

By Senator Steube

23-00527-17

2017278__

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 date of a general election; providing an effective
 6 date.

7
 8 Be It Enacted by the Legislature of the State of Florida:
 9

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

17 212.055 Discretionary sales surtaxes; legislative intent;
 18 authorization and use of proceeds.—It is the legislative intent
 19 that any authorization for imposition of a discretionary sales
 20 surtax shall be published in the Florida Statutes as a
 21 subsection of this section, irrespective of the duration of the
 22 levy. Each enactment shall specify the types of counties
 23 authorized to levy; the rate or rates which may be imposed; the
 24 maximum length of time the surtax may be imposed, if any; the
 25 procedure which must be followed to secure voter approval, if
 26 required; the purpose for which the proceeds may be expended;
 27 and such other requirements as the Legislature may provide.
 28 Taxable transactions and administrative procedures shall be as
 29 provided in s. 212.054.

30 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
 31 SURTAX.—

32 (a) Each charter county that has adopted a charter, each

23-00527-17

2017278__

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

41 (c) The proposal to adopt a discretionary sales surtax as
42 provided in this subsection and to create a trust fund within
43 the county accounts shall be placed on the ballot in accordance
44 with law and must be approved in a referendum as set forth in
45 subsection (10) ~~at a time to be set at the discretion of the~~
46 ~~governing 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 ~~a majority of~~ the electors of the county, as set
53 forth in subsection (10), voting in a referendum on the surtax.
54 If the governing bodies of the municipalities representing a
55 majority of the county's population adopt uniform resolutions
56 establishing the rate of the surtax and calling for a referendum
57 on the surtax, the levy of the surtax shall be placed on the
58 ballot and shall take effect if approved by ~~a majority of~~ the
59 electors of the county, as set forth in subsection (10), voting
60 in the referendum on the surtax.

61 2. If the surtax was levied pursuant to a referendum held

23-00527-17

2017278__

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

68 (3) SMALL COUNTY SURTAX.—

69 (a) The governing authority in each county that has a
70 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
71 discretionary sales surtax of 0.5 percent or 1 percent. The levy
72 of the surtax shall be pursuant to ordinance enacted by an
73 extraordinary vote of the members of the county governing
74 authority if the surtax revenues are expended for operating
75 purposes. If the surtax revenues are expended for the purpose of
76 servicing bond indebtedness, the surtax shall be approved by a
77 ~~majority of~~ the electors of the county, as set forth in
78 subsection (10), voting in a referendum on the surtax.

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

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

90 2. If the ordinance is conditioned on a referendum, a

23-00527-17

2017278__

91 statement that includes a brief and general description of the
 92 purposes to be funded by the surtax and that conforms to the
 93 requirements of s. 101.161 shall be placed on the ballot by the
 94 governing body of the county. The following questions shall be
 95 placed on the ballot:

96
 97 FOR THE. . . .CENTS TAX
 98 AGAINST THE. . . .CENTS TAX
 99

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

23-00527-17

2017278__

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

23-00527-17

2017278__

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

23-00527-17

2017278__

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:

23-00527-17

2017278__

207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235

FOR THE . . .CENTS TAX
AGAINST THE . . .CENTS TAX

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

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

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

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

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

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

23-00527-17

2017278__

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 a
239 ~~majority of the electors of the county,~~ as set forth in
240 subsection (10), voting in a subsequent referendum.

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

245 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
246 s. 125.011(1) may levy the surtax authorized in this subsection
247 pursuant to an ordinance either approved by extraordinary vote
248 of the county commission or conditioned to take effect only upon
249 approval by ~~a majority vote of the electors of the county,~~ as
250 set forth in subsection (10), voting in a referendum. In a
251 county as defined in s. 125.011(1), for the purposes of this
252 subsection, "county public general hospital" means a general
253 hospital as defined in s. 395.002 which is owned, operated,
254 maintained, or governed by the county or its agency, authority,
255 or public health trust.

256 (a) The rate shall be 0.5 percent.

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

264 (c) Proceeds from the surtax shall be:

23-00527-17

2017278__

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

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

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

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

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

291 (e) A governing board, agency, or authority shall be
292 chartered by the county commission upon this act becoming law.
293 The governing board, agency, or authority shall adopt and

23-00527-17

2017278__

294 implement a health care plan for indigent health care services.
295 The governing board, agency, or authority shall consist of no
296 more than seven and no fewer than five members appointed by the
297 county commission. The members of the governing board, agency,
298 or authority shall be at least 18 years of age and residents of
299 the county. No member may be employed by or affiliated with a
300 health care provider or the public health trust, agency, or
301 authority responsible for the county public general hospital.
302 The following community organizations shall each appoint a
303 representative to a nominating committee: the South Florida
304 Hospital and Healthcare Association, the Miami-Dade County
305 Public Health Trust, the Dade County Medical Association, the
306 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
307 County. This committee shall nominate between 10 and 14 county
308 citizens for the governing board, agency, or authority. The
309 slate shall be presented to the county commission and the county
310 commission shall confirm the top five to seven nominees,
311 depending on the size of the governing board. Until such time as
312 the governing board, agency, or authority is created, the funds
313 provided for in subparagraph (d)2. shall be placed in a
314 restricted account set aside from other county funds and not
315 disbursed by the county for any other purpose.

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

322 2. The plan and subsequent amendments to it shall fund a

23-00527-17

2017278__

323 defined range of health care services for both indigent persons
324 and the medically poor, including primary care, preventive care,
325 hospital emergency room care, and hospital care necessary to
326 stabilize the patient. For the purposes of this section,
327 "stabilization" means stabilization as defined in s.
328 397.311(44). Where consistent with these objectives, the plan
329 may include services rendered by physicians, clinics, community
330 hospitals, and alternative delivery sites, as well as at least
331 one regional referral hospital per service area. The plan shall
332 provide that agreements negotiated between the governing board,
333 agency, or authority and providers shall recognize hospitals
334 that render a disproportionate share of indigent care, provide
335 other incentives to promote the delivery of charity care to draw
336 down federal funds where appropriate, and require cost
337 containment, including, but not limited to, case management.
338 From the funds specified in subparagraphs (d)1. and 2. for
339 indigent health care services, service providers shall receive
340 reimbursement at a Medicaid rate to be determined by the
341 governing board, agency, or authority created pursuant to this
342 paragraph for the initial emergency room visit, and a per-member
343 per-month fee or capitation for those members enrolled in their
344 service area, as compensation for the services rendered
345 following the initial emergency visit. Except for provisions of
346 emergency services, upon determination of eligibility,
347 enrollment shall be deemed to have occurred at the time services
348 were rendered. The provisions for specific reimbursement of
349 emergency services shall be repealed on July 1, 2001, unless
350 otherwise reenacted by the Legislature. The capitation amount or
351 rate shall be determined before program implementation by an

23-00527-17

2017278__

352 independent actuarial consultant. In no event shall such
353 reimbursement rates exceed the Medicaid rate. The plan must also
354 provide that any hospitals owned and operated by government
355 entities on or after the effective date of this act must, as a
356 condition of receiving funds under this subsection, afford
357 public access equal to that provided under s. 286.011 as to any
358 meeting of the governing board, agency, or authority the subject
359 of which is budgeting resources for the retention of charity
360 care, as that term is defined in the rules of the Agency for
361 Health Care Administration. The plan shall also include
362 innovative health care programs that provide cost-effective
363 alternatives to traditional methods of service and delivery
364 funding.

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

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

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

23-00527-17

2017278__

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

385 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

400 2. Notwithstanding subparagraph 1., the governing body of
401 any county that has a population of fewer than 50,000 residents
402 may levy an indigent care surtax pursuant to an ordinance
403 conditioned to take effect only upon approval by a ~~majority vote~~
404 ~~of the electors of the county,~~ as set forth in subsection (10),
405 voting in a referendum. The surtax may be levied at a rate not
406 to exceed 1 percent.

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

408 (b) Upon the adoption of the ordinance, the levy of the
409 surtax must be placed on the ballot by the governing authority

23-00527-17

2017278__

410 of the county enacting the ordinance. The ordinance will take
411 effect if approved by ~~a majority of~~ the electors of the county,
412 as set forth in subsection (10), voting in a referendum held for
413 such purpose. The referendum shall be placed on the ballot of a
414 regularly scheduled election. The ballot for the referendum must
415 conform to the requirements of s. 101.161.

416 (9) PENSION LIABILITY SURTAX.—

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

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

437 2. The local government and the collective bargaining
438 representative for the members of the underfunded defined

23-00527-17

2017278__

439 benefit retirement plan or system or, if there is no
440 representative, a majority of the members of the plan or system,
441 mutually consent to requiring each member to make an employee
442 retirement contribution of at least 10 percent of each member's
443 salary for each pay period beginning with the first pay period
444 after the plan or system is closed.

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

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

452 5. The pension liability surtax does not take effect until
453 the local government infrastructure surtax described in
454 subparagraph 4. is terminated.

455 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
456 local government discretionary sales surtax under this section
457 shall be held only at a general election, as defined in s.
458 97.021, and requires the approval of a majority of the voters
459 voting on the ballot question for passage.

460 Section 2. This act shall take effect July 1, 2017.