

By the Committee on Community Affairs; and Senator Brandes

578-03651-16

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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.; specifying the times when local
4 government discretionary sales surtax referenda may be
5 held; requiring the approval of a specified percentage
6 of electors voting in a referendum election to adopt
7 or amend a local government discretionary sales
8 surtax; providing an effective date.
9

10 Be It Enacted by the Legislature of the State of Florida:
11

12 Section 1. Paragraph (c) of subsection (1), paragraph (a)
13 of subsection (2), paragraph (a) of subsection (3), subsections
14 (4) and (5), paragraph (a) of subsection (6), paragraph (a) of
15 subsection (7), and paragraph (b) of subsection (8) of section
16 212.055, Florida Statutes, are amended, and subsection (9) is
17 added to that section, to read:

18 212.055 Discretionary sales surtaxes; legislative intent;
19 authorization and use of proceeds.—It is the legislative intent
20 that any authorization for imposition of a discretionary sales
21 surtax shall be published in the Florida Statutes as a
22 subsection of this section, irrespective of the duration of the
23 levy. Each enactment shall specify the types of counties
24 authorized to levy; the rate or rates which may be imposed; the
25 maximum length of time the surtax may be imposed, if any; the
26 procedure which must be followed to secure voter approval, if
27 required; the purpose for which the proceeds may be expended;
28 and such other requirements as the Legislature may provide.
29 Taxable transactions and administrative procedures shall be as
30 provided in s. 212.054.

31 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
32 SURTAX.—

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33 (c) The proposal to adopt a discretionary sales surtax as
34 provided in this subsection and to create a trust fund within
35 the county accounts shall be placed on the ballot in accordance
36 with law and must be approved in a referendum as set forth in
37 subsection (9) at a time to be set at the discretion of the
38 governing body.

39 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

40 (a)1. The governing authority in each county may levy a
41 discretionary sales surtax of 0.5 percent or 1 percent. The levy
42 of the surtax shall be pursuant to ordinance enacted by a
43 majority of the members of the county governing authority and
44 approved by ~~a majority of~~ the electors of the county, as set
45 forth in subsection (9), voting in a referendum on the surtax.
46 If the governing bodies of the municipalities representing a
47 majority of the county's population adopt uniform resolutions
48 establishing the rate of the surtax and calling for a referendum
49 on the surtax, the levy of the surtax shall be placed on the
50 ballot and shall take effect if approved by ~~a majority of~~ the
51 electors of the county, as set forth in subsection (9), voting
52 in the referendum on the surtax.

53 2. If the surtax was levied pursuant to a referendum held
54 before July 1, 1993, the surtax may not be levied beyond the
55 time established in the ordinance, or, if the ordinance did not
56 limit the period of the levy, the surtax may not be levied for
57 more than 15 years. The levy of such surtax may be extended only
58 by approval of ~~a majority of~~ the electors of the county, as set
59 forth in subsection (9), voting in a referendum on the surtax.

60 (3) SMALL COUNTY SURTAX.—

61 (a) The governing authority in each county that has a

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62 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
63 discretionary sales surtax of 0.5 percent or 1 percent. The levy
64 of the surtax shall be pursuant to ordinance enacted by an
65 extraordinary vote of the members of the county governing
66 authority if the surtax revenues are expended for operating
67 purposes. If the surtax revenues are expended for the purpose of
68 servicing bond indebtedness, the surtax shall be approved by a
69 ~~majority of the electors of the county,~~ as set forth in
70 subsection (9), voting in a referendum on the surtax.

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

72 (a)1. The governing body in each county the government of
73 which is not consolidated with that of one or more
74 municipalities, which has a population of at least 800,000
75 residents and is not authorized to levy a surtax under
76 subsection (5), may levy, pursuant to an ordinance either
77 approved by an extraordinary vote of the governing body or
78 conditioned to take effect only upon approval by a ~~majority vote~~
79 ~~of the electors of the county,~~ as set forth in subsection (9),
80 voting in a referendum, a discretionary sales surtax at a rate
81 that may not exceed 0.5 percent.

82 2. If the ordinance is conditioned on a referendum, a
83 statement that includes a brief and general description of the
84 purposes to be funded by the surtax and that conforms to the
85 requirements of s. 101.161 shall be placed on the ballot by the
86 governing body of the county. The following questions shall be
87 placed on the ballot:

88 FOR THE. . . .CENTS TAX

89 AGAINST THE. . . .CENTS TAX

90 3. The ordinance adopted by the governing body providing

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91 for the imposition of the surtax shall set forth a plan for
92 providing health care services to qualified residents, as
93 defined in subparagraph 4. Such plan and subsequent amendments
94 to it shall fund a broad range of health care services for both
95 indigent persons and the medically poor, including, but not
96 limited to, primary care and preventive care as well as hospital
97 care. The plan must also address the services to be provided by
98 the Level I trauma center. It shall emphasize a continuity of
99 care in the most cost-effective setting, taking into
100 consideration both a high quality of care and geographic access.
101 Where consistent with these objectives, it shall include,
102 without limitation, services rendered by physicians, clinics,
103 community hospitals, mental health centers, and alternative
104 delivery sites, as well as at least one regional referral
105 hospital where appropriate. It shall provide that agreements
106 negotiated between the county and providers, including hospitals
107 with a Level I trauma center, will include reimbursement
108 methodologies that take into account the cost of services
109 rendered to eligible patients, recognize hospitals that render a
110 disproportionate share of indigent care, provide other
111 incentives to promote the delivery of charity care, promote the
112 advancement of technology in medical services, recognize the
113 level of responsiveness to medical needs in trauma cases, and
114 require cost containment including, but not limited to, case
115 management. It must also provide that any hospitals that are
116 owned and operated by government entities on May 21, 1991, must,
117 as a condition of receiving funds under this subsection, afford
118 public access equal to that provided under s. 286.011 as to
119 meetings of the governing board, the subject of which is

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120 budgeting resources for the rendition of charity care as that
121 term is defined in the Florida Hospital Uniform Reporting System
122 (FHURS) manual referenced in s. 408.07. The plan shall also
123 include innovative health care programs that provide cost-
124 effective alternatives to traditional methods of service
125 delivery and funding.

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

128 a. Qualified as indigent persons as certified by the
129 authorizing county;

130 b. Certified by the authorizing county as meeting the
131 definition of the medically poor, defined as persons having
132 insufficient income, resources, and assets to provide the needed
133 medical care without using resources required to meet basic
134 needs for shelter, food, clothing, and personal expenses; or not
135 being eligible for any other state or federal program, or having
136 medical needs that are not covered by any such program; or
137 having insufficient third-party insurance coverage. In all
138 cases, the authorizing county is intended to serve as the payor
139 of last resort; or

140 c. Participating in innovative, cost-effective programs
141 approved by the authorizing county.

142 5. Moneys collected pursuant to this paragraph remain the
143 property of the state and shall be distributed by the Department
144 of Revenue on a regular and periodic basis to the clerk of the
145 circuit court as ex officio custodian of the funds of the
146 authorizing county. The clerk of the circuit court shall:

147 a. Maintain the moneys in an indigent health care trust
148 fund;

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

151 c. Disburse the funds, including any interest earned, to
152 any provider of health care services, as provided in
153 subparagraphs 3. and 4., upon directive from the authorizing
154 county. However, if a county has a population of at least
155 800,000 residents and has levied the surtax authorized in this
156 paragraph, notwithstanding any directive from the authorizing
157 county, on October 1 of each calendar year, the clerk of the
158 court shall issue a check in the amount of \$6.5 million to a
159 hospital in its jurisdiction that has a Level I trauma center or
160 shall issue a check in the amount of \$3.5 million to a hospital
161 in its jurisdiction that has a Level I trauma center if that
162 county enacts and implements a hospital lien law in accordance
163 with chapter 98-499, Laws of Florida. The issuance of the checks
164 on October 1 of each year is provided in recognition of the
165 Level I trauma center status and shall be in addition to the
166 base contract amount received during fiscal year 1999-2000 and
167 any additional amount negotiated to the base contract. If the
168 hospital receiving funds for its Level I trauma center status
169 requests such funds to be used to generate federal matching
170 funds under Medicaid, the clerk of the court shall instead issue
171 a check to the Agency for Health Care Administration to
172 accomplish that purpose to the extent that it is allowed through
173 the General Appropriations Act; and

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

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

182 (b) Notwithstanding any other provision of this section,
 183 the governing body in each county the government of which is not
 184 consolidated with that of one or more municipalities and which
 185 has a population of fewer ~~less~~ than 800,000 residents, may levy,
 186 by ordinance subject to approval by ~~a majority of~~ the electors
 187 of the county, as set forth in subsection (9), voting in a
 188 referendum, a discretionary sales surtax at a rate that may not
 189 exceed 0.25 percent for the sole purpose of funding trauma
 190 services provided by a trauma center licensed pursuant to
 191 chapter 395.

192 1. A statement that includes a brief and general
 193 description of the purposes to be funded by the surtax and that
 194 conforms to the requirements of s. 101.161 shall be placed on
 195 the ballot by the governing body of the county. The following
 196 shall be placed on the ballot:

197 FOR THE. . . .CENTS TAX

198 AGAINST THE. . . .CENTS TAX

199 2. The ordinance adopted by the governing body of the
 200 county providing for the imposition of the surtax shall set
 201 forth a plan for providing trauma services to trauma victims
 202 presenting in the trauma service area in which such county is
 203 located.

204 3. Moneys collected pursuant to this paragraph remain the
 205 property of the state and shall be distributed by the Department
 206 of Revenue on a regular and periodic basis to the clerk of the

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207 circuit court as ex officio custodian of the funds of the
208 authorizing county. The clerk of the circuit court shall:

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

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

212 c. Disburse the funds, including any interest earned on
213 such funds, to the trauma center in its trauma service area, as
214 provided in the plan set forth pursuant to subparagraph 2., upon
215 directive from the authorizing county. If the trauma center
216 receiving funds requests such funds be used to generate federal
217 matching funds under Medicaid, the custodian of the funds shall
218 instead issue a check to the Agency for Health Care
219 Administration to accomplish that purpose to the extent that the
220 agency is allowed through the General Appropriations Act.

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

224 4. A discretionary sales surtax imposed pursuant to this
225 paragraph shall expire 4 years after the effective date of the
226 surtax, unless reenacted by ordinance subject to approval by a
227 ~~majority of the electors of the county,~~ as set forth in
228 subsection (9), voting in a subsequent referendum.

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

233 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
234 s. 125.011(1) may levy the surtax authorized in this subsection
235 pursuant to an ordinance either approved by extraordinary vote

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236 of the county commission or conditioned to take effect only upon
237 approval by ~~a majority vote of the electors of the county,~~ as
238 set forth in subsection (9), voting in a referendum. In a county
239 as defined in s. 125.011(1), for the purposes of this
240 subsection, "county public general hospital" means a general
241 hospital as defined in s. 395.002 which is owned, operated,
242 maintained, or governed by the county or its agency, authority,
243 or public health trust.

244 (a) The rate shall be 0.5 percent.

245 (b) If the ordinance is conditioned on a referendum, the
246 proposal to adopt the county public hospital surtax shall be
247 placed on the ballot in accordance with subsection (9) ~~law at a~~
248 ~~time to be set at the discretion of the governing body.~~ The
249 referendum question on the ballot shall include a brief general
250 description of the health care services to be funded by the
251 surtax.

252 (c) Proceeds from the surtax shall be:

253 1. Deposited by the county in a special fund, set aside
254 from other county funds, to be used only for the operation,
255 maintenance, and administration of the county public general
256 hospital; and

257 2. Remitted promptly by the county to the agency,
258 authority, or public health trust created by law which
259 administers or operates the county public general hospital.

260 (d) Except as provided in subparagraphs 1. and 2., the
261 county must continue to contribute each year an amount equal to
262 at least 80 percent of that percentage of the total county
263 budget appropriated for the operation, administration, and
264 maintenance of the county public general hospital from the

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265 county's general revenues in the fiscal year of the county
266 ending September 30, 1991:

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

273 2. However, in the first year of the plan, a total of \$10
274 million shall be remitted to such governing board, agency, or
275 authority, to be used solely for the purpose of funding the plan
276 for indigent health care services provided for in paragraph (e),
277 and in the second year of the plan, a total of \$15 million shall
278 be so remitted and used.

279 (e) A governing board, agency, or authority shall be
280 chartered by the county commission upon this act becoming law.
281 The governing board, agency, or authority shall adopt and
282 implement a health care plan for indigent health care services.
283 The governing board, agency, or authority shall consist of no
284 more than seven and no fewer than five members appointed by the
285 county commission. The members of the governing board, agency,
286 or authority shall be at least 18 years of age and residents of
287 the county. No member may be employed by or affiliated with a
288 health care provider or the public health trust, agency, or
289 authority responsible for the county public general hospital.
290 The following community organizations shall each appoint a
291 representative to a nominating committee: the South Florida
292 Hospital and Healthcare Association, the Miami-Dade County
293 Public Health Trust, the Dade County Medical Association, the

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294 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
295 County. This committee shall nominate between 10 and 14 county
296 citizens for the governing board, agency, or authority. The
297 slate shall be presented to the county commission and the county
298 commission shall confirm the top five to seven nominees,
299 depending on the size of the governing board. Until such time as
300 the governing board, agency, or authority is created, the funds
301 provided for in subparagraph (d)2. shall be placed in a
302 restricted account set aside from other county funds and not
303 disbursed by the county for any other purpose.

304 1. The plan shall divide the county into a minimum of four
305 and maximum of six service areas, with no more than one
306 participant hospital per service area. The county public general
307 hospital shall be designated as the provider for one of the
308 service areas. Services shall be provided through participants'
309 primary acute care facilities.

310 2. The plan and subsequent amendments to it shall fund a
311 defined range of health care services for both indigent persons
312 and the medically poor, including primary care, preventive care,
313 hospital emergency room care, and hospital care necessary to
314 stabilize the patient. For the purposes of this section,
315 "stabilization" means stabilization as defined in s.
316 397.311(41). Where consistent with these objectives, the plan
317 may include services rendered by physicians, clinics, community
318 hospitals, and alternative delivery sites, as well as at least
319 one regional referral hospital per service area. The plan shall
320 provide that agreements negotiated between the governing board,
321 agency, or authority and providers shall recognize hospitals
322 that render a disproportionate share of indigent care, provide

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323 other incentives to promote the delivery of charity care to draw
324 down federal funds where appropriate, and require cost
325 containment, including, but not limited to, case management.
326 From the funds specified in subparagraphs (d)1. and 2. for
327 indigent health care services, service providers shall receive
328 reimbursement at a Medicaid rate to be determined by the
329 governing board, agency, or authority created pursuant to this
330 paragraph for the initial emergency room visit, and a per-member
331 per-month fee or capitation for those members enrolled in their
332 service area, as compensation for the services rendered
333 following the initial emergency visit. Except for provisions of
334 emergency services, upon determination of eligibility,
335 enrollment shall be deemed to have occurred at the time services
336 were rendered. The provisions for specific reimbursement of
337 emergency services shall be repealed on July 1, 2001, unless
338 otherwise reenacted by the Legislature. The capitation amount or
339 rate shall be determined prior to program implementation by an
340 independent actuarial consultant. In no event shall such
341 reimbursement rates exceed the Medicaid rate. The plan must also
342 provide that any hospitals owned and operated by government
343 entities on or after the effective date of this act must, as a
344 condition of receiving funds under this subsection, afford
345 public access equal to that provided under s. 286.011 as to any
346 meeting of the governing board, agency, or authority the subject
347 of which is budgeting resources for the retention of charity
348 care, as that term is defined in the rules of the Agency for
349 Health Care Administration. The plan shall also include
350 innovative health care programs that provide cost-effective
351 alternatives to traditional methods of service and delivery

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352 funding.

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

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

361 5. At the end of each fiscal year, the governing board,
362 agency, or authority shall prepare an audit that reviews the
363 budget of the plan, delivery of services, and quality of
364 services, and makes recommendations to increase the plan's
365 efficiency. The audit shall take into account participant
366 hospital satisfaction with the plan and assess the amount of
367 poststabilization patient transfers requested, and accepted or
368 denied, by the county public general hospital.

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

373 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

374 (a) The school board in each county may levy, pursuant to
375 resolution conditioned to take effect only upon approval by a
376 ~~majority vote of the electors of the county,~~ as set forth in
377 subsection (9), voting in a referendum, a discretionary sales
378 surtax at a rate that may not exceed 0.5 percent.

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

380 (a)1. The governing body in each county that has a

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381 population of fewer than 800,000 residents may levy an indigent
382 care surtax pursuant to an ordinance conditioned to take effect
383 only upon approval by ~~a majority vote~~ of the electors of the
384 county, as set forth in subsection (9), voting in a referendum.
385 The surtax may be levied at a rate not to exceed 0.5 percent,
386 except that if a publicly supported medical school is located in
387 the county, the rate shall not exceed 1 percent.

388 2. Notwithstanding subparagraph 1., the governing body of
389 any county that has a population of fewer than 50,000 residents
390 may levy an indigent care surtax pursuant to an ordinance
391 conditioned to take effect only upon approval by ~~a majority vote~~
392 ~~of~~ the electors of the county, as set forth in subsection (9),
393 voting in a referendum. The surtax may be levied at a rate not
394 to exceed 1 percent.

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

396 (b) Upon the adoption of the ordinance, the levy of the
397 surtax must be placed on the ballot by the governing authority
398 of the county enacting the ordinance. The ordinance will take
399 effect if approved by ~~a majority~~ of the electors of the county,
400 as set forth in subsection (9), voting in a referendum held for
401 such purpose. The referendum shall be placed on the ballot of a
402 regularly scheduled election. The ballot for the referendum must
403 conform to the requirements of s. 101.161.

404 (9) DATES FOR REFERENDA; VOTER APPROVAL THRESHOLDS.—A
405 referendum to adopt or amend a local government discretionary
406 sales surtax under this section may not be held during a special
407 election. A referendum under this section held at a presidential
408 preference primary election as provided in s. 103.101 or at a
409 primary election as defined by s. 97.021 requires the approval

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410 of at least 60 percent of the voters voting on the ballot
411 question for passage. A referendum under this section held at a
412 general election as defined by s. 97.021 requires the approval
413 of a majority of the voters voting on the ballot question for
414 passage.

415 Section 2. This act shall take effect July 1, 2017.