

**Board of County Commissioners
Agenda Request**

Date of Meeting: November 20, 2018

Date Submitted: October 31, 2018

To: Honorable Chairperson and Members of the Board

From: Dee Jackson, Interim County Administrator
David Weiss, County Attorney
Jeff Price, Office of Management and Budget

Subject: **Public Hearing:** Adoption of Ordinance No. 2018-022, An Ordinance of the Board of County Commissioners of Gadsden County, Florida, amending Section 74-1 of the Gadsden County Code of Ordinances, to include emergency medical services operations and capital expenditures as an authorized use of the discretionary sales surtax proceeds levied pursuant to Section 212.055(3), Florida Statutes; providing for repeal, severability, inclusion in the Gadsden County Code of Ordinances, modifications that may arise from consideration at public hearing, and correction of scrivener's errors; and providing for an effective date

Statement of Issue:

This agenda item seeks adoption of an ordinance amending Section 74-1 of the Gadsden County Code of Ordinances, to include Emergency Medical Services operations and capital expenditures as an authorized use of the discretionary sales surtax levied pursuant to Section 212.055(3), Florida Statutes.

Background:

Section 212.055(3), Florida Statutes, authorizes the Board to levy a discretionary sales surtax of up to one percent in Gadsden County and use the proceeds for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

By Ordinance Numbers 95-006, 2011-009, and 2017-009, currently codified at Section 74-1 of the Gadsden County Code of Ordinances (the "Ordinance"), the Board levied a discretionary sales surtax of one percent in Gadsden County and set forth the authorized uses of the proceeds from the surtax, pursuant to Section 212.055(3), Florida Statutes.

The Ordinance currently provides that the proceeds from the surtax shall be used for maintenance of the existing jail facility and construction and maintenance of a pod or pods for the jail, for public works infrastructure projects such as road improvements and water and sewer systems, fire protection and suppression, repair and maintenance of bridges, for parks and recreational facilities maintenance and improvements for in-kind services for the development of the St. Hebron Park “Walk and Bike for Life” trail through December 31, 2018, and for such other public purposes as may be provided by amendment to this section.

Pursuant to Section 212.055(3), Florida Statutes, and the Ordinance, the Ordinance may only be amended by an extraordinary vote of the Board.

Analysis:

The operating budget for the Public Works Department consists solely of gas tax revenues, fees generated from gas tax revenues, and a portion of the small county discretionary sales surtax. Unless the County has adopted a resolution certifying that that all transportation needs identified in the County’s comprehensive plan have been met, the use of gas tax revenues is restricted to transportation expenditures. The use of the proceeds from the small county discretionary sales surtax is limited by the Ordinance to maintenance of the existing jail facility and construction and maintenance of a pod or pods for the jail, and for public works infrastructure projects such as road improvements and water and sewer systems, fire protection and suppression, and repair and maintenance of bridges, as well as for parks and recreational facilities maintenance and improvements for in-kind services for the development of the St. Hebron Park “Walk and Bike for Life” trail through December 31, 2018.

Attached is proposed Ordinance No. 2018-022 for the Board’s consideration. If adopted by the Board, it will amend the Ordinance to remove parks and recreational facilities maintenance and improvements for in-kind services for the development of the St. Hebron Park “Walk and Bike for Life Trail” through December 31, 2018 as an authorized use of the discretionary sales surtax levied pursuant to Section 212.055(3), Florida Statutes, as the funds necessary to devote to the project have been included in the Parks and Recreation Capital Projects Fund and the authorized use is therefore no longer needed to facilitate the project. Emergency medical services operations and capital expenditures will be added as an authorized use in order to allow proceeds from the discretionary sales surtax to supplement the EMS budget.

Fiscal Impact:

The proposed amendment to the Ordinance would allow the Board to use the proceeds from the discretionary sales surtax levied pursuant to Section 212.055(3), Florida Statutes, for an additional use. If the Board uses the proceeds for emergency medical services operations and capital expenditures, there would be less money available for the other authorized uses of the proceeds.

Options:

1. Approve and adopt the attached Ordinance No. 2018-022.
2. Propose changes to the attached Ordinance No. 2018-022, and adopt with changes.
3. Do not approve.
4. Board direction.

Interim County Administrator's Recommendation:

Option 1

Attachment(s):

1. Draft Ordinance No. 2018-022.
2. Notice of Intent.
3. Section 212.055, Florida Statutes.

ORDINANCE NO. 2018-022

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA AMENDING SECTION 74-1 OF THE GADSDEN COUNTY CODE OF ORDINANCES, TO INCLUDE EMERGENCY MEDICAL SERVICES OPERATIONS AND CAPITAL EXPENDITURES AS AN AUTHORIZED USE OF THE DISCRETIONARY SALES SURTAX PROCEEDS LEVIED PURSUANT TO SECTION 212.055(3), FLORIDA STATUTES; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY CODE OF ORDINANCES, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Gadsden County, Florida has all of the powers of self-government as provided by general or special law; and

WHEREAS, the Gadsden County Board of County Commissioners ("Board") may enact ordinances not inconsistent with general or special law; and

WHEREAS, Section 212.055(3), Florida Statutes, authorizes the Board to levy a discretionary sales surtax of up to one percent in Gadsden County and use the proceeds for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied; and

WHEREAS, by Ordinance Numbers 95-006, 2011-009, and 2017-009, currently codified at Section 74-1 of the Gadsden County Code of Ordinances (the "Ordinance"), the Board levied a discretionary sales surtax of one percent in Gadsden County and set forth the authorized uses of the proceeds from the surtax, pursuant to Section 212.055(3), Florida Statutes; and

WHEREAS, the Board has determined that the Ordinance should be amended to include emergency medical services operations and capital expenditures as an authorized use of the proceeds from the surtax; and

WHEREAS, the Board has determined that the use of the surtax proceeds for emergency medical services operations and capital expenditures is a public use, and that the amendment of the Ordinance to include emergency medical services operations and capital expenditures as an authorized use of the proceeds from the surtax will protect the public health, safety, and welfare of the citizens of Gadsden County and is a proper public and county purpose; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, that:

Section 1. Incorporation of Recitals.

The foregoing recitals are hereby incorporated by reference into the body of this Ordinance, and are adopted as findings of fact.

Section 2. Authority and Purpose.

This Ordinance is adopted pursuant to the County's sovereign home rule authority and Section 212.055(3), Florida Statutes, for the purpose of including emergency medical services operations and capital expenditures as an authorized use of the proceeds from the surtax.

Section 3. Approval and Adoption of the Ordinance.

The amendments to the Ordinance as attached hereto as Exhibit A are hereby approved and adopted.

Section 4. Repealer.

All prior policies, resolutions and ordinances, or portions thereof, which are in conflict with the Ordinance as set forth in Exhibit A are hereby repealed and superseded to the extent of such conflict.

Section 5. Severability.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, the remainder of the Ordinance shall be construed as not having contained said section, subsection, sentence, clause, phrase, or provision, and shall not be affected by such holding.

Section 6. Inclusion into the Code of Ordinances.

This Ordinance shall be codified in the Gadsden County Code of Ordinances as set forth in Exhibit A.

Section 7. Modification.

It is the intent of the Board that this Ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk.

Section 8. Scrivener's Errors.

The County Attorney may correct any scrivener's errors found in this Ordinance by filing a corrected copy of the Ordinance with the Clerk.

Section 9. Effective Date.

The Clerk shall file a certified copy of this Ordinance with the Department of State within ten (10) days of adoption and this Ordinance shall be effective as provided by law.

DULY READ, PASSED AND ADOPTED by the Board of County Commissioners of Gadsden County, Florida after proper notice and public hearing, this 20th day of November, 2018.

BOARD OF COUNTY COMMISSIONERS
GADSDEN COUNTY, FLORIDA

BRENDA A. HOLT, Chairperson

ATTEST:

NICHOLAS THOMAS,
Clerk of the Circuit Court

APPROVED AS TO FORM FOR THE
RELIANCE OF GADSDEN COUNTY,
FLORIDA ONLY

DAVID J. WEISS, County Attorney

Exhibit A

Chapter 74 - TAXATION

ARTICLE I. – IN GENERAL

DIVISION 1. - GENERALLY

Sec. 74-1. - Discretionary sales surtax.

- (a) There shall be a discretionary sales surtax of one percent in the county levied pursuant to F.S. § 212.055(3).
- (b) Funds generated by the sales tax and distributed to the county and municipalities, as provided for in this section, shall be used for maintenance of the existing jail facility and construction and maintenance of a pod or pods for the jail, for public works infrastructure projects such as road improvements and water and sewer systems, fire protection and suppression, and repair and maintenance of bridges, and emergency medical services operations and capital expenditures. ~~Funds may also be used for parks and recreational facilities maintenance and improvements for in-kind services for the development of the St. Hebron Park "Walk and Bike for Life" trail pursuant to the FDEP Recreational Trails Program grant, until such time that the grant is closed out and no later than December 31, 2018, at which time the authorized use shall automatically sunset without further action and funds shall no longer be used for parks and recreational facilities maintenance and improvements.~~ Funds may be used for such other public purposes as may be provided by amendment to this section. Such amendment shall be enacted by an extraordinary vote of the board of county commissioners. The proceeds of the sales tax provided for in this section shall be distributed to the county and the municipalities located within the county according to the formula provided in F.S. § 218.62. Such formula is incorporated in this section by reference as if recited in full.

NOTICE OF INTENT: PUBLIC HEARING

NOTICE IS HEREBY GIVEN to all concerned that the Board of County Commissioners of Gadsden County, Florida, intends, at a regular meeting, at the Gadsden County Governmental Complex, 9-B East Jefferson Street, Quincy, Florida, at 6:00 p.m. on the 20th day of November, 2018, to consider adoption of an ordinance entitled:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA AMENDING SECTION 74-1 OF THE GADSDEN COUNTY CODE OF ORDINANCES, TO INCLUDE EMERGENCY MEDICAL SERVICES OPERATIONS AND CAPITAL EXPENDITURES AS AN AUTHORIZED USE OF THE DISCRETIONARY SALES SURTAX PROCEEDS LEVIED PURSUANT TO SECTION 212.055(3), FLORIDA STATUTES; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY CODE OF ORDINANCES, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

INTERESTED PARTIES MAY APPEAR AT THE MEETING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE. IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO THIS MATTER, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, HE OR SHE MUST ASSURE THAT A VERBATIM RECORDING OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

The proposed ordinance is available for public inspection at the Office of the Clerk, Gadsden County Courthouse, 10 E. Jefferson St., Quincy, Florida, and on the County website at gadsdencountyfl.gov.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Persons needing assistance in obtaining any information from the County on attending the public hearing must contact the Gadsden County Administrator's Office, 1B E. Jefferson Street, Quincy, Florida, (850) 875-8650, at least 48 hours prior to the hearing; if you are hearing or voice impaired, call 711.

Published one time
November 8, 2018
Gadsden County Times
Havana Herald
Twin City News

The Florida Senate

2017 Florida Statutes

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| <u>Title XIV</u> TAXATION AND FINANCE | <u>Chapter 212</u> TAX ON SALES, USE, AND OTHER TRANSACTIONS <u>Entire Chapter</u> | SECTION 055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds. |
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212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.— It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. [212.054](#).

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

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

(b) The rate shall be up to 1 percent.

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

(d) Proceeds from the surtax shall be applied to as many or as few of the uses enumerated below in whatever combination the county commission deems appropriate:

1. Deposited by the county in the trust fund and shall be used for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, on-demand transportation services, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county to an expressway, transit, or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, for the operation and maintenance of on-demand transportation services, for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges;

3. Used by the county for the development, construction, operation, and maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of bus and fixed guideway systems; for the expansion, operation, and maintenance of on-demand transportation services; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges and no more than 25 percent used for nontransit uses; and

4. Used by the county for the planning, development, construction, operation, and maintenance of roads and bridges in the county; for the planning, development, expansion, operation, and maintenance of bus and fixed guideway systems; for the planning, development, construction, operation, and maintenance of on-demand

transportation services; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges. Pursuant to an interlocal agreement entered into pursuant to chapter 163, the governing body of the county may distribute proceeds from the tax to a municipality, or an expressway or transportation authority created by law to be expended for the purpose authorized by this paragraph. Any county that has entered into interlocal agreements for distribution of proceeds to one or more municipalities in the county shall revise such interlocal agreements no less than every 5 years in order to include any municipalities that have been created since the prior interlocal agreements were executed.

(e) As used in this subsection, the term “on-demand transportation services” means transportation provided between flexible points of origin and destination selected by individual users with such service being provided at a time that is agreed upon by the user and the provider of the service and that is not fixed-schedule or fixed-route in nature.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county’s population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county’s population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

| | |
|-------------|-----------------|
| FOR the | -cent sales tax |
| AGAINST the | -cent sales tax |

(c) Pursuant to s. [212.054](#)(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county’s municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county’s municipal population; or

2. If there is no interlocal agreement, according to the formula provided in s. [218.62](#).

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for

public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. [125.011](#), and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term “infrastructure” means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term “public facilities” means facilities as defined in s. [163.3164](#)(38), s. [163.3221](#)(13), or s. [189.012](#)(5), regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. [29.008](#).

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. [252.38](#). Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term “energy efficiency improvement” means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. [206.9951](#); and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f)1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

- a. The debt service obligations for any year are met;
- b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and
- c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. [125.66](#) authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. [166.041](#) authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section. A county that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation, and that qualified to use the surtax for any public purpose at the time of the removal of the designation, may continue to use up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes for 20 years following removal of the designation, notwithstanding subparagraph (a)2. After expiration of the 20-year period, a county may continue to use up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure if the county adopts an ordinance providing for such continued use of the surtax proceeds.

(g) Notwithstanding paragraph (d), a county having a population greater than 75,000 in which the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes for the tax year in which an infrastructure surtax referendum is placed before the voters, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax throughout the duration of the surtax levy or while interest earnings accruing from the proceeds of the surtax are available for such use, whichever period is longer.

(h) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), and (5) in excess of a combined rate of 1 percent.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority if the surtax revenues are expended for

operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement that includes a brief general description of the projects to be funded by the surtax and conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing authority of any county that enacts an ordinance calling for a referendum on the levy of the surtax for the purpose of servicing bond indebtedness. The following question shall be placed on the ballot:

| | |
|-------------|-----------------|
| FOR the | -cent sales tax |
| AGAINST the | -cent sales tax |

(c) Pursuant to s. [212.054](#)(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within the county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or
2. If there is no interlocal agreement, according to the formula provided in s. [218.62](#).

Any change in the distribution formula shall take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. If the surtax is levied pursuant to a referendum, the proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. However, if the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the members of the county governing authority, the proceeds and any interest accrued thereto may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(e) A school district, county, or municipality that receives proceeds under this subsection following a referendum may pledge the proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. A jurisdiction may not issue bonds pursuant to this subsection more frequently than once per year. A county and municipality may join together to issue bonds authorized by this subsection.

(f) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), and (5) in excess of a combined rate of 1 percent.

(4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

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

2. If the ordinance is conditioned on a referendum, a statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . .CENTS TAX
AGAINST THE. . .CENTS TAX

3. The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in subparagraph 4. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. The plan must also address the services to be provided by the Level I trauma center. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers, including hospitals with a Level I trauma center, will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, promote the advancement of technology in medical services, recognize the level of responsiveness to medical needs in trauma cases, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. [286.011](#) as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. [408.07](#). The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

4. For the purpose of this paragraph, the term “qualified resident” means residents of the authorizing county who are:

- a. Qualified as indigent persons as certified by the authorizing county;
- b. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or
- c. Participating in innovative, cost-effective programs approved by the authorizing county.

5. 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 an indigent health care 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, to any provider of health care services, as provided in subparagraphs 3. and 4., upon directive from the authorizing county. However, if a county has a population of at least 800,000 residents and has levied the surtax authorized in this paragraph, notwithstanding any directive from the authorizing county, on October 1 of each calendar year, the clerk of the court shall issue a check in the amount of \$6.5 million to a hospital in its jurisdiction that has a Level I trauma center or shall issue a check in the amount of \$3.5 million to a hospital in its jurisdiction that has a Level I trauma center if that county enacts and implements a hospital lien law in accordance with chapter 98-499, Laws of Florida. The issuance of the checks on October 1 of each year is provided in recognition of the Level I trauma center status and shall be in addition to the base contract amount

received during fiscal year 1999-2000 and any additional amount negotiated to the base contract. If the hospital receiving funds for its Level I trauma center status requests such funds to be used to generate federal matching funds under Medicaid, the clerk of the court shall instead issue a check to the Agency for Health Care Administration to accomplish that purpose to the extent that it is allowed through the General Appropriations Act; and

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

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

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

1. A statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing body of the county. The following shall be placed on the ballot:

FOR THE. . .CENTS TAX
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.

4. A discretionary sales surtax imposed pursuant to this paragraph shall expire 4 years after the effective date of the surtax, unless reenacted by ordinance subject to approval by a majority of the electors of the county voting in a subsequent referendum.

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

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

(a) The rate shall be 0.5 percent.

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

(c) Proceeds from the surtax shall be:

1. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and
2. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

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

1. Twenty-five percent of such amount must be remitted to a governing board, agency, or authority that is wholly independent from the public health trust, agency, or authority responsible for the county public general hospital, to be used solely for the purpose of funding the plan for indigent health care services provided for in paragraph (e);
2. However, in the first year of the plan, a total of \$10 million shall be remitted to such governing board, agency, or authority, to be used solely for the purpose of funding the plan for indigent health care services provided for in paragraph (e), and in the second year of the plan, a total of \$15 million shall be so remitted and used.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County Public Health Trust, the Dade County Medical Association, the Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not disbursed by the county for any other purpose.

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

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. [397.311](#)(45). Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate to be determined by the governing board, agency, or authority created pursuant to this paragraph for the initial emergency room visit, and a per-member per-

month fee or capitation for those members enrolled in their service area, as compensation for the services rendered following the initial emergency visit. Except for provisions of emergency services, upon determination of eligibility, enrollment shall be deemed to have occurred at the time services were rendered. The provisions for specific reimbursement of emergency services shall be repealed on July 1, 2001, unless otherwise reenacted by the Legislature. The capitation amount or rate shall be determined before program implementation by an independent actuarial consultant. In no event shall such reimbursement rates exceed the Medicaid rate. The plan must also provide that any hospitals owned and operated by government entities on or after the effective date of this act must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. [286.011](#) as to any meeting of the governing board, agency, or authority the subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.

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

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

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

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

(6) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. The statement shall conform to the requirements of s. [101.161](#) and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

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(c) The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.

(d) Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

(7) VOTER-APPROVED INDIGENT CARE SURTAX.—

(a)1. The governing body in each county that has a population of fewer than 800,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the

electors of the county voting in a referendum. The surtax may be levied at a rate not to exceed 0.5 percent, except that if a publicly supported medical school is located in the county, the rate shall not exceed 1 percent.

2. Notwithstanding subparagraph 1., the governing body of any county that has a population of fewer than 50,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. The surtax may be levied at a rate not to exceed 1 percent.

(b) A statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . CENTS TAX
AGAINST THE. . . CENTS TAX

(c)1. The ordinance adopted by the governing body providing for the imposition of the surtax must set forth a plan for providing health care services to qualified residents, as defined in paragraph (d). The plan and subsequent amendments to it shall fund a broad range of health care services for indigent persons and the medically poor, including, but not limited to, primary care and preventive care, as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers shall include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment, including, but not limited to, case management. The plan must also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

2. In addition to the uses specified or services required to be provided under this subsection, the ordinance adopted by a county that has a population of fewer than 50,000 residents may pledge surtax proceeds to service new or existing bond indebtedness incurred to finance, plan, construct, or reconstruct a public or not-for-profit hospital in such county and any land acquisition, land improvement, design, or engineering costs related to such hospital, if the governing body of the county determines that a public or not-for-profit hospital existing at the time of issuance of the bonds authorized under this subparagraph would, more likely than not, otherwise cease to operate. The plan required under this paragraph may, by an extraordinary vote of the governing body of such county, provide that some or all of the surtax revenues and any interest earned must be expended for the purpose of servicing such bond indebtedness. Such county may also use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue bonds under this subparagraph. A jurisdiction may not issue bonds under this subparagraph more frequently than once per year. Any county that has a population of fewer than 50,000 residents at the time any bonds authorized in this subparagraph are issued retains the authority granted under this subparagraph throughout the terms of such bonds, including the term of any refinancing bonds, regardless of any subsequent increase in population which would result in such county having 50,000 or more residents.

(d) For the purpose of this subsection, the term “qualified residents” means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;
2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; not being eligible for any other state or federal program or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county shall serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(e) Moneys collected pursuant to this subsection 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:

1. Maintain the moneys in an indigent health care trust fund.

2. Invest any funds held on deposit in the trust fund pursuant to general law.

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs (c) and (d), upon directive from the authorizing county.

4. Disburse the funds, including any interest earned, to service any bond indebtedness authorized in this subsection upon directive from the authorizing county, which directive may be irrevocably given at the time the bond indebtedness is incurred.

(f) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent or, if a publicly supported medical school is located in the county or the county has a population of fewer than 50,000 residents, in excess of a combined rate of 1.5 percent.

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

(a) The governing authority of a county, other than a county that has imposed two separate discretionary surtaxes without expiration, may, by ordinance, levy a discretionary sales surtax of up to 1 percent for emergency fire rescue services and facilities as provided in this subsection. As used in this subsection, the term “emergency fire rescue services” includes, but is not limited to, preventing and extinguishing fires; protecting and saving life and property from fires or natural or intentional acts or disasters; enforcing municipal, county, or state fire prevention codes and laws pertaining to the prevention and control of fires; and providing prehospital emergency medical treatment.

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum shall be placed on the ballot of a regularly scheduled election. The ballot for the referendum must conform to the requirements of s. [101.161](#).

(c) Pursuant to s. [212.054](#)(4), the proceeds of the discretionary sales surtax collected under this subsection, less an administrative fee that may be retained by the Department of Revenue, shall be distributed by the department to the county. The county shall distribute the proceeds it receives from the department to each local government entity providing emergency fire rescue services in the county. The surtax proceeds, less an administrative fee not to exceed 2 percent of the surtax collected, shall be distributed by the county based on each entity’s average annual expenditures for fire control and emergency fire rescue services in the 5 fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the 5 fiscal years preceding the fiscal year in which the surtax takes effect. The county shall revise the distribution proportions to reflect a change in the service area of an entity receiving a distribution of the surtax proceeds. If an entity declines its share of surtax revenue, such revenue shall be redistributed proportionally to the entities that are participating in the sharing of such revenue based on each participating entity’s average annual expenditures for fire control and emergency fire rescue services in the preceding 5 fiscal years in proportion to the average annual total of the expenditures for the participating entities in the preceding 5 fiscal years.

(d) If a local government entity requests personnel or equipment from any other service provider on a long-term basis and the personnel or equipment is provided, the local government entity providing the service is entitled to payment from the requesting service provider from that provider’s share of the surtax proceeds for all costs of the equipment or personnel.

(e) Upon the surtax taking effect and initiation of collections, each local government entity receiving a share of surtax proceeds shall reduce the ad valorem tax levy or any non-ad valorem assessment for fire control and emergency rescue services in its next and subsequent budgets by the estimated amount of revenue provided by the surtax.

(f) Use of surtax proceeds authorized under this subsection does not relieve a local government entity from complying with chapter 200 and any related provision of law that establishes millage caps or limits undesignated budget reserves and procedures for establishing rollback rates for ad valorem taxes and budget adoption. If surtax collections exceed projected collections in any fiscal year, any surplus distribution shall be used to further reduce ad valorem taxes in the next fiscal year. These proceeds shall be applied as a rebate to the final millage, after the TRIM notice is completed in accordance with this provision. If a local government entity receiving a share of the surtax is unable to further reduce ad valorem taxes because the millage rate is zero, the funds shall be applied to reduce any non-ad valorem assessments levied for the purposes described in this section. If no ad valorem or non-ad valorem reduction is possible, the surplus surtax collections shall be returned to the county, and the county shall reduce the county millage rates to offset the surplus surtax proceeds.

(g) Surtax collections shall be initiated on January 1 of the year following a successful referendum in order to coincide with s. [212.054](#)(5).

(h) Notwithstanding s. [212.054](#), if a multicounty independent special district created pursuant to chapter 67-764, Laws of Florida, levies ad valorem taxes on district property to fund emergency fire rescue services within the district and is required by s. 2, Art. VII of the State Constitution to maintain a uniform ad valorem tax rate throughout the district, the county may not levy the discretionary sales surtax authorized by this subsection within the boundaries of the district.

(9) PENSION LIABILITY SURTAX.—

(a) The governing body of a county may levy a pension liability surtax to fund an underfunded defined benefit retirement plan or system, pursuant to an ordinance conditioned to take effect upon approval by a majority vote of the electors of the county voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. [112.63](#) must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may only impose the surtax if:

1. An employee, including a police officer or firefighter, who enters employment on or after the date when the local government certifies that the defined benefit retirement plan or system formerly available to such an employee has been closed may not enroll in a defined benefit retirement plan or system that will receive surtax proceeds.
2. The local government and the collective bargaining representative for the members of the underfunded defined benefit retirement plan or system or, if there is no representative, a majority of the members of the plan or system, mutually consent to requiring each member to make an employee retirement contribution of at least 10 percent of each member's salary for each pay period beginning with the first pay period after the plan or system is closed.
3. The pension board of trustees for the underfunded defined benefit retirement plan or system, if such board exists, is prohibited from participating in the collective bargaining process and engaging in the determination of pension benefits.
4. The county currently levies a local government infrastructure surtax pursuant to subsection (2) which is scheduled to terminate and is not subject to renewal.
5. The pension liability surtax does not take effect until the local government infrastructure surtax described in subparagraph 4. is terminated.

(b) A referendum to adopt a pension liability surtax must meet the requirements of s. [101.161](#) and must include a brief and general description of the purposes for which the surtax proceeds will be used.

(c) Pursuant to s. [212.054](#)(4), the proceeds of the surtax collected under this subsection, less an administrative fee that may be retained by the department, shall be distributed by the department to the local government.

(d) The local government may use the pension liability surtax proceeds in the following manner:

1. If the proceeds of the pension liability surtax have been actuarially recognized as provided in s. [112.64](#)(6), the local government must distribute the proceeds to an eligible defined benefit retirement plan or system, not including the Florida Retirement System.

2. If the proceeds of the pension liability surtax have not been actuarially recognized, the local government is authorized to distribute the proceeds to an eligible defined benefit retirement plan or system, not including the Florida Retirement System, to pledge the proceeds of the surtax to repay debts incurred for the purpose of making advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system, and to reimburse itself from the proceeds of the surtax for any borrowing costs associated with such debts.

(e) The ordinance providing for the imposition of the pension liability surtax must specify how the proceeds will be used:

1. The ordinance must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system if the proceeds of the pension liability surtax are actuarially recognized as provided in s. [112.64](#)(6).

2. The ordinance must specify the local government's intention to incur debt for the purpose of making advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system if the proceeds of the pension liability surtax are not actuarially recognized as provided in s. [112.64](#)(6).

(f) A pension liability surtax imposed pursuant to this subsection shall terminate on December 31 of the year in which the actuarial funding level is expected to reach or exceed 100 percent for the defined benefit retirement plan or system for which the surtax was levied or December 31, 2060, whichever occurs first. The most recent actuarial report submitted to the Department of Management Services pursuant to s. [112.63](#) must be used to establish the level of actuarial funding.

(g) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2), (3), (4), and (5) in excess of a combined rate of 1 percent.

History.—s. 2, ch. 76-284; s. 5, ch. 82-154; s. 3, ch. 83-3; s. 1, ch. 84-373; s. 1, ch. 84-555; s. 25, ch. 85-180; s. 70, ch. 85-342; s. 8, ch. 87-99; s. 1, ch. 87-100; s. 2, ch. 87-239; s. 12, ch. 87-548; s. 85, ch. 90-132; s. 4, ch. 90-203; s. 1, ch. 90-282; ss. 2, 3, ch. 91-81; s. 29, ch. 91-112; s. 2, ch. 91-418; s. 1, ch. 91-423; s. 148, ch. 92-279; ss. 1, 2, ch. 92-309; s. 55, ch. 92-326; s. 3, ch. 93-207; s. 3, ch. 93-222; s. 51, ch. 94-356; s. 1, ch. 95-258; s. 1, ch. 96-240; s. 1, ch. 97-83; s. 17, ch. 97-384; s. 7, ch. 98-258; s. 9, ch. 98-342; s. 4, ch. 99-4; s. 1, ch. 99-340; s. 54, ch. 99-385; s. 40, ch. 2000-151; ss. 10, 11, 13, 16, ch. 2000-312; s. 78, ch. 2000-318; s. 33, ch. 2001-60; s. 100, ch. 2002-20; s. 7, ch. 2002-196; s. 1, ch. 2003-77; ss. 33, 42, ch. 2003-254; s. 91, ch. 2003-402; s. 6, ch. 2004-41; s. 1, ch. 2004-66; s. 1, ch. 2004-259; s. 3, ch. 2005-55; s. 1, ch. 2005-56; s. 1, ch. 2005-96; s. 1, ch. 2005-242; s. 1, ch. 2006-66; s. 2, ch. 2006-223; s. 14, ch. 2007-196; s. 19, ch. 2009-96; s. 1, ch. 2009-132; s. 1, ch. 2009-146; s. 1, ch. 2009-182; s. 1, ch. 2010-154; s. 1, ch. 2010-225; s. 5, ch. 2011-15; s. 3, ch. 2012-117; s. 14, ch. 2013-198; s. 6, ch. 2015-100; s. 1, ch. 2015-169; s. 2, ch. 2016-146; s. 2, ch. 2016-225; s. 64, ch. 2016-241; s. 27, ch. 2017-173.

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