

By the Committee on Community Affairs; and Senator Lee

578-03520-19

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1                   A bill to be entitled  
2           An act relating to discretionary sales surtaxes;  
3           amending s. 212.055, F.S.; providing that a referendum  
4           to adopt or amend a local discretionary sales surtax  
5           must be held at a general election; requiring a  
6           petition sponsor of an initiative to adopt a charter  
7           county and regional transportation system surtax to  
8           comply with specified requirements within a specified  
9           timeframe before the proposed referendum; requiring a  
10          county to make the proposed referendum and a specified  
11          legal opinion available on its official website;  
12          requiring the Office of Program Policy Analysis and  
13          Government Accountability, upon receiving a certain  
14          notice, to procure a certified public accountant for a  
15          performance audit; requiring a supervisor of elections  
16          to verify petition signatures and retain signature  
17          forms in a specified manner; providing that an  
18          initiative sponsor's failure to comply with the  
19          specified requirements renders any referendum held  
20          void; revising requirements and procedures for  
21          counties, school districts, and the office relating to  
22          performance audits; providing that the failure to  
23          comply with certain requirements renders any  
24          referendum held to adopt a discretionary sales surtax  
25          void; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

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29          Section 1. Present subsection (10) of section 212.055,

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30 Florida Statutes, is redesignated as subsection (11) and  
31 amended, a new subsection (10) is added to that section, and  
32 paragraph (c) of subsection (1), paragraph (b) of subsection  
33 (5), and paragraph (b) of subsection (8) are amended, to read:

34 212.055 Discretionary sales surtaxes; legislative intent;  
35 authorization and use of proceeds.—It is the legislative intent  
36 that any authorization for imposition of a discretionary sales  
37 surtax shall be published in the Florida Statutes as a  
38 subsection of this section, irrespective of the duration of the  
39 levy. Each enactment shall specify the types of counties  
40 authorized to levy; the rate or rates which may be imposed; the  
41 maximum length of time the surtax may be imposed, if any; the  
42 procedure which must be followed to secure voter approval, if  
43 required; the purpose for which the proceeds may be expended;  
44 and such other requirements as the Legislature may provide.  
45 Taxable transactions and administrative procedures shall be as  
46 provided in s. 212.054.

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

49 (c) 1. The proposal to adopt a discretionary sales surtax as  
50 provided in this subsection and to create a trust fund within  
51 the county accounts shall be placed on the ballot in accordance  
52 with law and must be approved in a referendum held at a general  
53 election in accordance with subsection (10) at a time to be set  
54 at the discretion of the governing body.

55 2. If the proposal to adopt a surtax is by initiative, the  
56 petition sponsor must, at least 180 days before the proposed  
57 referendum, comply with all of the following:

58 a. Obtain an independent written legal opinion from an

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59 attorney who is a member in good standing of The Florida Bar  
60 which verifies that the proposed referendum complies with state  
61 law, and provide the proposed referendum and legal opinion to  
62 the governing body of the county. The county shall make the  
63 proposed referendum and legal opinion available on its official  
64 website.

65 b. Provide a copy of the final resolution or ordinance to  
66 the Office of Program Policy Analysis and Government  
67 Accountability. The Office of Program Policy Analysis and  
68 Government Accountability shall procure a certified public  
69 accountant in accordance with subsection (10) for the  
70 performance audit.

71 c. File the initiative petition and its required valid  
72 signatures with the supervisor of elections. The supervisor of  
73 elections shall verify signatures and retain signature forms in  
74 the same manner as required for initiatives under s. 100.371(3).

75 3. The failure of an initiative sponsor to comply with the  
76 requirements of subparagraph 2. renders any referendum held  
77 void.

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

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88 (b) If the ordinance is conditioned on a referendum, the  
89 proposal to adopt the county public hospital surtax shall be  
90 placed on the ballot in accordance with subsection (10) ~~law at a~~  
91 ~~time to be set at the discretion of the governing body~~. The  
92 referendum question on the ballot shall include a brief general  
93 description of the health care services to be funded by the  
94 surtax.

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

96 (b) Upon the adoption of the ordinance, the levy of the  
97 surtax must be placed on the ballot by the governing authority  
98 of the county enacting the ordinance. The ordinance will take  
99 effect if approved by a majority of the electors of the county  
100 voting in a referendum held for such purpose. The referendum  
101 shall be placed on the ballot of a general ~~regularly scheduled~~  
102 election. The ballot for the referendum must conform to the  
103 requirements of s. 101.161.

104 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a  
105 local government discretionary sales surtax under this section  
106 must be held at a general election as defined in s. 97.021.

107 (11) ~~(10)~~ PERFORMANCE AUDIT.—

108 (a) ~~For any referendum held on or after March 23, 2018, To~~  
109 adopt a discretionary sales surtax under this section, an  
110 independent certified public accountant licensed pursuant to  
111 chapter 473 shall conduct a performance audit of the program  
112 associated with the proposed surtax ~~adoption proposed by the~~  
113 ~~county or school district~~.

114 (b)1. At least 180 days before the referendum is held, the  
115 county or school district shall provide a copy of the final  
116 resolution or ordinance to the Office of Program Policy Analysis

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117 and Government Accountability.

118 2. Within 30 days after receiving the final resolution or  
119 ordinance, the Office of Program Policy Analysis and Government  
120 Accountability shall procure the certified public accountant and  
121 may use carryforward funds to pay for the services of the  
122 certified public accountant.

123 3.~~(b)~~ At least 60 days before the referendum is held, the  
124 performance audit must ~~shall~~ be completed and the audit report,  
125 including any findings, recommendations, or other accompanying  
126 documents, must ~~shall~~ be made available on the official website  
127 of the county or school district.

128 4. The county or school district shall keep the information  
129 on its website for 2 years from the date it was posted.

130 5. The failure to comply with the requirements under  
131 subparagraph 1. or subparagraph 3. renders any referendum held  
132 to adopt a discretionary sales surtax void.

133 (c) For purposes of this subsection, the term "performance  
134 audit" means an examination of the program conducted according  
135 to applicable government auditing standards or auditing and  
136 evaluation standards of other appropriate authoritative bodies.  
137 At a minimum, a performance audit must include an examination of  
138 issues related to the following:

139 1. The economy, efficiency, or effectiveness of the  
140 program.

141 2. The structure or design of the program to accomplish its  
142 goals and objectives.

143 3. Alternative methods of providing program services or  
144 products.

145 4. Goals, objectives, and performance measures used by the

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146 program to monitor and report program accomplishments.

147 5. The accuracy or adequacy of public documents, reports,  
148 and requests prepared by the county or school district which  
149 relate to the program.

150 6. Compliance of the program with appropriate policies,  
151 rules, and laws.

152 (d) This subsection does not apply to a referendum held to  
153 adopt the same discretionary surtax that was in place during the  
154 month of December immediately before the date of the referendum.

155 Section 2. This act shall take effect October 1, 2019.