

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 Community Affairs

BILL: SB 668

INTRODUCER: Senator Latvala

SUBJECT: Emergency Fire Rescue Services and Facilities Surtax

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	Pre-meeting
2.			FT	
3.			FP	

I. Summary:

SB 668 amends provisions related to a county's adoption and distribution of an Emergency Fire Rescue Services and Facilities Surtax. The bill removes the requirement for the county government to enter into an interlocal agreement as a prerequisite for holding a referendum on the surtax. If the surtax is approved by referendum, the proceeds would instead be distributed to all local government entities providing emergency fire rescue services in the county. The bill amends the procedure for distributing revenue generated by the surtax, creating a uniform system of proportional allocation, with a pro rata distribution based on average annual spending on fire rescue services in the preceding five fiscal years by all entities in the county providing fire services. The bill amends and removes other language related to interlocal agreements.

II. Present Situation:

Section 212.055, F.S., enumerates the purposes for which counties are authorized to levy discretionary sales surtaxes.¹ The section contains a list of requirements for the enactment of a discretionary sales surtax by a county, including the purpose of the levy, the rate imposed, the maximum duration for collection of the levy, and the process used for obtaining voter approval.²

If not already imposing two discretionary sales surtaxes of indefinite duration, a county may pass an ordinance to levy a sales surtax of up to 1 percent for Emergency Fire Rescue Services and Facilities.³ The surtax may be used to fund "emergency fire rescue services," which includes:

- fire prevention and extinguishing,
- protection of life and property from natural or intentionally-created fires,
- enforcing municipal, county, or state fire protection codes and laws, and

¹ Section 212.054(1), F.S.

² Section 212.055, F.S.

³ Section 212.055(8)(a), F.S.

- providing emergency medical treatment.⁴

Authorization for the Emergency Fire Rescue Services and Facilities Surtax was added in 2009.⁵ To levy the surtax, the county must pass an ordinance, which becomes effective upon approval by a majority of the qualified electors in a referendum.⁶ Since the passage of the statute, no county has levied the surtax.⁷

The proceeds of the surtax are to be distributed according to an interlocal agreement between the county and the local government entities⁸ providing fire services in the county.⁹ The formula to be used for distribution states that the interlocal agreement shall only specify:¹⁰

- The amount of surtax to be distributed to each participating government entity based on the actual amounts collected within the jurisdiction of that entity, as determined by Department of Revenue population allocations; or
- If the county has one or more special fire control districts, the amount of surtax to be distributed to each participating municipality and fire control district, as based on those entities' proportional spending on fire control and emergency rescue services from both ad valorem taxes and non-ad valorem assessments in the preceding five years.¹¹

The Department of Revenue may retain an administrative fee. Also, the county may charge an administrative fee equal to the lesser of actual costs or two percent of the sales surtax collected.¹² If a multicounty independent special district provides emergency fire rescue services inside a portion of the county, the county may not levy the Emergency Fire Rescue Services and Facilities Surtax inside the boundaries of that district.¹³ The existence of the interlocal agreement is a prerequisite for holding a referendum to approve the ordinance.¹⁴

The interlocal agreement must include a majority of service providers within the county.¹⁵ If a local government entity providing fire control services is not part of the interlocal agreement, it is not entitled to any proceeds from the surtax.¹⁶

If one local government entity provides personnel or equipment to another on a long-term basis, the entity receiving personnel or equipment must agree to the distribution of its share of the

⁴ *Id.*

⁵ Initially authorized by Chapter 2009-182, Laws of Fla.

⁶ Section 212.055(8)(b), F.S.

⁷ Office of Economic and Demographic Research, *2014 Local Government Financial Information Handbook*, at 193.

⁸ Municipalities, dependent special districts, independent special districts, and/or municipal service taxing units.

⁹ Section 212.055(8)(c), F.S.

¹⁰ Section 212.055(8)(d), F.S.

¹¹ Section 212.055(8)(d), F.S. This provision does not apply, however, if the county and one or more participating local governments have an interlocal agreement prohibiting one or more other jurisdictions from providing pre-hospital medical treatment inside the prohibited jurisdiction's boundaries, or if the county has issued a certificate of public convenience and necessity or its equivalent to a county department or dependent special district of the county. See s. 212.055(8)(h), F.S.

¹² *Id.*

¹³ Section 212.055(8)(j), F.S.

¹⁴ Section 212.055(8)(b), F.S.

¹⁵ Section 212.055(8)(d), F.S.

¹⁶ Section 212.055(8)(g), F.S.

surtax to the providing entity. The amount of this distribution cannot exceed the providing entity's costs for furnishing the services to the receiving entity.¹⁷

When collections of the surtax begin, the county and participating local governments must reduce ad valorem taxes and non-ad valorem assessments used to pay for fire control and emergency rescue services by the estimated amount of revenue provided by the surtax.¹⁸ If the revenue collected from the surtax is higher than the estimated amount, the surplus must be used to reduce ad valorem taxes the following year.¹⁹

The statute requires such excess collections to be applied as a "rebate to the final millage."²⁰ From the context of the statute, this provision appears to state a procedure for the taxing authority to provide taxpayers with the required reduction of ad valorem taxes, rather than create an additional type of reimbursement amount.

The use of surtax proceeds does not relieve counties and participating local governments from the provisions of ch. 200, F.S., or any other provision of law establishing millage caps or limiting undesignated budget reserves.²¹

III. Effect of Proposed Changes:

Section 1 amends s. 212.055(8), F.S., to remove a requirement for an interlocal agreement between counties and participating local government entities providing fire rescue service as a prerequisite to a referendum for imposition of an Emergency Fire Rescue Services and Facilities Surtax. If the county passed an ordinance to levy the surtax, subsequently approved by the electors in a referendum, all local government entities providing fire control and emergency rescue services within the county would share in the proceeds of the surtax.

In addition, the bill adjusts the distribution formula for revenues collected by the surtax. The bill provides for distributing the revenue generated from the surtax to local government entities in proportion to their average annual expenditures from ad valorem taxes and non-ad valorem assessments on fire control and emergency fire rescue services over the preceding five fiscal years. This formula would apply to all counties levying the surtax regardless of whether the county contained a special fire control district.

Since an interlocal agreement would no longer be required for distribution of surtax revenues, the bill removes other references to such agreements. Local government entities still would be entitled to a share of the surtax proceeds when providing personnel and equipment on a long-term basis to another entity in the county. Local government entities also still would be required to reduce ad valorem taxes and non-ad valorem assessments for fire control and emergency

¹⁷ Section 212.055(8)(d), F.S.

¹⁸ Section 212.055(8)(e), F.S.

¹⁹ Section 212.055(8)(f), F.S.

²⁰ *Id.*

²¹ *Id.*

rescue by the estimated amount of surtax revenue. These provisions, however, would apply to each local government entity (including the county) providing fire services in the county.²²

At its meeting of February 6, 2015, the Revenue Estimating Conference determined the bill would have a “positive indeterminate” fiscal impact on local governments, specifically noting the bill removed the present statute text requiring any surtax collections in excess of the estimated surtax revenue be applied as a rebate to the final millage.²³ The deleted language appears to be a procedure for providing taxpayers with the required additional reduction in ad valorem taxes due to actual surtax collections rather than a separate type of reimbursement. Accordingly, the bill continues to require each participating taxing authority to reduce ad valorem taxes and non-ad valorem assessments designated for fire control and emergency rescue services by the projected amount to be received from the surtax and any actual excess surtax collections, but does not provide a specific procedure to implement those requirements.

Section 2 provides an effective date of July 1, 2015.

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:

Counties implementing the surtax would incur the cost of holding a referendum and other implementation expenses, offset in part by an administrative fee not to exceed 2 percent of the surtax collected.

By striking the present statute text as shown at lines 112-114, the bill apparently removes a procedure to implement the requirement for taxing authorities to reduce ad valorem taxes by the excess amounts actually collected from the surtax. Each participating taxing authority is still required to reduce ad valorem taxes and non-ad valorem assessments designated for fire control and emergency rescue services by the projected amount to be

²² The removal of the interlocal agreement requirement erases the distinction between participating and non-participating service providers.

²³ Revenue Estimating Conference, *2/06/2015 Revenue Impact Results*, pp. 58-60 available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/impact0206.pdf (last visited Feb. 23, 2015).

received from the surtax and any actual excess surtax collections. However, the bill does not provide a specific procedure to implement those requirements.

B. Private Sector Impact:

Individuals and businesses in counties implementing the surtax would face higher sales taxes, but would receive a reduction in ad valorem taxes and non-ad valorem assessments. The Revenue Estimating Impact Conference projects these changes will result in an indeterminate positive fiscal impact on county and municipal government revenue.

C. Government Sector Impact:

The Revenue Estimating Impact Conference estimated that the provisions of this bill would have an indeterminate positive fiscal impact on county and municipal government revenue.²⁴ The Department of Financial Services and Department of Revenue have reviewed the bill and reported no fiscal impact to their agencies.

According to Florida Legislature's Office of Economic and Demographic research, if the eligible counties (excluding Madison and Miami-Dade) levied the surtax at the maximum rate during the 2014-2015 fiscal year, it would have generated \$2.7 billion in revenue.²⁵

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.

²⁴ *Id.*

²⁵ Office of Economic and Demographic Research, *2014 Local Government Financial Information Handbook*, at 193.