

By the Committees on Finance and Tax; and Community Affairs; and Senators Bradley, Bean, and Hutson

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20161652c2

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:

22  
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

593-03183-16

20161652c2

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

593-03183-16

20161652c2

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 underfunded defined benefit retirement  
68 plans or systems, pursuant to an ordinance conditioned to take  
69 effect upon approval by a majority vote of the electors of the  
70 county voting in a referendum, at a rate that may not exceed 0.5  
71 percent. The county may not impose a pension liability surtax  
72 unless the underfunded defined benefit retirement plan or system  
73 is below 80 percent of actuarial funding at the time the  
74 ordinance or referendum is passed. The most recent actuarial  
75 report submitted to the Department of Management Services  
76 pursuant to s. 112.63 must be used to establish the level of  
77 actuarial funding for purposes of determining eligibility to  
78 impose the surtax. The governing body of a county may only  
79 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 county currently levies a local government  
87 infrastructure surtax pursuant to subsection (2) which is  
88 scheduled to terminate and is not subject to renewal.

89 3. The pension liability surtax does not take effect until

593-03183-16

20161652c2

90 the local government infrastructure surtax described in  
91 subparagraph 2. is terminated.

92 (b) A referendum to adopt a pension liability surtax must  
93 meet the requirements of s. 101.161 and must include a brief and  
94 general description of the purposes for which the surtax  
95 proceeds will be used.

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

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

102 1. If the proceeds of the pension liability surtax have  
103 been actuarially recognized as provided for in s. 112.64(6), the  
104 local government must distribute the proceeds to an eligible  
105 defined benefit retirement plan or system, not including the  
106 Florida Retirement System.

107 2. If the proceeds of the pension liability surtax have not  
108 been actuarially recognized, the local government is authorized  
109 to distribute the proceeds to an eligible defined benefit  
110 retirement plan or system, not including the Florida Retirement  
111 System, to pledge the proceeds of the surtax to repay debts  
112 incurred for the purpose of making advanced payments toward the  
113 unfunded liability of an underfunded defined benefit retirement  
114 plan or system, and to reimburse itself from the proceeds of the  
115 surtax for any borrowing costs associated with such debts.

116 (e) The ordinance providing for the imposition of the  
117 pension liability surtax must specify how the proceeds will be  
118 used:

593-03183-16

20161652c2

119       1. The ordinance must specify the method of determining the  
120 percentage of the proceeds, and the frequency of such payments,  
121 distributed to each eligible defined benefit retirement plan or  
122 system if the proceeds of the pension liability surtax are  
123 actuarially recognized as provided for in s. 112.64(6).

124       2. The ordinance must specify the local government's  
125 intention to incur debt for the purpose of making advanced  
126 payments toward the unfunded liability of an underfunded defined  
127 benefit retirement plan or system if the proceeds of the pension  
128 liability surtax are not actuarially recognized as provided for  
129 in s. 112.64(6).

130       (f) A pension liability surtax imposed pursuant to this  
131 subsection shall terminate on December 31 of the year in which  
132 the actuarial funding level is expected to reach or exceed 100  
133 percent for the defined benefit retirement plan or system for  
134 which the surtax was levied or December 31, 2060, whichever  
135 occurs first. The most recent actuarial report submitted to the  
136 Department of Management Services pursuant to s. 112.63 must be  
137 used to establish the level of actuarial funding.

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

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