

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

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BILL: SB 688

INTRODUCER: Senator Garcia

SUBJECT: Charter County and Regional Transportation System Surtax

DATE: January 26, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 688 requires each county, as defined in s. 125.011(1), F.S., to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, to use Charter County and Regional Transportation System Surtax proceeds only for the following purposes:

- The planning, design, engineering, and construction of fixed guideway rapid transit systems.
- The acquisition of right-of-way for fixed guideway rapid transit systems, provided that the current owner of the right-of-way is a willing seller or lessor.
- The purchase of buses and other capital costs for a bus system.
- The payment of principal and interest on bonds previously issued related to fixed guideway rapid transit systems or bus systems.
- As security by the governing body of the county to refinance existing bonds or to issue new bonds for the planning, design, engineering, and construction of fixed guideway rapid transit systems or bus systems.

Additionally, the bill prohibits the use of such surtax proceeds for nontransit purposes for each county, as defined in s. 125.011(1), F.S.

The bill does not affect state or local revenues. However, the bill does limit the purposes for which a county may use the surtax proceeds.

The bill provides an effective date of July 1, 2018

**II. Present Situation:**

**Discretionary Sales Surtaxes**

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to “all transactions occurring in the county

which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S.”<sup>1</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary from 0.5 percent to 1.5 percent.<sup>2</sup>

The Department of Revenue (DOR) administers, collects, and enforces county discretionary sales surtaxes pursuant to the same procedures used in the administration, collection, and enforcement of the state sales tax.<sup>3</sup> DOR then remits to the appropriate county the surtax proceeds less an administration fee not to exceed 3 percent.<sup>4</sup>

### **Charter County and Regional Transportation System Surtax**

Any county that has adopted a home rule charter, any county government that has consolidated with one or more municipalities, and any county that is within or under an interlocal agreement with a regional transportation or transit authority created under ch. 343 or 349, F.S., may levy this surtax at a rate of up to 1 percent, subject to approval by a majority vote of the county’s electorate or a charter amendment approved by a majority vote of the county’s electorate.<sup>5</sup>

Based on these criteria, 31 counties (i.e., Alachua, Bay, Brevard, Broward, Charlotte, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton) are eligible to levy the surtax. Currently, only two of the 31 eligible counties (Duval and Miami-Dade) levy this surtax, each at a rate of 0.5 percent.

Generally, the surtax proceeds are used for the development, construction, operation, and maintenance of fixed guideway rapid transit systems; bus systems; on-demand transportation services; and roads and bridges.<sup>6</sup> Counties eligible to levy the surtax may also use up to 25 percent of the proceeds for nontransit purposes.<sup>7</sup>

The Charter County and Regional Transportation System Surtax is estimated to produce \$329.5 million in Fiscal Year 2017-2018.<sup>8</sup>

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<sup>1</sup> Section 212.054, F.S.

<sup>2</sup> Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2017 Local Discretionary Sales Surtax Rates in Florida’s Counties, 224-225 (2017), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Nov. 15, 2017).

<sup>3</sup> Section 212.054(4)(a), F.S.

<sup>4</sup> Section 212.054(4)(b) and (c), F.S.

<sup>5</sup> Section 212.055(1), F.S. See also Florida Revenue Estimating Conference, *2017 Florida Tax Handbook*, pp. 226-227, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Jan. 18, 2018).

<sup>6</sup> Section 212.055(1)(d), F.S.

<sup>7</sup> Section 212.055(1)(d)3., F.S.

<sup>8</sup> See *supra* note 2.

## **Miami-Dade County**

Miami-Dade County is the only county that currently meets the description contained in s. 125.011(1), F.S., of a “county operating under a home rule charter” adopted under constitutional authority and which “by resolution of its board of county commissioners, elects the powers” conferred by that statutory section.<sup>9</sup> General laws used by Miami-Dade County, and only Miami-Dade County, have survived various legal challenges claiming such general laws are, in actuality, special laws.<sup>10</sup>

### **III. Effect of Proposed Changes:**

The bill requires each county, as defined in s. 125.011(1), F.S., to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, to use Charter County and Regional Transportation System Surtax proceeds only for the following purposes:

- The planning, design, engineering, and construction of fixed guideway rapid transit systems.
- The acquisition of right-of-way for fixed guideway rapid transit systems, provided that the current owner of the right-of-way is a willing seller or lessor.
- The purchase of buses and other capital costs for a bus system.
- The payment of principal and interest on bonds previously issued related to fixed guideway rapid transit systems or bus systems.
- As security by the governing body of the county to refinance existing bonds or to issue new bonds for the planning, design, engineering, and construction of fixed guideway rapid transit systems or bus systems.

Additionally, the bill prohibits the use of such surtax proceeds for nontransit purposes for each county, as defined in s. 125.011(1), F.S.

The bill also makes several non-substantive changes and removes redundant provisions.

The bill provides that the act takes effect July 1, 2018.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>9</sup> *Ibid.*

<sup>10</sup> See *Metropolitan Dade County v. Golden Nugget Group*, 448 So. 515 (Fla. 3<sup>rd</sup> DCA 1984), *aff'd*, 464 So. 2d 535 (Fla. 1985); *City of Miami v. McGrath*, 824 So. 143 (Fla. 2002); and *Homestead Hospital v. Miami-Dade County*, 829 So. 2d 259 (Fla. 3<sup>rd</sup> DCA 1992).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill does not affect state or local revenues. However, the bill does limit the purposes for which a county may use the surtax proceeds.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Each county as defined in s. 125.011(1), F.S., may use Charter County and Regional Transportation System Surtax proceeds only for the purposes provided by the bill and may not use the surtax for nontransit purposes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.055 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.