructure, and to purchase environmentally sensitive lands. If used to replace property tax levies and/or operational expenses, property taxes are required to be reduced by a like amount the next year.

2. Expenditures:

None.

² Department of Revenue: Bill Analysis (HB 823).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could reduce property taxes.

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 & COMBINED BILL CHANGES

The Council on Local Government adopted one strike-all amendment on March 15, 2006. The amendment provides for ballot language and allows a maximum of 10% of the proceeds to be used for operational expenses and up to 35% of the proceeds be used to supplant existing property tax levels, any debts associated with these levies, and any user fees imposed for providing infrastructure. If proceeds are used for either operational expenses or replacement of property taxes, property taxes must be reduced by a like amount. The bill, as amended, was reported favorably with committee substitute.