



CS/HB 1297, Engrossed 1

2016

1 A bill to be entitled
2 An act relating to discretionary sales surtaxes;
3 amending s. 112.64, F.S.; authorizing a county to
4 apply proceeds of a pension liability surtax toward
5 reducing the unfunded liability of a defined benefit
6 retirement plan or system; specifying the method of
7 determining the amortization schedule if a surtax is
8 approved; amending s. 212.055, F.S.; authorizing a
9 county to levy a pension liability surtax by ordinance
10 if certain conditions are met; prescribing the form of
11 the ballot statement; requiring the Department of
12 Revenue to distribute the surtax proceeds, less
13 administrative fees; specifying the manner in which a
14 local government may use the surtax proceeds;
15 prescribing requirements for the ordinance that
16 provides for the imposition of the surtax; specifying
17 conditions under which the surtax terminates; limiting
18 the combined rate of specified discretionary sales
19 surtaxes; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (6) of section 112.64, Florida
24 Statutes, is renumbered as subsection (7), and a new subsection
25 (6) is added to that section, to read:

26 112.64 Administration of funds; amortization of unfunded



27 liability.—

28 (6) (a) Notwithstanding any other provision of this part,
 29 the proceeds of a pension liability surtax imposed by a county
 30 pursuant to s. 212.055, which is levied for the purpose of
 31 funding or amortizing the unfunded liability of a defined
 32 benefit retirement plan or system, excluding the Florida
 33 Retirement System, shall be actuarially recognized, and the
 34 county shall apply the present value of the total projected
 35 proceeds of the surtax to reduce the unfunded liability or to
 36 amortize it as part of the county's annual required
 37 contribution, beginning with the fiscal year immediately
 38 following approval of the pension liability surtax. The unfunded
 39 liability amortization schedule must be adjusted beginning with
 40 the fiscal year immediately following approval of the pension
 41 liability surtax and amortized over a period of 30 years.

42 (b) The payroll of all employees in classifications
 43 covered by a closed retirement plan or system that receives
 44 funds from the pension liability surtax must be included in
 45 determining the unfunded liability amortization schedule for the
 46 closed plan, regardless of the plan in which the employees
 47 currently participate, and the payroll growth assumption must be
 48 adjusted to reflect the payroll of those employees when
 49 calculating the amortization of the unfunded liability.

50 Section 2. Subsection (9) is added to section 212.055,
 51 Florida Statutes, to read:

52 212.055 Discretionary sales surtaxes; legislative intent;



53 authorization and use of proceeds.—It is the legislative intent
54 that any authorization for imposition of a discretionary sales
55 surtax shall be published in the Florida Statutes as a
56 subsection of this section, irrespective of the duration of the
57 levy. Each enactment shall specify the types of counties
58 authorized to levy; the rate or rates which may be imposed; the
59 maximum length of time the surtax may be imposed, if any; the
60 procedure which must be followed to secure voter approval, if
61 required; the purpose for which the proceeds may be expended;
62 and such other requirements as the Legislature may provide.
63 Taxable transactions and administrative procedures shall be as
64 provided in s. 212.054.

65 (9) PENSION LIABILITY SURTAX.—

66 (a) The governing body of a county may levy a pension
67 liability surtax to fund an underfunded defined benefit
68 retirement plan or system, pursuant to an ordinance conditioned
69 to take effect upon approval by a majority vote of the electors
70 of the county voting in a referendum, at a rate that may not
71 exceed 0.5 percent. The county may not impose a pension
72 liability surtax unless the underfunded defined benefit
73 retirement plan or system is below 80 percent of actuarial
74 funding at the time the ordinance or referendum is passed. The
75 most recent actuarial report submitted to the Department of
76 Management Services pursuant to s. 112.63 must be used to
77 establish the level of actuarial funding for purposes of
78 determining eligibility to impose the surtax. The governing body



79 of a county may only impose the surtax if:

80 1. An employee, including a police officer or firefighter,
81 who enters employment on or after the date when the local
82 government certifies that the defined benefit retirement plan or
83 system formerly available to such an employee has been closed
84 may not enroll in a defined benefit retirement plan or system
85 that will receive surtax proceeds.

86 2. The local government and the collective bargaining
87 representative for the members of the underfunded defined
88 benefit retirement plan or system or, if there is no
89 representative, a majority of the members of the plan or system,
90 mutually consent to requiring each member to make an employee
91 retirement contribution of at least 10 percent of each member's
92 salary for each pay period beginning with the first pay period
93 after the plan or system is closed.

94 3. The pension board of trustees for the underfunded
95 defined benefit retirement plan or system, if such board exists,
96 is prohibited from participating in the collective bargaining
97 process and engaging in the determination of pension benefits.

98 4. The county currently levies a local government
99 infrastructure surtax pursuant to subsection (2) which is
100 scheduled to terminate and is not subject to renewal.

101 5. The pension liability surtax does not take effect until
102 the local government infrastructure surtax described in
103 subparagraph 4. is terminated.

104 (b) A referendum to adopt a pension liability surtax must



105 meet the requirements of s. 101.161 and must include a brief and
106 general description of the purposes for which the surtax
107 proceeds will be used.

108 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
109 collected under this subsection, less an administrative fee that
110 may be retained by the department, shall be distributed by the
111 department to the local government.

112 (d) The local government may use the pension liability
113 surtax proceeds in the following manner:

114 1. If the proceeds of the pension liability surtax have
115 been actuarially recognized as provided in s. 112.64(6), the
116 local government must distribute the proceeds to an eligible
117 defined benefit retirement plan or system, not including the
118 Florida Retirement System.

119 2. If the proceeds of the pension liability surtax have
120 not been actuarially recognized, the local government is
121 authorized to distribute the proceeds to an eligible defined
122 benefit retirement plan or system, not including the Florida
123 Retirement System, to pledge the proceeds of the surtax to repay
124 debts incurred for the purpose of making advanced payments
125 toward the unfunded liability of an underfunded defined benefit
126 retirement plan or system, and to reimburse itself from the
127 proceeds of the surtax for any borrowing costs associated with
128 such debts.

129 (e) The ordinance providing for the imposition of the
130 pension liability surtax must specify how the proceeds will be



131 used:

132 1. The ordinance must specify the method of determining
133 the percentage of the proceeds, and the frequency of such
134 payments, distributed to each eligible defined benefit
135 retirement plan or system if the proceeds of the pension
136 liability surtax are actuarially recognized as provided in s.
137 112.64(6).

138 2. The ordinance must specify the local government's
139 intention to incur debt for the purpose of making advanced
140 payments toward the unfunded liability of an underfunded defined
141 benefit retirement plan or system if the proceeds of the pension
142 liability surtax are not actuarially recognized as provided in
143 s. 112.64(6).

144 (f) A pension liability surtax imposed pursuant to this
145 subsection shall terminate on December 31 of the year in which
146 the actuarial funding level is expected to reach or exceed 100
147 percent for the defined benefit retirement plan or system for
148 which the surtax was levied or December 31, 2060, whichever
149 occurs first. The most recent actuarial report submitted to the
150 Department of Management Services pursuant to s. 112.63 must be
151 used to establish the level of actuarial funding.

152 (g) Notwithstanding any other provision of this section, a
153 county may not levy local option sales surtaxes authorized in
154 this subsection and subsections (2), (3), (4), and (5) in excess
155 of a combined rate of 1 percent.

156 Section 3. This act shall take effect July 1, 2016.