

By the Committees on Rules; and Finance and Tax; and Senator Brandes

595-04572-19

2019336c2

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

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Present subsection (10) of section 212.055,

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30 Florida Statutes, is redesignated as subsection (11) and
31 amended, a new subsection (10) is added to that section, and
32 paragraph (c) of subsection (1), paragraph (b) of subsection
33 (5), and paragraph (b) of subsection (8) are amended, to read:

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

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

49 (c) 1. The proposal to adopt a discretionary sales surtax as
50 provided in this subsection and to create a trust fund within
51 the county accounts shall be placed on the ballot in accordance
52 with law and must be approved in a referendum held at a general
53 election in accordance with subsection (10) at a time to be set
54 at the discretion of the governing body.

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

58 a. Obtain an independent written legal opinion from an

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59 attorney who is a member in good standing of The Florida Bar
60 which verifies that the proposed referendum complies with state
61 law, and provide the proposed referendum and legal opinion to
62 the governing body of the county. The county shall make the
63 proposed referendum and legal opinion available on its official
64 website.

65 b. Provide a copy of the final resolution or ordinance to
66 the Office of Program Policy Analysis and Government
67 Accountability. The Office of Program Policy Analysis and
68 Government Accountability shall procure a certified public
69 accountant in accordance with subsection (11) for the
70 performance audit.

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

75 3. The failure of an initiative sponsor to comply with the
76 requirements of subparagraph 2. renders any referendum held
77 void.

78 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
79 s. 125.011(1) may levy the surtax authorized in this subsection
80 pursuant to an ordinance either approved by extraordinary vote
81 of the county commission or conditioned to take effect only upon
82 approval by a majority vote of the electors of the county voting
83 in a referendum. In a county as defined in s. 125.011(1), for
84 the purposes of this subsection, "county public general
85 hospital" means a general hospital as defined in s. 395.002
86 which is owned, operated, maintained, or governed by the county
87 or its agency, authority, or public health trust.

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88 (b) If the ordinance is conditioned on a referendum, the
89 proposal to adopt the county public hospital surtax shall be
90 placed on the ballot in accordance with subsection (10) ~~law at a~~
91 ~~time to be set at the discretion of the governing body.~~ The
92 referendum question on the ballot shall include a brief general
93 description of the health care services to be funded by the
94 surtax.

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

96 (b) Upon the adoption of the ordinance, the levy of the
97 surtax must be placed on the ballot by the governing authority
98 of the county enacting the ordinance. The ordinance will take
99 effect if approved by a majority of the electors of the county
100 voting in a referendum held for such purpose. The referendum
101 shall be placed on the ballot of a general ~~regularly scheduled~~
102 election. The ballot for the referendum must conform to the
103 requirements of s. 101.161.

104 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
105 local government discretionary sales surtax under this section
106 must be held at a general election as defined in s. 97.021.

107 (11) ~~(10)~~ PERFORMANCE AUDIT.—

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

114 (b)1. At least 180 days before the referendum is held, the
115 county or school district shall provide a copy of the final
116 resolution or ordinance to the Office of Program Policy Analysis

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117 and Government Accountability.

118 2. Within 30 days after receiving the final resolution or
119 ordinance, the Office of Program Policy Analysis and Government
120 Accountability shall procure the certified public accountant and
121 may use carryforward funds to pay for the services of the
122 certified public accountant.

123 3.~~(b)~~ At least 60 days before the referendum is held, the
124 performance audit must ~~shall~~ be completed and the audit report,
125 including any findings, recommendations, or other accompanying
126 documents, must ~~shall~~ be made available on the official website
127 of the county or school district.

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

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

133 (c) For purposes of this subsection, the term "performance
134 audit" means an examination of the program conducted according
135 to applicable government auditing standards or auditing and
136 evaluation standards of other appropriate authoritative bodies.
137 At a minimum, a performance audit must include an examination of
138 issues related to the following:

139 1. The economy, efficiency, or effectiveness of the
140 program.

141 2. The structure or design of the program to accomplish its
142 goals and objectives.

143 3. Alternative methods of providing program services or
144 products.

145 4. Goals, objectives, and performance measures used by the

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146 program to monitor and report program accomplishments.

147 5. The accuracy or adequacy of public documents, reports,
148 and requests prepared by the county or school district which
149 relate to the program.

150 6. Compliance of the program with appropriate policies,
151 rules, and laws.

152 (d) This subsection does not apply to a referendum held to
153 adopt the same discretionary surtax that was in place during the
154 month of December immediately before the date of the referendum.

155 Section 2. This act shall take effect January 1, 2020.