

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 Finance and Tax

BILL: CS/SB 346

INTRODUCER: Finance and Tax Committee and Senator Altman

SUBJECT: Local Government Infrastructure Surtax

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	Favorable
2.	Gross	Diez-Arguelles	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 346 provides that a county may levy the Local Government Infrastructure Surtax for the purpose of funding capital projects to restore natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies. The proceeds and interest from the surtax, or from the bonds pledging the surtax, may be used only for dredging operations related to ecologically beneficial muck removal.

The surtax must be enacted by ordinance and approved by a referendum.

The bill also reenacts specific sections of current law to incorporate the amendments by this act.

The bill does not increase or decrease state government revenues.

The bill takes effect July 1, 2016.

II. Present Situation:

Local Discretionary Sales Surtaxes

Sections 212.054 and 212.055, F.S., authorize counties to impose eight local discretionary sales surtaxes, including the Local Government Infrastructure Surtax. The surtax and the state's sales

and use tax are added to the price of taxable goods or services and the taxes are collected from the purchases at the time of sale.

A discretionary sales surtax applies to a transaction when:¹

- The selling dealer delivers taxable goods or taxable services in or into a county with a surtax.
- The event for which an admission is charged is located in a county with a surtax.
- The consumer of electric power is located in a county with a surtax.
- The sale of prepaid calling arrangements occurs in a county with a surtax.
- The location or delivery of tangible personal property covered by a service warranty is within a county with a surtax. The person receiving consideration for the issuance of a service warranty from the agreement holder must collect the surtax at the rate imposed by that county.
- The commercial real property that is leased or rented, or upon which a license for use is granted, is in a county with a surtax.
- The rental of living or sleeping accommodations (transient rentals) occurs in a county with a surtax.
- A registered dealer owing use tax on purchases or leases is located in a county with a surtax.

Local Government Infrastructure Surtax

The governing authority in each county may levy the Local Government Infrastructure Surtax, authorized in s. 212.055(2), F.S., after a majority vote of the electorate through a local referendum.² The surtax may be levied at 0.5 percent or 1.0 percent.³ Surtax proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population. If there is no interlocal agreement, the proceeds are distributed according to the formula in s. 218.62, F.S.⁴

The proceeds of the surtax and any accrued interest must be expended only to:

- Finance, plan, and construct infrastructure.
- Acquire land for public recreation, conservation, or protection of natural resources.
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum.
- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.⁵

¹ Florida Department of Revenue, *Florida's Discretionary Sales Surtax, 2*, available at http://dor.myflorida.com/Forms_library/current/gt800019.pdf (last visited Jan. 19, 2015).

² Section 212.055(2)(a)1., F.S.

³ However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.

⁴ Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

⁵ Section 212.055(2)(d), F.S.

Some counties are authorized to use surtax proceeds for other purposes under certain circumstances.⁶

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of one percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla.⁷ During the 2015-2016 fiscal year, these counties are estimated to receive combined revenues of \$691,831,985.⁸

Combined Tax Rate Caps for Discretionary Sales Surtaxes

Florida law creates maximum “cap” amounts of discretionary surtax that may be levied in combination with one another.

A county may not levy the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, in excess of a combined rate of one percent.⁹

A county may not levy the Local Government Infrastructure Surtax, the Small County Surtax, and the Indigent Care and Trauma Center Surtax in excess of a combined rate of one percent.¹⁰

A county cannot levy the Local Government Infrastructure Surtax, the Small County Surtax, and the County Public Hospital Surtax in excess of a combined rate of one percent.¹¹

A county cannot levy the Local Government Infrastructure Surtax, the Small County Surtax, and the Voter-approved Indigent Care Surtax in excess of a combined rate of one percent. Except, this cap may rise to 1.5 percent if a publicly supported medical school is located in the county or the county has a population of fewer than 50,000 residents.¹²

III. Effect of Proposed Changes:

The bill amends s. 212.055, F.S., to provide that a county may levy the Local Government Infrastructure Surtax for the purpose of funding capital projects to restore natural water bodies for public use. Proceeds and interest from the surtax, or from the bonds pledging the surtax for such use, may be spent only for dredging operations related to ecologically beneficial muck removal. The surtax must be enacted by ordinance and approved by a referendum.

⁶ See s. 212.055(2)(f) and (g), F.S. The criteria for using the proceeds for alternative uses is met by counties whose population was below 50,000 prior to April 1, 1992, counties of critical state concern that imposed the surtax prior to July 1, 1992, or counties whose population is greater than 75,000 in which the taxable value of real property is less than 60 percent of the just value of real property.

⁷ Office of Economic and Demographic Research, Florida Legislature, *Local Government Financial Information Handbook*, (Dec. 2014), available at <http://edr.state.fl.us/Content/local-government/reports/lgfih14.pdf> (last visited Jan. 19, 2016).

⁸ Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).

⁹ Section 212.055(2)(h), F.S.

¹⁰ Section 212.055(4)(b)5., F.S.

¹¹ Section 212.055(5)(f), F.S.

¹² Section 212.055(7)(f), F.S.

The bill also reenacts specific subsections of Florida Statutes to incorporate the changes made to s. 212.055(2), F.S. See section VIII, below.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 346 does not increase or decrease state government revenue.

B. Private Sector Impact:

CS/SB 346 does not directly impact the private sector, but if a county approves the surtax by referendum, it will increase the tax rate on transactions in the county.

C. Government Sector Impact:

CS/SB 346 does not provide additional taxing authority, but allows counties to use surtax proceeds for an additional purpose.

The Department of Revenue determined there would be no impact on the department.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹³ Florida Department of Revenue, *Senate Bill 346 Fiscal Analysis* (Oct. 19, 2015) (on file with the Senate Committee on Finance and Tax).

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 202.19, 202.20, 212.054, 212.0597, 212.20, and 1013.736.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on January 25, 2016:

The CS removes reference to s. 212.055(2)(c), F.S., relating to the distribution of funds among local governments. The bill as filed would allow the county to retain all the surtax proceeds. The amendment maintains the current distribution procedures for surtax proceeds to be shared with municipalities.

The CS also removes the language that authorizes a county to levy a discretionary sales surtax. The authorization is provided in s. 212.055(2)(a)1., F.S., under current law.

B. Amendments:

None.