

By Senator Brandes

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1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; requiring local government
4 discretionary sales surtax referenda to be held on the
5 day of a general election; requiring the approval of a
6 specified percentage of the electors voting in a
7 referendum election to adopt or amend a local
8 government discretionary sales surtax; prohibiting use
9 of state or county funds and use of county or school
10 district materials or publications to promote or
11 advertise proposed surtax referenda for certain
12 discretionary sales surtaxes; providing an exception;
13 defining the term "day of a general election";
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (c) of subsection (1), paragraph (a)
19 of subsection (2), paragraph (a) of subsection (3), paragraphs
20 (a) and (b) of subsection (4), subsection (5), paragraph (a) of
21 subsection (6), paragraph (a) of subsection (7), and paragraph
22 (b) of subsection (8) of section 212.055, Florida Statutes, are
23 amended, and subsections (9) and (10) are added to that section,
24 to read:

25 212.055 Discretionary sales surtaxes; legislative intent;
26 authorization and use of proceeds.—It is the legislative intent
27 that any authorization for imposition of a discretionary sales
28 surtax shall be published in the Florida Statutes as a
29 subsection of this section, irrespective of the duration of the
30 levy. Each enactment shall specify the types of counties
31 authorized to levy; the rate or rates which may be imposed; the
32 maximum length of time the surtax may be imposed, if any; the

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33 procedure which must be followed to secure voter approval, if
34 required; the purpose for which the proceeds may be expended;
35 and such other requirements as the Legislature may provide.
36 Taxable transactions and administrative procedures shall be as
37 provided in s. 212.054.

38 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
39 SURTAX.—

40 (c) The proposal to adopt a discretionary sales surtax as
41 provided in this subsection and to create a trust fund within
42 the county accounts shall be placed on the ballot in accordance
43 with law and must be approved by at least 60 percent of the
44 electors voting in a referendum held on the day of a general
45 election ~~at a time to be set at the discretion of the governing~~
46 ~~body.~~

47 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

48 (a)1. The governing authority in each county may levy a
49 discretionary sales surtax of 0.5 percent or 1 percent. The levy
50 of the surtax shall be pursuant to ordinance enacted by a
51 majority of the members of the county governing authority and
52 approved by at least 60 percent ~~a majority~~ of the electors of
53 the county voting in a referendum on the surtax held on the day
54 of a general election. If the governing bodies of the
55 municipalities representing a majority of the county's
56 population adopt uniform resolutions establishing the rate of
57 the surtax and calling for a referendum on the surtax, the levy
58 of the surtax shall be placed on the ballot and shall take
59 effect if approved by at least 60 percent ~~a majority~~ of the
60 electors of the county voting in the referendum on the surtax
61 held on the day of a general election.

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62 2. If the surtax was levied pursuant to a referendum held
63 before July 1, 1993, the surtax may not be levied beyond the
64 time established in the ordinance, or, if the ordinance did not
65 limit the period of the levy, the surtax may not be levied for
66 more than 15 years. The levy of such surtax may be extended only
67 by approval of at least 60 percent ~~a majority~~ of the electors of
68 the county voting in a referendum on the surtax held on the day
69 of a general election.

70 (3) SMALL COUNTY SURTAX.—

71 (a) The governing authority in each county that has a
72 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
73 discretionary sales surtax of 0.5 percent or 1 percent. The levy
74 of the surtax shall be pursuant to ordinance enacted by an
75 extraordinary vote of the members of the county governing
76 authority if the surtax revenues are expended for operating
77 purposes. If the surtax revenues are expended for the purpose of
78 servicing bond indebtedness, the surtax shall be approved by at
79 least 60 percent ~~a majority~~ of the electors of the county voting
80 in a referendum on the surtax held on the day of a general
81 election.

82 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

83 (a)1. The governing body in each county the government of
84 which is not consolidated with that of one or more
85 municipalities, which has a population of at least 800,000
86 residents and is not authorized to levy a surtax under
87 subsection (5), may levy, pursuant to an ordinance either
88 approved by an extraordinary vote of the governing body or
89 conditioned to take effect only upon approval by at least 60
90 percent ~~a majority vote~~ of the electors of the county voting in

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91 a referendum, a discretionary sales surtax at a rate that may
 92 not exceed 0.5 percent.

93 2. If the ordinance is conditioned on a referendum, a
 94 statement that includes a brief and general description of the
 95 purposes to be funded by the surtax and that conforms to the
 96 requirements of s. 101.161 shall be placed on the ballot by the
 97 governing body of the county. The referendum must be held on the
 98 day of a general election. The following questions shall be
 99 placed on the ballot:

100
 101 FOR THE. . . .CENTS TAX
 102 AGAINST THE. . . .CENTS TAX
 103

104 3. The ordinance adopted by the governing body providing
 105 for the imposition of the surtax shall set forth a plan for
 106 providing health care services to qualified residents, as
 107 defined in subparagraph 4. Such plan and subsequent amendments
 108 to it shall fund a broad range of health care services for both
 109 indigent persons and the medically poor, including, but not
 110 limited to, primary care and preventive care as well as hospital
 111 care. The plan must also address the services to be provided by
 112 the Level I trauma center. It shall emphasize a continuity of
 113 care in the most cost-effective setting, taking into
 114 consideration both a high quality of care and geographic access.
 115 Where consistent with these objectives, it shall include,
 116 without limitation, services rendered by physicians, clinics,
 117 community hospitals, mental health centers, and alternative
 118 delivery sites, as well as at least one regional referral
 119 hospital where appropriate. It shall provide that agreements

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120 negotiated between the county and providers, including hospitals
121 with a Level I trauma center, will include reimbursement
122 methodologies that take into account the cost of services
123 rendered to eligible patients, recognize hospitals that render a
124 disproportionate share of indigent care, provide other
125 incentives to promote the delivery of charity care, promote the
126 advancement of technology in medical services, recognize the
127 level of responsiveness to medical needs in trauma cases, and
128 require cost containment including, but not limited to, case
129 management. It must also provide that any hospitals that are
130 owned and operated by government entities on May 21, 1991, must,
131 as a condition of receiving funds under this subsection, afford
132 public access equal to that provided under s. 286.011 as to
133 meetings of the governing board, the subject of which is
134 budgeting resources for the rendition of charity care as that
135 term is defined in the Florida Hospital Uniform Reporting System
136 (FHURS) manual referenced in s. 408.07. The plan shall also
137 include innovative health care programs that provide cost-
138 effective alternatives to traditional methods of service
139 delivery and funding.

140 4. For the purpose of this paragraph, the term "qualified
141 resident" means residents of the authorizing county who are:

142 a. Qualified as indigent persons as certified by the
143 authorizing county;

144 b. Certified by the authorizing county as meeting the
145 definition of the medically poor, defined as persons having
146 insufficient income, resources, and assets to provide the needed
147 medical care without using resources required to meet basic
148 needs for shelter, food, clothing, and personal expenses; or not

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149 being eligible for any other state or federal program, or having
150 medical needs that are not covered by any such program; or
151 having insufficient third-party insurance coverage. In all
152 cases, the authorizing county is intended to serve as the payor
153 of last resort; or

154 c. Participating in innovative, cost-effective programs
155 approved by the authorizing county.

156 5. Moneys collected pursuant to this paragraph remain the
157 property of the state and shall be distributed by the Department
158 of Revenue on a regular and periodic basis to the clerk of the
159 circuit court as ex officio custodian of the funds of the
160 authorizing county. The clerk of the circuit court shall:

161 a. Maintain the moneys in an indigent health care trust
162 fund;

163 b. Invest any funds held on deposit in the trust fund
164 pursuant to general law;

165 c. Disburse the funds, including any interest earned, to
166 any provider of health care services, as provided in
167 subparagraphs 3. and 4., upon directive from the authorizing
168 county. However, if a county has a population of at least
169 800,000 residents and has levied the surtax authorized in this
170 paragraph, notwithstanding any directive from the authorizing
171 county, on October 1 of each calendar year, the clerk of the
172 court shall issue a check in the amount of \$6.5 million to a
173 hospital in its jurisdiction that has a Level I trauma center or
174 shall issue a check in the amount of \$3.5 million to a hospital
175 in its jurisdiction that has a Level I trauma center if that
176 county enacts and implements a hospital lien law in accordance
177 with chapter 98-499, Laws of Florida. The issuance of the checks

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178 on October 1 of each year is provided in recognition of the
 179 Level I trauma center status and shall be in addition to the
 180 base contract amount received during fiscal year 1999-2000 and
 181 any additional amount negotiated to the base contract. If the
 182 hospital receiving funds for its Level I trauma center status
 183 requests such funds to be used to generate federal matching
 184 funds under Medicaid, the clerk of the court shall instead issue
 185 a check to the Agency for Health Care Administration to
 186 accomplish that purpose to the extent that it is allowed through
 187 the General Appropriations Act; and

188 d. Prepare on a biennial basis an audit of the trust fund
 189 specified in sub-subparagraph a. Commencing February 1, 2004,
 190 such audit shall be delivered to the governing body and to the
 191 chair of the legislative delegation of each authorizing county.

192 6. Notwithstanding any other provision of this section, a
 193 county shall not levy local option sales surtaxes authorized in
 194 this paragraph and subsections (2) and (3) in excess of a
 195 combined rate of 1 percent.

196 (b) Notwithstanding any other provision of this section,
 197 the governing body in each county the government of which is not
 198 consolidated with that of one or more municipalities and which
 199 has a population of fewer ~~less~~ than 800,000 residents, may levy,
 200 by ordinance subject to approval by at least 60 percent ~~a~~
 201 ~~majority~~ of the electors of the county voting in a referendum, a
 202 discretionary sales surtax at a rate that may not exceed 0.25
 203 percent for the sole purpose of funding trauma services provided
 204 by a trauma center licensed pursuant to chapter 395. The
 205 referendum must be held on the day of a general election.

206 1. A statement that includes a brief and general

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207 description of the purposes to be funded by the surtax and that
 208 conforms to the requirements of s. 101.161 shall be placed on
 209 the ballot by the governing body of the county. The following
 210 shall be placed on the ballot:

211
 212 FOR THE. . . .CENTS TAX
 213 AGAINST THE. . . .CENTS TAX
 214

215 2. The ordinance adopted by the governing body of the
 216 county providing for the imposition of the surtax shall set
 217 forth a plan for providing trauma services to trauma victims
 218 presenting in the trauma service area in which such county is
 219 located.

220 3. Moneys collected pursuant to this paragraph remain the
 221 property of the state and shall be distributed by the Department
 222 of Revenue on a regular and periodic basis to the clerk of the
 223 circuit court as ex officio custodian of the funds of the
 224 authorizing county. The clerk of the circuit court shall:

225 a. Maintain the moneys in a trauma services trust fund.

226 b. Invest any funds held on deposit in the trust fund
 227 pursuant to general law.

228 c. Disburse the funds, including any interest earned on
 229 such funds, to the trauma center in its trauma service area, as
 230 provided in the plan set forth pursuant to subparagraph 2., upon
 231 directive from the authorizing county. If the trauma center
 232 receiving funds requests such funds be used to generate federal
 233 matching funds under Medicaid, the custodian of the funds shall
 234 instead issue a check to the Agency for Health Care
 235 Administration to accomplish that purpose to the extent that the

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236 agency is allowed through the General Appropriations Act.

237 d. Prepare on a biennial basis an audit of the trauma
238 services trust fund specified in sub-subparagraph a., to be
239 delivered to the authorizing county.

240 4. A discretionary sales surtax imposed pursuant to this
241 paragraph shall expire 4 years after the effective date of the
242 surtax, unless reenacted by ordinance subject to approval by at
243 least 60 percent ~~a majority~~ of the electors of the county voting
244 in a subsequent referendum held on the day of a general
245 election.

246 5. Notwithstanding any other provision of this section, a
247 county shall not levy local option sales surtaxes authorized in
248 this paragraph and subsections (2) and (3) in excess of a
249 combined rate of 1 percent.

250 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
251 s. 125.011(1) may levy the surtax authorized in this subsection
252 pursuant to an ordinance either approved by extraordinary vote
253 of the county commission or conditioned to take effect only upon
254 approval by at least 60 percent ~~a majority vote~~ of the electors
255 of the county voting in a referendum. In a county as defined in
256 s. 125.011(1), for the purposes of this subsection, "county
257 public general hospital" means a general hospital as defined in
258 s. 395.002 which is owned, operated, maintained, or governed by
259 the county or its agency, authority, or public health trust.

260 (a) The rate shall be 0.5 percent.

261 (b) If the ordinance is conditioned on a referendum, the
262 proposal to adopt the county public hospital surtax shall be
263 placed on the ballot in accordance with law ~~at a time to be set~~
264 ~~at the discretion of the governing body~~. The referendum must be

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265 held on the day of a general election. The referendum question
266 on the ballot shall include a brief general description of the
267 health care services to be funded by the surtax.

268 (c) Proceeds from the surtax shall be:

269 1. Deposited by the county in a special fund, set aside
270 from other county funds, to be used only for the operation,
271 maintenance, and administration of the county public general
272 hospital; and

273 2. Remitted promptly by the county to the agency,
274 authority, or public health trust created by law which
275 administers or operates the county public general hospital.

276 (d) Except as provided in subparagraphs 1. and 2., the
277 county must continue to contribute each year an amount equal to
278 at least 80 percent of that percentage of the total county
279 budget appropriated for the operation, administration, and
280 maintenance of the county public general hospital from the
281 county's general revenues in the fiscal year of the county
282 ending September 30, 1991:

283 1. Twenty-five percent of such amount must be remitted to a
284 governing board, agency, or authority that is wholly independent
285 from the public health trust, agency, or authority responsible
286 for the county public general hospital, to be used solely for
287 the purpose of funding the plan for indigent health care
288 services provided for in paragraph (e);

289 2. However, in the first year of the plan, a total of \$10
290 million shall be remitted to such governing board, agency, or
291 authority, to be used solely for the purpose of funding the plan
292 for indigent health care services provided for in paragraph (e),
293 and in the second year of the plan, a total of \$15 million shall

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294 be so remitted and used.

295 (e) A governing board, agency, or authority shall be
296 chartered by the county commission upon this act becoming law.
297 The governing board, agency, or authority shall adopt and
298 implement a health care plan for indigent health care services.
299 The governing board, agency, or authority shall consist of no
300 more than seven and no fewer than five members appointed by the
301 county commission. The members of the governing board, agency,
302 or authority shall be at least 18 years of age and residents of
303 the county. No member may be employed by or affiliated with a
304 health care provider or the public health trust, agency, or
305 authority responsible for the county public general hospital.
306 The following community organizations shall each appoint a
307 representative to a nominating committee: the South Florida
308 Hospital and Healthcare Association, the Miami-Dade County
309 Public Health Trust, the Dade County Medical Association, the
310 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
311 County. This committee shall nominate between 10 and 14 county
312 citizens for the governing board, agency, or authority. The
313 slate shall be presented to the county commission and the county
314 commission shall confirm the top five to seven nominees,
315 depending on the size of the governing board. Until such time as
316 the governing board, agency, or authority is created, the funds
317 provided for in subparagraph (d)2. shall be placed in a
318 restricted account set aside from other county funds and not
319 disbursed by the county for any other purpose.

320 1. The plan shall divide the county into a minimum of four
321 and maximum of six service areas, with no more than one
322 participant hospital per service area. The county public general

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323 hospital shall be designated as the provider for one of the
324 service areas. Services shall be provided through participants'
325 primary acute care facilities.

326 2. The plan and subsequent amendments to it shall fund a
327 defined range of health care services for both indigent persons
328 and the medically poor, including primary care, preventive care,
329 hospital emergency room care, and hospital care necessary to
330 stabilize the patient. For the purposes of this section,
331 "stabilization" means stabilization as defined in s.
332 397.311(41). Where consistent with these objectives, the plan
333 may include services rendered by physicians, clinics, community
334 hospitals, and alternative delivery sites, as well as at least
335 one regional referral hospital per service area. The plan shall
336 provide that agreements negotiated between the governing board,
337 agency, or authority and providers shall recognize hospitals
338 that render a disproportionate share of indigent care, provide
339 other incentives to promote the delivery of charity care to draw
340 down federal funds where appropriate, and require cost
341 containment, including, but not limited to, case management.
342 From the funds specified in subparagraphs (d)1. and 2. for
343 indigent health care services, service providers shall receive
344 reimbursement at a Medicaid rate to be determined by the
345 governing board, agency, or authority created pursuant to this
346 paragraph for the initial emergency room visit, and a per-member
347 per-month fee or capitation for those members enrolled in their
348 service area, as compensation for the services rendered
349 following the initial emergency visit. Except for provisions of
350 emergency services, upon determination of eligibility,
351 enrollment shall be deemed to have occurred at the time services

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352 were rendered. The provisions for specific reimbursement of
353 emergency services shall be repealed on July 1, 2001, unless
354 otherwise reenacted by the Legislature. The capitation amount or
355 rate shall be determined prior to program implementation by an
356 independent actuarial consultant. In no event shall such
357 reimbursement rates exceed the Medicaid rate. The plan must also
358 provide that any hospitals owned and operated by government
359 entities on or after the effective date of this act must, as a
360 condition of receiving funds under this subsection, afford
361 public access equal to that provided under s. 286.011 as to any
362 meeting of the governing board, agency, or authority the subject
363 of which is budgeting resources for the retention of charity
364 care, as that term is defined in the rules of the Agency for
365 Health Care Administration. The plan shall also include
366 innovative health care programs that provide cost-effective
367 alternatives to traditional methods of service and delivery
368 funding.

369 3. The plan's benefits shall be made available to all
370 county residents currently eligible to receive health care
371 services as indigents or medically poor as defined in paragraph
372 (4) (d).

373 4. Eligible residents who participate in the health care
374 plan shall receive coverage for a period of 12 months or the
375 period extending from the time of enrollment to the end of the
376 current fiscal year, per enrollment period, whichever is less.

377 5. At the end of each fiscal year, the governing board,
378 agency, or authority shall prepare an audit that reviews the
379 budget of the plan, delivery of services, and quality of
380 services, and makes recommendations to increase the plan's

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381 efficiency. The audit shall take into account participant
382 hospital satisfaction with the plan and assess the amount of
383 poststabilization patient transfers requested, and accepted or
384 denied, by the county public general hospital.

385 (f) Notwithstanding any other provision of this section, a
386 county may not levy local option sales surtaxes authorized in
387 this subsection and subsections (2) and (3) in excess of a
388 combined rate of 1 percent.

389 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

390 (a) The school board in each county may levy, pursuant to
391 resolution conditioned to take effect only upon approval by at
392 least 60 percent ~~a majority vote~~ of the electors of the county
393 voting in a referendum, a discretionary sales surtax at a rate
394 that may not exceed 0.5 percent. The referendum must be held on
395 the day of a general election.

396 (7) VOTER-APPROVED INDIGENT CARE SURTAX.—

397 (a)1. The governing body in each county that has a
398 population of fewer than 800,000 residents may levy an indigent
399 care surtax pursuant to an ordinance conditioned to take effect
400 only upon approval by at least 60 percent ~~a majority vote~~ of the
401 electors of the county voting in a referendum held on the day of
402 a general election. The surtax may be levied at a rate not to
403 exceed 0.5 percent, except that if a publicly supported medical
404 school is located in the county, the rate shall not exceed 1
405 percent.

406 2. Notwithstanding subparagraph 1., the governing body of
407 any county that has a population of fewer than 50,000 residents
408 may levy an indigent care surtax pursuant to an ordinance
409 conditioned to take effect only upon approval by at least 60

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410 percent ~~a majority vote~~ of the electors of the county voting in
411 a referendum held on the day of a general election. The surtax
412 may be levied at a rate not to exceed 1 percent.

413 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

414 (b) Upon the adoption of the ordinance, the levy of the
415 surtax must be placed on the ballot by the governing authority
416 of the county enacting the ordinance. The ordinance will take
417 effect if approved by at least 60 percent ~~a majority~~ of the
418 electors of the county voting in a referendum held on the day of
419 a general election ~~for such purpose~~. ~~The referendum shall be~~
420 ~~placed on the ballot of a regularly scheduled election~~. The
421 ballot for the referendum must conform to the requirements of s.
422 101.161.

423 (9) FUNDING FOR DISCRETIONARY SALES SURTAXES.—Except for
424 the use of county or school district funds appropriated
425 specifically for the purpose of promoting or advertising a
426 proposed surtax, a county or school district may not expend
427 state or county funds or use county or school district materials
428 or publications to promote or advertise a proposed surtax
429 referendum to the electors of the county for any surtax
430 identified in this section.

431 (10) DEFINITION.—For purposes of this section, the term
432 “day of a general election” means the day that a general
433 election, as defined in s. 97.021, is held, which as provided in
434 s. 5, Art. VI of the State Constitution may be suspended or
435 delayed due to a state of emergency or impending emergency.

436 Section 2. This act shall take effect July 1, 2016.