

By the Committee on Community Affairs; and Senator Brandes

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1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; revising the voter approval threshold
4 required to pass a referendum to adopt or amend local
5 government discretionary sales surtaxes when the
6 referendum is held at any date other than a general
7 election; conforming provisions to changes made by the
8 act; providing an effective date.

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

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

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

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30 Taxable transactions and administrative procedures shall be as
31 provided in s. 212.054.

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

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

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

49 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

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

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

70 (3) SMALL COUNTY SURTAX.—

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

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

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

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88 conditioned to take effect only upon approval by a ~~majority vote~~
 89 of the electors of the county, as set forth in subsection (10),
 90 voting in a referendum, a discretionary sales surtax at a rate
 91 that may not exceed 0.5 percent.

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

98
 99 FOR THE. . . .CENTS TAX
 100 AGAINST THE. . . .CENTS TAX
 101

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

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

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

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

142 b. Certified by the authorizing county as meeting the
143 definition of the medically poor, defined as persons having
144 insufficient income, resources, and assets to provide the needed
145 medical care without using resources required to meet basic

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

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

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

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

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

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

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

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

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

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

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

209
 210 FOR THE. . . .CENTS TAX
 211 AGAINST THE. . . .CENTS TAX
 212

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

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

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

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

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

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233 Administration to accomplish that purpose to the extent that the
234 agency is allowed through the General Appropriations Act.

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

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

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

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

258 (a) The rate shall be 0.5 percent.

259 (b) If the ordinance is conditioned on a referendum, the
260 proposal to adopt the county public hospital surtax shall be
261 placed on the ballot in accordance with subsection (10) ~~law at a~~

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262 ~~time to be set at the discretion of the governing body.~~ The
263 referendum question on the ballot shall include a brief general
264 description of the health care services to be funded by the
265 surtax.

266 (c) Proceeds from the surtax shall be:

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

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

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

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

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

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291 and in the second year of the plan, a total of \$15 million shall
292 be so remitted and used.

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

318 1. The plan shall divide the county into a minimum of four
319 and maximum of six service areas, with no more than one

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320 participant hospital per service area. The county public general
321 hospital shall be designated as the provider for one of the
322 service areas. Services shall be provided through participants'
323 primary acute care facilities.

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

330 397.311(45). Where consistent with these objectives, the plan
331 may include services rendered by physicians, clinics, community
332 hospitals, and alternative delivery sites, as well as at least
333 one regional referral hospital per service area. The plan shall
334 provide that agreements negotiated between the governing board,
335 agency, or authority and providers shall recognize hospitals
336 that render a disproportionate share of indigent care, provide
337 other incentives to promote the delivery of charity care to draw
338 down federal funds where appropriate, and require cost
339 containment, including, but not limited to, case management.
340 From the funds specified in subparagraphs (d)1. and 2. for
341 indigent health care services, service providers shall receive
342 reimbursement at a Medicaid rate to be determined by the
343 governing board, agency, or authority created pursuant to this
344 paragraph for the initial emergency room visit, and a per-member
345 per-month fee or capitation for those members enrolled in their
346 service area, as compensation for the services rendered
347 following the initial emergency visit. Except for provisions of
348 emergency services, upon determination of eligibility,

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

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

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

375 5. At the end of each fiscal year, the governing board,
376 agency, or authority shall prepare an audit that reviews the
377 budget of the plan, delivery of services, and quality of

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378 services, and makes recommendations to increase the plan's
379 efficiency. The audit shall take into account participant
380 hospital satisfaction with the plan and assess the amount of
381 poststabilization patient transfers requested, and accepted or
382 denied, by the county public general hospital.

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

387 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

402 2. Notwithstanding subparagraph 1., the governing body of
403 any county that has a population of fewer than 50,000 residents
404 may levy an indigent care surtax pursuant to an ordinance
405 conditioned to take effect only upon approval by ~~a majority vote~~
406 ~~of~~ the electors of the county, as set forth in subsection (10),

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407 voting in a referendum. The surtax may be levied at a rate not
408 to exceed 1 percent.

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

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

418 (9) PENSION LIABILITY SURTAX.—

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

433 1. An employee, including a police officer or firefighter,
434 who enters employment on or after the date when the local
435 government certifies that the defined benefit retirement plan or

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436 system formerly available to such an employee has been closed
437 may not enroll in a defined benefit retirement plan or system
438 that will receive surtax proceeds.

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

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

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

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

457 (10) VOTER APPROVAL THRESHOLDS.—A referendum to adopt or
458 amend a local government discretionary sales surtax under this
459 section which is held at any date other than a general election
460 as defined by s. 97.021 requires the approval of at least 60
461 percent of the electors voting on the ballot question. A
462 referendum under this section which is held at a general
463 election as defined by s. 97.021 requires the approval of a
464 majority of the electors voting on the ballot question.

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