

HB 791

2016

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
 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.

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
 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 | FOR THE. . . .CENTS TAX

101 | AGAINST THE. . . .CENTS TAX

102 | 3. The ordinance adopted by the governing body providing
 103 | for the imposition of the surtax shall set forth a plan for
 104 | providing health care services to qualified residents, as

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

131 meetings of the governing board, the subject of which is
132 budgeting resources for the rendition of charity care as that
133 term is defined in the Florida Hospital Uniform Reporting System
134 (FHURS) manual referenced in s. 408.07. The plan shall also
135 include innovative health care programs that provide cost-
136 effective alternatives to traditional methods of service
137 delivery and funding.

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

140 a. Qualified as indigent persons as certified by the
141 authorizing county;

142 b. Certified by the authorizing county as meeting the
143 definition of the medically poor, defined as persons having
144 insufficient income, resources, and assets to provide the needed
145 medical care without using resources required to meet basic
146 needs for shelter, food, clothing, and personal expenses; or not
147 being eligible for any other state or federal program, or having
148 medical needs that are not covered by any such program; or
149 having insufficient third-party insurance coverage. In all
150 cases, the authorizing county is intended to serve as the payor
151 of last resort; or

152 c. Participating in innovative, cost-effective programs
153 approved by the authorizing county.

154 5. Moneys collected pursuant to this paragraph remain the
155 property of the state and shall be distributed by the Department
156 of Revenue on a regular and periodic basis to the clerk of the

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

159 a. Maintain the moneys in an indigent health care trust
160 fund;

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

163 c. Disburse the funds, including any interest earned, to
164 any provider of health care services, as provided in
165 subparagraphs 3. and 4., upon directive from the authorizing
166 county. However, if a county has a population of at least
167 800,000 residents and has levied the surtax authorized in this
168 paragraph, notwithstanding any directive from the authorizing
169 county, on October 1 of each calendar year, the clerk of the
170 court shall issue a check in the amount of \$6.5 million to a
171 hospital in its jurisdiction that has a Level I trauma center or
172 shall issue a check in the amount of \$3.5 million to a hospital
173 in its jurisdiction that has a Level I trauma center if that
174 county enacts and implements a hospital lien law in accordance
175 with chapter 98-499, Laws of Florida. The issuance of the checks
176 on October 1 of each year is provided in recognition of the
177 Level I trauma center status and shall be in addition to the
178 base contract amount received during fiscal year 1999-2000 and
179 any additional amount negotiated to the base contract. If the
180 hospital receiving funds for its Level I trauma center status
181 requests such funds to be used to generate federal matching
182 funds under Medicaid, the clerk of the court shall instead issue

183 a check to the Agency for Health Care Administration to
 184 accomplish that purpose to the extent that it is allowed through
 185 the General Appropriations Act; and

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

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

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

204 1. A statement that includes a brief and general
 205 description of the purposes to be funded by the surtax and that
 206 conforms to the requirements of s. 101.161 shall be placed on
 207 the ballot by the governing body of the county. The following
 208 shall be placed on the ballot:

209 FOR THE. . . .CENTS TAX

210 AGAINST THE. . . .CENTS TAX

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

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

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

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

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

233 d. Prepare on a biennial basis an audit of the trauma
 234 services trust fund specified in sub-subparagraph a., to be

235 delivered to the authorizing county.

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

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

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

257 (a) The rate shall be 0.5 percent.

258 (b) If the ordinance is conditioned on a referendum, the
259 proposal to adopt the county public hospital surtax shall be
260 placed on the ballot in accordance with law ~~at a time to be set~~

261 ~~at the discretion of the governing body.~~ The referendum must be
 262 held on the day of a general election. The referendum question
 263 on the ballot shall include a brief general description of the
 264 health care services to be funded by the surtax.

265 (c) Proceeds from the surtax shall be:

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

270 2. Remitted promptly by the county to the agency,
 271 authority, or public health trust created by law which
 272 administers or operates the county public general hospital.

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

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

286 2. However, in the first year of the plan, a total of \$10

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

292 (e) A governing board, agency, or authority shall be
293 chartered by the county commission upon this act becoming law.
294 The governing board, agency, or authority shall adopt and
295 implement a health care plan for indigent health care services.
296 The governing board, agency, or authority shall consist of no
297 more than seven and no fewer than five members appointed by the
298 county commission. The members of the governing board, agency,
299 or authority shall be at least 18 years of age and residents of
300 the county. No member may be employed by or affiliated with a
301 health care provider or the public health trust, agency, or
302 authority responsible for the county public general hospital.
303 The following community organizations shall each appoint a
304 representative to a nominating committee: the South Florida
305 Hospital and Healthcare Association, the Miami-Dade County
306 Public Health Trust, the Dade County Medical Association, the
307 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
308 County. This committee shall nominate between 10 and 14 county
309 citizens for the governing board, agency, or authority. The
310 slate shall be presented to the county commission and the county
311 commission shall confirm the top five to seven nominees,
312 depending on the size of the governing board. Until such time as

313 the governing board, agency, or authority is created, the funds
314 provided for in subparagraph (d)2. shall be placed in a
315 restricted account set aside from other county funds and not
316 disbursed by the county for any other purpose.

317 1. The plan shall divide the county into a minimum of four
318 and maximum of six service areas, with no more than one
319 participant hospital per service area. The county public general
320 hospital shall be designated as the provider for one of the
321 service areas. Services shall be provided through participants'
322 primary acute care facilities.

323 2. The plan and subsequent amendments to it shall fund a
324 defined range of health care services for both indigent persons
325 and the medically poor, including primary care, preventive care,
326 hospital emergency room care, and hospital care necessary to
327 stabilize the patient. For the purposes of this section,
328 "stabilization" means stabilization as defined in s.
329 397.311(41). Where consistent with these objectives, the plan
330 may include services rendered by physicians, clinics, community
331 hospitals, and alternative delivery sites, as well as at least
332 one regional referral hospital per service area. The plan shall
333 provide that agreements negotiated between the governing board,
334 agency, or authority and providers shall recognize hospitals
335 that render a disproportionate share of indigent care, provide
336 other incentives to promote the delivery of charity care to draw
337 down federal funds where appropriate, and require cost
338 containment, including, but not limited to, case management.

339 From the funds specified in subparagraphs (d)1. and 2. for
340 indigent health care services, service providers shall receive
341 reimbursement at a Medicaid rate to be determined by the
342 governing board, agency, or authority created pursuant to this
343 paragraph for the initial emergency room visit, and a per-member
344 per-month fee or capitation for those members enrolled in their
345 service area, as compensation for the services rendered
346 following the initial emergency visit. Except for provisions of
347 emergency services, upon determination of eligibility,
348 enrollment shall be deemed to have occurred at the time services
349 were rendered. The provisions for specific reimbursement of
350 emergency services shall be repealed on July 1, 2001, unless
351 otherwise reenacted by the Legislature. The capitation amount or
352 rate shall be determined prior to program implementation by an
353 independent actuarial consultant. In no event shall such
354 reimbursement rates exceed the Medicaid rate. The plan must also
355 provide that any hospitals owned and operated by government
356 entities on or after the effective date of this act must, as a
357 condition of receiving funds under this subsection, afford
358 public access equal to that provided under s. 286.011 as to any
359 meeting of the governing board, agency, or authority the subject
360 of which is budgeting resources for the retention of charity
361 care, as that term is defined in the rules of the Agency for
362 Health Care Administration. The plan shall also include
363 innovative health care programs that provide cost-effective
364 alternatives to traditional methods of service and delivery

365 funding.

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

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

374 5. At the end of each fiscal year, the governing board,
375 agency, or authority shall prepare an audit that reviews the
376 budget of the plan, delivery of services, and quality of
377 services, and makes recommendations to increase the plan's
378 efficiency. The audit shall take into account participant
379 hospital satisfaction with the plan and assess the amount of
380 poststabilization patient transfers requested, and accepted or
381 denied, by the county public general hospital.

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

386 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

387 (a) The school board in each county may levy, pursuant to
388 resolution conditioned to take effect only upon approval by at
389 least 60 percent ~~a majority vote~~ of the electors of the county
390 voting in a referendum, a discretionary sales surtax at a rate

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391 that may not exceed 0.5 percent. The referendum must be held on
392 the day of a general election.

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

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

403 2. Notwithstanding subparagraph 1., the governing body of
404 any county that has a population of fewer than 50,000 residents
405 may levy an indigent care surtax pursuant to an ordinance
406 conditioned to take effect only upon approval by at least 60
407 percent ~~a majority vote~~ of the electors of the county voting in
408 a referendum held on the day of a general election. The surtax
409 may be levied at a rate not to exceed 1 percent.

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

411 (b) Upon the adoption of the ordinance, the levy of the
412 surtax must be placed on the ballot by the governing authority
413 of the county enacting the ordinance. The ordinance will take
414 effect if approved by at least 60 percent ~~a majority~~ of the
415 electors of the county voting in a referendum held on the day of
416 a general election ~~for such purpose. The referendum shall be~~

417 ~~placed on the ballot of a regularly scheduled election.~~ The
418 ballot for the referendum must conform to the requirements of s.
419 101.161.

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

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

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