

By Senator Lee

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1 A bill to be entitled
2 An act relating to discretionary sales surtaxes;
3 amending s. 212.055, F.S.; requiring a petition
4 sponsor of an initiative to adopt a charter county and
5 regional transportation system surtax to comply with
6 specified requirements within a specified timeframe
7 before the proposed referendum; requiring a county to
8 make the proposed referendum and a specified legal
9 opinion available on its official website; requiring
10 the Office of Program Policy Analysis and Government
11 Accountability, upon receiving a certain notice, to
12 procure a certified public accountant for a
13 performance audit; requiring a supervisor of elections
14 to verify petition signatures and retain signature
15 forms in a specified manner; providing that an
16 initiative sponsor's failure to comply with the
17 specified requirements renders any referendum held
18 void; revising requirements and procedures for
19 discretionary sales surtax performance audits;
20 providing that the failure to comply with certain
21 requirements renders any referendum held to adopt a
22 discretionary sales surtax void; providing
23 applicability; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Paragraph (c) of subsection (1) and subsection
28 (10) of section 212.055, Florida Statutes, are amended to read:
29 212.055 Discretionary sales surtaxes; legislative intent;

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

42 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
43 SURTAX.—

44 (c) 1. The proposal to adopt a discretionary sales surtax as
45 provided in this subsection and to create a trust fund within
46 the county accounts shall be placed on the ballot in accordance
47 with law at a time to be set at the discretion of the governing
48 body.

49 2. If the proposal to adopt a surtax is by initiative, the
50 petition sponsor must, at least 180 days before the proposed
51 referendum, comply with all of the following:

52 a. Obtain an independent written legal opinion from an
53 attorney who is a member in good standing of The Florida Bar,
54 verifying that the proposed referendum complies with state law,
55 and provide the proposed referendum and legal opinion to the
56 governing body of the county. The county shall make the proposed
57 referendum and legal opinion available on its official website.

58 b. Notify the Office of Program Policy Analysis and

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59 Government Accountability of the proposed referendum. The Office
60 of Program Policy Analysis and Government Accountability shall
61 procure a certified public accountant in accordance with
62 subsection (10) for the performance audit.

63 c. File the initiative petition and its required valid
64 signatures with the supervisor of elections. The supervisor of
65 elections shall verify signatures and retain signature forms in
66 the same manner as required for initiatives under s. 100.371(3).

67 3. The failure of an initiative sponsor to comply with the
68 requirements of subparagraph 2. renders any referendum held
69 void.

70 (10) PERFORMANCE AUDIT.—

71 ~~(a) For any referendum held on or after March 23, 2018, To~~
72 ~~adopt a discretionary sales surtax under this section, an~~
73 ~~independent certified public accountant licensed pursuant to~~
74 ~~chapter 473 shall conduct a performance audit of the program~~
75 ~~associated with the proposed surtax adoption proposed by the~~
76 ~~county or school district.~~

77 (b)1. At least 180 days before the referendum is held, the
78 county or school district shall notify the Office of Program
79 Policy Analysis and Government Accountability of the proposed
80 referendum.

81 2. Within 30 days after receiving the notification under
82 subparagraph 1., the Office of Program Policy Analysis and
83 Government Accountability shall procure the certified public
84 accountant and may use carryforward funds to pay for the
85 services of the certified public accountant.

86 3.~~(b)~~ At least 60 days before the referendum is held, the
87 performance audit shall be completed and the audit report,

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88 including any findings, recommendations, or other accompanying
89 documents, shall be made available on the official website of
90 the county or school district.

91 4. The county or school district shall keep the information
92 on its website for 2 years from the date it was posted.

93 5. The failure to comply with the requirements under
94 subparagraph 1. or subparagraph 3. renders any referendum held
95 to adopt a discretionary sales surtax void.

96 (c) For purposes of this subsection, the term "performance
97 audit" means an examination of the program conducted according
98 to applicable government auditing standards or auditing and
99 evaluation standards of other appropriate authoritative bodies.
100 At a minimum, a performance audit must include an examination of
101 issues related to the following:

102 1. The economy, efficiency, or effectiveness of the
103 program.

104 2. The structure or design of the program to accomplish its
105 goals and objectives.

106 3. Alternative methods of providing program services or
107 products.

108 4. Goals, objectives, and performance measures used by the
109 program to monitor and report program accomplishments.

110 5. The accuracy or adequacy of public documents, reports,
111 and requests prepared by the county or school district which
112 relate to the program.

113 6. Compliance of the program with appropriate policies,
114 rules, and laws.

115 (d) This subsection does not apply to a referendum held to
116 adopt the same discretionary surtax that was in place during the

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117 month of December immediately before the date of the referendum.

118 Section 2. The amendment to s. 212.055, Florida Statutes,
119 made by this act applies to referenda to adopt discretionary
120 sales surtaxes held on or after January 1, 2020.

121 Section 3. This act shall take effect upon becoming a law.