

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/HB 1297 — Discretionary Sales Surtaxes

by State Affairs Committee and Reps. Cummings, Ray, and others (CS/CS/SB 1652 by Finance and Tax Committee; Community Affairs Committee; and Senators Bradley, Bean, Hutson, and Gibson)

In addition to the 6 percent state sales tax, the Florida Statutes authorize counties to charge discretionary sales surtaxes, which must be specifically designated by statute. Eight different types of local discretionary sales surtaxes (also referred to as local option sales taxes) are currently authorized and represent potential revenue sources for county and municipal governments and school districts. The local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions authorized pursuant to ch. 212, F.S., and communications services as defined for the purposes of ch. 202, F.S.

The eight types of local discretionary sales surtaxes are:

- The Charter County and Regional Transportation System Surtax in s. 212.055(1), F.S.;
- The Local Government Infrastructure Surtax in s. 212.055(2), F.S.;
- The Small County Surtax in s. 212.055(3), F.S.;
- The Indigent Care and Trauma Center Surtax in s. 212.055(4), F.S.;
- The County Public Hospital Surtax in s. 212.055(5), F.S.;
- School Capital Outlay Surtax in s. 212.055(6), F.S.;
- The Voter-Approved Indigent Care Surtax in s. 212.055(7), F.S.; and
- The Emergency Fire Rescue Services and Facilities Surtax in s. 212.055(8), F.S.

The bill provides that a county may levy a new local discretionary sales surtax, the pension liability surtax, to fund underfunded defined benefit retirement plans or systems at a rate up to 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 pension liability surtax terminates at the end of the year when the actuarial funding level of the plan or system for which the tax was levied reaches or exceeds 100 percent, or December 31, 2060, whichever occurs earlier.

The county may levy the pension liability surtax only if:

- An employee who enters employment on or after the date that the local government closes an underfunded defined benefit retirement plan or system is prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds;
- The local government and the collecting 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;

- The pension board of trustees for the 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; and
- The county currently levies a local government infrastructure surtax which is scheduled to terminate and is not subject to renewal.

The Department of Revenue is authorized to retain an administrative fee from the surtax proceeds. Proceeds of the tax must be distributed to an eligible defined benefit retirement plan or system if the proceeds have been actuarially recognized; if the proceeds have not been actuarially recognized the local government may borrow against the anticipated revenue and use the proceeds to repay these debts, reimburse itself for borrowing costs, and make distributions to an eligible defined benefit retirement plan or system.

The bill limits to 1 percent the combined rate of the Pension Liability Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent and Trauma Center Surtax, and the County Public Hospital Surtax.

The surtax must be enacted by ordinance and approved by a majority of electors of the county voting in a referendum.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 35-1; House 86-23