

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1081 Discretionary Sales Surtaxes

**SPONSOR(S):** Williams

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1052

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
1) Education Appropriations Subcommittee	11 Y, 1 N	Seifert	Heflin
2) Finance & Tax Subcommittee	16 Y, 0 N	Flieger	Langston
3) Appropriations Committee			

**SUMMARY ANALYSIS**

The School Capital Outlay Surtax, also known as the “school half-cent sales tax”, is a sales surtax that may be levied by a school board after a favorable vote of the electorate through a local referendum. The sales tax rate may not exceed 0.5 percent. 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.

The bill amends statutes relating to discretionary sales surtaxes by expanding the allowable use of the surtax to include the purchase of school buses.

There is no fiscal impact to state or local governments.

The bill takes effect July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>1</sup> 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 sales and use tax of 6 percent. The surtax does not apply to sales price 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

The School Capital Outlay Surtax, also known as the “school half-cent sales tax”, is a sales tax that may be levied in a county by a school board after a favorable vote of the electorate through a local referendum.<sup>2</sup> The sales tax rate may not exceed 0.5 percent.<sup>3</sup>

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.<sup>4</sup>

The voters in 15 school districts have passed a school half-cent sales tax that will generate an estimated \$351.0 million during the county fiscal year ending September 30, 2013.<sup>5, 6</sup>

School District	Effective Date	Tax Rate (percent)	Estimated Revenue
Bay	Jan. 1, 2011 to Dec. 31, 2020	.5	\$16,040,097
Calhoun	Jan. 1, 2009 to Dec. 31, 2018	.5	\$379,932
Escambia	Jan. 1, 2003 to Dec. 31, 2017	.5	\$20,645,592
Flagler	Jan. 1, 2003 to Dec. 31, 2022	.5	\$4,331,685
Hernando	Jan. 1, 2005 to Dec. 31, 2014	.5	\$7,856,046
Jackson	Jul. 1, 2006 to Dec. 31, 2015	.5	\$2,024,372
Leon	Jan. 1, 2003 to Dec. 31, 2012	.5	\$4,482,052
Liberty	Jan. 1, 2012 to Dec. 31, 2020	.5	\$150,254
Manatee	Jan. 1, 2003 to Dec. 31, 2017	.5	\$23,287,028
Monroe	Jan. 1, 2006 to Dec. 31, 2015	.5	\$13,826,450

<sup>1</sup> 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.

<sup>2</sup> Section 212.055(6)(a), F.S.

<sup>3</sup> Id.

<sup>4</sup> Section 212.055(6)(c), F.S.

<sup>5</sup> 2012 Local Government Financial Information Handbook, <http://edr.state.fl.us/Content/local-government/reports/lghfih12.pdf>; estimated funds for Flagler and Leon were based on their expiration of December 12, 2012. Subsequent to the publishing of the Handbook, the surtax was extended for both districts.

<sup>6</sup> Discretionary Sales Surtax Information for CY 2013, <http://dor.myflorida.com/dor/forms/index.html#discretionary>

Orange	Jan. 1, 2003 to Dec. 31, 2015	.5	\$173,911,955
Polk	Jan. 1, 2004 to Dec. 31, 2018	.5	\$32,851,041
St. Lucie	Jan. 1, 2006 to Dec. 31, 2026	.5	\$13,009,879
Santa Rosa	Oct. 1, 1998 to Dec. 31, 2018	.5	\$6,597,493
Volusia	Jan. 1, 2002 to Dec. 16, 2016	.5	\$31,625,465
<b>TOTAL</b>			<b>\$351,019,337</b>

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 Property Tax<sup>7</sup> 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.<sup>8</sup>

For example, voters could approve 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.

### School Buses

In January 2013, Florida's public school districts had a total of 18,574 school buses in their fleets that were available to transport students (including spare and activity buses). The age breakdown of those buses was as follows:<sup>9</sup>

- 0-5 Years Old: 4,182 buses
- 6-10 Years Old: 8,104 buses
- 11-15 Years Old: 4,022 buses
- 16-20 Years Old: 2,112 buses
- 21-28 Years Old: 154 buses
- Average Bus Age (statewide): 9.23 years

In 2011-12 there were 14,514 public school buses in daily service in Florida.

### **Proposed Change**

In addition to the previously noted uses of the surtax, the bill expands the allowable use of the surtax to include the purchase of school buses.

The purchase of school buses is currently an allowable expense of the 1.5 mills district school tax authorized under section 1011.71(2), F.S. The bill provides an additional funding source for school districts for the purchase of school buses.

### **B. SECTION DIRECTORY:**

Section 1: Amends s. 212.055(6), F.S., expanding the allowable use of the surtax.

Section 2: Provides an effective date.

<sup>7</sup> Section 1011.71(2), F.S.

<sup>8</sup> Sections 1011.715 and 1011.71(2), F.S.

<sup>9</sup> Florida Department of Education, *Legislative Bill Analysis for HB 1081* (March 30, 2013).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### 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:

None.

### D. FISCAL COMMENTS:

According to the 2012 Local Government Financial Information Handbook, there are 52 districts that are not levying the local discretionary sales surtax with a combined unrealized local use tax revenues of \$1.065 billion.

The bill provides greater flexibility in how sales surtax proceeds may be spent. The bill would provide flexibility in the use of available revenues from the proceeds of voter approved sales surtax to meet the capital outlay needs of the school districts.

The average price of a 65-passenger school bus with air conditioning and no options as of January 2012 was \$93,400.

School buses purchased by school districts from the Department of Education's volume purchasing contract over the last 5 fiscal years were as follows: 1,228 buses in 2007-08; an average of 387 buses per year for the 2008-09 and 2009-10 two-year bid period; and an average of 607 buses per year for the 2010-11 and 2011-12 two-year bid period. Based on a 5-year average, an estimated 645 buses will be replaced in the next school year.

The cost to purchase 645 buses is \$60,243,000 (645 × \$93,400). The number of buses that would be purchased with half-cent school capital outlay sales surtax revenues under the bill is not known.<sup>10</sup>

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<sup>10</sup> Florida Department of Education, *Legislative Bill Analysis for HB 1081* (March 30, 2013).

### **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**