

By the Committees on Community Affairs; and Ethics and Elections; and Senators Steube and Brandes

578-03978-17

2017278c2

1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; requiring referenda adopting or
4 amending local government discretionary sales
5 surtaxes, except for surtaxes that are revenue-neutral
6 to a county, special taxing district, or both, to be
7 held only at a general election and specifying the
8 required approval of voters necessary for passage;
9 authorizing referenda for revenue-neutral surtaxes to
10 be held at a special election or conducted by mail
11 ballot; conforming provisions to changes made by the
12 act; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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

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

578-03978-17

2017278c2

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

36 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
37 SURTAX.—

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

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

53 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

54 (a)1. The governing authority in each county may levy a
55 discretionary sales surtax of 0.5 percent or 1 percent. The levy
56 of the surtax shall be pursuant to ordinance enacted by a
57 majority of the members of the county governing authority and
58 approved by ~~a majority of~~ the electors of the county, as set

578-03978-17

2017278c2

59 forth in subsection (10), voting in a referendum on the surtax.
60 If the governing bodies of the municipalities representing a
61 majority of the county's population adopt uniform resolutions
62 establishing the rate of the surtax and calling for a referendum
63 on the surtax, the levy of the surtax shall be placed on the
64 ballot and shall take effect if approved by ~~a majority of the~~
65 electors of the county, as set forth in subsection (10), voting
66 in the referendum on the surtax.

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

74 (3) SMALL COUNTY SURTAX.—

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

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

86 (a)1. The governing body in each county the government of
87 which is not consolidated with that of one or more

578-03978-17

2017278c2

88 municipalities, which has a population of at least 800,000
 89 residents and is not authorized to levy a surtax under
 90 subsection (5), may levy, pursuant to an ordinance either
 91 approved by an extraordinary vote of the governing body or
 92 conditioned to take effect only upon approval by ~~a majority vote~~
 93 of the electors of the county, as set forth in subsection (10),
 94 voting in a referendum, a discretionary sales surtax at a rate
 95 that may not exceed 0.5 percent.

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

102
 103 FOR THE. . . .CENTS TAX
 104 AGAINST THE. . . .CENTS TAX
 105

106 3. The ordinance adopted by the governing body providing
 107 for the imposition of the surtax shall set forth a plan for
 108 providing health care services to qualified residents, as
 109 defined in subparagraph 4. Such plan and subsequent amendments
 110 to it shall fund a broad range of health care services for both
 111 indigent persons and the medically poor, including, but not
 112 limited to, primary care and preventive care as well as hospital
 113 care. The plan must also address the services to be provided by
 114 the Level I trauma center. It shall emphasize a continuity of
 115 care in the most cost-effective setting, taking into
 116 consideration both a high quality of care and geographic access.

578-03978-17

2017278c2

117 Where consistent with these objectives, it shall include,
118 without limitation, services rendered by physicians, clinics,
119 community hospitals, mental health centers, and alternative
120 delivery sites, as well as at least one regional referral
121 hospital where appropriate. It shall provide that agreements
122 negotiated between the county and providers, including hospitals
123 with a Level I trauma center, will include reimbursement
124 methodologies that take into account the cost of services
125 rendered to eligible patients, recognize hospitals that render a
126 disproportionate share of indigent care, provide other
127 incentives to promote the delivery of charity care, promote the
128 advancement of technology in medical services, recognize the
129 level of responsiveness to medical needs in trauma cases, and
130 require cost containment including, but not limited to, case
131 management. It must also provide that any hospitals that are
132 owned and operated by government entities on May 21, 1991, must,
133 as a condition of receiving funds under this subsection, afford
134 public access equal to that provided under s. 286.011 as to
135 meetings of the governing board, the subject of which is
136 budgeting resources for the rendition of charity care as that
137 term is defined in the Florida Hospital Uniform Reporting System
138 (FHURS) manual referenced in s. 408.07. The plan shall also
139 include innovative health care programs that provide cost-
140 effective alternatives to traditional methods of service
141 delivery and funding.

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

144 a. Qualified as indigent persons as certified by the
145 authorizing county;

578-03978-17

2017278c2

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

156 c. Participating in innovative, cost-effective programs
157 approved by the authorizing county.

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

163 a. Maintain the moneys in an indigent health care trust
164 fund;

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

167 c. Disburse the funds, including any interest earned, to
168 any provider of health care services, as provided in
169 subparagraphs 3. and 4., upon directive from the authorizing
170 county. However, if a county has a population of at least
171 800,000 residents and has levied the surtax authorized in this
172 paragraph, notwithstanding any directive from the authorizing
173 county, on October 1 of each calendar year, the clerk of the
174 court shall issue a check in the amount of \$6.5 million to a

578-03978-17

2017278c2

175 hospital in its jurisdiction that has a Level I trauma center or
176 shall issue a check in the amount of \$3.5 million to a hospital
177 in its jurisdiction that has a Level I trauma center if that
178 county enacts and implements a hospital lien law in accordance
179 with chapter 98-499, Laws of Florida. The issuance of the checks
180 on October 1 of each year is provided in recognition of the
181 Level I trauma center status and shall be in addition to the
182 base contract amount received during fiscal year 1999-2000 and
183 any additional amount negotiated to the base contract. If the
184 hospital receiving funds for its Level I trauma center status
185 requests such funds to be used to generate federal matching
186 funds under Medicaid, the clerk of the court shall instead issue
187 a check to the Agency for Health Care Administration to
188 accomplish that purpose to the extent that it is allowed through
189 the General Appropriations Act; and

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

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

198 (b) Notwithstanding any other provision of this section,
199 the governing body in each county the government of which is not
200 consolidated with that of one or more municipalities and which
201 has a population of fewer ~~less~~ than 800,000 residents, may levy,
202 by ordinance subject to approval by ~~a majority of~~ the electors
203 of the county, as set forth in subsection (10), voting in a

578-03978-17

2017278c2

204 referendum, a discretionary sales surtax at a rate that may not
 205 exceed 0.25 percent for the sole purpose of funding trauma
 206 services provided by a trauma center licensed pursuant to
 207 chapter 395.

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

213
 214 FOR THE. . . .CENTS TAX
 215 AGAINST THE. . . .CENTS TAX
 216

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

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

- 227 a. Maintain the moneys in a trauma services trust fund.
- 228 b. Invest any funds held on deposit in the trust fund
- 229 pursuant to general law.

230 c. Disburse the funds, including any interest earned on
 231 such funds, to the trauma center in its trauma service area, as
 232 provided in the plan set forth pursuant to subparagraph 2., upon

578-03978-17

2017278c2

233 directive from the authorizing county. If the trauma center
234 receiving funds requests such funds be used to generate federal
235 matching funds under Medicaid, the custodian of the funds shall
236 instead issue a check to the Agency for Health Care
237 Administration to accomplish that purpose to the extent that the
238 agency is allowed through the General Appropriations Act.

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

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

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

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

578-03978-17

2017278c2

262 (a) The rate shall be 0.5 percent.

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

270 (c) Proceeds from the surtax shall be:

271 1. Deposited by the county in a special fund, set aside
272 from other county funds, to be used only for the operation,
273 maintenance, and administration of the county public general
274 hospital; and

275 2. Remitted promptly by the county to the agency,
276 authority, or public health trust created by law which
277 administers or operates the county public general hospital.

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

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

578-03978-17

2017278c2

291 2. However, in the first year of the plan, a total of \$10
292 million shall be remitted to such governing board, agency, or
293 authority, to be used solely for the purpose of funding the plan
294 for indigent health care services provided for in paragraph (e),
295 and in the second year of the plan, a total of \$15 million shall
296 be so remitted and used.

297 (e) A governing board, agency, or authority shall be
298 chartered by the county commission upon this act becoming law.
299 The governing board, agency, or authority shall adopt and
300 implement a health care plan for indigent health care services.
301 The governing board, agency, or authority shall consist of no
302 more than seven and no fewer than five members appointed by the
303 county commission. The members of the governing board, agency,
304 or authority shall be at least 18 years of age and residents of
305 the county. No member may be employed by or affiliated with a
306 health care provider or the public health trust, agency, or
307 authority responsible for the county public general hospital.
308 The following community organizations shall each appoint a
309 representative to a nominating committee: the South Florida
310 Hospital and Healthcare Association, the Miami-Dade County
311 Public Health Trust, the Dade County Medical Association, the
312 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
313 County. This committee shall nominate between 10 and 14 county
314 citizens for the governing board, agency, or authority. The
315 slate shall be presented to the county commission and the county
316 commission shall confirm the top five to seven nominees,
317 depending on the size of the governing board. Until such time as
318 the governing board, agency, or authority is created, the funds
319 provided for in subparagraph (d)2. shall be placed in a

578-03978-17

2017278c2

320 restricted account set aside from other county funds and not
321 disbursed by the county for any other purpose.

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

328 2. The plan and subsequent amendments to it shall fund a
329 defined range of health care services for both indigent persons
330 and the medically poor, including primary care, preventive care,
331 hospital emergency room care, and hospital care necessary to
332 stabilize the patient. For the purposes of this section,
333 "stabilization" means stabilization as defined in s.
334 397.311(44). Where consistent with these objectives, the plan
335 may include services rendered by physicians, clinics, community
336 hospitals, and alternative delivery sites, as well as at least
337 one regional referral hospital per service area. The plan shall
338 provide that agreements negotiated between the governing board,
339 agency, or authority and providers shall recognize hospitals
340 that render a disproportionate share of indigent care, provide
341 other incentives to promote the delivery of charity care to draw
342 down federal funds where appropriate, and require cost
343 containment, including, but not limited to, case management.
344 From the funds specified in subparagraphs (d)1. and 2. for
345 indigent health care services, service providers shall receive
346 reimbursement at a Medicaid rate to be determined by the
347 governing board, agency, or authority created pursuant to this
348 paragraph for the initial emergency room visit, and a per-member

578-03978-17

2017278c2

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

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

375 4. Eligible residents who participate in the health care
376 plan shall receive coverage for a period of 12 months or the
377 period extending from the time of enrollment to the end of the

578-03978-17

2017278c2

378 current fiscal year, per enrollment period, whichever is less.

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

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

391 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

406 2. Notwithstanding subparagraph 1., the governing body of

578-03978-17

2017278c2

407 any county that has a population of fewer than 50,000 residents
408 may levy an indigent care surtax pursuant to an ordinance
409 conditioned to take effect only upon approval by ~~a majority vote~~
410 ~~of~~ the electors of the county, as set forth in subsection (10),
411 voting in a referendum. The surtax may be levied at a rate not
412 to exceed 1 percent.

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

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

422 (9) PENSION LIABILITY SURTAX.—

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

578-03978-17

2017278c2

436 governing body of a county may only impose the surtax if:

437 1. An employee, including a police officer or firefighter,
438 who enters employment on or after the date when the local
439 government certifies that the defined benefit retirement plan or
440 system formerly available to such an employee has been closed
441 may not enroll in a defined benefit retirement plan or system
442 that will receive surtax proceeds.

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

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

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

458 5. The pension liability surtax does not take effect until
459 the local government infrastructure surtax described in
460 subparagraph 4. is terminated.

461 (10) DATES FOR REFERENDA.—Other than a surtax that will be
462 revenue-neutral to the county, special taxing district, or both,
463 a referendum to adopt or amend a local government sales surtax
464 under this section shall be held only at a general election, as

578-03978-17

2017278c2

465 defined in s. 97.021, and requires the approval of a majority of
466 the voters voting on the ballot question for passage. A
467 referendum on a surtax that will be revenue-neutral to the
468 county, special taxing district, or both, may be held at a
469 special election or conducted by mail ballot.

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