

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1343 Discretionary Sales Surtaxes

SPONSOR(S): Fresen

TIED BILLS: **IDEN./SIM. BILLS:** SB 980

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Appropriations Subcommittee	11 Y, 2 N, As CS	Seifert	Heflin
2) Finance & Tax Committee			
3) Appropriations Committee			

SUMMARY ANALYSIS

The bill amends statutes relating to discretionary sales surtaxes by:

- Expanding the allowable use of the surtax;
- Requiring a decrease to the discretionary capital outlay millage levy if the surtax is implemented; and
- Creating an unnumbered section of law that disallows the expanded use of the surtax funds by school districts levying the surtax prior to July 1, 2012.

See Fiscal Comments.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Capital Outlay Surtax

The School Capital Outlay Surtax, more commonly known as the school half-cent sales tax, is a sales tax that may be levied by a school board after a favorable vote of the electorate through a local referendum.¹ The sales tax may not exceed .5 percent.²

The school half-cent sales tax proceeds must be used for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and engineering costs associated with such facilities and campuses. Additionally, the plan for the projects must include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.³

The voters in 14 school districts have passed a school half-cent sales tax that will generate an estimated \$346.5 million during the county fiscal year ending September 30, 2012.⁴

School District	Effective Date	Tax Rate (percent)	Estimated Revenue
Bay	Jan. 1, 2011 to Dec. 31, 2020	.5	\$14,443,479
Calhoun	Jan. 1, 2009 to Dec. 31, 2018	.5	\$373,918
Escambia	Jan. 1, 2003 to Dec. 31, 2017	.5	\$19,783,694
Flagler	Jan. 1, 2003 to Dec. 31, 2012	.5	\$4,073,054
Hernando	Jan. 1, 2005 to Dec. 31, 2014	.5	\$7,897,587
Jackson	Jul. 1, 2006 to Dec. 31, 2015	.5	\$2,007,881
Leon	Jan. 1, 2003 to Dec. 31, 2012	.5	\$17,401,087
Manatee	Jan. 1, 2003 to Dec. 31, 2017	.5	\$22,023,612
Monroe	Jan. 1, 2006 to Dec. 31, 2015	.5	\$12,648,470
Orange	Jan. 1, 2003 to Dec. 31, 2015	.5	\$166,828,401
Polk	Jan. 1, 2004 to Dec. 31, 2018	.5	\$30,216,281
St. Lucie	Jan. 1, 2006 to Dec. 31, 2026	.5	\$12,476,274
Santa Rosa	Oct. 1, 1998 to Dec. 31, 2018	.5	\$6,251,530
Volusia	Jan. 1, 2002 to Dec. 16, 2016	.5	\$30,040,095
TOTAL			\$346,465,361

The resolution of a district school board providing for the imposition of the school half-cent sales tax may include a covenant to decrease the Capital Outlay Discretionary Tax and to maintain that tax at the reduced millage as long as the tax is in effect. The resolution may also provide that the tax shall sunset on December 31 of any year in which the district school board levies the Capital Outlay Discretionary Tax at a millage rate in excess of the reduced millage rate promised in the resolution.⁵

¹ Section 212.055(6)(a), F.S.

² Id.

³ Section 212.055(6)(c), F.S.

⁴ 2011 Local Government Financial Information Handbook, <http://edr.state.fl.us/Content/local-government/reports/lghfih11.pdf>

⁵ Sections 1011.715 and 1011.71(2), F.S.

For example, if voters approved the levy of a school half-cent sales tax for 15 years in order to raise capital outlay revenues under the condition that a half-mill of the Capital Outlay Discretionary Tax is reduced while the school half-cent sales tax is in effect.

Effect of the Bill

The bill requires the authorizing resolution to require a general description of the new or existing projects to be funded by the surtax in place of the current requirement to include a general description of the school capital outlay projects.

The bill revises requirements for the authorizing resolution to allow it to include a capital outlay plan for using the process of the surtax to fund the expenses authorized under section 1011.71(2), Florida Statutes.

In addition to the previously noted uses of the surtax, the bill expands the allowable use of the surtax to include⁶:

- New construction and remodeling projects included in the district's educational plant survey.
- Maintenance, renovation, and repair of school plants or leased facilities to correct deficiencies.
- Purchase, lease-purchase, or lease of school buses.
- Purchase, lease-purchase, or lease of new and replacement equipment.
- Payments for educational facilities⁷ and sites due under a lease-purchase agreement not exceeding in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district; Certificates of Participation (COPS) are the most frequent type of lease-purchase agreement employed by districts.⁸
- Payment of loans that are renewed annually with the consent of the lender and are for a period not to exceed four years for the purpose of the purchase of school buses, land, and equipment for educational purposes or to address an emergency condition in an existing school plant that demands immediate correction in order to prevent further damage to the building or equipment or to eliminate a safety hazard that constitutes an immediate danger to the students and other occupants.⁹
- Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
- Rental or lease of existing buildings or for conversion of these buildings for use as educational facilities.¹⁰
- Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services.
- Opening day collection for the library media center of a new school.

⁶ Section 1011.71(2), F.S.

⁷ Section 1013.01(6), F.S.

⁸ See s. 1013.15, F.S.

⁹ Section 1011.15, F.S.

¹⁰ Section 1013.14(4)(a), F.S.

The bill specifies that the expanded list of expenditures is not applicable to school districts currently levying the surtax, unless the district obtains approval of the voters by referendum to expand the uses of the current surtax.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055(6), F.S., expanding the allowable use of the surtax; and requiring a decrease to the discretionary capital outlay levy if the surtax is implemented.

Section 2: Creating an unnumbered section of law that disallows the expanded use of the surtax funds by school districts levying the surtax prior to July 1, 2012.

Section 3: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Combining or swapping capital millage with school surtax revenues to fund capital needs will expand the tax base and reduce the tax burden to homeowners.

D. FISCAL COMMENTS:

According to the 2011 Local Government Financial Information Handbook, there are 53 districts that are not levying the local discretionary sales surtax which results in a combined estimate of unrealized tax revenues of \$1.005 billion.

The bill provides greater flexibility in how sales surtax proceeds may be spent. With decreasing ad valorem taxes, the local revenues available to school districts are also decreasing. The bill would provide flexibility in the use of available revenues to meet the capital outlay needs of the school districts. However, the bill's intent to promote such flexibility may be limited in application due to the bill's requirement to condition expenditure of the surtax revenues on a reduction of the discretionary capital improvement millage rate.

The bill has the potential to increase local taxes if a local levy is approved by voter referendum.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 31, 2012, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The amendment maintains the name and intent of the surtax to be for capital outlay and limits the additional uses of the surtax.