

By the Committee on Ethics and Elections; and Senator Steube

582-02734-17

2017278c1

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 primary election or on the date of a general
6 election and specifying the required approval of
7 voters for passage; providing an effective date.
8

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

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

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

582-02734-17

2017278c1

30 provided in s. 212.054.

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

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

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

48 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

582-02734-17

2017278c1

59 ballot and shall take effect if approved by a ~~majority~~ of the
60 electors of the county, as set forth in subsection (10), voting
61 in the referendum on the surtax.

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

69 (3) SMALL COUNTY SURTAX.—

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

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

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

582-02734-17

2017278c1

88 ~~of~~ the electors of the county, as set forth in subsection (10),
 89 voting in a referendum, a discretionary sales surtax at a rate
 90 that may not exceed 0.5 percent.

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

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

100
 101 3. The ordinance adopted by the governing body providing
 102 for the imposition of the surtax shall set forth a plan for
 103 providing health care services to qualified residents, as
 104 defined in subparagraph 4. Such plan and subsequent amendments
 105 to it shall fund a broad range of health care services for both
 106 indigent persons and the medically poor, including, but not
 107 limited to, primary care and preventive care as well as hospital
 108 care. The plan must also address the services to be provided by
 109 the Level I trauma center. It shall emphasize a continuity of
 110 care in the most cost-effective setting, taking into
 111 consideration both a high quality of care and geographic access.
 112 Where consistent with these objectives, it shall include,
 113 without limitation, services rendered by physicians, clinics,
 114 community hospitals, mental health centers, and alternative
 115 delivery sites, as well as at least one regional referral
 116 hospital where appropriate. It shall provide that agreements

582-02734-17

2017278c1

117 negotiated between the county and providers, including hospitals
118 with a Level I trauma center, will include reimbursement
119 methodologies that take into account the cost of services
120 rendered to eligible patients, recognize hospitals that render a
121 disproportionate share of indigent care, provide other
122 incentives to promote the delivery of charity care, promote the
123 advancement of technology in medical services, recognize the
124 level of responsiveness to medical needs in trauma cases, and
125 require cost containment including, but not limited to, case
126 management. It must also provide that any hospitals that are
127 owned and operated by government entities on May 21, 1991, must,
128 as a condition of receiving funds under this subsection, afford
129 public access equal to that provided under s. 286.011 as to
130 meetings of the governing board, the subject of which is
131 budgeting resources for the rendition of charity care as that
132 term is defined in the Florida Hospital Uniform Reporting System
133 (FHURS) manual referenced in s. 408.07. The plan shall also
134 include innovative health care programs that provide cost-
135 effective alternatives to traditional methods of service
136 delivery and funding.

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

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

141 b. Certified by the authorizing county as meeting the
142 definition of the medically poor, defined as persons having
143 insufficient income, resources, and assets to provide the needed
144 medical care without using resources required to meet basic
145 needs for shelter, food, clothing, and personal expenses; or not

582-02734-17

2017278c1

146 being eligible for any other state or federal program, or having
147 medical needs that are not covered by any such program; or
148 having insufficient third-party insurance coverage. In all
149 cases, the authorizing county is intended to serve as the payor
150 of last resort; or

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

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

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

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

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

582-02734-17

2017278c1

175 on October 1 of each year is provided in recognition of the
176 Level I trauma center status and shall be in addition to the
177 base contract amount received during fiscal year 1999-2000 and
178 any additional amount negotiated to the base contract. If the
179 hospital receiving funds for its Level I trauma center status
180 requests such funds to be used to generate federal matching
181 funds under Medicaid, the clerk of the court shall instead issue
182 a check to the Agency for Health Care Administration to
183 accomplish that purpose to the extent that it is allowed through
184 the General Appropriations Act; and

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

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

193 (b) Notwithstanding any other provision of this section,
194 the governing body in each county the government of which is not
195 consolidated with that of one or more municipalities and which
196 has a population of fewer ~~less~~ than 800,000 residents, may levy,
197 by ordinance subject to approval by ~~a majority of~~ the electors
198 of the county, as set forth in subsection (10), voting in a
199 referendum, a discretionary sales surtax at a rate that may not
200 exceed 0.25 percent for the sole purpose of funding trauma
201 services provided by a trauma center licensed pursuant to
202 chapter 395.

203 1. A statement that includes a brief and general

582-02734-17

2017278c1

204 description of the purposes to be funded by the surtax and that
 205 conforms to the requirements of s. 101.161 shall be placed on
 206 the ballot by the governing body of the county. The following
 207 shall be placed on the ballot:

208
 209 FOR THE. . . .CENTS TAX
 210 AGAINST THE. . . .CENTS TAX
 211

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

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

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

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

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

582-02734-17

2017278c1

233 agency is allowed through the General Appropriations Act.

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

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

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 in
247 s. 125.011(1) may levy the surtax authorized in this subsection
248 pursuant to an ordinance either approved by extraordinary vote
249 of the county commission or conditioned to take effect only upon
250 approval by ~~a majority vote of the electors of the county,~~ as
251 set forth in subsection (10), 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 subsection (10) ~~law at a~~
261 ~~time to be set at the discretion of the governing body.~~ The

582-02734-17

2017278c1

262 referendum question on the ballot shall include a brief general
263 description of the health care services to be funded by the
264 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 a
281 governing board, agency, or authority that is wholly independent
282 from the public health trust, agency, or authority responsible
283 for the county public general hospital, to be used solely for
284 the purpose of funding the plan for indigent health care
285 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

582-02734-17

2017278c1

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

582-02734-17

2017278c1

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(44). 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

582-02734-17

2017278c1

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 before 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

582-02734-17

2017278c1

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 a
389 ~~majority vote of the electors of the county,~~ as set forth in
390 subsection (10), voting in a referendum, a discretionary sales
391 surtax at a rate that may not exceed 0.5 percent.

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

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

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

582-02734-17

2017278c1

407 to exceed 1 percent.

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

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

417 (9) PENSION LIABILITY SURTAX.—

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

432 1. An employee, including a police officer or firefighter,
433 who enters employment on or after the date when the local
434 government certifies that the defined benefit retirement plan or
435 system formerly available to such an employee has been closed

582-02734-17

2017278c1

436 may not enroll in a defined benefit retirement plan or system
437 that will receive surtax proceeds.

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

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

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

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

456 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
457 local government discretionary sales surtax under this section
458 shall be held only:

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

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

582-02734-17

2017278c1

465

Section 2. This act shall take effect July 1, 2019.