



CS/CS/HB 791, Engrossed 1

2016

1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; prohibiting local government
4 discretionary sales surtax referenda from being held
5 during special elections; specifying the varying
6 percentage of electors voting in a referendum which is
7 required, depending on the type of election at which
8 the referendum is held, to adopt or amend a local
9 government discretionary sales surtax; providing an
10 effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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

20 212.055 Discretionary sales surtaxes; legislative intent;
21 authorization and use of proceeds.—It is the legislative intent
22 that any authorization for imposition of a discretionary sales
23 surtax shall be published in the Florida Statutes as a
24 subsection of this section, irrespective of the duration of the
25 levy. Each enactment shall specify the types of counties
26 authorized to levy; the rate or rates which may be imposed; the



27 maximum length of time the surtax may be imposed, if any; the
 28 procedure which must be followed to secure voter approval, if
 29 required; the purpose for which the proceeds may be expended;
 30 and such other requirements as the Legislature may provide.
 31 Taxable transactions and administrative procedures shall be as
 32 provided in s. 212.054.

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

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

44 (c) 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 and must be approved in a referendum as set forth in
 48 subsection (9) ~~at a time to be set at the discretion of the~~
 49 ~~governing body.~~

50 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

51 (a)1. The governing authority in each county may levy a
 52 discretionary sales surtax of 0.5 percent or 1 percent. The levy



53 of the surtax shall be pursuant to ordinance enacted by a
54 majority of the members of the county governing authority and
55 approved by ~~a majority of~~ the electors of the county, as set
56 forth in subsection (9), voting in a referendum on the surtax.
57 If the governing bodies of the municipalities representing a
58 majority of the county's population adopt uniform resolutions
59 establishing the rate of the surtax and calling for a referendum
60 on the surtax, the levy of the surtax shall be placed on the
61 ballot and shall take effect if approved by ~~a majority of~~ the
62 electors of the county, as set forth in subsection (9), voting
63 in the referendum on the surtax.

64 2. If the surtax was levied pursuant to a referendum held
65 before July 1, 1993, the surtax may not be levied beyond the
66 time established in the ordinance, or, if the ordinance did not
67 limit the period of the levy, the surtax may not be levied for
68 more than 15 years. The levy of such surtax may be extended only
69 by approval of ~~a majority of~~ the electors of the county, as set
70 forth in subsection (9), voting in a referendum on the surtax.

71 (3) SMALL COUNTY SURTAX.—

72 (a) The governing authority in each county that has a
73 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
74 discretionary sales surtax of 0.5 percent or 1 percent. The levy
75 of the surtax shall be pursuant to ordinance enacted by an
76 extraordinary vote of the members of the county governing
77 authority if the surtax revenues are expended for operating
78 purposes. If the surtax revenues are expended for the purpose of



79 servicing bond indebtedness, the surtax shall be approved by a
 80 ~~majority of~~ the electors of the county, as set forth in
 81 subsection (9), voting in a referendum on the surtax.

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

83 (a)1. The governing body in each county the government of
 84 which is not consolidated with that of one or more
 85 municipalities, which has a population of at least 800,000
 86 residents and is not authorized to levy a surtax under
 87 subsection (5), may levy, pursuant to an ordinance either
 88 approved by an extraordinary vote of the governing body or
 89 conditioned to take effect only upon approval by a ~~majority vote~~
 90 ~~of~~ the electors of the county, as set forth in subsection (9),
 91 voting in a referendum, a discretionary sales surtax at a rate
 92 that may not exceed 0.5 percent.

93 2. If the ordinance is conditioned on a referendum, a
 94 statement that includes a brief and general description of the
 95 purposes to be funded by the surtax and that conforms to the
 96 requirements of s. 101.161 shall be placed on the ballot by the
 97 governing body of the county. The following questions shall be
 98 placed on the ballot:

99 FOR THE. . . .CENTS TAX

100 AGAINST THE. . . .CENTS TAX

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



105 | to it shall fund a broad range of health care services for both
106 | indigent persons and the medically poor, including, but not
107 | limited to, primary care and preventive care as well as hospital
108 | care. The plan must also address the services to be provided by
109 | the Level I trauma center. It shall emphasize a continuity of
110 | care in the most cost-effective setting, taking into
111 | consideration both a high quality of care and geographic access.
112 | Where consistent with these objectives, it shall include,
113 | without limitation, services rendered by physicians, clinics,
114 | community hospitals, mental health centers, and alternative
115 | delivery sites, as well as at least one regional referral
116 | hospital where appropriate. It shall provide that agreements
117 | negotiated between the county and providers, including hospitals
118 | with a Level I trauma center, will include reimbursement
119 | methodologies that take into account the cost of services
120 | rendered to eligible patients, recognize hospitals that render a
121 | disproportionate share of indigent care, provide other
122 | incentives to promote the delivery of charity care, promote the
123 | advancement of technology in medical services, recognize the
124 | level of responsiveness to medical needs in trauma cases, and
125 | require cost containment including, but not limited to, case
126 | management. It must also provide that any hospitals that are
127 | owned and operated by government entities on May 21, 1991, must,
128 | as a condition of receiving funds under this subsection, afford
129 | public access equal to that provided under s. 286.011 as to
130 | meetings of the governing board, the subject of which is



131 budgeting resources for the rendition of charity care as that
132 term is defined in the Florida Hospital Uniform Reporting System
133 (FHURS) manual referenced in s. 408.07. The plan shall also
134 include innovative health care programs that provide cost-
135 effective alternatives to traditional methods of service
136 delivery and funding.

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

139 a. Qualified as indigent persons as certified by the
140 authorizing county;

141 b. Certified by the authorizing county as meeting the
142 definition of the medically poor, defined as persons having
143 insufficient income, resources, and assets to provide the needed
144 medical care without using resources required to meet basic
145 needs for shelter, food, clothing, and personal expenses; or not
146 being eligible for any other state or federal program, or having
147 medical needs that are not covered by any such program; or
148 having insufficient third-party insurance coverage. In all
149 cases, the authorizing county is intended to serve as the payor
150 of last resort; or

151 c. Participating in innovative, cost-effective programs
152 approved by the authorizing county.

153 5. Moneys collected pursuant to this paragraph remain the
154 property of the state and shall be distributed by the Department
155 of Revenue on a regular and periodic basis to the clerk of the
156 circuit court as ex officio custodian of the funds of the



157 authorizing county. The clerk of the circuit court shall:
158 a. Maintain the moneys in an indigent health care trust
159 fund;
160 b. Invest any funds held on deposit in the trust fund
161 pursuant to general law;
162 c. Disburse the funds, including any interest earned, to
163 any provider of health care services, as provided in
164 subparagraphs 3. and 4., upon directive from the authorizing
165 county. However, if a county has a population of at least
166 800,000 residents and has levied the surtax authorized in this
167 paragraph, notwithstanding any directive from the authorizing
168 county, on October 1 of each calendar year, the clerk of the
169 court shall issue a check in the amount of \$6.5 million to a
170 hospital in its jurisdiction that has a Level I trauma center or
171 shall issue a check in the amount of \$3.5 million to a hospital
172 in its jurisdiction that has a Level I trauma center if that
173 county enacts and implements a hospital lien law in accordance
174 with chapter 98-499, Laws of Florida. The issuance of the checks
175 on October 1 of each year is provided in recognition of the
176 Level I trauma center status and shall be in addition to the
177 base contract amount received during fiscal year 1999-2000 and
178 any additional amount negotiated to the base contract. If the
179 hospital receiving funds for its Level I trauma center status
180 requests such funds to be used to generate federal matching
181 funds under Medicaid, the clerk of the court shall instead issue
182 a check to the Agency for Health Care Administration to



183 accomplish that purpose to the extent that it is allowed through
 184 the General Appropriations Act; and

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

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

193 (b) Notwithstanding any other provision of this section,
 194 the governing body in each county the government of which is not
 195 consolidated with that of one or more municipalities and which
 196 has a population of fewer ~~less~~ than 800,000 residents, may levy,
 197 by ordinance subject to approval by ~~a majority of~~ the electors
 198 of the county, as set forth in subsection (9), voting in a
 199 referendum, a discretionary sales surtax at a rate that may not
 200 exceed 0.25 percent for the sole purpose of funding trauma
 201 services provided by a trauma center licensed pursuant to
 202 chapter 395.

203 1. A statement that includes a brief and general
 204 description of the purposes to be funded by the surtax and that
 205 conforms to the requirements of s. 101.161 shall be placed on
 206 the ballot by the governing body of the county. The following
 207 shall be placed on the ballot:

208 FOR THE. . . .CENTS TAX



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AGAINST THE. . . .CENTS TAX

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

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

- a. Maintain the moneys in a trauma services trust fund.
- b. Invest any funds held on deposit in the trust fund pursuant to general law.
- c. Disburse the funds, including any interest earned on such funds, to the trauma center in its trauma service area, as provided in the plan set forth pursuant to subparagraph 2., upon directive from the authorizing county. If the trauma center receiving funds requests such funds be used to generate federal matching funds under Medicaid, the custodian of the funds shall instead issue a check to the Agency for Health Care Administration to accomplish that purpose to the extent that the agency is allowed through the General Appropriations Act.
- d. Prepare on a biennial basis an audit of the trauma services trust fund specified in sub-subparagraph a., to be delivered to the authorizing county.



235 4. A discretionary sales surtax imposed pursuant to this
236 paragraph shall expire 4 years after the effective date of the
237 surtax, unless reenacted by ordinance subject to approval by a
238 ~~majority of the electors of the county,~~ as set forth in
239 subsection (9), voting in a subsequent referendum.

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

244 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
245 in s. 125.011(1) may levy the surtax authorized in this
246 subsection pursuant to an ordinance either approved by
247 extraordinary vote of the county commission or conditioned to
248 take effect only upon approval by a ~~majority vote of the~~
249 electors of the county, as set forth in subsection (9), voting
250 in a referendum. In a county as defined in s. 125.011(1), for
251 the purposes of this subsection, "county public general
252 hospital" means a general hospital as defined in s. 395.002
253 which is owned, operated, maintained, or governed by the county
254 or its agency, authority, or public health trust.

255 (a) The rate shall be 0.5 percent.

256 (b) If the ordinance is conditioned on a referendum, the
257 proposal to adopt the county public hospital surtax shall be
258 placed on the ballot in accordance with subsection (9) ~~law at a~~
259 ~~time to be set at the discretion of the governing body.~~ The
260 referendum question on the ballot shall include a brief general



261 description of the health care services to be funded by the
262 surtax.

263 (c) Proceeds from the surtax shall be:

264 1. Deposited by the county in a special fund, set aside
265 from other county funds, to be used only for the operation,
266 maintenance, and administration of the county public general
267 hospital; and

268 2. Remitted promptly by the county to the agency,
269 authority, or public health trust created by law which
270 administers or operates the county public general hospital.

271 (d) Except as provided in subparagraphs 1. and 2., the
272 county must continue to contribute each year an amount equal to
273 at least 80 percent of that percentage of the total county
274 budget appropriated for the operation, administration, and
275 maintenance of the county public general hospital from the
276 county's general revenues in the fiscal year of the county
277 ending September 30, 1991:

278 1. Twenty-five percent of such amount must be remitted to
279 a governing board, agency, or authority that is wholly
280 independent from the public health trust, agency, or authority
281 responsible for the county public general hospital, to be used
282 solely for the purpose of funding the plan for indigent health
283 care services provided for in paragraph (e);

284 2. However, in the first year of the plan, a total of \$10
285 million shall be remitted to such governing board, agency, or
286 authority, to be used solely for the purpose of funding the plan



287 for indigent health care services provided for in paragraph (e),
288 and in the second year of the plan, a total of \$15 million shall
289 be so remitted and used.

290 (e) A governing board, agency, or authority shall be
291 chartered by the county commission upon this act becoming law.
292 The governing board, agency, or authority shall adopt and
293 implement a health care plan for indigent health care services.
294 The governing board, agency, or authority shall consist of no
295 more than seven and no fewer than five members appointed by the
296 county commission. The members of the governing board, agency,
297 or authority shall be at least 18 years of age and residents of
298 the county. No member may be employed by or affiliated with a
299 health care provider or the public health trust, agency, or
300 authority responsible for the county public general hospital.
301 The following community organizations shall each appoint a
302 representative to a nominating committee: the South Florida
303 Hospital and Healthcare Association, the Miami-Dade County
304 Public Health Trust, the Dade County Medical Association, the
305 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
306 County. This committee shall nominate between 10 and 14 county
307 citizens for the governing board, agency, or authority. The
308 slate shall be presented to the county commission and the county
309 commission shall confirm the top five to seven nominees,
310 depending on the size of the governing board. Until such time as
311 the governing board, agency, or authority is created, the funds
312 provided for in subparagraph (d)2. shall be placed in a



313 restricted account set aside from other county funds and not
314 disbursed by the county for any other purpose.

315 1. The plan shall divide the county into a minimum of four
316 and maximum of six service areas, with no more than one
317 participant hospital per service area. The county public general
318 hospital shall be designated as the provider for one of the
319 service areas. Services shall be provided through participants'
320 primary acute care facilities.

321 2. The plan and subsequent amendments to it shall fund a
322 defined range of health care services for both indigent persons
323 and the medically poor, including primary care, preventive care,
324 hospital emergency room care, and hospital care necessary to
325 stabilize the patient. For the purposes of this section,
326 "stabilization" means stabilization as defined in s.
327 397.311(41). Where consistent with these objectives, the plan
328 may include services rendered by physicians, clinics, community
329 hospitals, and alternative delivery sites, as well as at least
330 one regional referral hospital per service area. The plan shall
331 provide that agreements negotiated between the governing board,
332 agency, or authority and providers shall recognize hospitals
333 that render a disproportionate share of indigent care, provide
334 other incentives to promote the delivery of charity care to draw
335 down federal funds where appropriate, and require cost
336 containment, including, but not limited to, case management.
337 From the funds specified in subparagraphs (d)1. and 2. for
338 indigent health care services, service providers shall receive



339 reimbursement at a Medicaid rate to be determined by the
340 governing board, agency, or authority created pursuant to this
341 paragraph for the initial emergency room visit, and a per-member
342 per-month fee or capitation for those members enrolled in their
343 service area, as compensation for the services rendered
344 following the initial emergency visit. Except for provisions of
345 emergency services, upon determination of eligibility,
346 enrollment shall be deemed to have occurred at the time services
347 were rendered. The provisions for specific reimbursement of
348 emergency services shall be repealed on July 1, 2001, unless
349 otherwise reenacted by the Legislature. The capitation amount or
350 rate shall be determined prior to program implementation by an
351 independent actuarial consultant. In no event shall such
352 reimbursement rates exceed the Medicaid rate. The plan must also
353 provide that any hospitals owned and operated by government
354 entities on or after the effective date of this act must, as a
355 condition of receiving funds under this subsection, afford
356 public access equal to that provided under s. 286.011 as to any
357 meeting of the governing board, agency, or authority the subject
358 of which is budgeting resources for the retention of charity
359 care, as that term is defined in the rules of the Agency for
360 Health Care Administration. The plan shall also include
361 innovative health care programs that provide cost-effective
362 alternatives to traditional methods of service and delivery
363 funding.

364 3. The plan's benefits shall be made available to all



365 county residents currently eligible to receive health care
366 services as indigents or medically poor as defined in paragraph
367 (4) (d).

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

372 5. At the end of each fiscal year, the governing board,
373 agency, or authority shall prepare an audit that reviews the
374 budget of the plan, delivery of services, and quality of
375 services, and makes recommendations to increase the plan's
376 efficiency. The audit shall take into account participant
377 hospital satisfaction with the plan and assess the amount of
378 poststabilization patient transfers requested, and accepted or
379 denied, by the county public general hospital.

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

384 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

385 (a) The school board in each county may levy, pursuant to
386 resolution conditioned to take effect only upon approval by a
387 ~~majority vote of the electors of the county,~~ as set forth in
388 subsection (9), voting in a referendum, a discretionary sales
389 surtax at a rate that may not exceed 0.5 percent.

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



391 (a)1. The governing body in each county that has a
392 population of fewer than 800,000 residents may levy an indigent
393 care surtax pursuant to an ordinance conditioned to take effect
394 only upon approval by ~~a majority vote~~ of the electors of the
395 county, as set forth in subsection (9), voting in a referendum.
396 The surtax may be levied at a rate not to exceed 0.5 percent,
397 except that if a publicly supported medical school is located in
398 the county, the rate shall not exceed 1 percent.

399 2. Notwithstanding subparagraph 1., the governing body of
400 any county that has a population of fewer than 50,000 residents
401 may levy an indigent care surtax pursuant to an ordinance
402 conditioned to take effect only upon approval by ~~a majority vote~~
403 ~~of~~ the electors of the county, as set forth in subsection (9),
404 voting in a referendum. The surtax may be levied at a rate not
405 to exceed 1 percent.

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

407 (b) Upon the adoption of the ordinance, the levy of the
408 surtax must be placed on the ballot by the governing authority
409 of the county enacting the ordinance. The ordinance will take
410 effect if approved by ~~a majority~~ of the electors of the county,
411 as set forth in subsection (9), voting in a referendum held for
412 such purpose. The referendum shall be placed on the ballot of a
413 regularly scheduled election. The ballot for the referendum must
414 conform to the requirements of s. 101.161.

415 (9) DATES FOR REFERENDA; VOTER APPROVAL THRESHOLDS.—A
416 referendum to adopt or amend a local government discretionary



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417 sales surtax under this section may not be held during a special
418 election. A referendum under this section held at a presidential
419 preference primary election, as provided in s. 103.101, or at a
420 primary election, as defined in s. 97.021, requires the approval
421 of at least 60 percent of the voters voting on the ballot
422 question for passage. A referendum under this section held at a
423 general election, as defined in s. 97.021, requires the approval
424 of a majority of the voters voting on the ballot question for
425 passage.

426 Section 2. This act shall take effect July 1, 2017.