

Tab 1	CS/SB 272 by CA, Brandes; (Similar to CS/H 00317) Local Tax Referenda						
320014	D	S	L	RCS	AFT, Brandes	Delete everything after	01/18 03:00 PM

Tab 2	CS/SB 620 by CM, Passidomo (CO-INTRODUCERS) Young; Disaster Preparedness Tax Exemption						
176628	A	S	RCS	AFT, Passidomo	Delete L.13 - 62:		01/18 03:00 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND TAX
Senator Stargel, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, January 16, 2018
TIME: 10:00 a.m.—12:00 noon
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Stargel, Chair; Senator Garcia, Vice Chair; Senators Campbell, Perry, Rodriguez, and Steube

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 272 Community Affairs / Brandes (Similar CS/H 317)	Local Tax Referenda; Revising the voter approval threshold required to pass a referendum to adopt or amend local government discretionary sales surtaxes when the referendum is held at any date other than a general election, etc. CA 10/24/2017 Fav/CS AFT 01/16/2018 Fav/CS AP RC	Fav/CS Yeas 6 Nays 0
2	CS/SB 620 Commerce and Tourism / Passidomo	Disaster Preparedness Tax Exemption; Providing a sales and use tax exemption for certain tangible personal property related to disaster preparedness during a specified period, etc. CM 11/13/2017 Fav/CS AFT 01/16/2018 Fav/CS AP	Fav/CS Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: PCS/CS/SB 272 (245118)

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Community Affairs Committee and Senator Brandes

SUBJECT: Local Tax Referenda

DATE: January 18, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 272 provides that a referendum to adopt or amend a local option discretionary sales surtax must be held at a general election. The bill has no impact on state or local revenues or expenditures.

II. Present Situation:

Discretionary Sales Surtax

The Florida Constitution preempts all forms of taxation to the state, except for ad valorem taxes on real estate and tangible personal property, unless otherwise provided by general law.¹ Counties have limited authority to levy discretionary sales surtaxes on transactions subject to state sales tax.^{2,3} The Legislature has authorized the following local option discretionary sales surtaxes:

- Charter County and Regional Transportation System Surtax, for operating a transportation system in a charter county, a county which is consolidated with that of one or more municipalities, or a county that is within or under an interlocal agreement with a regional transportation or transit authority.⁴

¹ Art. VII, s. 1(a), Fla. Const.

² Sections 212.054 and 212.055, F.S.

³ Surtaxes only apply to the first \$5,000 of a taxable transaction pursuant to s. 212.054(2)(b)1, F.S.

⁴ Section 212.055(1), F.S.

- Local Government Infrastructure Surtax, for financing local government infrastructure projects.⁵
- Small County Surtax, providing additional revenue for counties having fewer than 50,000 residents as of April 1, 1992.⁶
- Indigent Care and Trauma Center Surtax, for providing medical care for indigent persons (in non-consolidated counties having a population of at least 800,000) and funding trauma centers (in non-consolidated counties having a population less than 800,000).⁷
- County Public Hospital Surtax, for operating, maintaining, and administering a county public general hospital in a county as defined in s. 125.011(1), F.S. (i.e., Miami-Dade County).⁸
- School Capital Outlay Surtax, for constructing and renovating schools.⁹
- Voter-Approved Indigent Care Surtax, for providing medical care for indigent persons in counties with a population less than 800,000.¹⁰
- Emergency Fire Rescue Services and Facilities Surtax, for providing emergency fire rescue services and facilities.¹¹
- Pension Liability Surtax for funding pension liability shortfalls.¹²

Local discretionary sales surtaxes are collected by the Department of Revenue (DOR) using the same procedures used for the administration, collection, and enforcement of the general state sales tax.¹³ DOR places these funds into the Discretionary Sales Surtax Clearing Trust Fund. A separate account is established for each county imposing a discretionary surtax. The proceeds of the surtax are distributed to the county on a monthly basis, minus an administrative fee of the lesser of three percent or administrative costs solely and directly attributable to the surtax. Each county is liable for its prorated share of administrative costs, based on its prorated share of the amount collected statewide.¹⁴

New surtaxes and rate changes to existing surtaxes take effect on January 1, while the repeal of an existing surtax takes effect on December 31.¹⁵ The governing body of the county or the school district must notify DOR of the imposition, termination, or rate change of a discretionary sales surtax within 10 days of final adoption by ordinance or referendum, but no later than November 16. The notification must include the duration of the surtax, the surtax rate, a copy of the ordinance, and any additional information DOR requires by rule.¹⁶ If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.¹⁷ Counties and school districts are also required to notify DOR if a referendum or consideration of an ordinance to impose, terminate, or change the rate of a surtax is to occur after October 1.¹⁸

⁵ Section 212.055(2), F.S.

⁶ Section 212.055(3), F.S.

⁷ Section 212.055(4), F.S.

⁸ Section 212.055(5), F.S.

⁹ Section 212.055(6), F.S.

¹⁰ Section 212.055(7), F.S.

¹¹ Section 212.055(8), F.S.

¹² Section 212.055(9), F.S.

¹³ Section 212.054(4)(a), F.S.

¹⁴ Section 212.054(4)(b), F.S.

¹⁵ Section 212.054(5), F.S.

¹⁶ Section 212.054(7)(a), F.S.

¹⁷ *Id.*

¹⁸ Section 212.054(7)(b), F.S. The deadline for this notification is October 1.

The 49 counties and 16 school districts levying one or more discretionary sales surtaxes were projected to realize \$2.35 billion in revenue in fiscal year 2016-17.¹⁹ If all counties and school districts levied discretionary sales surtaxes at the maximum possible rates, they would have been projected to raise \$11.68 billion in revenue in fiscal year 2016-17.²⁰

Most local discretionary sales surtaxes may be approved only by referendum, while some may be approved by an extraordinary vote of the county commission.²¹ For those requiring voter approval, the referendum must be approved by a majority of electors voting.²² Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.²³

Referendum Process

The Florida Election Code provides the general requirements for a referendum.²⁴ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.²⁵ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.²⁶ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.²⁷ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.²⁸

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.²⁹ A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.³⁰

¹⁹ *2017 Florida Tax Handbook*, Office of Economic and Demographic Research, p. 220, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Oct. 16, 2017).

²⁰ *2016 Local Government Financial Information Handbook*, Office of Economic and Demographic Research, p. 150, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih16.pdf> (last visited Oct. 16, 2017).

²¹ See generally s. 212.055, F.S., but see s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission, as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

²² Section 212.055, F.S.

²³ E.g. s. 212.055(1)(c), F.S. and s. 212.055(5), F.S. (referendum for charter county and regional transportation system and county public hospital surtax to be held at a time “set at the discretion of the governing body”); but see s. 212.055(8)(b), F.S. (referendum for emergency fire rescue services and facilities surtax must be placed on the ballot of a “regularly scheduled election”).

²⁴ Section 101.161, F.S.

²⁵ Section 101.161(1), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ See s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

²⁹ Section 97.021(11), F.S.

³⁰ Art. VI, s. 5(a), Fla. Const. (also codified as s. 97.021(16), F.S.).

III. Effect of Proposed Changes:

Section 1 amends s. 212.055, F.S., to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. This will limit the timing and frequency of these referenda to even-year November elections.

Section 2 provides that the act takes effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Subsection 18(b) of article VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote of the membership, may not enact a general law if the anticipated effect of doing so would be to reduce the *authority* that counties or municipalities have to raise revenues in the aggregate.

In 1991, Senate President Margolis and House Speaker Wetherell released a memorandum to guide the House and Senate in the review of local government mandates. In the memorandum, the guidelines define the term “authority” to mean the power to levy a tax; the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one; the tax rate which can be levied; and the base against which the tax is levied, e.g., a bill providing a sales tax exemption should be considered a reduction in authority because counties have authority to levy local option sales taxes against the state sales tax base.

The bill requires that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. While the bill limits the flexibility that counties and municipalities have for scheduling a referendum, it does not limit the authority they have to raise revenues. Therefore, the bill does not appear to be a mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Finance and Tax on January 16, 2018:

Provides that a referendum to adopt or amend a local government discretionary sales surtax must be held at a general election, and is effective upon becoming a law.

CS by Community Affairs Committee on October 24, 2017:

Removes a provision that required a municipality to attain a vote of at least 60 percent of the governing body of the municipality in order to increase the millage rate of ad valorem taxes levied on real and tangible personal property within the municipality.

- B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2018	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Brandes)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (c) of subsection (1), paragraph (b)
of subsection (5), and paragraph (b) of subsection (8) of
section 212.055, Florida Statutes, are amended, and subsection
(10) is added to that section, to read:

212.055 Discretionary sales surtaxes; legislative intent;
authorization and use of proceeds.—It is the legislative intent



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11 that any authorization for imposition of a discretionary sales
12 surtax shall be published in the Florida Statutes as a
13 subsection of this section, irrespective of the duration of the
14 levy. Each enactment shall specify the types of counties
15 authorized to levy; the rate or rates which may be imposed; the
16 maximum length of time the surtax may be imposed, if any; the
17 procedure which must be followed to secure voter approval, if
18 required; the purpose for which the proceeds may be expended;
19 and such other requirements as the Legislature may provide.
20 Taxable transactions and administrative procedures shall be as
21 provided in s. 212.054.

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

24 (c) The proposal to adopt a discretionary sales surtax as
25 provided in this subsection and to create a trust fund within
26 the county accounts shall be placed on the ballot in accordance
27 with law and must be approved in a referendum held at a general
28 election as set forth in subsection (10) at a time to be set at
29 the discretion of the governing body.

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



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40 (b) If the ordinance is conditioned on a referendum, the
41 proposal to adopt the county public hospital surtax shall be
42 placed on the ballot in accordance with subsection (10) ~~law at a~~
43 ~~time to be set at the discretion of the governing body.~~ The
44 referendum question on the ballot shall include a brief general
45 description of the health care services to be funded by the
46 surtax.

47 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.-

48 (b) Upon the adoption of the ordinance, the levy of the
49 surtax must be placed on the ballot by the governing authority
50 of the county enacting the ordinance. The ordinance will take
51 effect if approved by a majority of the electors of the county
52 voting in a referendum held for such purpose. The referendum
53 shall be placed on the ballot of a general ~~regularly scheduled~~
54 election. The ballot for the referendum must conform to the
55 requirements of s. 101.161.

56 (10) DATES FOR REFERENDA.-A referendum to adopt or amend a
57 local government discretionary sales surtax under this section
58 shall be held at a general election as defined in s. 97.021.

59 Section 2. This act shall take effect upon becoming a law.

60
61 ===== T I T L E A M E N D M E N T =====

62 And the title is amended as follows:

63 Delete everything before the enacting clause
64 and insert:

65 A bill to be entitled
66 An act relating to local tax referenda; amending s.
67 212.055, F.S.; providing that a referendum to adopt or
68 amend a local discretionary sales surtax must be held



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69

at a general election; providing an effective date.

By the Committee on Community Affairs; and Senator Brandes

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1 A bill to be entitled
 2 An act relating to local tax referenda; amending s.
 3 212.055, F.S.; revising the voter approval threshold
 4 required to pass a referendum to adopt or amend local
 5 government discretionary sales surtaxes when the
 6 referendum is held at any date other than a general
 7 election; conforming provisions to changes made by the
 8 act; providing an effective date.

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

11 Section 1. Paragraphs (a) and (c) of subsection (1),
 12 paragraph (a) of subsection (2), paragraph (a) of subsection
 13 (3), subsections (4) and (5), paragraph (a) of subsection (6),
 14 paragraph (a) of subsection (7), paragraph (b) of subsection
 15 (8), and paragraph (a) of subsection (9) of section 212.055,
 16 Florida Statutes, are amended, and subsection (10) is added to
 17 that section, to read:

19 212.055 Discretionary sales surtaxes; legislative intent;
 20 authorization and use of proceeds.—It is the legislative intent
 21 that any authorization for imposition of a discretionary sales
 22 surtax shall be published in the Florida Statutes as a
 23 subsection of this section, irrespective of the duration of the
 24 levy. Each enactment shall specify the types of counties
 25 authorized to levy; the rate or rates which may be imposed; the
 26 maximum length of time the surtax may be imposed, if any; the
 27 procedure which must be followed to secure voter approval, if
 28 required; the purpose for which the proceeds may be expended;
 29 and such other requirements as the Legislature may provide.

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30 Taxable transactions and administrative procedures shall be as
 31 provided in s. 212.054.

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

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

43 (c) The proposal to adopt a discretionary sales surtax as
 44 provided in this subsection and to create a trust fund within
 45 the county accounts shall be placed on the ballot in accordance
 46 with law and must be approved in a referendum as set forth in
 47 subsection (10) at a time to be set at the discretion of the
 48 ~~governing body.~~

49 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

50 (a)1. The governing authority in each county may levy a
 51 discretionary sales surtax of 0.5 percent or 1 percent. The levy
 52 of the surtax shall be pursuant to an ordinance enacted by a
 53 majority of the members of the county governing authority and
 54 approved by ~~a majority of~~ the electors of the county, as set
 55 forth in subsection (10), voting in a referendum on the surtax.
 56 If the governing bodies of the municipalities representing a
 57 majority of the county's population adopt uniform resolutions
 58 establishing the rate of the surtax and calling for a referendum

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59 on the surtax, the levy of the surtax shall be placed on the
60 ballot and shall take effect if approved by ~~a majority of the~~
61 electors of the county, as set forth in subsection (10), voting
62 in the referendum on the surtax.

63 2. If the surtax was levied pursuant to a referendum held
64 before July 1, 1993, the surtax may not be levied beyond the
65 time established in the ordinance, or, if the ordinance did not
66 limit the period of the levy, the surtax may not be levied for
67 more than 15 years. The levy of such surtax may be extended only
68 by approval of ~~a majority of the electors of the county, as set~~
69 forth in subsection (10), voting in a referendum on the surtax.

70 (3) SMALL COUNTY SURTAX.-

71 (a) The governing authority in each county that has a
72 population of 50,000 or less on April 1, 1992, may levy a
73 discretionary sales surtax of 0.5 percent or 1 percent. The levy
74 of the surtax shall be pursuant to an ordinance enacted by an
75 extraordinary vote of the members of the county governing
76 authority if the surtax revenues are expended for operating
77 purposes. If the surtax revenues are expended for the purpose of
78 servicing bond indebtedness, the surtax shall be approved by a
79 majority of the electors of the county, as set forth in
80 subsection (10), voting in a referendum on the surtax.

81 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.-

82 (a)1. The governing body in each county the government of
83 which is not consolidated with that of one or more
84 municipalities, which has a population of at least 800,000
85 residents and is not authorized to levy a surtax under
86 subsection (5), may levy, pursuant to an ordinance either
87 approved by an extraordinary vote of the governing body or

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88 conditioned to take effect only upon approval by ~~a majority vote~~
89 ~~of the electors of the county, as set forth in subsection (10)~~,
90 voting in a referendum, a discretionary sales surtax at a rate
91 that may not exceed 0.5 percent.

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

98
99 FOR THE. . . .CENTS TAX
100 AGAINST THE. . . .CENTS TAX
101

102 3. The ordinance adopted by the governing body providing
103 for the imposition of the surtax shall set forth a plan for
104 providing health care services to qualified residents, as
105 defined in subparagraph 4. Such plan and subsequent amendments
106 to it shall fund a broad range of health care services for both
107 indigent persons and the medically poor, including, but not
108 limited to, primary care and preventive care as well as hospital
109 care. The plan must also address the services to be provided by
110 the Level I trauma center. It shall emphasize a continuity of
111 care in the most cost-effective setting, taking into
112 consideration both a high quality of care and geographic access.
113 Where consistent with these objectives, it shall include,
114 without limitation, services rendered by physicians, clinics,
115 community hospitals, mental health centers, and alternative
116 delivery sites, as well as at least one regional referral

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117 hospital where appropriate. It shall provide that agreements
 118 negotiated between the county and providers, including hospitals
 119 with a Level I trauma center, will include reimbursement
 120 methodologies that take into account the cost of services
 121 rendered to eligible patients, recognize hospitals that render a
 122 disproportionate share of indigent care, provide other
 123 incentives to promote the delivery of charity care, promote the
 124 advancement of technology in medical services, recognize the
 125 level of responsiveness to medical needs in trauma cases, and
 126 require cost containment, including, but not limited to, case
 127 management. It must also provide that any hospitals that are
 128 owned and operated by government entities on May 21, 1991, must,
 129 as a condition of receiving funds under this subsection, afford
 130 public access equal to that provided under s. 286.011 as to
 131 meetings of the governing board, the subject of which is
 132 budgeting resources for the rendition of charity care as that
 133 term is defined in the Florida Hospital Uniform Reporting System
 134 (FHURS) manual referenced in s. 408.07. The plan shall also
 135 include innovative health care programs that provide cost-
 136 effective alternatives to traditional methods of service
 137 delivery and funding.

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

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

142 b. Certified by the authorizing county as meeting the
 143 definition of the medically poor, defined as persons having
 144 insufficient income, resources, and assets to provide the needed
 145 medical care without using resources required to meet basic

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146 needs for shelter, food, clothing, and personal expenses; or not
 147 being eligible for any other state or federal program, or having
 148 medical needs that are not covered by any such program; or
 149 having insufficient third-party insurance coverage. In all
 150 cases, the authorizing county is intended to serve as the payor
 151 of last resort; or

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

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

159 a. Maintain the moneys in an indigent health care trust
 160 fund;

161 b. Invest any funds held on deposit in the trust fund
 162 pursuant to general law;

163 c. Disburse the funds, including any interest earned, to
 164 any provider of health care services, as provided in
 165 subparagraphs 3. and 4., upon directive from the authorizing
 166 county. However, if a county has a population of at least
 167 800,000 residents and has levied the surtax authorized in this
 168 paragraph, notwithstanding any directive from the authorizing
 169 county, on October 1 of each calendar year, the clerk of the
 170 court shall issue a check in the amount of \$6.5 million to a
 171 hospital in its jurisdiction that has a Level I trauma center or
 172 shall issue a check in the amount of \$3.5 million to a hospital
 173 in its jurisdiction that has a Level I trauma center if that
 174 county enacts and implements a hospital lien law in accordance

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175 with chapter 98-499, Laws of Florida. The issuance of the checks
 176 on October 1 of each year is provided in recognition of the
 177 Level I trauma center status and shall be in addition to the
 178 base contract amount received during fiscal year 1999-2000 and
 179 any additional amount negotiated to the base contract. If the
 180 hospital receiving funds for its Level I trauma center status
 181 requests such funds to be used to generate federal matching
 182 funds under Medicaid, the clerk of the court shall instead issue
 183 a check to the Agency for Health Care Administration to
 184 accomplish that purpose to the extent that it is allowed through
 185 the General Appropriations Act; and

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

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

194 (b) Notwithstanding any other provision of this section,
 195 the governing body in each county the government of which is not
 196 consolidated with that of one or more municipalities and which
 197 has a population of less than 800,000 residents, may levy, by
 198 ordinance subject to approval by ~~a majority of~~ the electors of
 199 the county, as set forth in subsection (10), voting in a
 200 referendum, a discretionary sales surtax at a rate that may not
 201 exceed 0.25 percent for the sole purpose of funding trauma
 202 services provided by a trauma center licensed pursuant to
 203 chapter 395.

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

209
 210 FOR THE. . .CENTS TAX
 211 AGAINST THE. . .CENTS TAX
 212

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

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

223 a. Maintain the moneys in a trauma services trust fund.
 224 b. Invest any funds held on deposit in the trust fund
 225 pursuant to general law.

226 c. Disburse the funds, including any interest earned on
 227 such funds, to the trauma center in its trauma service area, as
 228 provided in the plan set forth pursuant to subparagraph 2., upon
 229 directive from the authorizing county. If the trauma center
 230 receiving funds requests such funds be used to generate federal
 231 matching funds under Medicaid, the custodian of the funds shall
 232 instead issue a check to the Agency for Health Care

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233 Administration to accomplish that purpose to the extent that the
 234 agency is allowed through the General Appropriations Act.

235 d. Prepare on a biennial basis an audit of the trauma
 236 services trust fund specified in sub-subparagraph a., to be
 237 delivered to the authorizing county.

238 4. A discretionary sales surtax imposed pursuant to this
 239 paragraph shall expire 4 years after the effective date of the
 240 surtax, unless reenacted by ordinance subject to approval by a
 241 ~~majority of the electors of the county, as set forth in~~
 242 subsection (10), voting in a subsequent referendum.

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

247 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
 248 s. 125.011(1) may levy the surtax authorized in this subsection
 249 pursuant to an ordinance either approved by extraordinary vote
 250 of the county commission or conditioned to take effect only upon
 251 approval by ~~a majority vote of the electors of the county, as~~
 252 set forth in subsection (10), voting in a referendum. In a
 253 county as defined in s. 125.011(1), for the purposes of this
 254 subsection, "county public general hospital" means a general
 255 hospital as defined in s. 395.002 which is owned, operated,
 256 maintained, or governed by the county or its agency, authority,
 257 or public health trust.

258 (a) The rate shall be 0.5 percent.

259 (b) If the ordinance is conditioned on a referendum, the
 260 proposal to adopt the county public hospital surtax shall be
 261 placed on the ballot in accordance with subsection (10) ~~law at a~~

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262 ~~time to be set at the discretion of the governing body.~~ The
 263 referendum question on the ballot shall include a brief general
 264 description of the health care services to be funded by the
 265 surtax.

266 (c) Proceeds from the surtax shall be:

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

271 2. Remitted promptly by the county to the agency,
 272 authority, or public health trust created by law which
 273 administers or operates the county public general hospital.

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

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

287 2. However, in the first year of the plan, a total of \$10
 288 million shall be remitted to such governing board, agency, or
 289 authority, to be used solely for the purpose of funding the plan
 290 for indigent health care services provided for in paragraph (e),

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291 and in the second year of the plan, a total of \$15 million shall
292 be so remitted and used.

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

318 1. The plan shall divide the county into a minimum of four
319 and maximum of six service areas, with no more than one

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320 participant hospital per service area. The county public general
321 hospital shall be designated as the provider for one of the
322 service areas. Services shall be provided through participants'
323 primary acute care facilities.

324 2. The plan and subsequent amendments to it shall fund a
325 defined range of health care services for both indigent persons
326 and the medically poor, including primary care, preventive care,
327 hospital emergency room care, and hospital care necessary to
328 stabilize the patient. For the purposes of this section,
329 "stabilization" means stabilization as defined in s.
330 397.311(45). Where consistent with these objectives, the plan
331 may include services rendered by physicians, clinics, community
332 hospitals, and alternative delivery sites, as well as at least
333 one regional referral hospital per service area. The plan shall
334 provide that agreements negotiated between the governing board,
335 agency, or authority and providers shall recognize hospitals
336 that render a disproportionate share of indigent care, provide
337 other incentives to promote the delivery of charity care to draw
338 down federal funds where appropriate, and require cost
339 containment, including, but not limited to, case management.
340 From the funds specified in subparagraphs (d)1. and 2. for
341 indigent health care services, service providers shall receive
342 reimbursement at a Medicaid rate to be determined by the
343 governing board, agency, or authority created pursuant to this
344 paragraph for the initial emergency room visit, and a per-member
345 per-month fee or capitation for those members enrolled in their
346 service area, as compensation for the services rendered
347 following the initial emergency visit. Except for provisions of
348 emergency services, upon determination of eligibility,

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349 enrollment shall be deemed to have occurred at the time services
 350 were rendered. The provisions for specific reimbursement of
 351 emergency services shall be repealed on July 1, 2001, unless
 352 otherwise reenacted by the Legislature. The capitation amount or
 353 rate shall be determined before program implementation by an
 354 independent actuarial consultant. In no event shall such
 355 reimbursement rates exceed the Medicaid rate. The plan must also
 356 provide that any hospitals owned and operated by government
 357 entities on or after the effective date of this act must, as a
 358 condition of receiving funds under this subsection, afford
 359 public access equal to that provided under s. 286.011 as to any
 360 meeting of the governing board, agency, or authority the subject
 361 of which is budgeting resources for the retention of charity
 362 care, as that term is defined in the rules of the Agency for
 363 Health Care Administration. The plan shall also include
 364 innovative health care programs that provide cost-effective
 365 alternatives to traditional methods of service and delivery
 366 funding.

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

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

375 5. At the end of each fiscal year, the governing board,
 376 agency, or authority shall prepare an audit that reviews the
 377 budget of the plan, delivery of services, and quality of

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378 services, and makes recommendations to increase the plan's
 379 efficiency. The audit shall take into account participant
 380 hospital satisfaction with the plan and assess the amount of
 381 poststabilization patient transfers requested, and accepted or
 382 denied, by the county public general hospital.

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

387 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

388 (a) The school board in each county may levy, pursuant to a
 389 resolution conditioned to take effect only upon approval by a
 390 ~~majority vote of the electors of the county, as set forth in~~
 391 subsection (10), voting in a referendum, a discretionary sales
 392 surtax at a rate that may not exceed 0.5 percent.

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

394 (a)1. The governing body in each county that has a
 395 population of fewer than 800,000 residents may levy an indigent
 396 care surtax pursuant to an ordinance conditioned to take effect
 397 only upon approval by a ~~majority vote of the electors of the~~
 398 county, as set forth in subsection (10), voting in a referendum.
 399 The surtax may be levied at a rate not to exceed 0.5 percent,
 400 except that if a publicly supported medical school is located in
 401 the county, the rate shall not exceed 1 percent.

402 2. Notwithstanding subparagraph 1., the governing body of
 403 any county that has a population of fewer than 50,000 residents
 404 may levy an indigent care surtax pursuant to an ordinance
 405 conditioned to take effect only upon approval by a ~~majority vote~~
 406 of the electors of the county, as set forth in subsection (10),

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407 voting in a referendum. The surtax may be levied at a rate not
408 to exceed 1 percent.

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

410 (b) Upon the adoption of the ordinance, the levy of the
411 surtax must be placed on the ballot by the governing authority
412 of the county enacting the ordinance. The ordinance will take
413 effect if approved by ~~a majority of~~ the electors of the county,
414 as set forth in subsection (10), voting in a referendum held for
415 such purpose. The referendum shall be placed on the ballot of a
416 regularly scheduled election. The ballot for the referendum must
417 conform to the requirements of s. 101.161.

418 (9) PENSION LIABILITY SURTAX.—

419 (a) The governing body of a county may levy a pension
420 liability surtax to fund an underfunded defined benefit
421 retirement plan or system, pursuant to an ordinance conditioned
422 to take effect upon approval by ~~a majority vote of~~ the electors
423 of the county, as set forth in subsection (10), voting in a
424 referendum, at a rate that may not exceed 0.5 percent. The
425 county may not impose a pension liability surtax unless the
426 underfunded defined benefit retirement plan or system is below
427 80 percent of actuarial funding at the time the ordinance or
428 referendum is passed. The most recent actuarial report submitted
429 to the Department of Management Services pursuant to s. 112.63
430 must be used to establish the level of actuarial funding for
431 purposes of determining eligibility to impose the surtax. The
432 governing body of a county may only impose the surtax if:

433 1. An employee, including a police officer or firefighter,
434 who enters employment on or after the date when the local
435 government certifies that the defined benefit retirement plan or

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436 system formerly available to such an employee has been closed
437 may not enroll in a defined benefit retirement plan or system
438 that will receive surtax proceeds.

439 2. The local government and the collective bargaining
440 representative for the members of the underfunded defined
441 benefit retirement plan or system or, if there is no
442 representative, a majority of the members of the plan or system,
443 mutually consent to requiring each member to make an employee
444 retirement contribution of at least 10 percent of each member's
445 salary for each pay period beginning with the first pay period
446 after the plan or system is closed.

447 3. The pension board of trustees for the underfunded
448 defined benefit retirement plan or system, if such board exists,
449 is prohibited from participating in the collective bargaining
450 process and engaging in the determination of pension benefits.

451 4. The county currently levies a local government
452 infrastructure surtax pursuant to subsection (2) which is
453 scheduled to terminate and is not subject to renewal.

454 5. The pension liability surtax does not take effect until
455 the local government infrastructure surtax described in
456 subparagraph 4. is terminated.

457 (10) VOTER APPROVAL THRESHOLDS.—A referendum to adopt or
458 amend a local government discretionary sales surtax under this
459 section which is held at any date other than a general election
460 as defined by s. 97.021 requires the approval of at least 60
461 percent of the electors voting on the ballot question. A
462 referendum under this section which is held at a general
463 election as defined by s. 97.021 requires the approval of a
464 majority of the electors voting on the ballot question.

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465

Section 2. This act shall take effect July 1, 2018.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel
Appropriations Subcommittee on Finance and Tax

Subject: Committee Agenda Request

Date: January 10, 2017

I respectfully request that **Senate Bill #272**, relating to **Local Tax Referenda**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/16/18
Meeting Date

272
Bill Number (if applicable)

320014
Amendment Barcode (if applicable)

Topic Local Surtax Referenda

Name Amber Hughes

Job Title Senior Legislative Advocate

Address PO Box 1737

Phone 850-701-3621

Tallahassee FL 32303

Email ahughes@flcities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-16-18

Meeting Date

272

Bill Number (if applicable)

320014

Amendment Barcode (if applicable)

Topic LABOR CONTRACTS LOCAL REFERENDA

Name LAURA YOUNANS

Job Title ASSOCIATE DIRECTOR OF PUBLIC POLICY

Address 100 N. MONROE ST

Phone 294-4850

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/16/17

Meeting Date

272

Bill Number (if applicable)

320014

Amendment Barcode (if applicable)

Topic Local Tax Referenda

Name Devon West

Job Title Policy Advisor

Address 115 S. Andrews Ave

Street

Phone 954-789-9293

H. Lauderdale

FL

33301

City

State

Zip

Email dewest@brownard.org

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [x] Against (The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/16/18

Meeting Date

SB 272

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Hudson

Job Title State Director

Address 200 W College Ave Suite 109

Phone 850-728-4522

Street

Tallahassee

FL

32301

Email chudson@afpna.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: PCS/CS/SB 620 (741326)

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Commerce and Tourism Committee; and Senator Passidomo and others

SUBJECT: Disaster Preparedness Tax Exemption

DATE: January 18, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Little</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Recommend: Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 620 provides a documentary stamp tax exemption for any loan made by the Florida Small Business Emergency Bridge Loan Program in response to a disaster that results in a state of emergency, or any loan made by the Agricultural Economic Development Program.

The bill also establishes two 7-day periods during which items purchased for disaster preparedness and protection are exempt from state sales and use tax and county discretionary sales surtaxes. The first period begins Friday, June 1, 2018, and ends Thursday, June 7, 2018, which coincides with the start of the Atlantic hurricane season. The second period begins Friday, July 6, 2018, and ends Thursday, July 12, 2018.

Exempt items include: light sources, radios, tarps, "tie-down" kits, fuel tanks, batteries, cellular telephone chargers, portable power banks, food storage coolers, generators, carbon monoxide detectors, reusable ice, locator beacons,

The Revenue Estimating Conference (REC) estimates that this bill will reduce General Revenue Fund receipts by \$9.9 million and reduce local government revenues by \$2.6 million in Fiscal Year 2018-2019.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to administer the sales tax holidays.

The bill is effective upon becoming law.

II. Present Situation:

Emergency Loans

The Excise Tax on Documents (documentary stamp tax) is levied on promissory notes, nonnegotiable notes, written obligations to pay money, and assignments of salaries, wages, or other compensation at the rate of 35 cents per \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. The tax on these documents may not exceed \$2,450.¹

The Florida Small Business Emergency Loan Program is part of Florida's response to disasters. The program's purpose is to provide short-term, interest-free working capital loans that are intended to "bridge the gap" between the time a major catastrophe hits and when a business has secured longer term recovery resources. Loans are awarded in amounts from \$1,000 to \$50,000, with terms of 90 or 180 days, and must be paid in full by the end of the loan term.²

The program was first activated following Hurricane Andrew and has been activated 20 additional times since then. In response to Hurricane Irma in September 2017, the program has made 829 small business loans totaling \$27,719,793 and 49 citrus-related loans totaling \$5,728,000.³

The Agricultural Economic Development Program⁴ provides for disaster loans and grants for agricultural producers who have experienced losses from a natural disaster or a socio-economic condition or event. The loans and grants may be used to:

- Restore or replace essential physical property or remove debris from essential physical property;
- Pay all or part of production costs associated with the disaster year;
- Pay essential family living expenses; or
- Restructure farm debts.

Agricultural producers having parcels of land in production not exceeding 300 acres are eligible for loans under this program, and funds may be issued as direct loans or as loan guarantees for up to 90 percent of the total loan, in amounts not less than \$30,000 and not more than \$300,000. Loan applicants must provide at least ten percent equity.⁵ This program has not been funded by the Legislature, and no loans have been made.⁶

¹ Section 201.08(1)(a), F.S.

² <http://www.floridadisasterloan.org/> last visited January 12, 2018.

³ Total amounts as of January 8, 2018.

⁴ Section 570.82, F.S.

⁵ *Id.*

⁶ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Disaster Loans*, Proposed Language, Jan 12, 2018 Revenue Impact Results, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page278-281.pdf.

Florida Sales and Use Tax

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,⁷ transient rentals,⁸ rental of commercial real estate,⁹ and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 250 exemptions, exclusions, deductions, and credits from the sales and use tax.¹⁰ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.¹¹

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S."¹² The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 percent to 1.5.¹³

Disaster Preparedness

Previous legislatures have approved sales tax exemptions for specified items in preparation for the Atlantic hurricane season, which typically begins on June 1st of each year.¹⁴

The Florida Division of Emergency Management recommends having a plan and preparing property to prevent damage. Additionally, the Division of Emergency Management recommends having a disaster supply kit with items such as a battery-operated radio, flashlight, batteries, and first-aid kit.¹⁵

The Federal Emergency Management Agency (FEMA) educates Americans on how to prepare for emergencies through Ready, a public service advertising campaign.¹⁶ In addition to the items listed in the paragraph above, FEMA recommends cell phone chargers, inverters, or solar chargers as items to include in an emergency preparedness supply kit.¹⁷

⁷ Section 212.04, F.S.

⁸ Section 212.03, F.S.

⁹ Section 212.031, F.S.

¹⁰ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 164-170 (2017).

¹¹ Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Nov. 15, 2017).

¹² Section 212.054, F.S.

¹³ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2017 Local Discretionary Sales Surtax Rates in Florida's Counties, 224-225 (2017), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2017.pdf> (last visited Nov. 15, 2017).

¹⁴ National Oceanic and Atmospheric Administration, *Frequently Asked Questions*, available at, <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited Nov. 15, 2017).

¹⁵ Florida Division of Emergency Management, *Emergency Kit, Make a Plan, Be Informed*, available at, <http://www.floridadisaster.org/documents/EmergencyKit-FDEM.pdf> (last visited Nov. 15, 2017).

¹⁶ Federal Emergency Management Agency, *Ready.gov*, available at, <http://www.ready.gov> (last visited Nov. 15, 2017).

¹⁷ Federal Emergency Management Agency, *Build A Kit*, available at, <https://www.ready.gov/build-a-kit> (last visited Nov. 15, 2017).

III. Effect of Proposed Changes:

Section 1 provides an exemption from documentary stamp tax for any loan made by the Florida Small Business Emergency Loan Program in response to a disaster for which the governor declares a state of emergency pursuant to s. 252.36, F.S., or any loan made by the Agricultural Economic Development Program.

Section 2 establishes two 7-day periods during which items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes. The first exemption period begins at 12:01 a.m. on Friday, June 1, 2018, and ends at 11:59 p.m. on Thursday, June 7, 2018. The second exemption period begins at 12:01 a.m. on Friday, July 6, 2018 and ends at 11:59 on Thursday, July 12, 2018. The following items are exempt:

- A portable self-powered light source selling for \$20 or less.
- A portable self-powered radio, two-way radio, or weather band radio selling for \$75 or less.
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.
- An item typically sold or advertised as a ground anchor system or tie-down kit selling for \$50 or less.
- A gas or diesel fuel tank selling for \$25 or less.
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.
- A portable power bank intended to be used to charge cellular telephones and other small electronic devices and selling for \$75 or less.
- A cellular telephone charger selling for \$40 or less.
- A non-electric food storage cooler selling for \$30 or less.
- A carbon monoxide detector selling for \$75 or less.
- Reusable ice selling for \$10 or less.
- A single product consisting of two or more of the previously listed items selling for \$75 or less.
- A portable generator selling for \$1,000 or less used to provide light, support communications, or preserve food during a power outage.
- A standby generator selling for \$5,000 or less which is intended to be permanently affixed to real property.
- A personal locator beacon selling for \$600 or less.
- An emergency position-indicating radio beacon selling for \$1,500 or less.

Sales within public lodging establishments,¹⁸ theme parks or entertainment complexes,¹⁹ or airports²⁰ are not exempt from taxes under this bill.

The bill authorizes the Department of Revenue (DOR) to adopt emergency rules in order to implement the sales tax exemption.

Section 3 appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR in Fiscal Year 2017-18 to administer the holidays.

¹⁸ Section 509.013(4), F.S.

¹⁹ Section 509.013(9), F.S.

²⁰ Section 330.27(2), F.S.

Section 4 provides that the bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of s. 18, Art. VII, Florida Constitution, provides, that except upon approval of each house of the Legislature by two-thirds vote of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,²¹ which for Fiscal Year 2017-2018, is \$2.1 million or less.²²

The Revenue Estimating Conference estimates this bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$1.3 million. Therefore, this bill has an insignificant fiscal impact on local governments and may not be a mandate requiring a two-thirds vote of the membership.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the documentary stamp tax exemption provided by this bill will reduce General Revenue Fund receipts and state trust fund receipts by an indeterminate amount in Fiscal Year 2018-2019 and each year thereafter.²³

²¹ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Nov. 9, 2017).

²² Based on the Demographic Estimating Conference's population adopted on December 5, 2017. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Dec. 22, 2017).

²³ *Supra* note 6.

The Revenue Estimating Conference estimates that the disaster preparedness sales tax holidays in this bill will reduce General Revenue Fund receipts by \$9.9 million and reduce local government revenues by \$2.6 million in Fiscal Year 2018-2019.²⁴

B. Private Sector Impact:

Indeterminate, but positive. Consumers may see a reduction in the cost of the specified products related to disaster preparation and protection.

C. Government Sector Impact:

The DOR estimates the cost associated with notifying businesses of the sales tax exemption, by printing and mailing a tax information publication, will be approximately \$70,072.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 201.25 of the Florida Statutes.
The bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Finance and Tax on January 16, 2018:

The proposed committee substitute (PCS) exempts from the tax on documents:

- Loans made by the Florida Small Business Emergency Bridge Loan Program that are in response to a disaster, which disaster must be declared by executive order or proclamation by the Governor.
- Loans made by the Agricultural Economic Development Program.

The PCS creates two 7-day periods when items purchased for disaster preparedness are exempt from sales tax. The first period, beginning at 12:01 a.m. on Friday, June 1, 2018, and ending Thursday, June 7, 2018, coincides with the start of the Atlantic hurricane

²⁴ Florida Legislature, Office of Economic and Demographic Research, Revenue Estimating Conference, *Disaster Preparedness Holiday, SB620-Proposed Amendment*, Jan 12, 2018 Revenue Impact Results, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page295-301.pdf.

²⁵ Florida Department of Revenue, *2018 Agency Legislative Bill Analysis: SB 620* (Nov. 3, 2017) (on file with the Senate Commerce and Tourism Committee).

season. The second period begins at 12:01 a.m. on Friday, July 6, 2018, and ends Thursday, July 12, 2018.

The PCS removes from the list of exempt items in CS/SB 620:

- Cellphone batteries;
- Storm shutter devices;
- External portable computer drives; and
- Inverters or uninterruptible power supply systems.

The PCS adds to the list of exempt items in CS/SB 620:

- Portable power banks intended to be used to charge cellular telephones and other small electronic devices.
- Standby generators intended to be permanently affixed to real property selling for \$5,000 or less.

CS by Commerce and Tourism Committee on November 13, 2017:

The bill is amended to specify the amount of the appropriation to the DOR to administer the sales tax exemption. For the 2017-2018 fiscal year, the bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2018	.	
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Appropriations Subcommittee on Finance and Tax (Passidomo)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 13 - 62

and insert:

Section 1. Section 201.25, Florida Statutes, is created to
read:

201.25 Tax exemptions for certain loans.—There shall be
exempt from all taxes imposed by this chapter:

(1) Any loan made by the Florida Small Business Emergency
Bridge Loan Program in response to a disaster that results in a



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11 state of emergency declared by executive order or proclamation
12 of the Governor pursuant to s. 252.36.

13 (2) Any loan made by the Agricultural Economic Development
14 Program pursuant to s. 570.82.

15 Section 2. Disaster preparedness tax exemption.-

16 (1) The tax levied under chapter 212, Florida Statutes, may
17 not be collected during the period from 12:01 a.m. on June 1,
18 2018, through 11:59 p.m. on June 7, 2018, and from 12:01 a.m. on
19 July 6, 2018, through 11:59 p.m. on July 12, 2018, on the sale
20 of any of the following:

21 (a) A portable self-powered light source selling for \$20 or
22 less.

23 (b) A portable self-powered radio, two-way radio, or
24 weather band radio selling for \$75 or less.

25 (c) A tarpaulin or other flexible waterproof sheeting
26 selling for \$50 or less.

27 (d) An item typically sold or advertised as a ground anchor
28 system or tie-down kit selling for \$50 or less.

29 (e) A gas or diesel fuel tank selling for \$25 or less.

30 (f) A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt,
31 or 9-volt batteries, excluding automobile and boat batteries,
32 selling for \$30 or less.

33 (g) A portable power bank intended to be used to charge
34 cellular telephones and other small electronic devices and
35 selling for \$75 or less.

36 (h) A cellular telephone charger selling for \$40 or less.

37 (i) A nonelectric food storage cooler selling for \$30 or
38 less.

39 (j) A carbon monoxide detector selling for \$75 or less.



- 40 (k) Reusable ice selling for \$10 or less.
- 41 (l) A single product consisting of two or more of the items
- 42 listed in paragraphs (a)-(k) and selling for \$75 or less.
- 43 (m) A portable generator that is used to provide light,
- 44 support communications, or preserve food during a power outage
- 45 and selling for \$1,000 or less.
- 46 (n) A standby generator intended to be permanently affixed
- 47 to real property and selling for \$5,000 or less.
- 48 (o) A personal locator beacon selling for \$600 or less.
- 49 (p) An emergency position-indicating radio beacon selling
- 50 for \$1,500 or less.
- 51 (2) The tax exemption provided in this section does not
- 52 apply to sales within a public lodging establishment as defined
- 53 in s. 509.013(4), Florida Statutes, a theme park or
- 54 entertainment complex as defined in s. 509.013(9), Florida
- 55 Statutes, or an airport as defined in s. 330.27(2), Florida
- 56 Statutes.
- 57 (3) The Department of Revenue may, and all conditions are
- 58 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
- 59 and 120.54, Florida Statutes, to implement this section.

61 ===== T I T L E A M E N D M E N T =====

62 And the title is amended as follows:

63 Delete lines 2 - 8

64 and insert:

65 An act relating to tax exemptions; creating s. 201.25,
66 F.S.; providing exemptions from excise taxes on
67 documents for certain loans made by the Florida Small
68 Business Emergency Bridge Loan Program and the



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69 Agricultural Economic Development Program; providing a
70 sales and use tax exemption during specified periods
71 for certain tangible personal property related to
72 disaster preparedness; providing exceptions to the
73 exemption; authorizing the Department of Revenue to
74 adopt emergency rules; providing an

By the Committee on Commerce and Tourism; and Senators Passidomo and Young

577-01303-18

2018620c1

1 A bill to be entitled
 2 An act relating to a disaster preparedness tax
 3 exemption; providing a sales and use tax exemption for
 4 certain tangible personal property related to disaster
 5 preparedness during a specified period; providing
 6 exceptions to the exemption; authorizing the
 7 Department of Revenue to adopt emergency rules;
 8 providing an expiration date; providing an
 9 appropriation; providing an effective date.

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

11 Section 1. Disaster preparedness tax exemption.-
 12 (1) The tax levied under chapter 212, Florida Statutes, may
 13 not be collected during the period from 12:01 a.m. on June 1,
 14 2018, through 11:59 p.m. on June 10, 2018, on the sale of any of
 15 the following:
 16 (a) A portable self-powered light source selling for \$20 or
 17 less.
 18 (b) A portable self-powered radio, two-way radio, or
 19 weather band radio selling for \$75 or less.
 20 (c) A tarpaulin or other flexible waterproof sheeting
 21 selling for \$50 or less.
 22 (d) An item typically sold or advertised as a ground anchor
 23 system or tie-down kit selling for \$50 or less.
 24 (e) A gas or diesel fuel tank selling for \$25 or less.
 25 (f) A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt,
 26 or 9-volt batteries, excluding automobile and boat batteries,
 27 selling for \$30 or less.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

577-01303-18

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30 (g) A cellular telephone battery selling for \$60 or less.
 31 (h) A cellular telephone charger selling for \$40 or less.
 32 (i) A nonelectric food storage cooler selling for \$30 or
 33 less.
 34 (j) A portable generator that is used to provide light,
 35 support communications, or preserve food during a power outage
 36 and selling for \$1,000 or less.
 37 (k) A storm shutter device selling for \$200 or less. As
 38 used in this paragraph, the term "storm shutter device" means a
 39 material or product manufactured, rated, and marketed
 40 specifically for the purpose of preventing window damage from
 41 storms.
 42 (l) A carbon monoxide detector selling for \$75 or less.
 43 (m) Reusable ice selling for \$10 or less.
 44 (n) A single product consisting of two or more of the items
 45 listed in paragraphs (a)-(m) and selling for \$75 or less.
 46 (o) A personal locator beacon selling for \$600 or less.
 47 (p) An emergency position-indicating radio beacon selling
 48 for \$1,500 or less.
 49 (q) An external portable computer drive for data backup and
 50 recovery and selling for \$200 or less.
 51 (r) An inverter, inverter/charger, or uninterruptible power
 52 supply system selling for \$200 or less.
 53 (2) The tax exemption provided in this section does not
 54 apply to sales within a public lodging establishment as defined
 55 in s. 509.013(4), Florida Statutes, a theme park or
 56 entertainment complex as defined in s. 509.013(9), Florida
 57 Statutes, or an airport as defined in s. 330.27(2), Florida
 58 Statutes.

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 (3) The Department of Revenue may, and all conditions are
60 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
61 and 120.54, Florida Statutes, to implement this section.

62 (4) This section expires September 30, 2018.

63 Section 2. For the 2017-2018 fiscal year, the sum of
64 \$70,072 in nonrecurring funds is appropriated from the General
65 Revenue Fund to the Department of Revenue to administer the tax
66 exemption for the purchase of tangible personal property
67 relating to disaster preparedness specified under this act.

68 Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Kelli Stargel, Chair
Appropriations Subcommittee on Finance and Tax

Subject: Committee Agenda Request

Date: November 13, 2017

I respectfully request that **Senate Bill #620** relating to Disaster Preparedness Tax Relief, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

Senator Kathleen Passidomo
Florida Senate, District 28

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/16/18

Meeting Date

620

Bill Number (if applicable)

Topic Disaster Preparedness - tax exemption Amendment Barcode (if applicable)

Name Charles Dudley

Job Title _____

Address 108 S. Monroe St.

Phone 850 681 0024

Tallahassee FL 32301
City State Zip

Email cdudley@flapartners.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of FL.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/16/2018

Meeting Date

SB62C

Bill Number (if applicable)

Topic Disaster Sales Tax Holiday

Amendment Barcode (if applicable)

Name Leah Courtney

Job Title Communications Coordinator

Address 106 N Bronough St

Phone 850-222-5052

Street

Tallahassee

FL

32301

Email lcourtney@floridataxwatch.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Taxwatch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Appropriations Subcommittee on Finance and Tax

Judge:

Started: 1/16/2018 10:01:18 AM

Ends: 1/16/2018 10:21:54 AM

Length: 00:20:37

10:02:00 AM Sen. Stargel (Chair)
10:02:16 AM (Roll Call)
10:02:50 AM S 620
10:02:56 AM Sen. Passidomo
10:03:11 AM Am. 176628
10:04:41 AM S 620
10:04:56 AM Sen. Garcia
10:05:21 AM Sen. Passidomo
10:05:58 AM Charles Dudley, Associated Industries of Florida (Waives in Support)
10:06:01 AM Leah Courtney, Communications Coordinator, Florida Taxwatch (Waives in Support)
10:06:13 AM Sen. Stargel
10:07:02 AM Sen. Passidomo
10:07:55 AM Roll Call (Favorable)
10:07:59 AM S 272
10:08:03 AM Sen. Brandes
10:08:49 AM Am. 320014
10:09:41 AM Sen. Rodriguez
10:10:13 AM Sen. Brandes
10:10:55 AM Sen. Campbell
10:11:13 AM Sen. Brandes
10:12:38 AM Amber Hughes, Senior Legislative Advocate, Florida League of Cities
10:13:51 AM Sen. Garcia
10:13:56 AM A. Hughes
10:14:24 AM Sen. Garcia
10:14:27 AM A. Hughes
10:15:00 AM Laura Youmans, Associate Director of Public Policy, Florida Association of Counties
10:15:54 AM Devon West, Policy Advisor, Broward County (Waives in Opposition)
10:16:06 AM Sen. Brandes
10:16:42 AM S 272 (cont)
10:16:52 AM Chris Hudson, State Director, Americans for Prosperity (Waives in Support)
10:17:04 AM Sen. Rodriguez
10:18:40 AM Sen. Garcia
10:20:26 AM Sen. Stargel
10:21:07 AM Sen. Brandes
10:21:21 AM Roll Call (Favorable)
10:21:40 AM Meeting Adjourned