

By Senator Brandes

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1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 166.211, F.S.; providing that a municipality may
4 increase the millage rate of ad valorem taxes levied
5 on real and tangible personal property only by a vote
6 of a specified percentage of the municipality's
7 governing body approving the increase; amending s.
8 212.055, F.S.; revising the voter approval threshold
9 required to pass a referendum to adopt or amend local
10 government discretionary sales surtaxes when the
11 referendum is held at any date other than a general
12 election; conforming provisions to changes made by the
13 act; providing an effective date.

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

16
17 Section 1. Present subsection (2) of section 166.211,
18 Florida Statutes, is redesignated as subsection (3), and a new
19 subsection (2) is added to that section, to read:

20 166.211 Ad valorem taxes.—

21 (2) A municipality may increase the millage rate of ad
22 valorem taxes levied on real and tangible personal property
23 within the municipality only by a vote of at least 60 percent of
24 the governing body of the municipality which approves the
25 increase.

26 Section 2. Paragraphs (a) and (c) of subsection (1),
27 paragraph (a) of subsection (2), paragraph (a) of subsection
28 (3), subsections (4) and (5), paragraph (a) of subsection (6),
29 paragraph (a) of subsection (7), paragraph (b) of subsection

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30 (8), and paragraph (a) of subsection (9) of section 212.055,
 31 Florida Statutes, are amended, and subsection (10) is added to
 32 that section, to read:

33 212.055 Discretionary sales surtaxes; legislative intent;
 34 authorization and use of proceeds.—It is the legislative intent
 35 that any authorization for imposition of a discretionary sales
 36 surtax shall be published in the Florida Statutes as a
 37 subsection of this section, irrespective of the duration of the
 38 levy. Each enactment shall specify the types of counties
 39 authorized to levy; the rate or rates which may be imposed; the
 40 maximum length of time the surtax may be imposed, if any; the
 41 procedure which must be followed to secure voter approval, if
 42 required; the purpose for which the proceeds may be expended;
 43 and such other requirements as the Legislature may provide.
 44 Taxable transactions and administrative procedures shall be as
 45 provided in s. 212.054.

46 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
 47 SURTAX.—

48 (a) Each charter county that has adopted a charter, each
 49 county the government of which is consolidated with that of one
 50 or more municipalities, and each county that is within or under
 51 an interlocal agreement with a regional transportation or
 52 transit authority created under chapter 343 or chapter 349 may
 53 levy a discretionary sales surtax, ~~subject to approval by a~~
 54 ~~majority vote of the electorate of the county or by a charter~~
 55 ~~amendment approved by a majority vote of the electorate of the~~
 56 ~~county.~~

57 (c) The proposal to adopt a discretionary sales surtax as
 58 provided in this subsection and to create a trust fund within

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59 the county accounts shall be placed on the ballot in accordance
60 with law and must be approved in a referendum as set forth in
61 subsection (10) at a time to be set at the discretion of the
62 governing body.

63 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

64 (a)1. The governing authority in each county may levy a
65 discretionary sales surtax of 0.5 percent or 1 percent. The levy
66 of the surtax shall be pursuant to an ordinance enacted by a
67 majority of the members of the county governing authority and
68 approved by ~~a majority of~~ the electors of the county, as set
69 forth in subsection (10), voting in a referendum on the surtax.

70 If the governing bodies of the municipalities representing a
71 majority of the county's population adopt uniform resolutions
72 establishing the rate of the surtax and calling for a referendum
73 on the surtax, the levy of the surtax shall be placed on the
74 ballot and shall take effect if approved by ~~a majority of~~ the
75 electors of the county, as set forth in subsection (10), voting
76 in the referendum on the surtax.

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

84 (3) SMALL COUNTY SURTAX.—

85 (a) The governing authority in each county that has a
86 population of 50,000 or less on April 1, 1992, may levy a
87 discretionary sales surtax of 0.5 percent or 1 percent. The levy

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88 of the surtax shall be pursuant to an ordinance enacted by an
 89 extraordinary vote of the members of the county governing
 90 authority if the surtax revenues are expended for operating
 91 purposes. If the surtax revenues are expended for the purpose of
 92 servicing bond indebtedness, the surtax shall be approved by ~~a~~
 93 ~~majority of~~ the electors of the county, as set forth in
 94 subsection (10), voting in a referendum on the surtax.

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

96 (a)1. The governing body in each county the government of
 97 which is not consolidated with that of one or more
 98 municipalities, which has a population of at least 800,000
 99 residents and is not authorized to levy a surtax under
 100 subsection (5), may levy, pursuant to an ordinance either
 101 approved by an extraordinary vote of the governing body or
 102 conditioned to take effect only upon approval by ~~a majority vote~~
 103 ~~of~~ the electors of the county, as set forth in subsection (10),
 104 voting in a referendum, a discretionary sales surtax at a rate
 105 that may not exceed 0.5 percent.

106 2. If the ordinance is conditioned on a referendum, a
 107 statement that includes a brief and general description of the
 108 purposes to be funded by the surtax and that conforms to the
 109 requirements of s. 101.161 shall be placed on the ballot by the
 110 governing body of the county. The following questions shall be
 111 placed on the ballot:

- 112
- 113 FOR THE. . . .CENTS TAX
- 114 AGAINST THE. . . .CENTS TAX
- 115

116 3. The ordinance adopted by the governing body providing

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117 for the imposition of the surtax shall set forth a plan for
118 providing health care services to qualified residents, as
119 defined in subparagraph 4. Such plan and subsequent amendments
120 to it shall fund a broad range of health care services for both
121 indigent persons and the medically poor, including, but not
122 limited to, primary care and preventive care as well as hospital
123 care. The plan must also address the services to be provided by
124 the Level I trauma center. It shall emphasize a continuity of
125 care in the most cost-effective setting, taking into
126 consideration both a high quality of care and geographic access.
127 Where consistent with these objectives, it shall include,
128 without limitation, services rendered by physicians, clinics,
129 community hospitals, mental health centers, and alternative
130 delivery sites, as well as at least one regional referral
131 hospital where appropriate. It shall provide that agreements
132 negotiated between the county and providers, including hospitals
133 with a Level I trauma center, will include reimbursement
134 methodologies that take into account the cost of services
135 rendered to eligible patients, recognize hospitals that render a
136 disproportionate share of indigent care, provide other
137 incentives to promote the delivery of charity care, promote the
138 advancement of technology in medical services, recognize the
139 level of responsiveness to medical needs in trauma cases, and
140 require cost containment, including, but not limited to, case
141 management. It must also provide that any hospitals that are
142 owned and operated by government entities on May 21, 1991, must,
143 as a condition of receiving funds under this subsection, afford
144 public access equal to that provided under s. 286.011 as to
145 meetings of the governing board, the subject of which is

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146 budgeting resources for the rendition of charity care as that
147 term is defined in the Florida Hospital Uniform Reporting System
148 (FHURS) manual referenced in s. 408.07. The plan shall also
149 include innovative health care programs that provide cost-
150 effective alternatives to traditional methods of service
151 delivery and funding.

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

154 a. Qualified as indigent persons as certified by the
155 authorizing county;

156 b. Certified by the authorizing county as meeting the
157 definition of the medically poor, defined as persons having
158 insufficient income, resources, and assets to provide the needed
159 medical care without using resources required to meet basic
160 needs for shelter, food, clothing, and personal expenses; or not
161 being eligible for any other state or federal program, or having
162 medical needs that are not covered by any such program; or
163 having insufficient third-party insurance coverage. In all
164 cases, the authorizing county is intended to serve as the payor
165 of last resort; or

166 c. Participating in innovative, cost-effective programs
167 approved by the authorizing county.

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

173 a. Maintain the moneys in an indigent health care trust
174 fund;

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

177 c. Disburse the funds, including any interest earned, to
178 any provider of health care services, as provided in
179 subparagraphs 3. and 4., upon directive from the authorizing
180 county. However, if a county has a population of at least
181 800,000 residents and has levied the surtax authorized in this
182 paragraph, notwithstanding any directive from the authorizing
183 county, on October 1 of each calendar year, the clerk of the
184 court shall issue a check in the amount of \$6.5 million to a
185 hospital in its jurisdiction that has a Level I trauma center or
186 shall issue a check in the amount of \$3.5 million to a hospital
187 in its jurisdiction that has a Level I trauma center if that
188 county enacts and implements a hospital lien law in accordance
189 with chapter 98-499, Laws of Florida. The issuance of the checks
190 on October 1 of each year is provided in recognition of the
191 Level I trauma center status and shall be in addition to the
192 base contract amount received during fiscal year 1999-2000 and
193 any additional amount negotiated to the base contract. If the
194 hospital receiving funds for its Level I trauma center status
195 requests such funds to be used to generate federal matching
196 funds under Medicaid, the clerk of the court shall instead issue
197 a check to the Agency for Health Care Administration to
198 accomplish that purpose to the extent that it is allowed through
199 the General Appropriations Act; and

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

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

208 (b) Notwithstanding any other provision of this section,
 209 the governing body in each county the government of which is not
 210 consolidated with that of one or more municipalities and which
 211 has a population of less than 800,000 residents, may levy, by
 212 ordinance subject to approval by a ~~majority~~ of the electors of
 213 the county, as set forth in subsection (10), voting in a
 214 referendum, a discretionary sales surtax at a rate that may not
 215 exceed 0.25 percent for the sole purpose of funding trauma
 216 services provided by a trauma center licensed pursuant to
 217 chapter 395.

218 1. A statement that includes a brief and general
 219 description of the purposes to be funded by the surtax and that
 220 conforms to the requirements of s. 101.161 shall be placed on
 221 the ballot by the governing body of the county. The following
 222 shall be placed on the ballot:

223
 224 FOR THE. . . .CENTS TAX
 225 AGAINST THE. . . .CENTS TAX
 226

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

232 3. Moneys collected pursuant to this paragraph remain the

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233 property of the state and shall be distributed by the Department
234 of Revenue on a regular and periodic basis to the clerk of the
235 circuit court as ex officio custodian of the funds of the
236 authorizing county. The clerk of the circuit court shall:

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

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

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

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

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

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

261 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in

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262 s. 125.011(1) may levy the surtax authorized in this subsection
263 pursuant to an ordinance either approved by extraordinary vote
264 of the county commission or conditioned to take effect only upon
265 approval by ~~a majority vote of the electors of the county,~~ as
266 set forth in subsection (10), voting in a referendum. In a
267 county as defined in s. 125.011(1), for the purposes of this
268 subsection, "county public general hospital" means a general
269 hospital as defined in s. 395.002 which is owned, operated,
270 maintained, or governed by the county or its agency, authority,
271 or public health trust.

272 (a) The rate shall be 0.5 percent.

273 (b) If the ordinance is conditioned on a referendum, the
274 proposal to adopt the county public hospital surtax shall be
275 placed on the ballot in accordance with subsection (10) ~~law at a~~
276 ~~time to be set at the discretion of the governing body.~~ The
277 referendum question on the ballot shall include a brief general
278 description of the health care services to be funded by the
279 surtax.

280 (c) Proceeds from the surtax shall be:

281 1. Deposited by the county in a special fund, set aside
282 from other county funds, to be used only for the operation,
283 maintenance, and administration of the county public general
284 hospital; and

285 2. Remitted promptly by the county to the agency,
286 authority, or public health trust created by law which
287 administers or operates the county public general hospital.

288 (d) Except as provided in subparagraphs 1. and 2., the
289 county must continue to contribute each year an amount equal to
290 at least 80 percent of that percentage of the total county

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291 budget appropriated for the operation, administration, and
292 maintenance of the county public general hospital from the
293 county's general revenues in the fiscal year of the county
294 ending September 30, 1991:

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

301 2. However, in the first year of the plan, a total of \$10
302 million shall be remitted to such governing board, agency, or
303 authority, to be used solely for the purpose of funding the plan
304 for indigent health care services provided for in paragraph (e),
305 and in the second year of the plan, a total of \$15 million shall
306 be so remitted and used.

307 (e) A governing board, agency, or authority shall be
308 chartered by the county commission upon this act becoming law.
309 The governing board, agency, or authority shall adopt and
310 implement a health care plan for indigent health care services.
311 The governing board, agency, or authority shall consist of no
312 more than seven and no fewer than five members appointed by the
313 county commission. The members of the governing board, agency,
314 or authority shall be at least 18 years of age and residents of
315 the county. No member may be employed by or affiliated with a
316 health care provider or the public health trust, agency, or
317 authority responsible for the county public general hospital.
318 The following community organizations shall each appoint a
319 representative to a nominating committee: the South Florida

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320 Hospital and Healthcare Association, the Miami-Dade County
321 Public Health Trust, the Dade County Medical Association, the
322 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
323 County. This committee shall nominate between 10 and 14 county
324 citizens for the governing board, agency, or authority. The
325 slate shall be presented to the county commission and the county
326 commission shall confirm the top five to seven nominees,
327 depending on the size of the governing board. Until such time as
328 the governing board, agency, or authority is created, the funds
329 provided for in subparagraph (d)2. shall be placed in a
330 restricted account set aside from other county funds and not
331 disbursed by the county for any other purpose.

332 1. The plan shall divide the county into a minimum of four
333 and maximum of six service areas, with no more than one
334 participant hospital per service area. The county public general
335 hospital shall be designated as the provider for one of the
336 service areas. Services shall be provided through participants'
337 primary acute care facilities.

338 2. The plan and subsequent amendments to it shall fund a
339 defined range of health care services for both indigent persons
340 and the medically poor, including primary care, preventive care,
341 hospital emergency room care, and hospital care necessary to
342 stabilize the patient. For the purposes of this section,
343 "stabilization" means stabilization as defined in s.
344 397.311(45). Where consistent with these objectives, the plan
345 may include services rendered by physicians, clinics, community
346 hospitals, and alternative delivery sites, as well as at least
347 one regional referral hospital per service area. The plan shall
348 provide that agreements negotiated between the governing board,

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349 agency, or authority and providers shall recognize hospitals
350 that render a disproportionate share of indigent care, provide
351 other incentives to promote the delivery of charity care to draw
352 down federal funds where appropriate, and require cost
353 containment, including, but not limited to, case management.
354 From the funds specified in subparagraphs (d)1. and 2. for
355 indigent health care services, service providers shall receive
356 reimbursement at a Medicaid rate to be determined by the
357 governing board, agency, or authority created pursuant to this
358 paragraph for the initial emergency room visit, and a per-member
359 per-month fee or capitation for those members enrolled in their
360 service area, as compensation for the services rendered
361 following the initial emergency visit. Except for provisions of
362 emergency services, upon determination of eligibility,
363 enrollment shall be deemed to have occurred at the time services
364 were rendered. The provisions for specific reimbursement of
365 emergency services shall be repealed on July 1, 2001, unless
366 otherwise reenacted by the Legislature. The capitation amount or
367 rate shall be determined before program implementation by an
368 independent actuarial consultant. In no event shall such
369 reimbursement rates exceed the Medicaid rate. The plan must also
370 provide that any hospitals owned and operated by government
371 entities on or after the effective date of this act must, as a
372 condition of receiving funds under this subsection, afford
373 public access equal to that provided under s. 286.011 as to any
374 meeting of the governing board, agency, or authority the subject
375 of which is budgeting resources for the retention of charity
376 care, as that term is defined in the rules of the Agency for
377 Health Care Administration. The plan shall also include

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378 innovative health care programs that provide cost-effective
379 alternatives to traditional methods of service and delivery
380 funding.

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

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

389 5. At the end of each fiscal year, the governing board,
390 agency, or authority shall prepare an audit that reviews the
391 budget of the plan, delivery of services, and quality of
392 services, and makes recommendations to increase the plan's
393 efficiency. The audit shall take into account participant
394 hospital satisfaction with the plan and assess the amount of
395 poststabilization patient transfers requested, and accepted or
396 denied, by the county public general hospital.

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

401 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

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

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

424 (b) Upon the adoption of the ordinance, the levy of the
 425 surtax must be placed on the ballot by the governing authority
 426 of the county enacting the ordinance. The ordinance will take
 427 effect if approved by ~~a majority of~~ the electors of the county,
 428 as set forth in subsection (10), voting in a referendum held for
 429 such purpose. The referendum shall be placed on the ballot of a
 430 regularly scheduled election. The ballot for the referendum must
 431 conform to the requirements of s. 101.161.

432 (9) PENSION LIABILITY SURTAX.—

433 (a) The governing body of a county may levy a pension
 434 liability surtax to fund an underfunded defined benefit
 435 retirement plan or system, pursuant to an ordinance conditioned

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436 to take effect upon approval by ~~a majority vote~~ of the electors
437 of the county, as set forth in subsection (10), voting in a
438 referendum, at a rate that may not exceed 0.5 percent. The
439 county may not impose a pension liability surtax unless the
440 underfunded defined benefit retirement plan or system is below
441 80 percent of actuarial funding at the time the ordinance or
442 referendum is passed. The most recent actuarial report submitted
443 to the Department of Management Services pursuant to s. 112.63
444 must be used to establish the level of actuarial funding for
445 purposes of determining eligibility to impose the surtax. The
446 governing body of a county may only impose the surtax if:

447 1. An employee, including a police officer or firefighter,
448 who enters employment on or after the date when the local
449 government certifies that the defined benefit retirement plan or
450 system formerly available to such an employee has been closed
451 may not enroll in a defined benefit retirement plan or system
452 that will receive surtax proceeds.

453 2. The local government and the collective bargaining
454 representative for the members of the underfunded defined
455 benefit retirement plan or system or, if there is no
456 representative, a majority of the members of the plan or system,
457 mutually consent to requiring each member to make an employee
458 retirement contribution of at least 10 percent of each member's
459 salary for each pay period beginning with the first pay period
460 after the plan or system is closed.

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

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

468 5. The pension liability surtax does not take effect until
469 the local government infrastructure surtax described in
470 subparagraph 4. is terminated.

471 (10) VOTER APPROVAL THRESHOLDS.-A referendum to adopt or
472 amend a local government discretionary sales surtax under this
473 section which is held at any date other than a general election
474 as defined by s. 97.021 requires the approval of at least 60
475 percent of the electors voting on the ballot question. A
476 referendum under this section which is held at a general
477 election as defined by s. 97.021 requires the approval of a
478 majority of the electors voting on the ballot question.

479 Section 3. This act shall take effect July 1, 2018.