

1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; requiring a two-thirds vote of the
4 county governing board to authorize a discretionary
5 sales surtax; requiring local government discretionary
6 sales surtax referenda to be held on a specified date;
7 requiring such referenda to be approved by a specified
8 percentage of voters for passage; providing an
9 effective date.

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

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

21 212.055 Discretionary sales surtaxes; legislative intent;
22 authorization and use of proceeds.—It is the legislative intent
23 that any authorization for imposition of a discretionary sales
24 surtax shall be published in the Florida Statutes as a
25 subsection of this section, irrespective of the duration of the

26 | levy. Each enactment shall specify the types of counties
27 | authorized to levy; the rate or rates which may be imposed; the
28 | maximum length of time the surtax may be imposed, if any; the
29 | procedure which must be followed to secure voter approval, if
30 | required; the purpose for which the proceeds may be expended;
31 | and such other requirements as the Legislature may provide.
32 | Taxable transactions and administrative procedures shall be as
33 | provided in s. 212.054.

34 | (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
35 | SURTAX.—

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

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

51 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

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

72 (3) SMALL COUNTY SURTAX.—

73 (a) The governing authority in each county that has a
74 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
75 discretionary sales surtax of 0.5 percent or 1 percent. The levy

76 | of the surtax shall be pursuant to ordinance enacted by two-
77 | thirds ~~an extraordinary~~ vote of the members of the county
78 | governing authority if the surtax revenues are expended for
79 | operating purposes. If the surtax revenues are expended for the
80 | purpose of servicing bond indebtedness, the surtax shall be
81 | approved by ~~a majority of~~ the electors of the county, as set
82 | forth in subsection (10), voting in a referendum on the surtax.

83 | (d)1. If the surtax is levied pursuant to a referendum,
84 | the proceeds of the surtax and any interest accrued thereto may
85 | be expended by the school district or within the county and
86 | municipalities within the county, or, in the case of a
87 | negotiated joint county agreement, within another county, for
88 | the purpose of servicing bond indebtedness to finance, plan, and
89 | construct infrastructure and to acquire land for public
90 | recreation or conservation or protection of natural resources.
91 | However, if the surtax is levied pursuant to an ordinance
92 | approved by two-thirds ~~an extraordinary~~ vote of the members of
93 | the county governing authority, the proceeds and any interest
94 | accrued thereto may be used for operational expenses of any
95 | infrastructure or for any public purpose authorized in the
96 | ordinance under which the surtax is levied.

97 | 2. For the purposes of this paragraph, "infrastructure"
98 | means any fixed capital expenditure or fixed capital costs
99 | associated with the construction, reconstruction, or improvement
100 | of public facilities that have a life expectancy of 5 or more

101 years and any land acquisition, land improvement, design, and
 102 engineering costs related thereto.

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

104 (a)1. The governing body in each county the government of
 105 which is not consolidated with that of one or more
 106 municipalities, which has a population of at least 800,000
 107 residents and is not authorized to levy a surtax under
 108 subsection (5), may levy, pursuant to an ordinance either
 109 approved by two-thirds ~~an extraordinary~~ vote of the governing
 110 body or conditioned to take effect only upon approval by a
 111 ~~majority vote of~~ the electors of the county, as set forth in
 112 subsection (10), voting in a referendum, a discretionary sales
 113 surtax at a rate that may not exceed 0.5 percent.

114 2. If the ordinance is conditioned on a referendum, a
 115 statement that includes a brief and general description of the
 116 purposes to be funded by the surtax and that conforms to the
 117 requirements of s. 101.161 shall be placed on the ballot by the
 118 governing body of the county. The following questions shall be
 119 placed on the ballot:

120 FOR THE. . . .CENTS TAX

121 AGAINST THE. . . .CENTS TAX

122 3. The ordinance adopted by the governing body providing
 123 for the imposition of the surtax shall set forth a plan for
 124 providing health care services to qualified residents, as
 125 defined in subparagraph 4. Such plan and subsequent amendments

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

151 meetings of the governing board, the subject of which is
152 budgeting resources for the rendition of charity care as that
153 term is defined in the Florida Hospital Uniform Reporting System
154 (FHURS) manual referenced in s. 408.07. The plan shall also
155 include innovative health care programs that provide cost-
156 effective alternatives to traditional methods of service
157 delivery and funding.

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

160 a. Qualified as indigent persons as certified by the
161 authorizing county;

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

172 c. Participating in innovative, cost-effective programs
173 approved by the authorizing county.

174 5. Moneys collected pursuant to this paragraph remain the
175 property of the state and shall be distributed by the Department

176 of Revenue on a regular and periodic basis to the clerk of the
177 circuit court as ex officio custodian of the funds of the
178 authorizing county. The clerk of the circuit court shall:

179 a. Maintain the moneys in an indigent health care trust
180 fund;

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

183 c. Disburse the funds, including any interest earned, to
184 any provider of health care services, as provided in
185 subparagraphs 3. and 4., upon directive from the authorizing
186 county. However, if a county has a population of at least
187 800,000 residents and has levied the surtax authorized in this
188 paragraph, notwithstanding any directive from the authorizing
189 county, on October 1 of each calendar year, the clerk of the
190 court shall issue a check in the amount of \$6.5 million to a
191 hospital in its jurisdiction that has a Level I trauma center or
192 shall issue a check in the amount of \$3.5 million to a hospital
193 in its jurisdiction that has a Level I trauma center if that
194 county enacts and implements a hospital lien law in accordance
195 with chapter 98-499, Laws of Florida. The issuance of the checks
196 on October 1 of each year is provided in recognition of the
197 Level I trauma center status and shall be in addition to the
198 base contract amount received during fiscal year 1999-2000 and
199 any additional amount negotiated to the base contract. If the
200 hospital receiving funds for its Level I trauma center status

201 requests such funds to be used to generate federal matching
 202 funds under Medicaid, the clerk of the court shall instead issue
 203 a check to the Agency for Health Care Administration to
 204 accomplish that purpose to the extent that it is allowed through
 205 the General Appropriations Act; and

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

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

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

224 1. A statement that includes a brief and general
 225 description of the purposes to be funded by the surtax and that

226 conforms to the requirements of s. 101.161 shall be placed on
 227 the ballot by the governing body of the county. The following
 228 shall be placed on the ballot:

229 FOR THE. . . .CENTS TAX

230 AGAINST THE. . . .CENTS TAX

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

236 3. Moneys collected pursuant to this paragraph remain the
 237 property of the state and shall be distributed by the Department
 238 of Revenue on a regular and periodic basis to the clerk of the
 239 circuit court as ex officio custodian of the funds of the
 240 authorizing county. The clerk of the circuit court shall:

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

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

244 c. Disburse the funds, including any interest earned on
 245 such funds, to the trauma center in its trauma service area, as
 246 provided in the plan set forth pursuant to subparagraph 2., upon
 247 directive from the authorizing county. If the trauma center
 248 receiving funds requests such funds be used to generate federal
 249 matching funds under Medicaid, the custodian of the funds shall
 250 instead issue a check to the Agency for Health Care

251 Administration to accomplish that purpose to the extent that the
252 agency is allowed through the General Appropriations Act.

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

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

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

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

276 (a) The rate shall be 0.5 percent.

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

284 (c) Proceeds from the surtax shall be:

285 1. Deposited by the county in a special fund, set aside
 286 from other county funds, to be used only for the operation,
 287 maintenance, and administration of the county public general
 288 hospital; and

289 2. Remitted promptly by the county to the agency,
 290 authority, or public health trust created by law which
 291 administers or operates the county public general hospital.

292 (d) Except as provided in subparagraphs 1. and 2., the
 293 county must continue to contribute each year an amount equal to
 294 at least 80 percent of that percentage of the total county
 295 budget appropriated for the operation, administration, and
 296 maintenance of the county public general hospital from the
 297 county's general revenues in the fiscal year of the county
 298 ending September 30, 1991:

299 1. Twenty-five percent of such amount must be remitted to
 300 a governing board, agency, or authority that is wholly

301 independent from the public health trust, agency, or authority
302 responsible for the county public general hospital, to be used
303 solely for the purpose of funding the plan for indigent health
304 care services provided for in paragraph (e);

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

311 (e) A governing board, agency, or authority shall be
312 chartered by the county commission upon this act becoming law.
313 The governing board, agency, or authority shall adopt and
314 implement a health care plan for indigent health care services.
315 The governing board, agency, or authority shall consist of no
316 more than seven and no fewer than five members appointed by the
317 county commission. The members of the governing board, agency,
318 or authority shall be at least 18 years of age and residents of
319 the county. No member may be employed by or affiliated with a
320 health care provider or the public health trust, agency, or
321 authority responsible for the county public general hospital.
322 The following community organizations shall each appoint a
323 representative to a nominating committee: the South Florida
324 Hospital and Healthcare Association, the Miami-Dade County
325 Public Health Trust, the Dade County Medical Association, the

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

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

342 2. The plan and subsequent amendments to it shall fund a
343 defined range of health care services for both indigent persons
344 and the medically poor, including primary care, preventive care,
345 hospital emergency room care, and hospital care necessary to
346 stabilize the patient. For the purposes of this section,
347 "stabilization" means stabilization as defined in s.
348 397.311(45). Where consistent with these objectives, the plan
349 may include services rendered by physicians, clinics, community
350 hospitals, and alternative delivery sites, as well as at least

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

376 condition of receiving funds under this subsection, afford
377 public access equal to that provided under s. 286.011 as to any
378 meeting of the governing board, agency, or authority the subject
379 of which is budgeting resources for the retention of charity
380 care, as that term is defined in the rules of the Agency for
381 Health Care Administration. The plan shall also include
382 innovative health care programs that provide cost-effective
383 alternatives to traditional methods of service and delivery
384 funding.

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

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

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

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

405 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

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

426 | to exceed 1 percent.

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

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

436 | (9) PENSION LIABILITY SURTAX.—

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

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

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

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

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

472 5. The pension liability surtax does not take effect until
473 the local government infrastructure surtax described in
474 subparagraph 4. is terminated.

475 (10) REFERENDA REQUIREMENTS.—A referendum to adopt or

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476 | amend a local government discretionary sales surtax under this
477 | section shall be held at a general election, as defined in s.
478 | 97.021, and requires the approval of two-thirds of the qualified
479 | electors voting on the ballot question for passage.

480 | Section 2. This act shall take effect upon becoming a law.