

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 Committee on Education

BILL: CS/SB 1052

INTRODUCER: Education Committee and Senator Montford

SUBJECT: Discretionary Sales Surtaxes

DATE: April 24, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Klebacha	ED	Fav/CS
2.			AFT	
3.			AP	
4.				
5.				
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:

CS/SB 1052 expands the possible use of a discretionary sales surtax levied for school capital outlay purposes to permit the proceeds from the surtax to be used for:

- Lease, lease-purchase, or purchase school buses;
- Lease, lease-purchase, or purchase new and replacement equipment;
- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing school plants or leased facilities;
- Payment for educational facilities and sites due under a lease-payment agreement;
- Payment of certain loans;
- Payment of costs related to complying with state and federal environmental requirements;
- Payment of costs of leasing relocatable educational facilities or of renting or leasing buildings or space within buildings;
- Payment of the cost of the opening day collection for the library media center of a new school.

- Purchase, leases-purchase, or lease of driver's education vehicles; and
- Payment of the premiums for property and casualty insurance.

The bill takes effect July 1, 2013.

This bill amends s. 212.055 of the Florida Statutes.

II. Present Situation:

Local Discretionary Sales Surtax

A "surtax" is an extra tax or charge.¹ Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax on all transactions subject to the state sales and use tax. Only those surtaxes specifically designated may be levied.

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county that are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions and on communications services, defined in chapter 202, F.S.² The eight surtaxes are:

- The charter county and regional transportation system surtax,
- The local government infrastructure surtax,
- The small county surtax,
- The county public hospital surtax,
- The school capital outlay surtax,
- The voter-approved indigent care surtax,
- The emergency fire rescue services and facilities surtax, and
- The indigent care and trauma center surtax.

The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility for the taxes listed in s. 212.055, F.S. Currently, the maximum surtax actually imposed is 1.5 percent in several counties;³ however, the theoretical maximum rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county. In general, the levy of a particular tax is subject to county voter approval.

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state tax. 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. The surtax does not apply to a sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

School Capital Outlay Surtax

¹ Black's Law Dictionary (9th ed., 2009), tax.

² The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

³ See Florida Department of Revenue, *Discretionary Sales Surtax Information: Calendar Year 2013*, available at <http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf>.

Under s. 212.055, F.S., each county may levy, subject to approval by a majority of voters, a discretionary sales surtax at a rate that may not exceed 0.5 percent. The resolution providing for the surtax must include a plan for use of the proceeds. The authorized uses include fixed capital expenditures or fixed capital costs, or servicing bond indebtedness associated with the construction, reconstruction, or improvement of school facilities that have a useful life expectancy of five or more years, and any related land acquisition, land improvement, design, and engineering costs.

According to the Department of Education, the following district school boards levied the half-cent school capital outlay surtax for the 2011-12 school year:

School District	Revenue
Bay County	\$15,654,029
Calhoun County	378,068
Escambia County	20,135,054
Flagler County	4,179,700
Hernando County	7,809,102
Jackson County	2,013,150
Leon County	17,470,686
Liberty County	43,818
Manatee County	22,663,498
Monroe County	13,440,925
Orange County	170,217,876
Polk County	32,004,071
St. Lucie County	12,598,416
Santa Rosa County	6,458,234
Volusia County	30,394,287

Source: Florida Department of Education⁴

District School Tax

Section 1011.71(2), F.S., authorizes a school board to levy not more than 1.5 mills for specified school purposes, as follows:

- Lease, lease-purchase, or purchase school buses;
- Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services;
- Lease, lease-purchase, or purchase new and replacement equipment;
- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing school plants or leased facilities;
- Payment for educational facilities and sites due under a lease-payment agreement;
- Payment of certain loans;
- Payment of costs related to complying with state and federal environmental requirements;
- Payment of costs of leasing relocatable educational facilities or of renting or leasing buildings or space within buildings; and

⁴ Department of Education bill analysis for SB 1052, on file with the Senate Education Committee.

- Payment of the cost of the opening day collection for the library media center of a new school.

Section 1011.71(5), F.S., authorizes use of proceeds of the millage authorized in subsection (2), for the following additional purposes:

- Purchase, leases-purchase, or lease of driver's education vehicles; and
- Payment of the premiums for property and casualty insurance.

Section 1011.71(3), F.S., authorizes a school board to levy an additional 0.25 mills to meet the payments due under a lease-purchase agreement entered into before June 30, 2009, or to meet other critical district fixed capital outlay needs.

III. Effect of Proposed Changes:

The bill would expand the authorized uses for proceeds of the school capital outlay surtax to include the purchase of school buses and the purposes for which the district school tax may be used under s. 1011.71(2)-(5), F.S., subject to the statutory requirements for noticing the plan and gaining voter approval.

Districts with current voter approval to levy the half-cent school capital outlay sales surtax would need additional voter approval to expand the plan any of the new purposes authorized in this bill.⁵

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:

The bill authorizes additional uses for the School Capital Outlay Discretionary Sales Surtax, which would have to be approved by the voters in a referendum.

⁵ Department of Education bill analysis for SB 1052, on file with the Senate Education Committee, and Op. Att'y Gen. Fla. 06-38 (2006).

B. Private Sector Impact:

None.

C. Government Sector Impact:

In school districts where the voters passed a referendum authorizing the use of the school capital outlay surtax for the purposes authorized in this bill, the district would be able to purchase of school buses and use the proceeds of the surtax to pay for the purposes authorized in s. 1011.71(2)-95), F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Education on April 22, 2013:**

The Committee Substitute for SB 1052 expands the authorized use of the proceeds from the school capital outlay surtax to include the purposes that are authorized for the district school tax under s. 1011.71(2)-(5), F.S.

B. Amendments:

None.