

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.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1320

INTRODUCER: Senator Martin

SUBJECT: Tax Referenda

DATE: January 20, 2026

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shuler	Fleming	CA	Pre-meeting
2.			BI	
3.			RC	

I. Summary:

SB 1320 requires a local government spending analysis developed by the Department of Financial Services (department) to be included on a county referendum proposing an increase in taxes, if the department has created such an analysis.

“Local government spending analysis” is defined by the bill as a statement prepared by the department or one of its agencies analyzing the spending of a county government.

The bill grants the department rulemaking authority to implement the newly created section, including standards and requirements for the local government spending analysis.

The bill takes effect July 1, 2026.

II. Present Situation:

Department of Financial Services

The head of the Department of Financial Services is the Chief Financial Officer who may also be known as the Treasurer.¹ The department includes the following divisions and responsibilities²:

- The Division of Accounting and Auditing promotes financial accountability for public funds throughout state government, provides comprehensive information regarding how state funds are expended, and manages payroll services for state employees.
- The Division of Administration oversees administrative support for the department including human resources, purchasing and contracts, emergency management and safety, mail and printing services, and property and facility management.

¹ Section 20.121, F.S.

² *Id.*; Office of Program Policy Analysis and Government Accountability, *Department of Financial Services*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4103> (last visited Feb. 2, 2026).

- The Division of Consumer Services provides education, information, and assistance to consumers for products or services regulated by the department, or the Financial Services Commission, and serves as a mediator between consumers and insurance companies.
- The Division of Criminal Investigations conducts investigations related to insurance, workers' compensation, and public assistance fraud; fire, arson, and explosives; and the theft or misuse of state funds.
- The Division of Funeral, Cemetery, and Consumer Services licenses individuals and entities in the death care industry, regulates the activities of licensees, and provides information regarding the death care industry.
- The Division of Insurance Agent and Agency Services licenses individuals and entities authorized to transact insurance in Florida and investigates alleged violations of the Florida Insurance Code.
- The Division of Rehabilitation and Liquidation acts as the court-appointed receiver for insurers placed in receivership, takes actions necessary to correct the conditions that necessitated the receivership, and maximizes the value of the assets of the liquidated company.
- The Division of Risk Management ensures that participating state agencies are provided quality workers' compensation, liability, federal civil rights, and property insurance coverage at reasonable rates, and provides loss prevention services to state agencies and universities for managing risk.
- The Division of State Fire Marshal protects life, property, and the environment from the devastation of fire, and approves Florida's firefighter training curricula, provides training to emergency services providers, and certifies fire service members.
- The Division of Treasury ensures that state and local funds, deferred compensation contributions, and cash and other assets held for safekeeping by the Chief Financial Officer are accurately accounted for, completely invested, and protected.
- The Division of Unclaimed Property protects the rights of property owners by taking custody of and safeguarding lost, abandoned, and unknown assets, and returning them to the rightful owners or heirs.
- The Division of Workers' Compensation assists injured workers, employers, health care providers, and insurers in following the Florida workers' compensation rules and laws, and ensures that businesses have coverage in place for employees.

Pursuant to the State Constitution, the Chief Financial Officer is the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities.³ The State Constitution also provides that the Chief Financial Officer shall exercise such powers and perform such duties as may be prescribed by law.⁴

Local Option Taxes

Pursuant to Article VII, s. 1 of the State Constitution, no tax shall be levied except in pursuance of law. Article VII, s. 9(a) provides that counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by

³ Art. IV, s. 4(c), Fla. Const.

⁴ Art. IV, s. 4(a), Fla. Const.

general law to levy other taxes. The Legislature has granted counties the authority to levy a variety of optional taxes conditioned upon approval of the electorate voting in a referendum.

Tourist Development Tax

The Local Option Tourist Development Act⁵ authorizes counties to levy five separate taxes on transient rental⁶ transactions (tourist development taxes or TDTs) for specified purposes, all of which are generally related to the tourism industry.

Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.⁷
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least 3 years.⁸
- A high tourism impact tax may be levied at an additional 1 percent.⁹
- A professional sports franchise facility tax may be levied up to an additional 1 percent.¹⁰
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.¹¹

TDTs are levied in 62 of 67 counties, and total rates range from 2 percent to 6 percent.¹²

Prior to the authorization of a new TDT, the levy must be approved by a countywide referendum held at a general election and approved by a majority of the electors voting in the county.¹³ TDTs have no maximum period for which they may be levied, and no currently adopted TDT has a scheduled expiration date.¹⁴

Each county proposing to levy the original 1- or 2-percent tax must adopt an ordinance for the levy and imposition of the tax, which must include a plan for tourist development prepared by the tourist development council.¹⁵ The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.¹⁶ The plan

⁵ Section 125.0104, F.S.

⁶ Section 125.0104(3)(a)1., F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

⁷ Section 125.0104(3)(c), F.S.

⁸ Section 125.0104(3)(d), F.S.

⁹ Section 125.0104(3)(m), F.S.

¹⁰ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism.

¹¹ Section 125.0104(3)(n), F.S.

¹² Office of Economic and Demographic Research, *2026 Local Option Tourist/Food and Beverage / Tax Rates in Florida's Counties*, available at <https://edr.state.fl.us/Content/local-government/data/data-a-to-z/LOTTRates.xlsx> (last visited Feb. 2, 2026).

¹³ Section 125.0104(6), F.S.

¹⁴ Office of Economic and Demographic Research, *Local Option Tourist Taxes - Summary of Impositions, Expirations, and Rate Changes*, available at <https://www.edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited Feb. 2, 2026).

¹⁵ Section 125.0104(4), F.S.

¹⁶ Section 125.0104(4)(c), F.S.

for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.¹⁷

Tourist Impact Tax; Areas of Critical State Concern

Counties containing a designated area of critical state concern¹⁸ are authorized to create land authorities by ordinance¹⁹ to “equitably deal with the challenges of implementing comprehensive land use plans developed pursuant to the area of critical state concern program, which challenges are often complicated by the environmental sensitivity of such areas.”²⁰

Any county creating a land authority may levy a tourist impact tax within the area or areas designated as an area of critical state concern.²¹ However, if the area or areas of critical state concern are greater than 50 percent of the land area of the county, the tax may be levied throughout the entire county.²² The tax must be levied by ordinance and takes effect after land development regulations and a local comprehensive plan that meet the requirements of ch. 380, F.S., take effect and the tax is approved by referendum held at a general election.²³

The county is authorized to levy a 1 percent tax on each dollar on transient rental facilities within the applicable area.²⁴ The funds are used to buy property in the area of critical state concern and to offset the loss of ad valorem (property) taxes due to those land acquisitions.²⁵ Designated areas of critical state concern include the Big Cypress Area (mainly in Collier County), the Green Swamp Area in central Florida, the Florida Keys Area in south Florida, the Brevard Barrier Island Area in south Brevard County, and the Apalachicola Bay Area in Franklin County.²⁶

Property Tax; Children’s Services Independent Special District

In 1986, the Legislature authorized Florida counties to create children’s services councils as countywide special districts to fund children’s services throughout the county.²⁷ The county governing body must obtain approval, by a majority vote of those electors voting on the

¹⁷ Section 125.0104(4)(d), F.S. The provisions found in s. 125.0104(4)(a)-(d), F.S., do not apply to the additional 1% tax, high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

¹⁸ The Areas of Critical State Concern Program, which was created by the Florida Environmental Land and Water Management Act of 1972, is intended to “protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.” Florida Department of Commerce, *Areas of Critical State Concern Program*, <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Feb. 2, 2026).

¹⁹ Section 380.0663(1), F.S.

²⁰ Section 380.0661(1), F.S.

²¹ Section 125.0108, F.S.

²² *Id.*

²³ *Id.*

²⁴ Section 125.0108(1)(d), F.S.

²⁵ Office of Economic and Demographic Research, 2024 Local Government Financial Information Handbook (May 2025) 271-72 available at <https://edr.state.fl.us/Content/local-government/reports/lgfi24.pdf> (last visited Feb. 2, 2026) [hereinafter 2024 LGFIH].

²⁶ *Id.*

²⁷ Chapter 86-197, Laws of Fla.; s. 125.901(1), F.S.

question, to levy ad valorem taxes to fund children's services.²⁸ The levy may not exceed 0.5 mills.²⁹

Ten counties currently have children's services councils organized as independent special districts.³⁰

Children's services councils may exercise the following powers and functions:

- Provide and maintain preventive, developmental, treatment, rehabilitative, and other services for children;
- Provide funds to other agencies that operate for the benefit of children, with the exception of the public school system;
- Collect data and conduct research to determine the needs of the children in the county;
- Coordinate with providers of children's services to prevent duplication of services;
- Lease or buy necessary real estate, equipment, and personal property; and
- Employ and provide benefits for needed personnel.³¹

Discretionary Sales Surtax

Counties have been granted limited authority to levy discretionary sales surtaxes for specific purposes on all transactions occurring in the county subject to the state sales tax in ch. 212, F.S., and on communications services as defined in ch. 202, F.S.³² A discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent.³³ The surtax does not apply to the sales price above \$5,000 on any item of tangible personal property.³⁴

Approved purposes for levying a surtax include:

- Operating a transportation system;³⁵
- Financing local government infrastructure projects;³⁶
- Providing additional revenue for specified small counties;³⁷
- Providing medical care for indigent persons;³⁸
- Funding trauma centers;³⁹

²⁸ *Id.*

²⁹ Section 125.901(3)(b), F.S.

³⁰ Fla. Dep't of Commerce, *Official List of Special Districts*, <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts> (last visited Feb. 2, 2026).

³¹ Section 125.901(2), F.S.

³² Section 212.054(2)(a), F.S. The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

³³ Section 212.054(2)(a), F.S.

³⁴ Section 212.054(2)(b), F.S.

³⁵ Section 212.055(1), F.S.

³⁶ Section 212.055(2), F.S.

³⁷ Section 212.055(3), F.S. Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.

³⁸ Section 212.055(4)(a), F.S. (for counties with more than 800,000 residents); Section 212.055(7), F.S. (for counties with fewer than 800,000 residents).

³⁹ Section 212.055(4)(b), F.S.

- Operating, maintaining, and administering a county public general hospital;⁴⁰
- Constructing and renovating schools;⁴¹
- Providing emergency fire rescue services and facilities; and ⁴²
- Funding pension liability shortfalls.⁴³

Current rates range from 0.5% to 2.0% in each of the 66 counties currently levying one or more surtaxes.⁴⁴ Many of the levies have restrictions on what combination of taxes can be levied by a single county at one time.⁴⁵

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by a vote of the county commission.⁴⁶ Some of the surtaxes have set periods of time that they can be enacted for before requiring reenactment, others have no such specified time limit. For example, the Trauma Center Sales Surtax that may be levied for counties with a population of fewer than 800,000 residents expires 4 years after the effective date of the surtax, unless reenacted through a referendum.⁴⁷ On the other hand, the Charter County and Regional Transportation System Surtax in s. 212.055(1), F.S. is currently limited to 30 years if adopted on or after July 1, 2020.

Local Option Fuel Taxes

Counties may levy a ninth-cent fuel tax (1 cent on every net gallon of motor sold within a county) if approved by extraordinary vote of its governing board or by voter referendum.⁴⁸ Beginning January 1, 1994, and as required by law, each county has levied within its jurisdiction the ninth-cent fuel tax on diesel fuel.⁴⁹

Counties also may levy local option fuel taxes which include a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold within a county, and a tax of 1 to 5 cents on every net gallon of motor fuel (excluding diesel) sold within a county.⁵⁰ The latter tax on motor fuel may be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.⁵¹ Beginning September 1, 1992, and as required by law, each county has levied within its jurisdiction the maximum 6 cents local option tax on diesel fuel.⁵²

⁴⁰ Section 212.055(5), F.S.

⁴¹ Section 212.055(6), F.S.

⁴² Section 212.055(8), F.S.

⁴³ Section 212.055(9), F.S.

⁴⁴ Fla. Dep't of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2026, Form DR-15DSS*, available at https://floridarevenue.com/Forms_library/current/dr15dss_26.pdf (last visited Feb. 2, 2026).

⁴⁵ See, e.g., ss. 212.055(4)(a)6., 212.055(5)(f), and s. 212.055(9)(g), F.S.

⁴⁶ See generally s. 212.055, F.S.; but see s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county governing authority as long as surtax revenues are not used for servicing bond indebtedness), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

⁴⁷ Section 212.055(4)(b)4., F.S.

⁴⁸ Section 336.021(1)(a), F.S.

⁴⁹ Chapter 90-351, Laws of Fla.

⁵⁰ Section 336.025, F.S.

⁵¹ Section 336.025(1)(b), F.S.

⁵² Chapter 90-351, Laws of Fla.

All impositions of the ninth-cent fuel tax or the local option fuel tax must be levied before October 1 of each year to be effective January 1 of the following year.⁵³ The Department of Revenue administers, collects, enforces, and distributes local option fuel taxes.⁵⁴ The funds are used for transportation expenditures.⁵⁵

Referendum Procedures

The Florida Election Code provides the general requirements for a referendum.⁵⁶ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.⁵⁷ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.⁵⁸ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.⁵⁹ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.⁶⁰

III. Effect of Proposed Changes:

The bill creates a new section of law, s. 17.326, F.S., to require a local government spending analysis developed by the Department of Financial Services (department) to be included in a county referendum proposing an increase in taxes, if the department has created such an analysis.

“Local government spending analysis” is defined by the bill as a statement prepared by the department or one of its agencies analyzing the spending of a county government.

The bill grants the department rulemaking authority to implement the newly created section, including standards and requirements for the local government spending analysis.

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 (a) of the Florida Constitution provides in part that a county or municipality may not be bound by a general law requiring a county or municipality to spend funds or take an action that requires the expenditure of funds unless certain specified exemptions or exceptions are met. However, the mandates requirements do not

⁵³ Section 336.025(1)(a)-(b), F.S.

⁵⁴ 2024 LGFIH, *supra*, n. 25 at 201-204.

⁵⁵ *Id.*

⁵⁶ Section 101.161, F.S.

⁵⁷ Section 101.161(1), F.S.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *See, e.g.*, s. 212.055(2)(b), F.S.

apply to laws having an insignificant impact,^{61,62} which is \$2.4 million or less for Fiscal Year 2026-2027.⁶³

The fiscal impact of this bill has not yet been determined. Because the bill does not specify the criteria or situations when a local government spending analysis is required to be prepared, the standards for the analysis, or what a county must include on a referendum proposing an increase in taxes, the fiscal impact of this bill is not clear, though it is likely to require counties in some instances to expend additional funds for ballot printing and mailing. If the expenditures are determined to be below the insignificant impact threshold, then the mandates requirements will not apply.

If the bill does qualify as a mandate not meeting an exemption or exception, in order to be binding upon cities and counties, the bill must include a finding of important state interest and be approved by a two-thirds vote of the membership of each house.⁶⁴

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article II, s. 3 of the State Constitution sets forth the basic concept of separation of powers. The Florida Supreme Court has stated that Article II, s. 3, “encompasses two fundamental prohibitions. The first is that no branch may encroach upon the powers of another . . . The second is that no branch may delegate to another branch its constitutionally assigned power.”⁶⁵

The Florida Supreme Court has said that under the nondelegation doctrine, the legislature is not free to delegate as much of its law-making powers to an agency as it deems expedient.⁶⁶ Rather, primary policy decisions must be made by the legislature.⁶⁷ Article III, § 1 of the Florida Constitution states that “[t]he legislative power of the state shall be

⁶¹ FLA. CONST. art. VII, s. 18(d).

⁶² An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See FLA. SENATE COMM. ON COMTY. AFFAIRS, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 2, 2026).

⁶³ Based on the Demographic Estimating Conference’s estimated population adopted on June 30, 2025, <https://edr.state.fl.us/Content/conferences/population/archives/250630demographic.pdf> (last visited Feb. 2, 2026).

⁶⁴ FLA. CONST. art. VII, s. 18(a).

⁶⁵ *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260, 264 (Fla. 1991).

⁶⁶ *Askew v. Cross Key Waterways*, 372 So. 2d 913 (Fla. 1978).

⁶⁷ *Id.*

vested in a legislature of the State of Florida,” meaning the legislative both enacts laws and declares what the law shall be.⁶⁸ Any attempted redelegation violates the Constitution.⁶⁹

A delegation of authority is constitutional as long as the enabling statute establishes guidelines adequately limiting the scope of authority that may be exercised and does not involve another branch's core power.⁷⁰ In particular, these guidelines must be specific enough to enable a court to determine if the agency is carrying out the legislature's intent: “When legislation is so lacking in guidelines that neither the agency nor the courts can determine whether the agency is carrying out the intent of the legislature in its conduct, then, in fact, the agency becomes the lawgiver rather than the administrator of the law.”⁷¹

In *State v. Atlantic Coast Line R. Co.*, the Florida Supreme Court stated that the core functions that cannot be shared or delegated “are those so defined by the Constitution, or such as are inherent or so recognized by immemorial governmental usage, and [that] involve the exercise of primary and independent will, discretion, and judgment, subject not to the control of another department, but only to the limitations imposed by the state and federal Constitutions.”⁷²

SB 1320 arguably does not meet the requirements for a constitutional delegation of authority because it does not provide adequate guidelines and because it grants the exercise of a core power of the Legislature to the Executive Branch.

SB 1320 provides a definition of a local government spending analysis, but otherwise provides no guidelines for the contents, length of the analysis, process for developing one, deadlines for preparing one, or the instances requiring the Department of Financial Services to prepare one. The department is allowed to choose when it will prepare one (Line 18: “If a local government spending analysis has been prepared . . .”), and is delegated the authority to adopt rules specifying the standards for one.

Additionally, no guidelines are provided for timeframes for providing the analysis to counties such that they can prepare to place it on a referendum. It is unknown whether the analysis will be a 75-word ballot statement or a multi-page report, so a county will face challenges in preparing to place the analysis on ballots for referenda. This lack of guidelines would not allow the department or a court to determine if the department is carrying out the intent of the Legislature expressed in SB 1320.

Further, Article VII of the State Constitution has vested the Legislature with the power to specify requirements for counties related to taxation, which makes it a core power. The department does not have the power to regulate county tax levies, including those levied pursuant to referendum. SB 1320 would allow the department to specify requirements in rule for what must be included in county tax referenda, despite the Legislature having

⁶⁸ *B.H. v. State*, 645 So. 2d 987 (Fla. 1994).

⁶⁹ *Id.*

⁷⁰ *See Askew v. Cross Key Waterways*, 372 So. 2d 913 (Fla. 1978).

⁷¹ *Id.* at 918-919.

⁷² *State v. Atlantic Coast Line R. Co.*, 56 Fla. 617, 47 So. 969, 974 (Fla. 1908).

articulated the standards for tax referenda in statute. This would arguably be another way that SB 1320 could be determined to be an unconstitutional delegation of power.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Counties may have additional costs for tax referenda, such as ballot printing costs, depending on if they are required to place a local government spending analysis on their referenda, and the standards that are developed by the department by rule for implementation of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 17.326 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.