

1
2 A bill to be entitled
3 An act relating to local tax referenda; amending s.
4 212.055, F.S.; requiring local government
5 discretionary sales surtax referenda to be held on the
6 date of a primary or general election; requiring such
7 referenda to be approved by a specified percentage of
8 voters for passage; providing an effective date.
9

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

12 Section 1. Paragraphs (a) and (c) of subsection (1),
13 paragraph (a) of subsection (2), paragraph (a) of subsection
14 (3), subsections (4) and (5), paragraph (a) of subsection (6),
15 paragraph (a) of subsection (7), paragraph (b) of subsection
16 (8), and paragraph (a) of subsection (9) of section 212.055,
17 Florida Statutes, are amended, and subsection (10) is added to
18 that section, to read:

19 212.055 Discretionary sales surtaxes; legislative intent;
20 authorization and use of proceeds.—It is the legislative intent
21 that any authorization for imposition of a discretionary sales
22 surtax shall be published in the Florida Statutes as a
23 subsection of this section, irrespective of the duration of the
24 levy. Each enactment shall specify the types of counties
25 authorized to levy; the rate or rates which may be imposed; the

26 maximum length of time the surtax may be imposed, if any; the
 27 procedure which must be followed to secure voter approval, if
 28 required; the purpose for which the proceeds may be expended;
 29 and such other requirements as the Legislature may provide.
 30 Taxable transactions and administrative procedures shall be as
 31 provided in s. 212.054.

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

34 (a) Each charter county that has adopted a charter, each
 35 county the government of which is consolidated with that of one
 36 or more municipalities, and each county that is within or under
 37 an interlocal agreement with a regional transportation or
 38 transit authority created under chapter 343 or chapter 349 may
 39 levy a discretionary sales surtax, ~~subject to approval by a~~
 40 ~~majority vote of the electorate of the county or by a charter~~
 41 ~~amendment approved by a majority vote of the electorate of the~~
 42 ~~county.~~

43 (c) The proposal to adopt a discretionary sales surtax as
 44 provided in this subsection and to create a trust fund within
 45 the county accounts shall be placed on the ballot in accordance
 46 with law and must be approved in a referendum as set forth in
 47 subsection (10) ~~at a time to be set at the discretion of the~~
 48 ~~governing body.~~

49 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

50 (a)1. The governing authority in each county may levy a

51 discretionary sales surtax of 0.5 percent or 1 percent. The levy
52 of the surtax shall be pursuant to ordinance enacted by a
53 majority of the members of the county governing authority and
54 approved by ~~a majority of the electors of the county~~, as set
55 forth in subsection (10), voting in a referendum on the surtax.
56 If the governing bodies of the municipalities representing a
57 majority of the county's population adopt uniform resolutions
58 establishing the rate of the surtax and calling for a referendum
59 on the surtax, the levy of the surtax shall be placed on the
60 ballot and shall take effect if approved by ~~a majority of the~~
61 ~~electors of the county~~, as set forth in subsection (10), voting
62 in the referendum on the surtax.

63 2. If the surtax was levied pursuant to a referendum held
64 before July 1, 1993, the surtax may not be levied beyond the
65 time established in the ordinance, or, if the ordinance did not
66 limit the period of the levy, the surtax may not be levied for
67 more than 15 years. The levy of such surtax may be extended only
68 by approval of ~~a majority of the electors of the county~~, as set
69 forth in subsection (10), voting in a referendum on the surtax.

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 a
 79 ~~majority of the electors of the county,~~ as set forth in
 80 subsection (10), voting in a referendum on the surtax.

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

82 (a)1. The governing body in each county the government of
 83 which is not consolidated with that of one or more
 84 municipalities, which has a population of at least 800,000
 85 residents and is not authorized to levy a surtax under
 86 subsection (5), may levy, pursuant to an ordinance either
 87 approved by an extraordinary vote of the governing body or
 88 conditioned to take effect only upon approval by a ~~majority vote~~
 89 ~~of the electors of the county,~~ as set forth in subsection (10),
 90 voting in a referendum, a discretionary sales surtax at a rate
 91 that may not exceed 0.5 percent.

92 2. If the ordinance is conditioned on a referendum, a
 93 statement that includes a brief and general description of the
 94 purposes to be funded by the surtax and that conforms to the
 95 requirements of s. 101.161 shall be placed on the ballot by the
 96 governing body of the county. The following questions shall be
 97 placed on the ballot:

98 FOR THE. . . .CENTS TAX

99 AGAINST THE. . . .CENTS TAX

100 3. The ordinance adopted by the governing body providing

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

126 owned and operated by government entities on May 21, 1991, must,
127 as a condition of receiving funds under this subsection, afford
128 public access equal to that provided under s. 286.011 as to
129 meetings of the governing board, the subject of which is
130 budgeting resources for the rendition of charity care as that
131 term is defined in the Florida Hospital Uniform Reporting System
132 (FHURS) manual referenced in s. 408.07. The plan shall also
133 include innovative health care programs that provide cost-
134 effective alternatives to traditional methods of service
135 delivery and funding.

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

138 a. Qualified as indigent persons as certified by the
139 authorizing county;

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

150 c. Participating in innovative, cost-effective programs

151 approved by the authorizing county.

152 5. Moneys collected pursuant to this paragraph remain the
153 property of the state and shall be distributed by the Department
154 of Revenue on a regular and periodic basis to the clerk of the
155 circuit court as ex officio custodian of the funds of the
156 authorizing county. The clerk of the circuit court shall:

157 a. Maintain the moneys in an indigent health care trust
158 fund;

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

161 c. Disburse the funds, including any interest earned, to
162 any provider of health care services, as provided in
163 subparagraphs 3. and 4., upon directive from the authorizing
164 county. However, if a county has a population of at least
165 800,000 residents and has levied the surtax authorized in this
166 paragraph, notwithstanding any directive from the authorizing
167 county, on October 1 of each calendar year, the clerk of the
168 court shall issue a check in the amount of \$6.5 million to a
169 hospital in its jurisdiction that has a Level I trauma center or
170 shall issue a check in the amount of \$3.5 million to a hospital
171 in its jurisdiction that has a Level I trauma center if that
172 county enacts and implements a hospital lien law in accordance
173 with chapter 98-499, Laws of Florida. The issuance of the checks
174 on October 1 of each year is provided in recognition of the
175 Level I trauma center status and shall be in addition to the

176 base contract amount received during fiscal year 1999-2000 and
177 any additional amount negotiated to the base contract. If the
178 hospital receiving funds for its Level I trauma center status
179 requests such funds to be used to generate federal matching
180 funds under Medicaid, the clerk of the court shall instead issue
181 a check to the Agency for Health Care Administration to
182 accomplish that purpose to the extent that it is allowed through
183 the General Appropriations Act; and

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

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

192 (b) Notwithstanding any other provision of this section,
193 the governing body in each county the government of which is not
194 consolidated with that of one or more municipalities and which
195 has a population of fewer ~~less~~ than 800,000 residents, may levy,
196 by ordinance subject to approval by ~~a majority of~~ the electors
197 of the county, as set forth in subsection (10), voting in a
198 referendum, a discretionary sales surtax at a rate that may not
199 exceed 0.25 percent for the sole purpose of funding trauma
200 services provided by a trauma center licensed pursuant to

201 chapter 395.

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

207 FOR THE. . . .CENTS TAX

208 AGAINST THE. . . .CENTS TAX

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

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

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

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

222 c. Disburse the funds, including any interest earned on
 223 such funds, to the trauma center in its trauma service area, as
 224 provided in the plan set forth pursuant to subparagraph 2., upon
 225 directive from the authorizing county. If the trauma center

226 receiving funds requests such funds be used to generate federal
227 matching funds under Medicaid, the custodian of the funds shall
228 instead issue a check to the Agency for Health Care
229 Administration to accomplish that purpose to the extent that the
230 agency is allowed through the General Appropriations Act.

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

234 4. A discretionary sales surtax imposed pursuant to this
235 paragraph shall expire 4 years after the effective date of the
236 surtax, unless reenacted by ordinance subject to approval by a
237 ~~majority of the electors of the county,~~ as set forth in
238 subsection (10), voting in a subsequent referendum.

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

243 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
244 in s. 125.011(1) may levy the surtax authorized in this
245 subsection pursuant to an ordinance either approved by
246 extraordinary vote of the county commission or conditioned to
247 take effect only upon approval by a ~~majority vote of the~~
248 electors of the county, as set forth in subsection (10), voting
249 in a referendum. In a county as defined in s. 125.011(1), for
250 the purposes of this subsection, "county public general

251 hospital" means a general hospital as defined in s. 395.002
252 which is owned, operated, maintained, or governed by the county
253 or its agency, authority, or public health trust.

254 (a) The rate shall be 0.5 percent.

255 (b) If the ordinance is conditioned on a referendum, the
256 proposal to adopt the county public hospital surtax shall be
257 placed on the ballot in accordance with subsection (10) ~~law at a~~
258 ~~time to be set at the discretion of the governing body.~~ The
259 referendum question on the ballot shall include a brief general
260 description of the health care services to be funded by the
261 surtax.

262 (c) Proceeds from the surtax shall be:

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

267 2. Remitted promptly by the county to the agency,
268 authority, or public health trust created by law which
269 administers or operates the county public general hospital.

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

276 ending September 30, 1991:

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

283 2. However, in the first year of the plan, a total of \$10
284 million shall be remitted to such governing board, agency, or
285 authority, to be used solely for the purpose of funding the plan
286 for indigent health care services provided for in paragraph (e),
287 and in the second year of the plan, a total of \$15 million shall
288 be so remitted and used.

289 (e) A governing board, agency, or authority shall be
290 chartered by the county commission upon this act becoming law.
291 The governing board, agency, or authority shall adopt and
292 implement a health care plan for indigent health care services.
293 The governing board, agency, or authority shall consist of no
294 more than seven and no fewer than five members appointed by the
295 county commission. The members of the governing board, agency,
296 or authority shall be at least 18 years of age and residents of
297 the county. No member may be employed by or affiliated with a
298 health care provider or the public health trust, agency, or
299 authority responsible for the county public general hospital.
300 The following community organizations shall each appoint a

301 representative to a nominating committee: the South Florida
302 Hospital and Healthcare Association, the Miami-Dade County
303 Public Health Trust, the Dade County Medical Association, the
304 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
305 County. This committee shall nominate between 10 and 14 county
306 citizens for the governing board, agency, or authority. The
307 slate shall be presented to the county commission and the county
308 commission shall confirm the top five to seven nominees,
309 depending on the size of the governing board. Until such time as
310 the governing board, agency, or authority is created, the funds
311 provided for in subparagraph (d)2. shall be placed in a
312 restricted account set aside from other county funds and not
313 disbursed by the county for any other purpose.

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

320 2. The plan and subsequent amendments to it shall fund a
321 defined range of health care services for both indigent persons
322 and the medically poor, including primary care, preventive care,
323 hospital emergency room care, and hospital care necessary to
324 stabilize the patient. For the purposes of this section,
325 "stabilization" means stabilization as defined in s.

326 | 397.311(44). Where consistent with these objectives, the plan
327 | may include services rendered by physicians, clinics, community
328 | hospitals, and alternative delivery sites, as well as at least
329 | one regional referral hospital per service area. The plan shall
330 | provide that agreements negotiated between the governing board,
331 | agency, or authority and providers shall recognize hospitals
332 | that render a disproportionate share of indigent care, provide
333 | other incentives to promote the delivery of charity care to draw
334 | down federal funds where appropriate, and require cost
335 | containment, including, but not limited to, case management.
336 | From the funds specified in subparagraphs (d)1. and 2. for
337 | indigent health care services, service providers shall receive
338 | reimbursement at a Medicaid rate to be determined by the
339 | governing board, agency, or authority created pursuant to this
340 | paragraph for the initial emergency room visit, and a per-member
341 | per-month fee or capitation for those members enrolled in their
342 | service area, as compensation for the services rendered
343 | following the initial emergency visit. Except for provisions of
344 | emergency services, upon determination of eligibility,
345 | enrollment shall be deemed to have occurred at the time services
346 | were rendered. The provisions for specific reimbursement of
347 | emergency services shall be repealed on July 1, 2001, unless
348 | otherwise reenacted by the Legislature. The capitation amount or
349 | rate shall be determined before program implementation by an
350 | independent actuarial consultant. In no event shall such

351 reimbursement rates exceed the Medicaid rate. The plan must also
352 provide that any hospitals owned and operated by government
353 entities on or after the effective date of this act must, as a
354 condition of receiving funds under this subsection, afford
355 public access equal to that provided under s. 286.011 as to any
356 meeting of the governing board, agency, or authority the subject
357 of which is budgeting resources for the retention of charity
358 care, as that term is defined in the rules of the Agency for
359 Health Care Administration. The plan shall also include
360 innovative health care programs that provide cost-effective
361 alternatives to traditional methods of service and delivery
362 funding.

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

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

371 5. At the end of each fiscal year, the governing board,
372 agency, or authority shall prepare an audit that reviews the
373 budget of the plan, delivery of services, and quality of
374 services, and makes recommendations to increase the plan's
375 efficiency. The audit shall take into account participant

376 hospital satisfaction with the plan and assess the amount of
377 poststabilization patient transfers requested, and accepted or
378 denied, by the county public general hospital.

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

383 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

384 (a) The school board in each county may levy, pursuant to
385 resolution conditioned to take effect only upon approval by a
386 ~~majority vote of~~ the electors of the county, as set forth in
387 subsection (10), voting in a referendum, a discretionary sales
388 surtax at a rate that may not exceed 0.5 percent.

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

390 (a)1. The governing body in each county that has a
391 population of fewer than 800,000 residents may levy an indigent
392 care surtax pursuant to an ordinance conditioned to take effect
393 only upon approval by a ~~majority vote of~~ the electors of the
394 county, as set forth in subsection (10), voting in a referendum.
395 The surtax may be levied at a rate not to exceed 0.5 percent,
396 except that if a publicly supported medical school is located in
397 the county, the rate shall not exceed 1 percent.

398 2. Notwithstanding subparagraph 1., the governing body of
399 any county that has a population of fewer than 50,000 residents
400 may levy an indigent care surtax pursuant to an ordinance

401 conditioned to take effect only upon approval by ~~a majority vote~~
402 ~~of~~ the electors of the county, as set forth in subsection (10),
403 voting in a referendum. The surtax may be levied at a rate not
404 to exceed 1 percent.

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

406 (b) Upon the adoption of the ordinance, the levy of the
407 surtax must be placed on the ballot by the governing authority
408 of the county enacting the ordinance. The ordinance will take
409 effect if approved by ~~a majority of~~ the electors of the county,
410 as set forth in subsection (10), voting in a referendum held for
411 such purpose. The referendum shall be placed on the ballot of a
412 regularly scheduled election. The ballot for the referendum must
413 conform to the requirements of s. 101.161.

414 (9) PENSION LIABILITY SURTAX.—

415 (a) The governing body of a county may levy a pension
416 liability surtax to fund an underfunded defined benefit
417 retirement plan or system, pursuant to an ordinance conditioned
418 to take effect upon approval by ~~a majority vote of~~ the electors
419 of the county, as set forth in subsection (10), voting in a
420 referendum, at a rate that may not exceed 0.5 percent. The
421 county may not impose a pension liability surtax unless the
422 underfunded defined benefit retirement plan or system is below
423 80 percent of actuarial funding at the time the ordinance or
424 referendum is passed. The most recent actuarial report submitted
425 to the Department of Management Services pursuant to s. 112.63

426 must be used to establish the level of actuarial funding for
427 purposes of determining eligibility to impose the surtax. The
428 governing body of a county may only impose the surtax if:

429 1. An employee, including a police officer or firefighter,
430 who enters employment on or after the date when the local
431 government certifies that the defined benefit retirement plan or
432 system formerly available to such an employee has been closed
433 may not enroll in a defined benefit retirement plan or system
434 that will receive surtax proceeds.

435 2. The local government and the collective bargaining
436 representative for the members of the underfunded defined
437 benefit retirement plan or system or, if there is no
438 representative, a majority of the members of the plan or system,
439 mutually consent to requiring each member to make an employee
440 retirement contribution of at least 10 percent of each member's
441 salary for each pay period beginning with the first pay period
442 after the plan or system is closed.

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

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

450 5. The pension liability surtax does not take effect until

451 the local government infrastructure surtax described in
452 subparagraph 4. is terminated.

453 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
454 local government discretionary sales surtax under this section
455 shall be held:

456 (a) At a primary election, as defined in s. 97.021, and
457 requires the approval of 60 percent of the voters voting on the
458 ballot question for passage; or

459 (b) At a general election, as defined in s. 97.021, and
460 requires the approval of a majority of the voters voting on the
461 ballot question for passage.

462 Section 2. This act shall take effect July 1, 2018.