

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Operations Committee

BILL: SB 2298

INTRODUCER: Senators Fasano and Atwater

SUBJECT: Emergency Fire Rescue Services and Facilities Surtax

DATE: April 17, 2008

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/1 amendment
2.	Wilson	Wilson	GO	Fav/1 amendment
3.			MS	
4.			FT	
5.			GA	
6.				

**Please see Section VIII. for Additional Information:**

- A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes  
 B. AMENDMENTS.....  Technical amendments were recommended  
 Amendments were recommended  
 Significant amendments were recommended

**I. Summary:**

This bill authorizes certain counties to levy by ordinance a 1 percent sales surtax for emergency fire rescue services and facilities if such surtax is approved by a majority of the electors of the county voting in a referendum. The bill provides for the distribution of the discretionary surtax proceeds and requires a reduction in ad valorem taxes levied for fire rescue services upon the discretionary sales surtax taking effect.

This bill substantially amends section 212.055, Florida Statutes.

**II. Present Situation:**

**Local Discretionary Sales Surtaxes<sup>1</sup>**

Seven different types of local discretionary sales surtaxes are authorized in law and apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions as provided in ch. 212, F.S., and communications services as defined for purposes of

<sup>1</sup> Information in this section is provided by the "2007 Local Government Financial Information Handbook", prepared by the Legislative Committee on Intergovernmental Relations, October 2007, pgs. 153-173.

ch. 202, F.S. The local discretionary rate varies from county to county, depending on the levies authorized within each jurisdiction. Discretionary sales surtax must be collected when the transaction occurs in, or delivery is into, a county that imposes the surtax, and the sale is subject to the state's sale and use tax.

The Department of Revenue is charged with administering, collecting, and enforcing local discretionary sales surtaxes which must be enacted by an ordinance adopted by the governing body of the county levying the surtax. No initial levy or rate increase or decrease may take effect on a date other than January 1, and no levy may terminate on a day other than December 31. Not later than 10 days after the adoption of a levy by ordinance or a referendum, but no later than November 16th prior to the January 1 effective date, the governing body must notify the department of the imposition of the levy. Failure to comply will result in a one-year delay in the effective date of the levy.

The proceeds of each county's discretionary sales surtax collections are transferred to the Discretionary Sales Surtax Clearing Trust Fund and a separate account within the trust fund must be established for each county imposing the surtax. The department is authorized to take an administrative cost deduction of not more than 3 percent of the total surtax revenues generated by all levying counties, and administrative costs are prorated among the counties that levy the tax based on the amount collected in each county.

The seven types of discretionary sales surtax are: charter county transit system surtax, local government infrastructure surtax, small county surtax, indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax, and the voter-approved indigent care surtax.

### **III. Effect of Proposed Changes:**

The bill creates subsection (8) in s. 212.055, F.S., relating to discretionary sales surtaxes, to provide the following:

#### **Emergency Fire Rescue Services and Facilities Surtax**

The governing authority of each county that provides emergency fire rescue services within a majority of the geographical area of the county, including unincorporated areas, may adopt an ordinance imposing a discretionary sales surtax of 1 percent for emergency fire rescue services, providing the following conditions are met:

- The county must currently provide such services to cities within the county that do not have adequate facilities and personnel to provide such services.
- The county must currently employ more personnel and receive more emergency fire rescue service calls than any other provider in the county.
- The county must currently fund emergency fire rescue services through an ad valorem tax imposed for such purposes.

After the ordinance is adopted by the governing authority, the following conditions must be met:

- The governing authority of the county must be designated as the regional service provider for emergency fire rescue services within the county.
- The levy of the surtax must be placed on the local ballot and must be approved by a majority of the voters of the county voting in the referendum.
- The referendum statement must briefly describe the purposes and uses of the surtax.
- The referendum statement must conform to the statutory provisions for referenda contained in s. 101.161, F.S.

After the referendum is adopted, the following conditions must be met:

- The Department of Revenue must administer, collect, and enforce the surtax as required under s. 212.054(4), F.S.
- The surtax must be distributed to the regional service provider, the cities, and the independent special districts within which the surtax was collected, under the following formula:
  - A city or independent special district that provides emergency fire rescue services and intends to continue doing so may receive a prorated share of the surtax proceeds based upon the percentage of surtax revenues collected within their respective jurisdictions, except that:
    - The Department of Revenue may retain administrative fees, and
    - The city or independent special district must enter into an interlocal agreement with the regional service provider which specifies:
      - The city or independent special district must provide a level of service equal to or higher than the level of service which can be provided by the regional service provider.
      - The city or independent special district must provide personnel levels for a facility or piece of equipment that is equal to the personnel levels maintained by the regional service provider within the regional service area.
      - The city or independent special district agrees that the regional service provider is entitled to payment from the city or district share of surtax proceeds for any personnel, equipment, or other costs incurred by the regional service provider to maintain the specified level of service or adequate personnel within the city or independent district service area.
- The regional service provider must reduce the ad valorem taxes being levied for fire rescue services in the next and in subsequent budgets by the estimated amount of surtax revenue, and a city or independent special district that enters into an interlocal agreement with a regional service provider must also reduce the ad valorem tax levied for fire rescue services.
- The surtax revenues that would have been distributed to a city or independent special district that does not enter into an interlocal agreement with the regional service provider must be distributed by the department to the regional service provider, and to the cities and independent special districts that do enter into an interlocal agreement. Each service provider

must receive surtax revenues equal to the percentage the provider would receive of the total surtax revenues distributed by the department.

If enacted into law, the bill will take effect July 1, 2008.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

This bill allows for the imposition of a 1 percent discretionary sales surtax if approved by a majority of the voters in the county voting in a referendum. Subsequent to approval, ad valorem taxes levied for emergency fire services must be reduced.

B. Private Sector Impact:

Residents in a county where the referendum is approved will see a reduction in ad valorem taxes for fire services and will pay a higher sales tax.

C. Government Sector Impact:

The Department of Revenue reported both an administrative and operational impact from the provisions of the bill. The current systems for identifying sales tax revenues generated within a municipality or special district located in a county imposing the new surtax may not be sufficient to provide for distribution of the proceeds based upon the percentage of surtax revenues collected within their respective jurisdictions and a new jurisdictional database may be required. The department reported that development of the new jurisdictional database will cost \$750,000 in non-recurring funds for fiscal year 2008-2009, and \$150,000 in recurring funds for maintenance beginning in fiscal year 2008-2009. However, it would be difficult to purchase and implement a complete jurisdictional database by January 1, 2009, the earliest date the new surtax could be effective.

The fiscal impacts could be reduced if the bill is implemented using the department's current jurisdictional database so that funds are distributed back to the counties, and the county distributes to the cities and districts. Also, the first distribution could be delayed to

the participating counties until the first day of July after the referendum is passed, which would also be the first date the address master list can be updated.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 212.055, F.S., provides for several restrictions on the levy of surtaxes in excess of combined rates:

a. A county may not levy the Local Government Infrastructure, Small County, Indigent Care and Trauma Center, and County Public Hospital surtaxes in excess of a combined rate of 1 percent – ss. 212.055(2)(h) and (3)(f), F.S.

b. A county may not levy the Local Government Infrastructure, Small County, and Indigent Care and Trauma Center surtaxes in excess of a combined rate of 1 percent – s. 212.055(4)(b)5, F.S.

c. A county may not levy the Local Government Infrastructure, Small County, and County Public Hospital surtaxes in excess of a combined rate of 1 percent – s. 212.055(5)(f), F.S.

d. A county may not levy the Voter-Approved Indigent Care, the Local Government Infrastructure, and the Small County surtaxes in excess of a combined rate of 1 percent, except that a county with a publicly supported medical school within its jurisdiction or a county with a population of fewer than 50,000 residents may levy a combined rate of not more than 1.5 percent – s. 212.055(7)(f), F.S.

The surtax proposed in the bill is not included in these restrictions.

**VIII. Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

**Barcode #236250 by Governmental Operations on April 17, 2008:**

The amendment provides that if a county has an independent special fire control and rescue district within its boundaries, the surtax proceeds must be distributed among the county, municipalities, and independent special fire control and rescue districts based on the expenditure of ad valorem taxes and non-ad valorem assessments for fire rescue services of each for the preceding 5 fiscal years.

**Barcode #147852 by Community Affairs Committee on April 3, 2008:**

The amendment defines "fire services" for the purposes of the bill, revises the distribution of surtax proceeds to address concerns raised by the Department of Revenue, and provides that only cities and independent special fire districts who enter into an interlocal agreement with the regional service provider are eligible to receive surtax proceeds. The regional service provider, and each county and independent special fire district who enter into an interlocal agreement with the regional service provider, must reduce ad valorem taxes levied for fire rescue services. The amendment provides specific requirements to be included in the interlocal agreement.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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