

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 Children, Families, and Elder Affairs

BILL: SB 786

INTRODUCER: Senator Latvala

SUBJECT: Discretionary Sales Surtaxes

DATE: March 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Favorable
2.			CA	
3.			TR	
4.			AP	

I. Summary:

SB 786 amends s. 212.055(2)(d), F.S., to allow a county to use the proceeds or interest accrued from a duly adopted local government infrastructure surtax for the maintenance of transportation infrastructure provided the local government ordinance authorizing such use is approved by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax.

This bill creates s. 202.055(9), F.S., which authorizes a new discretionary sales surtax of up to 0.5 percent, or one half of one percent, for homeless services and facilities within the county through the adoption of an ordinance passed by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax.

The bill would have a positive fiscal impact on those local governments that adopt the surtax.

The bill has an effective date of July 1, 2014.

II. Present Situation:

Local Discretionary Sales Surtax

A “surtax” is an “additional tax imposed on something being taxed or on the primary tax itself.”¹ The Florida Statutes authorize counties to charge a discretionary sales surtax if the surtax is specifically designated as a subsection of s. 212.055, F.S.²

¹ BLACK’S LAW DICTIONARY 704 (3rd ed. 2006)

² Sections 212.054, 202.055, F.S.

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes, which are the:

- Charter County and Regional Transportation System Surtax.
- Local Government Infrastructure Surtax.
- Small County Surtax.
- Indigent Care and Trauma Center Surtax.
- County Public Hospital Surtax.
- School Capital Outlay Surtax.
- Voter-Approved Indigent Care Surtax; and
- Emergency Fire Rescue Services and Facilities Surtax.³

Currently, the maximum surtax actually imposed is 1.5 percent in several counties.⁴ The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered, and is levied in addition to the state tax.⁵ 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.⁶ Discretionary sales surtax applies to the first \$5,000 on any item of tangible personal property.⁷ The \$5,000 cap does not apply to:

- sales of admissions,
- sales of warranties,
- sales and uses of services,
- charges for prepaid calling arrangements,
- leases, rental, and licenses to use real property or transient accommodations,
- leases or renting of parking or storage space for motor vehicles in parking lots or garages,
- docking or storage space in boat docks and marinas, and
- tie-down or storage space for aircraft.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 212.055(2)(d), F.S., to allow for the use of the proceeds or interest accrued from the levy of a local government infrastructure surtax for the maintenance of transportation infrastructure if the local government ordinance authorizes such use and it is approved by a referendum. Current law does not allow for proceeds and any interest to be used for the operational expenses of infrastructure except in a county that has a population of fewer than 75,000 and pursuant to certain conditions.

³ Section 212.055(1)-(8), F.S.

⁴ Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2014*, available at http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf (listing the following counties as having a 1.5% surtax rate in 2014: Calhoun, Escambia, Gadsden, Jackson, Leon, Liberty, Madison, Monroe, and Walton.) (last visited Feb. 26, 2014).

⁵ Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, available at <http://dor.myflorida.com/dor/forms/current/gt800019.pdf> (last visited Feb. 26, 2014).

⁶ *Id.*

⁷ *Id.* The surtax applies to the “sale, use, lease rental, or license to use any item of tangible personal property,” and tangible personal property is “personal property that you can see, weigh, measure, or touch or is in any manner perceptible to the senses, including electric power or energy.”

⁸ *Id.*

The bill creates s. 212.055(9), F.S., to add a ninth discretionary sales surtax, known as the Homeless Services and Facilities Surtax, authorizing a county to levy up to 0.5 percent for homeless services and facilities within the county. The surtax requires an ordinance that must include a plan for the provision of services to qualified homeless residents and subject to the approval by a majority of county electors voting in a referendum. A statement that includes a brief description of the purposes to be funded by the surtax and conforms to the statutory requirements must be included on the ballot.

Section 2 provides an effective date of July 1, 2014.

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:

None.

B. Private Sector Impact:

Sales tax would increase in a county if an ordinance is approved to levy the Homeless Services and Facilities Surtax up to 0.5 percent.

C. Government Sector Impact:

The bill has not yet been reviewed by the Revenue Estimating Conference to determine the revenue impact on state and local government, if any.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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