

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 987 Local Government Infrastructure Surtax

**SPONSOR(S):** Goodson

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Renner	Blalock
2) Finance & Tax Subcommittee			
3) State Affairs Committee			

### SUMMARY ANALYSIS

Current law authorizes the levy and collection of Florida's sales and use tax and provides exemptions and credits for certain items or uses under specified circumstances. Counties are authorized to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions as well as on communications services. 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.

One of the authorized discretionary sales surtaxes is the local government infrastructure surtax, which may be levied at the rate of 0.5 percent or 1 percent if adopted by ordinance, approved by a majority of the county commission, and approved by a majority of voters of the county voting in a referendum on the surtax. In certain cases, municipalities may also initiate imposition of the surtax by calling for a countywide referendum. In those cases, the surtax must also be approved by a majority of voters in the county voting in the referendum.

Surtax proceeds must be expended by the school district; by the county or cities within the county; or, in the case of a negotiated joint county agreement, by the county within another county, to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of local government-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances.

The bill provides that if a countywide referendum approves the county's exclusive use of the surtax for a project involving the capital restoration or maintenance of natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies, then the proceeds from the surtax, or the bonds pledging the surtax for this use, may be used for the project.

The bill also specifies that expenditures may include the cost of planning, engineering, equipment, improvements required to reduce pollutant source input, restoration of natural filtration systems, dredging operations related to economically or ecologically beneficial muck removal, or any other activities deemed necessary to implement the county's restoration or maintenance plan.

The bill does not appear to have a fiscal impact on state or local government because it does not provide additional taxing authority. However, the bill does allow counties to use surtax proceeds for an additional purpose.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Chapter 212, F.S., contains the laws authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on sales or rentals of most tangible personal property,<sup>1</sup> admissions,<sup>2</sup> storage,<sup>3</sup> rentals of transient accommodations,<sup>4</sup> rentals of commercial real estate,<sup>5</sup> and a limited number of services. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>6</sup> The Florida Department of Revenue is responsible for administering, collecting, and enforcing all sales and use taxes.

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 chapter 212, F.S., and on communications services as defined in chapter 202, F.S.<sup>7</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 the 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; and
- Voter-Approved Indigent Care Surtax, 1 percent.

Section 212.055(2), F.S., establishes the local government infrastructure surtax and authorizes the governing authority in each county to levy a discretionary sales surtax of 0.5 percent or 1 percent if adopted by ordinance approved by a majority of the county commission and approved by a majority of voters of the county voting in a referendum on the surtax. In lieu of action by the county's governing body, municipalities representing a majority of the county's population may initiate the surtax through the adoption of uniform resolutions calling for a countywide referendum on the issue.<sup>8</sup> The levy takes effect if approved by a majority of the voters voting in the referendum.

---

<sup>1</sup> s. 212.05, F.S.

<sup>2</sup> s. 212.04, F.S.

<sup>3</sup> s. 212.06, F.S.

<sup>4</sup> s. 212.03, F.S.

<sup>5</sup> s. 212.031, F.S.

<sup>6</sup> s. 212.06(3)(a), F.S.

<sup>7</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 215.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S. See also pg. 211 of the REC's 2013 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2013.pdf>.

<sup>8</sup> *2012 Local Government Financial Information Handbook*, The Florida Legislature's Office of Economic and Demographic Research, p. 171.

The proceeds of the surtax must be expended by the school district; by the county or cities within the county; or, in the case of a negotiated joint county agreement, by the county within another county to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.<sup>9</sup>

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances. All counties are authorized to levy the surtax, and 17 counties levied the tax during the 2013 calendar year.<sup>10</sup>

Additionally, the surtax may not be levied beyond the time established in the ordinance if the surtax was levied pursuant to a referendum held before July 1, 1993. If the pre-July 1, 1993 ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. There is no state-mandated limit on the length of levy for those surtax ordinances enacted after July 1, 1993. The levy may only be extended by voter approval in a countywide referendum. This surtax is one of several surtaxes subject to a combined rate limitation. A county shall not levy this surtax and the Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1 percent.<sup>11</sup>

### **Effect of Proposed Changes**

The bill provides that if a countywide referendum approves the county's exclusive use of the surtax for a project involving the capital restoration or maintenance of natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies, the proceeds from the surtax, or the bonds pledging the surtax for this use, may be used for the project.

The bill specifies that expenditures may include the cost of planning, engineering, equipment, improvements required to reduce pollutant source input, restoration of natural filtration systems, dredging operations related to economically or ecologically beneficial muck removal, or any other activities deemed necessary to implement the county's restoration or maintenance plan.

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

Section 1. Amends s. 215.055, F.S., relating to discretionary sales surtaxes.

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

---

<sup>9</sup> s. 212.055(2)(d), F.S.

<sup>10</sup> *2013 Florida Tax Handbook*, p. 222.

<sup>11</sup> Information in this paragraph was obtained from the *2012 Local Government Financial Information Handbook*, The Florida Legislature's Office of Economic and Demographic Research, at p. 171.

## 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 government revenues.

#### 2. Expenditures:

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

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

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

#### 2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a fiscal impact on the private sector.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.