

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1295 Discretionary Sales Surtaxes

SPONSOR(S): Fresen

TIED BILLS: **IDEN./SIM. BILLS:** SB 1718

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	16 Y, 0 N, As CS	Flieger	Langston
2) Education Committee			
3) Appropriations Committee			

SUMMARY ANALYSIS

The bill creates a ninth discretionary sales and use surtax in s. 212.055, F.S. The newly created “Florida College Surtax” allows a county as defined in s. 125.011(1), F.S., to levy a surtax of up to 0.5 percent for the benefit of a Florida College System institution as defined by s. 1000.21, F.S., which is located within that county. To levy the surtax, a qualifying county must approve an ordinance via referendum. The expense of holding the referendum must be paid for by the Florida College System institution and may not use student fees or state funding, the referendum shall be paid for only through funds received from private donors or with college auxiliary funds.

Should the referendum be successful, the surtax will last for 5 years. The funds raised by the surtax will be subject to oversight by a seven member board created by the bill.

Currently, Miami-Dade is the only county in Florida whose charter satisfies the s. 125.011(1), F.S., definition. The only Florida College System institution located within Miami-Dade county is Miami-Dade College. Of the four discretionary sales surtaxes Miami-Dade may levy, the county currently levies a 0.5 percent Charter County and Regional Transportation Surtax and a 0.5 percent County Public Hospital Surtax.

The bill has not been evaluated by the Revenue Estimating Conference. Staff estimates that a 0.5 percent surtax in Miami-Dade could raise \$202M in annual revenue.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present 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.¹ 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.

The eight discretionary sales surtaxes and their maximum rates are:

- Charter County and Regional Transportation System Surtax, 1 percent
- Emergency Fire Rescue Services and Facilities Surtax, 1 percent
- Local Government Infrastructure Surtax, 1 percent
- Small County Surtax, 1 percent
- Indigent Care and Trauma Center Surtax, 0.5 percent
- County Public Hospital Surtax, 0.5 percent
- School Capital Outlay Surtax, 0.5 percent
- Voter-Approved Indigent Care Surtax, 1 percent

Every county is eligible to levy the School Capital Outlay and Local Government Infrastructure Surtaxes, the others have varying requirements. Section 212.055, F.S., further provides caps on the combined rates. The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility. Currently, the highest surtax imposed is 1.5 percent in several counties;² however, the theoretical maximum combined rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county.³

Section 212.054, F.S., requires that any increase or decrease in a discretionary sales surtax must take effective on January 1.

Of the four discretionary sales surtaxes Miami-Dade may levy, the county currently levies a 0.5 percent Charter County and Regional Transportation Surtax and a 0.5 percent County Public Hospital Surtax.

Proposed Changes

The bill creates a ninth discretionary surtax in s. 212.055, F.S. The "Florida College Surtax" allows a county as defined in s. 125.011(1), F.S.,⁴ to levy a surtax of up to 0.5 percent for the benefit of a Florida College System institution as defined by s. 1000.21, F.S.,⁵ which is located within that county. Miami-Dade is the only county in Florida whose charter satisfies the s. 125.011(1), F.S., definition, though Hillsborough and Monroe County are authorized to operate under such a charter.

¹ 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.

² See DOR Form DR-15 DSS, "Discretionary Sales Surtax Information", available at <http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf> (last visited 1/31/2013).

³ See pg. 212-213 of the REC's 2012 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2012.pdf> (last visited 3/9/12)

⁴ A county "operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred."

⁵ <http://data.fldoe.org/workforce/contacts/default.cfm?action=showList&ListID=52> (last accessed 3/18/13)

The only Florida College System institution currently located within Miami-Dade county is Miami-Dade College.

To levy the surtax, a qualifying county must approve an ordinance via referendum. The ordinance must set forth the permissible uses of the surtax proceeds. The expense of holding the referendum must be paid for by the Florida College System institution and may not use student fees or state funding, the referendum shall be paid for only through funds received from private donors or with college auxiliary funds.

The bill provides that if the referendum is successful, a seven member oversight board shall be established to provide guidance and accountability for the expenditure of the revenue raised by the surtax. The board shall be composed of:

- One member appointed by the board of directors of the Greater Miami Chamber of Commerce,
- One member appointed by the board of directors of the United Way of Miami-Dade County,
- One member appointed by the Beacon Council, Miami-Dade County's official economic development partnership,
- Two members appointed by the board of trustees of the Florida College System institution, and
- Two members appointed by the chair of the county legislative delegation.

The board will annually meet to approve a proposed spending plan. Members will be appointed to 5 year terms.

The bill prohibits any reduction in the annual apportionment of state funds allocated to support a Florida College System institution that has received funds from a Florida College Surtax.

The surtax would expire 5 years after enactment.

B. SECTION DIRECTORY:

Section 1. Amends s. 212.055, F.S., creating a ninth discretionary surtax

Section 2. Provides an effective date.

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:

The bill has not been evaluated by the Revenue Estimating Conference. Staff estimates that a 0.5 percent surtax in Miami-Dade could raise \$202M in annual revenue.⁶

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Finance and Tax Subcommittee adopted a strike-all amendment which reduced the length of the surtax from 10 years to 5 years and increased the term of board members from 4 to 5 years. This analysis reflects those changes.

⁶ Office of Economic and Demographic Research, [2012 Local Government Financial Information Handbook](http://edr.state.fl.us/Content/local-government/reports/lghih12.pdf) , pg 164. Available at <http://edr.state.fl.us/Content/local-government/reports/lghih12.pdf> (last accessed 3/19/13)