

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**FINANCE AND TAX**  
**Senator Gainer, Chair**  
**Senator Gruters, Vice Chair**

**MEETING DATE:** Wednesday, March 20, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** James E. "Jim" King, Jr. Committee Room, 401 Senate Building

**MEMBERS:** Senator Gainer, Chair; Senator Gruters, Vice Chair; Senators Baxley, Bracy, Bradley, Pizzo, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 144</b> Gruters (Similar CS/H 207, Compare S 1730)	Impact Fees; Revising the minimum requirements for impact fees adopted by a local government; exempting water and sewer connection fees from the Florida Impact Fee Act, etc.  CA 02/05/2019 Temporarily Postponed CA 03/05/2019 Favorable FT 03/20/2019 Favorable AP	Favorable Yeas 8 Nays 0
2	<b>SB 176</b> Berman (Similar H 159)	Sales Tax Exemption/Items that Assist in Independent Living; Exempting from the sales and use tax specified items that enable persons to age in place and live independently in their homes or residences, etc.  CF 01/22/2019 Favorable FT 03/20/2019 Fav/CS AP	Fav/CS Yeas 8 Nays 0
3	<b>SB 336</b> Brandes (Compare CS/H 5)	Local Tax Referenda; Providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election, etc.  EE 02/13/2019 Favorable FT 03/20/2019 Fav/CS RC	Fav/CS Yeas 6 Nays 2

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.)

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

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BILL: SB 144

INTRODUCER: Senator Gruters

SUBJECT: Impact Fees

DATE: March 20, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	<b>Favorable</b>
2.	Babin	Diez-Arguelles	FT	<b>Favorable</b>
3.			AP	

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## I. Summary:

SB 144 prohibits local governments from requiring the payment of impact fees prior to issuing the property's building permit. The bill also codifies the 'dual rational nexus test' for impact fees, as articulated in case law. This test requires an impact fee to have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the benefits accrued to the proposed new development.

Additional conditions of the bill include earmarking impact fee funds for capital facilities that benefit new residents and prohibiting the use of impact fee revenues to pay existing debt unless specific conditions are met. The bill provides that certain statutory provisions related to impact fees do not apply to water and sewer connection fees.

The bill takes effect July 1, 2019.

The Revenue Estimating Conference has determined that the bill will reduce local impact fees by an indeterminate amount in Fiscal Year 2019-2020, with a positive or negative indeterminate, recurring fiscal impact.

## II. Present Situation:

### Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.<sup>1</sup> Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the

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<sup>1</sup> FLA. CONST. art. VIII, s. 1(f).

electors.<sup>2</sup> Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.<sup>3</sup>

Unlike counties or municipalities, independent special districts do not possess home rule power. Therefore, the powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or general law.<sup>4</sup>

### **Local Government Revenue Sources Based on Home Rule Authority<sup>5</sup>**

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,<sup>6</sup> regulatory fees, and special assessments<sup>7</sup> to pay the cost of providing a facility or service or regulating an activity.

Regulatory fees are home rule revenue sources that may be imposed pursuant to a local government's police powers in the exercise of a sovereign function. Examples of regulatory fees include building permit fees, impact fees, inspection fees, and storm water fees. Two principles guide the application and use of regulatory fees: 1) the fee should not exceed the regulated activity's cost, and 2) the fee is generally required to be applied solely to the regulated activity's cost for which the fee is imposed.

Special districts do not possess home rule powers; therefore, special districts may impose only those taxes, assessments, or fees authorized by special or general law.<sup>8</sup>

### **Impact Fees**

As one type of regulatory fee, impact fees are charges imposed by local governments against new development to provide for capital facilities' costs made necessary by such growth.<sup>9</sup> Examples of capital facilities include the provision of additional water and sewer systems, schools,<sup>10</sup> libraries, parks and recreational facilities. Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the

<sup>2</sup> FLA. CONST. art. VIII, s. 1(g).

<sup>3</sup> FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

<sup>4</sup> *See* s. 189.031(3)(b), F.S. *See also State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist.*, 408 So.2d 1067, 1068 (Fla. 1<sup>st</sup> DCA 1982).

<sup>5</sup> Office of Economic and Demographic Research, The Florida Legislature, *2018 Local Government Financial Handbook*, 9-13, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih18.pdf> (last visited Mar. 17, 2019).

<sup>6</sup> Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees. *Id.*

<sup>7</sup> Special assessments are typically used to construct and maintain capital facilities or to fund certain services. *Id.*

<sup>8</sup> *See* ch. 189, F.S. *See also* State Affairs Committee and Local, Federal & Veterans Affairs Subcommittee, The Florida House of Representatives, *The Local Government Formation Manual 2018-2020*, 70, available at <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3025> (last visited Mar. 17, 2019).

<sup>9</sup> *See supra* note 5.

<sup>10</sup> *Id.* With respect to a school impact fee, the fee is imposed by the respective board of county commissioners at the request of the school board. The fee amount is usually determined after a study of the actual impact/costs of new residential construction on the school district has been made.

full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

In local Fiscal Year 2016-2017, the most recent year for which the Office of Economic and Demographic Research (EDR) has impact fee data, 35 counties reported impact fee revenues totaling \$629.1 million, 194 cities reported impact fee revenues of \$279.7 million, and 28 school districts reported impact fee revenues of \$329.7 million.<sup>11</sup>

### **Florida Impact Fee Act**

In response to local governments' reliance on impact fees and the growth of impact fee collections, the Legislature adopted the Florida Impact Fee Act (Act) in 2006, which requires local governing authorities to satisfy certain requirements when imposing impact fees.<sup>12</sup> The Act was amended in 2009 to require local government to prove by a preponderance of evidence that the imposition or amount of its impact fee meets the requirements of law during any action challenging the impact fee; the judiciary is prohibited from giving deference to the local government.<sup>13</sup>

Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures. If a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.

### **Dual Rational Nexus Test**

While s. 163.31801, F.S., outlines many characteristics and limitations of impact fees, case law serves an integral role in the impact fee process in Florida. As developed under case law, an impact fee imposed by a local government should meet the 'dual rational nexus test' in order to withstand legal challenge.<sup>14</sup> A number of court decisions have addressed the dual rational nexus test and challenges to the legality of impact fees.<sup>15</sup>

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<sup>11</sup> Office of Economic and Demographic Research, The Florida Legislature, *Impact Fees*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited Mar.17, 2019).

<sup>12</sup> Section 163.31801, F.S.

<sup>13</sup> Chapter 2009-49, L.O.F.

<sup>14</sup> See *St. Johns County vs. Northeast Florida Builders Ass'n, Inc.*, 583 So.2d 635, 637 (Fla. 1991) (discussing *Hollywood, Inc. v. Broward County*, 431 So.2d 606, 611-12 (Fla. 4<sup>th</sup> DCA), *review denied*, 440 So. 2d 352 (Fla. 1983) while applying the dual rational nexus test to impact fees for schools).

<sup>15</sup> See, e.g., *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So.2d 314 (Fla. 1976); *Home Builders and Contractors' Association v. Board of County Commissioners of Palm Beach County*, 446 So.2d 140 (Fla. 4<sup>th</sup> DCA 1983).

In *Hollywood, Inc. v. Broward County*,<sup>16</sup> the Fourth District Court of Appeal addressed the validity of a county ordinance that required a developer, as a condition of plat approval, to dedicate land or pay a fee for the expansion of the county level park system to accommodate the new residents of the proposed development. The court found that a reasonable dedication or impact fee requirement is permissible if (1) it offsets reasonable needs that are sufficiently attributable to the new development and (2) the fees collected are adequately earmarked for the acquisition of capital assets that will benefit the residents of the new development.<sup>17</sup> In order to show the impact fee meets those requirements, the local government must demonstrate a rational relationship between the need for additional capital facilities and the proposed development. In addition, the local government must show the funds are earmarked for the provision of public facilities to benefit the new residents.<sup>18</sup>

In *Volusia County v. Aberdeen at Ormond Beach*, the Florida Supreme Court ruled that when a residential development has no potential to increase school enrollment, public school impact fees may not be imposed.<sup>19</sup> The county in that case had imposed a school impact fee on a deed-restricted community for adults 55 years old and older. In *City of Zephyrhills v. Wood*, the Second District Court of Appeal upheld an impact fee on a recently purchased and renovated building, finding that structural changes had corresponding impacts on the city's water and sewer system.<sup>20</sup>

As developed under case law, an impact fee must have the following characteristics to be legal:

- The fee is levied on new development, the expansion of existing development, or a change in land use that requires additional capacity for public facilities;
- The fee represents a proportionate share of the cost of public facilities needed to serve new development;
- The fee is earmarked and expended for the benefit of those in the new development who have paid the fee;
- The fee is a one-time charge, although collection may be spread over a period of time;
- The fee is earmarked for capital outlay only and is not expended for operating costs; and
- The fee-payers receive credit for the contributions toward the cost of the increased capacity for public facilities.<sup>21</sup>

### **Timing of Collection for Impact Fees**

Florida Statutes do not specify when a local government must collect impact fees. As a result, the applicable local government makes this decision, and the time of collection varies.<sup>22</sup> For

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<sup>16</sup> *Hollywood, Inc. v. Broward County*, 431 So.2d 606 (Fla. 4<sup>th</sup> DCA 1983).

<sup>17</sup> *Id.* at 611.

<sup>18</sup> *Id.* at 611-12.

<sup>19</sup> *Volusia County v. Aberdeen at Ormond Beach*, 760 So.2d 126, 134 (Fla. 2000).

<sup>20</sup> *City of Zephyrhills v. Wood*, 831 So.2d 223, 225 (Fla. 2<sup>nd</sup> DCA 2002).

<sup>21</sup> Committee on Community Affairs, The Florida Senate, *Impact Fees*, 4 (Issue Brief 2010-310) (Sept. 2009), available at [http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim\\_reports/pdf/2010-310ca.pdf](http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-310ca.pdf) (last visited Mar. 17, 2019).

<sup>22</sup> Common benchmark development actions include plat approval, building permitting, and certificate of occupancy. A 2015 national impact fee study by Duncan Associates entitled *State Impact Fee Enabling Acts* identified 29 states with impact fee enabling acts. The study found that “about one-third of enabling acts allow impact fees to be collected at any time during the

example, in Orange County, residential impact fees are due when the building permit is issued, although the county allows the fees to be deferred in certain circumstances.<sup>23</sup> In contrast, in Volusia County, impact fees are due before the issuance of a certificate of occupancy or business tax receipt.<sup>24</sup>

### **Water and Sewer Connection Fees**

Counties and municipalities may construct or acquire and operate water supply and wastewater disposal systems and may charge reasonable fees for the connection to and use of such systems.<sup>25</sup> Connection fees are charges imposed by the operator of a water supply or wastewater disposal system to defray the costs incurred for allowing additional users to tie into the system and may be considered a type of impact fee.<sup>26</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 163.31801, F.S., to prohibit local governments from requiring the collection of an impact fee prior to the issuance of the building permit for the property that is subject to the fee.

The bill also codifies the dual rational nexus test. Specifically, the bill requires that an impact fee be reasonably connected to, or have a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditures of the funds collected and the benefits accruing to the new residential or commercial construction.

The local government also must specifically earmark funds collected pursuant to the impact fees for use in acquiring, constructing, or improving capital facilities to benefit the new users. In addition, the bill prohibits the use of impact fee revenues to pay existing debt or for prior approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.

Lastly, the bill provides that water and sewer connection fees are excluded from the statutory provisions related to impact fees contained in s. 163.31801, F.S.

The bill takes effect July 1, 2019.

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development process. Most of the others provide that impact fees cannot be collected prior to the building permit or certificate of occupancy.” See [http://impactfees.com/publications%20pdf/state\\_enabling\\_acts.pdf](http://impactfees.com/publications%20pdf/state_enabling_acts.pdf) (last visited Mar. 17, 2019).

<sup>23</sup> Orange County Government, Florida, *Residential Impact Fees*, available at <http://www.orangecountyfl.net/PermitsLicenses/Permits/ResidentialImpactFees.aspx#.WgnLs0kUmUl>. (last visited Mar. 17, 2019).

<sup>24</sup> Volusia County, Florida, *Frequently Asked Questions on Impact Fees*, available at <https://www.volusia.org/services/growth-and-resource-management/impact-fees/faqs-impact-fees.stml> (last visited Mar. 17, 2019).

<sup>25</sup> Section 153.03(3), F.S. authorizes counties to “fix and collect” fees for service, including connection fees. Section 180.13, F.S., authorizes municipalities to establish “just and equitable” service rates or charges for utilities.

<sup>26</sup> See *City of Zephyrhills v. Wood*, 831 So.2d 223 (Fla. 2<sup>nd</sup> DCA 2002); *Hernando County Water and Sewer District v. Hernando Board of Public Instruction*, 610 So.2d 6 (Fla. 5<sup>th</sup> DCA 1992).

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

Article VII, Section 18(b) of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, 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. However, the mandate requirements do not apply to laws having an insignificant fiscal impact, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.<sup>27,28,29</sup>

In 1991, Senate President Margolis and House Speaker Wetherell created a memo to guide the House and Senate in the review of local government mandates.<sup>30</sup> In the memo, 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.

While SB 144 does not restrict the amount of an impact fee, the mandates provision of Article VII, Section 18 of the Florida Constitution may apply because the bill restricts the time at which a county or municipality may collect its impact fees. An impact fee collected at the platting stage is theoretically worth more than an impact fee collected at the building permit stage due to the time value of money.<sup>31</sup> It is unclear if this bill lessens the type of *authority* contemplated by President Margolis and Speaker Wetherell.

If the bill is determined to reduce the *authority* that counties and municipalities have to raise revenues in the aggregate and exceeds the threshold for insignificant fiscal impact, the bill may qualify as a mandate and require final passage by a two-thirds vote of the membership of each house of the Legislature.

##### B. Public Records/Open Meetings Issues:

None.

<sup>27</sup> FLA. CONST. art. VII, s. 18(d).

<sup>28</sup> 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*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 17, 2019).

<sup>29</sup> Based on the Florida Demographic Estimating Conference’s February 6, 2019, population forecast for 2019 of 21,184,532. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 17, 2019).

<sup>30</sup> Memorandum to Members of The Florida House and The Florida Senate from Gwen Margolis, President of the Senate and T.K. Wetherell, Speaker of the House, *County and Municipal Mandates Analysis*, (March 7, 1991) (on file with the Senate Committee on Finance and Tax).

<sup>31</sup> Provided money can earn interest, any amount of money is worth more the sooner it is received.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce local impact fee revenues by an indeterminate amount in Fiscal Year 2019-2020, with a positive or negative indeterminate, recurring fiscal impact.<sup>32</sup>

B. Private Sector Impact:

Developers will not have to pay impact fees prior to the issuance of the building permit for a property.

C. Government Sector Impact:

Counties, municipalities, and special districts will not be able to collect impact fees prior to the issuance of the building permit for a property.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 163.31801 of the Florida Statutes.

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<sup>32</sup> Office of Economic and Demographic Research, The Florida Legislature, *Local Taxes and Fees, SB 144/HB 107*, 29-34 (Jan. 24, 2019), available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/\\_pdf/page29-34.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2019/_pdf/page29-34.pdf) (last visited Mar. 18, 2019).



**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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142060

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2019	.	
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The Committee on Finance and Tax (Gruters) recommended the following:

**Senate Amendment**

Delete lines 46 - 48  
and insert:

(e)1. Except as provided in subparagraph 2., collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

2. In a county that has a countywide plan for land use or a countywide environmental authority and in which at least 90



142060

11 percent of the population resides in incorporated municipalities  
12 or a county as defined in s. 125.011(1), collection of the  
13 impact fee may not be required to occur earlier than 2 calendar  
14 days before the issuance of the building permit for the property  
15 that is subject to the fee.

By Senator Gruters

4-00371A-19

2019144\_\_

A bill to be entitled

An act relating to impact fees; amending s. 163.31801, F.S.; revising the minimum requirements for impact fees adopted by a local government; exempting water and sewer connection fees from the Florida Impact Fee Act; providing an effective date.

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

Section 1. Section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges definitions; ordinances levying impact fees.-

(1) This section may be cited as the "Florida Impact Fee Act."

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district adopts an impact fee by resolution, the governing authority complies with this section.

(3) At a minimum, an impact fee adopted by ordinance of a county or municipality or by resolution of a special district

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

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2019144\_\_

must satisfy all of the following conditions, ~~at minimum:~~

(a) ~~Require that~~ The calculation of the impact fee must be based on the most recent and localized data.

(b) The local government must provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity must ~~shall~~ account for the revenues and expenditures of such impact fee in a separate accounting fund.

(c) ~~Limit~~ Administrative charges for the collection of impact fees must be limited to actual costs.

(d) The local government must provide ~~Require that~~ notice ~~be provided~~ no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

(e) Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.

(f) The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.

(g) The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or commercial construction.

(h) The local government must specifically earmark funds collected under the impact fee for use in acquiring,

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

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59 constructing, or improving capital facilities to benefit new  
60 users.

61 (i) Revenues generated by the impact fee may not be used,  
62 in whole or in part, to pay existing debt or for previously  
63 approved projects unless the expenditure is reasonably connected  
64 to, or has a rational nexus with, the increased impact generated  
65 by the new residential or commercial construction.

66 (4) Audits of financial statements of local governmental  
67 entities and district school boards which are performed by a  
68 certified public accountant pursuant to s. 218.39 and submitted  
69 to the Auditor General must include an affidavit signed by the  
70 chief financial officer of the local governmental entity or  
71 district school board stating that the local governmental entity  
72 or district school board has complied with this section.

73 (5) In any action challenging an impact fee, the government  
74 has the burden of proving by a preponderance of the evidence  
75 that the imposition or amount of the fee meets the requirements  
76 of state legal precedent or this section. The court may not use  
77 a deferential standard.

78 (6) This section does not apply to water and sewer  
79 connection fees.

80 Section 2. This act shall take effect July 1, 2019.

The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Finance and Tax  
**ITEM:** SB 144  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Wednesday, March 20, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Building

FINAL VOTE		SENATORS	3/20/2019 Amendment 142060 <sup>1</sup>					
Yea	Nay		Gruters		Yea	Nay	Yea	Nay
			Yea	Nay				
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
X		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
8	0	<b>TOTALS</b>	-	WD				
<b>Yea</b>	<b>Nay</b>		<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>	<b>Yea</b>	<b>Nay</b>

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Commerce and Tourism, *Chair*  
Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Criminal  
and Civil Justice  
Banking and Insurance

**JOINT COMMITTEE:**

Joint Committee on Public Counsel Oversight

**SENATOR JOE GRUTERS**

23rd District

March 13, 2019

The Honorable George Gainer, Chair  
Finance and Tax Committee  
525 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 144, Impact Fees, be placed on the agenda of the next Finance and Tax Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director  
Lynn Wells, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

# THE FLORIDA LEGISLATURE

OFFICE OF THE  
PRESIDENT



OFFICE OF THE  
SPEAKER



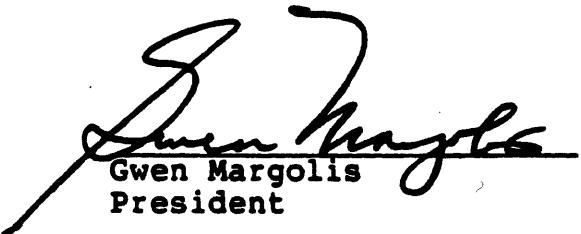
March 21, 1991

Members of The Florida House  
and The Florida Senate  
The Capitol  
Tallahassee, Florida

Dear Members:

Last fall the voters approved a constitutional amendment concerning the imposition of mandates on municipalities and counties. These provisions are now contained in Article VII, Section 18 of the Florida Constitution. Staff of the House and Senate have been working together over the past few weeks to recommend a set of guidelines for interpreting the new constitutional provisions. These guidelines are attached. Please read them carefully. It is our intention that both houses follow the interpretations contained in the attached document in dealing with any issues arising with regard to Article VII, Section 18 during the current session.

Sincerely,

  
Gwen Margolis  
President

  
T.K. Wetherell  
Speaker



March 7, 1991

## COUNTY AND MUNICIPALITY MANDATES ANALYSIS

The purpose of this document is to assist legislative staff in analyzing bills that potentially fall under Article VII, Section 18 of the Florida Constitution, the provision relating to county and municipality mandates. This constitutional provision contains three criteria which describe types of bills considered to be mandates on municipalities and counties. There are eight exemptions contained in subsection (d) which, if applicable, exempt the bill from the constitutional restrictions. In addition, under each criterion there are exceptions which, if met, also exclude the bill from the restrictions. For the second and third criteria, one of the exceptions is passage of the bill by a two-thirds vote of the membership of each house. For an exception to the first criterion, that vote must be coupled with a legislative determination of an important state interest.

In preparing a staff analysis, any bill which meets one or more of the criteria should be identified as a mandate, even if an exemption or an exception applies. The analysis should describe the issue causing the mandate and state the constitutional criterion which is met. If appropriate, a fiscal analysis of the required expenditures and/or revenue impacts should be provided. If one of the "substantive" exemptions or exceptions (other than the two-thirds vote) apply, this should be stated and explained. If the exemptions or exceptions do not apply, leaving the two-thirds vote as the only possibility for exception, this should also be stated.

### OVERVIEW:

The accompanying chart provides a procedure for doing a mandates analysis. The bill should first be analyzed to determine if it or one of its provisions meet the constitutional criteria. If not, the bill is not a mandate. If one of the criteria is met, the analyst should then examine the exemptions. If one or more are applicable, the bill is exempt from the mandates requirements. If not, the exceptions under each applicable criterion should be examined. If any exception other than the two-thirds vote applies, this should be stated. If the only exception available is for the Legislature to pass the bill by a two-thirds vote, this should also be stated.

### GENERAL CONSIDERATIONS:

- \* In analyzing a bill or amendment to a bill for an Article VII, Section 18 impact, each issue of the bill or amendment must be analyzed individually.
- \* The mandates analysis applies only to general laws and not to special laws (local bills).
- \* The requirements of Article VII, Section 18 apply only to cities and counties.

## **CRITERIA:**

The bill should first be analyzed to determine if it or any of its provisions meet one or more of the mandates criteria. These are:

- A. A law requiring cities or counties to spend funds or to take action requiring expenditure.
  
- B. A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.
  1. In analyzing this criterion, the term "in the aggregate" means that effects on cities and counties are to be considered together. It also means that decreases in the authority to raise revenues should be offset against increases in such authority.
  
  2. The term "authority" applies to:
    - a) the power to levy a tax;
    - b) the vote required to levy the tax, e.g., increasing the required vote from majority to majority plus one;
    - c) the tax rate which can be levied; and
    - d) 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.
  
- C. A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.

This criterion indicates that the percentage of each shared state tax that the counties and cities receive cannot be reduced. Provisions that reduce the base of a shared tax while leaving the percentage shared with cities and counties unchanged, however, do not meet this criterion.

If it is determined, after an initial reading, that a bill falls within one of the above, the analysis outlined in the remainder of this paper should be performed. If it does not fall within one of these criteria, no further mandates analysis need be done.

## **EXEMPTIONS:**

Determine whether the bill's provisions fall under one of the following exemptions set out in subsection (d) of Article VII, Section 18:

1. **Requires Funding of Pension Benefits Existing on January 8, 1991 --**  
This applies only to additional funding that is necessary to assure the actuarial soundness of pension funds in providing only those benefits that existed on January 8, 1991. In order to qualify for exemption, the funding cannot apply to an expansion of either specific benefits or classes of people receiving the benefits.
2. **Criminal law -- This applies to any bill relating to the following:**
  - \* Defining the types of behaviors for which individuals are subject to arrest and criminal sanction and the penalties associated with these behaviors.
  - \* Relating to the processes of arrest and pretrial detention.
  - \* Relating to defense and prosecution.
  - \* Relating to adjudication, sentencing, and implementation of criminal sanctions.
3. **Election Laws -- Generally, this applies to any bill relating to the required processes and procedures of holding public elections.**
4. **The General Appropriations Act**
5. **Special Appropriations Acts**
6. **Laws Re-authorizing but not Expanding Then-existing Statutory Authority --** Look to authority existing at the time the bill would become effective. Where a bill would expand, in addition to re-authorize, only the re-authorizing provisions would be exempt. This exemption includes sunset bills, sundown bills, reviser's bills, re-adoptions of statutes, and laws extending repeal dates.

7. **Laws Having Insignificant Fiscal Impact** -- This exemption is to be determined on an aggregate basis for all cities and counties in the state. If, in aggregate, the bill would have an insignificant fiscal impact, it is exempt.

For purposes of legislative application of Article VII, Section 18, the term "insignificant" means an amount not greater than the average statewide population for the applicable fiscal year times ten cents. Thus, for fiscal year 1991-92, a bill that would have a statewide annual fiscal impact on counties and municipalities, in aggregate, of \$1.4 million or less is exempt.

Bills should also be analyzed over the long term. The appropriate length of the long-term analysis will vary with the issue being considered, but in general should be adequate to insure that no unusual long-term consequences occur. In determining fiscal significance or insignificance, the average fiscal impact, including any offsetting effects over the long term, should be considered. For instance, if a program would require recycling costs of \$5 million statewide, but would generate \$4 million statewide in revenues from the sale of scrap metal and paper, the fiscal impact would be insignificant.

8. **Laws Creating, Modifying, or Repealing Noncriminal Infractions** -- Apply the definition of "noncriminal violation" in s. 775.08, F.S.

If a bill or one of its provisions meets the definition or description of one of the exemptions above, the bill or provision is not subject to further Article VII, Section 18 analysis. However, the mandates provision and the exemption should still be discussed in the bill analysis.

#### **EXCEPTIONS:**

After determining that a bill or its provisions do not fall under one of the exemptions, the exceptions applicable to each relevant criterion should be analyzed. If one of the exceptions is applicable, this should be stated in the analysis. If no exception other than the two-thirds vote is applicable, this should also be stated.

- A. **General bills requiring cities and counties to spend funds or to take action requiring expenditure.**

It is not feasible for the Legislature to analyze the effects of possible mandates legislation on each city and county individually. Thus, for purposes of legislative analysis and determination of the offsetting

appropriations or other funding sources as described below, analysis should be made on an aggregate basis for all counties and municipalities as a whole.

Cities and counties will have to comply with a provision requiring expenditures if:

**1. The Legislature Determines That It Fulfills an Important State Interest:**

This determination should be made by the Legislature itself and not by staff. The most effective means of doing this would be the insertion of a provision into the bill.

**2. Condition #1 must be met and any one of the following exceptions:**

- a. Funds are appropriated that are estimated to be sufficient to fund such expenditure.

As stated above, the question of whether this exception is met should be analyzed on an aggregate basis including all counties and municipalities.

- b. The Legislature authorizes or has authorized a county or city to enact, by a simple majority vote of the governing board, a funding source not available on 2/1/89. The source must be estimated to fund the expenditure.

In addition to the granting of new authority to enact funding sources, this exception also includes the broadening of tax bases against which cities and counties already have the authority to levy taxes by a majority vote.

As stated above, the question of whether this exception is met should be analyzed on an aggregate basis, including all counties and municipalities.

- c. The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.

In analyzing this exception, the makeup of the group which should be considered "similarly situated" should first be determined. Once this determination has been made, the exception can be considered applicable if all members of the group are treated similarly, even though the group may only contain governmental entities or even only local governmental entities.

The determination of similarly situated should be independent of a local government's status as a local government. However, if only cities and counties are affected by the issue, this exception does not apply. If, on the other hand, by the nature of the issue in the bill being analyzed, only local governments (all local governments, not just cities and counties) could be affected and these are treated similarly, the exception is met. If there are entities in the private sector or in state government which also could be affected by the bill, but are not treated similarly because they are not local governments, or for other reasons not inherently connected to the issue being analyzed, the exception is not met.

An example of a bill in which the exception is met would be one affecting the Florida Retirement System (FRS). This system includes employees of the state government, school districts and local governments. As long as classes of employees were not deliberately manipulated to apply only to cities and counties, all in the system would be similarly situated and changes in retirement benefits would be excepted.

- d. The expenditure is required to comply with a federal requirement or federal entitlement which contemplates action by cities or counties.

**If any one of the exceptions (a) through (d) is met, no further analysis is necessary with respect to Article VII, Section 18. The bill is excepted from the provisions of that section as long as the Legislature also determines that an important state interest exists.**

**If none of the exceptions (a) through (d) are met, the Legislature must find an important state interest and the bill must pass by a 2/3 vote to effectively bind cities and counties.**

**B. A law that reduces the authority of cities or counties to raise revenues in the aggregate as such authority existed on 2/1/89.**

There is only one exception applicable to this criterion. A bill determined to meet this criterion may only take effect if passed by 2/3 vote of each house.

**C. A law that reduces the percentage of a state tax shared with cities and counties as an aggregate on 2/1/89.**

**The exceptions by which this criterion does not apply are:**

1. Enhancements to state taxes shared with counties and municipalities enacted after 2/1/89. For example, assume that the base of a shared tax source has been expanded since 2/1/89 (and the percentage shared not reduced) so that cities and counties receive more money. It would be permissible under this exception for the Legislature to reduce the percentage shared with cities and counties up to the point where such governments would be receiving the same amount of money they would have received if the tax base had not been expanded.
2. During a fiscal emergency; or
3. If replacement state shared revenues sufficient to replace the aggregate loss are provided.

**If exceptions (1), (2) or (3) are not satisfied, the bill must pass by a 2/3 vote of each house in order to take effect.**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/20/19

Meeting Date

144

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 East Jefferson Street

Phone 850-445-5367

Street

Tallahassee

FL

32301

City

State

Zip

Email tim.nungesser@nfib.org

Speaking:  For  Against  Information

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

Representing NFIB (National Federation of Independent Business)

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.**

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/20

SB 144

Meeting Date

Bill Number (if applicable)

Topic

IMPACT FEES

Amendment Barcode (if applicable)

Name

KARI HEBANK

Job Title

Address

Street

113 EAST COLLEGE

Phone

850-564-7824

City

Tallahassee FL 32301

State

Zip

Email

Kari@Wilsonmfg.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

FLORIDA HOME BUILDERS ASSOC., NVCA of Florida

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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/20/19

Meeting Date

SB 144

Bill Number (if applicable)

n/a

Amendment Barcode (if applicable)

Topic Impact Fees

Name Joanna Bonfanti (Bon-fawn-tea)

Job Title Gov't Affairs

Address 215 S. Monroe St. Suite 601  
Street

Phone 850-521-1980

Tallahassee FL 32301  
City State Zip

Email jbontanti@gunster.com

Speaking:  For  Against  Information

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

Representing Fl. Section American Water Works Association

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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/20/19  
Meeting Date

144  
Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title Consultant

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Highland Homes

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.**

S-001 (10/14/14)

**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.)

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

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BILL: CS/SB 176

INTRODUCER: Finance and Tax Committee and Senator Berman

SUBJECT: Sales Tax Exemption/Items that Assist in Independent Living

DATE: March 21, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Colton</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Fav/CS</b>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 176 exempts from the sales and use tax the purchase of certain items that assist individuals in living and aging independently in their homes. Specifically, bed transfer handles, bed rails, grab bars, and shower seats are covered by the exemption. The bill also provides that the Department of Revenue (the department or DOR) may develop rules to administer the exemption.

The Revenue Estimating Conference estimated the bill will reduce General Revenue Fund receipts by \$1.1 million for Fiscal Year 2019-2020, with a recurring loss of \$2.7 million. Additionally, the conference estimated local government revenues will reduce by \$0.3 million for Fiscal Year 2019-2020, with a recurring loss of \$0.7 million.

The bill has an effective date of July 1, 2019.

## II. Present Situation:

### 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,<sup>1</sup> transient rentals,<sup>2</sup> rental of commercial real estate,<sup>3</sup> 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 260 exemptions, exclusions, deductions, and credits from the sales and use tax.<sup>4</sup> Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>5</sup>

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 communications services as defined in ch. 202, F.S."<sup>6</sup> 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 2.5.<sup>7</sup>

## III. Effect of Proposed Changes:

**Section 1** amends s. 212.08, F.S., to exempt from the sales and use tax the following items when purchased for noncommercial home or personal use:

- A bed transfer handle selling for \$60 or less.
- A bed rail selling for \$110 or less.
- A grab bar selling for \$100 or less.
- A shower seat selling for \$100 or less.

The exemption does not apply to purchases made by a business, including, but not limited to, a medical institution or an assisted living facility.

The bill authorizes the department to adopt rules to administer the exemption.

**Section 2** provides an effective date of July 1, 2019.

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<sup>1</sup> Section 212.04, F.S.

<sup>2</sup> Section 212.03, F.S.

<sup>3</sup> Section 212.031, F.S.

<sup>4</sup> See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 155-168 (2018), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last visited Feb. 28, 2019).

<sup>5</sup> 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](http://dor.myflorida.com/dor/taxes/sales_tax.html) (last visited Feb. 28, 2019).

<sup>6</sup> Section 212.054, F.S.

<sup>7</sup> See Office of Economic and Demographic Research, The Florida Legislature, *County Tax Rates: CY 2007-2019*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited Feb. 28, 2019).

**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, which for Fiscal Year 2019-2020, is \$2.1 million or less.

The Revenue Estimating Conference estimated the bill will reduce local government revenues by \$0.7 million, recurring. Therefore, this bill has an insignificant impact on local governments and the mandate provision does not apply.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

The Revenue Estimating Conference estimated the bill will reduce General Revenue Fund receipts by \$1.1 million for Fiscal Year 2019-2020, with a recurring loss of \$2.7 million. Additionally, the conference estimated local government revenue will reduce by \$0.3 million for Fiscal Year 2019-2020, with a recurring loss of \$0.7 million.

**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 212.08 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Finance and Tax on March 20, 2019:**

The CS:

- Specifies price limits for each item, removes handrails from the list of exempted items, and requires that exempted items be purchased for noncommercial home or personal use.

B. Amendments:

None.



381174

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2019	.	
	.	
	.	
	.	

---

The Committee on Finance and Tax (Berman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (u) is added to subsection (5) of  
section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and  
storage tax; specified exemptions.—The sale at retail, the  
rental, the use, the consumption, the distribution, and the  
storage to be used or consumed in this state of the following





381174

11 are hereby specifically exempt from the tax imposed by this  
12 chapter.

13 (5) EXEMPTIONS; ACCOUNT OF USE.—

14 (u) Items that assist in independent living.—

15 1. The following items, when purchased for noncommercial  
16 home or personal use, are exempt from the tax imposed by this  
17 chapter:

18 a. A bed transfer handle selling for \$60 or less.

19 b. A bed rail selling for \$110 or less.

20 c. A grab bar selling for \$100 or less.

21 d. A shower seat selling for \$100 or less.

22 2. This exemption does not apply to a purchase made by a  
23 business, including, but not limited to, a medical institution  
24 or an assisted living facility.

25 Section 2. This act shall take effect January 1, 2020.

26

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

28 And the title is amended as follows:

29 Delete everything before the enacting clause  
30 and insert:

31 A bill to be entitled

32 An act relating to a sales tax exemption; amending s.  
33 212.08, F.S.; exempting from the sales and use tax  
34 specified items that assist in independent living;  
35 providing applicability; providing an effective date.

By Senator Berman

31-00287B-19

2019176\_\_

1                           A bill to be entitled  
2           An act relating to a sales tax exemption; amending s.  
3           212.08, F.S.; exempting from the sales and use tax  
4           specified items that enable persons to age in place  
5           and live independently in their homes or residences;  
6           authorizing the Department of Revenue to adopt rules;  
7           providing an effective date.

8  
9   Be It Enacted by the Legislature of the State of Florida:

10  
11           Section 1. Paragraph (u) is added to subsection (5) of  
12           section 212.08, Florida Statutes, to read:

13           212.08 Sales, rental, use, consumption, distribution, and  
14           storage tax; specified exemptions.—The sale at retail, the  
15           rental, the use, the consumption, the distribution, and the  
16           storage to be used or consumed in this state of the following  
17           are hereby specifically exempt from the tax imposed by this  
18           chapter.

19           (5) EXEMPTIONS; ACCOUNT OF USE.—

20           (u) Items that assist in independent living.—

21           1. The following items enabling a person to age in place  
22           and live independently in his or her home or residence are  
23           exempt from the tax imposed by this chapter:

24           a. Bed transfer handles.

25           b. Handrails, bed rails, or grab bars.

26           c. Shower seats.

27           2. The department may adopt rules to administer the  
28           exemption under this paragraph.

29           Section 2. This act shall take effect July 1, 2019.

**The Florida Senate**  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Finance and Tax  
**ITEM:** SB 176  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Wednesday, March 20, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Building

FINAL VOTE		SENATORS	3/20/2019					
			Amendment 381174		Berman			
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
X		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
8	0	<b>TOTALS</b>	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable      RCS=Replaced by Committee Substitute      TP=Temporarily Postponed      WD=Withdrawn  
 UNF=Unfavorable      RE=Replaced by Engrossed Amendment      VA=Vote After Roll Call      OO=Out of Order  
 -R=Reconsidered      RS=Replaced by Substitute Amendment      VC=Vote Change After Roll Call      AV=Abstain from Voting



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Health Policy, *Vice Chair*  
Appropriations Subcommittee on Agriculture,  
Environment, and General Government  
Education  
Environment and Natural Resources

**SENATOR LORI BERMAN**

31st District

January 25, 2019

The Honorable George Gainer, Chair  
Committee on Finance and Tax  
302 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 176, *Sales Tax Exemption/Items that Assist in Independent Living*, be placed on the agenda of the next Committee on Finance and Tax meeting.

Should you have any questions regarding this bill, please feel free to contact me. Thank you for your time and consideration.

Best regards,

A handwritten signature in cursive script that reads "Lori Berman".

Lori Berman

cc: Jose Diez-Arguelles, Staff Director  
Lynn Wells, Committee Administrative Assistant

REPLY TO:

- 2300 High Ridge Road, Suite 161, Boynton Beach, Florida 33426 (561) 292-6014 FAX: (888) 284-6491
- 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

# THE FLORIDA SENATE APPEARANCE RECORD

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

3/20/2019

*Meeting Date*

SB 176

*Bill Number (if applicable)*

Topic Sales Tax Exemption/Items that Assist in Independent Living

*Amendment Barcode (if applicable)*

Name Zayne Smith

Job Title Associate State Director

Address 200 W. College Ave

Phone 850-228-4243

*Street*

Tallahassee

FL

32301

Email zsmith@aarp.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing AARP Florida

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 Committee on Finance and Tax

---

BILL: CS/SB 336

INTRODUCER: Finance and Tax Committee and Senator Brandes

SUBJECT: Local Tax Referenda

DATE: March 21, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fox</u>	<u>Roberts</u>	<u>EE</u>	<b>Favorable</b>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 336 provides that a referendum to adopt or amend a local option discretionary sales surtax must be held at a general election.

The Revenue Estimating Conference determined this bill does not affect state or local government revenues.

The bill takes effect July 1, 2019.

**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.<sup>1</sup> Counties have limited authority to levy discretionary sales surtaxes on transactions subject to state sales tax.<sup>2,3</sup> The Legislature has authorized the following local option discretionary sales surtaxes:

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<sup>1</sup> FLA. CONST. Art. VII, s. 1(a)

<sup>2</sup> Sections 212.054 and 212.055, F.S.

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

- 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.<sup>4</sup>
- Local Government Infrastructure Surtax, for financing local government infrastructure projects.<sup>5</sup>
- Small County Surtax, providing additional revenue for counties having fewer than 50,000 residents as of April 1, 1992.<sup>6</sup>
- 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).<sup>7</sup>
- 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).<sup>8</sup>
- School Capital Outlay Surtax, for constructing and renovating schools.<sup>9</sup>
- Voter-Approved Indigent Care Surtax, for providing medical care for indigent persons in counties with a population less than 800,000.<sup>10</sup>
- Emergency Fire Rescue Services and Facilities Surtax, for providing emergency fire rescue services and facilities.<sup>11</sup>
- Pension Liability Surtax for funding pension liability shortfalls.<sup>12</sup>

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.<sup>13</sup> 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.<sup>14</sup>

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.<sup>15</sup> 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

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<sup>4</sup> Section 212.055(1), F.S.

<sup>5</sup> Section 212.055(2), F.S.

<sup>6</sup> Section 212.055(3), F.S.

<sup>7</sup> Section 212.055(4), F.S.

<sup>8</sup> Section 212.055(5), F.S.

<sup>9</sup> Section 212.055(6), F.S.

<sup>10</sup> Section 212.055(7), F.S.

<sup>11</sup> Section 212.055(8), F.S.

<sup>12</sup> Section 212.055(9), F.S.

<sup>13</sup> Section 212.054(4)(a), F.S.

<sup>14</sup> Section 212.054(4)(b), F.S.

<sup>15</sup> Section 212.054(5), F.S.

ordinance and any additional information DOR requires by rule.<sup>16</sup> If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.<sup>17</sup> 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 scheduled to occur on or after October 1.<sup>18</sup> If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.<sup>19</sup>

The 56 counties and 19 school districts levying one or more discretionary sales surtaxes were projected to realize \$3.38 billion in revenue in local Fiscal Year 2018-19.<sup>20</sup> If all counties and school districts levied discretionary sales surtaxes at the maximum possible rates, they would raise \$14.32 billion in revenue in Fiscal Year 2018-19.<sup>21</sup>

Most local discretionary sales surtaxes may be approved only by referendum, while some may be approved by an extraordinary vote of the county commission.<sup>22</sup> For those requiring voter approval, the referendum must be approved by a majority of electors voting.<sup>23</sup> Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.<sup>24</sup>

### Performance Audit

Legislation enacted in 2018 requires the completion of a performance audit prior to any referendum to adopt a local discretionary sales surtax.<sup>25</sup> For any referendum held on or after March 23, 2018, an independent certified public accountant (CPA) licensed pursuant to Chapter 473, F.S., must conduct a performance audit of the program associated with the surtax adoption proposed by the county or school district. The Florida Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA)<sup>26</sup> must procure the CPA and may use carryforward funds to pay for the CPA's services.<sup>27</sup>

<sup>16</sup> Section 212.054(7)(a), F.S.

<sup>17</sup> *Id.*

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

<sup>19</sup> *Id.*

<sup>20</sup> Office of Economic and Demographic Research, *2018 Local Government Financial Information Handbook* p. 148 (Sep. 2018), available at <http://edr.state.fl.us/Content/local-government/reports/lgfih18.pdf> (last visited Mar. 10, 2019).

<sup>21</sup> *Id.*

<sup>22</sup> 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)(a)1., F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission in each county the government is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission [Miami-Dade]).

<sup>23</sup> Section 212.055, F.S.

<sup>24</sup> See e.g. s. 212.055(1)(c), F.S. and s. 212.055(5)(b), F.S. (referendum for charter county and regional transportation system and county public hospital [Miami-Dade] 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").

<sup>25</sup> Chapter 2018-118, s. 35, LAWS OF FLA.

<sup>26</sup> OPPAGA provides data, evaluation research, and objective analyses to assist legislative budget and policy deliberations. OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee. See also ss. 1.01(18) and 11.51, F.S.

<sup>27</sup> Section 212.055(10)(a), F.S.



The performance audit must be completed at least 60 days before the referendum is held. The audit report, including any findings, recommendations, or other accompanying documents, must be made available on the county or school district's official website and kept on the website for 2 years from the date posted.<sup>28</sup>

The term "performance audit" means an examination of the program conducted according to applicable government auditing standards or auditing and evaluation of other appropriate authoritative bodies. At a minimum, the performance audit must address the following issues:

- The economy, efficiency, or effectiveness of the program;
- The structure or design of the program to accomplish its goals and objectives;
- Alternative methods of providing program services or products;
- Goals, objectives, and performance measures used by the program to monitor and report program accomplishments;
- The accuracy or adequacy of public documents, reports, and requests prepared by the county or school district which relate to the program; and
- Compliance of the program with appropriate policies, rules, and laws.<sup>29</sup>

### Referendum Process

The Florida Election Code provides the general requirements for a referendum.<sup>30</sup> 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.<sup>31</sup> The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.<sup>32</sup> The ballot summary and title must be included in the resolution or ordinance calling for the referendum.<sup>33</sup> For some discretionary sales surtaxes, the form of the ballot question is specified by the statute authorizing the tax.<sup>34</sup>

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.<sup>35</sup> 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.<sup>36</sup>

### 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.

<sup>28</sup> Section 212.055(10)(b), F.S.

<sup>29</sup> Section 212.055(10)(c), F.S.

<sup>30</sup> Section 101.161, F.S.

<sup>31</sup> Section 101.161(1), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *See e.g.*, s. 212.055(4)(a)2, (4)(b)1., F.S. (ballot question for discretionary sales surtax for indigent care and trauma center).

<sup>35</sup> Section 97.021(12), F.S.

<sup>36</sup> FLA. CONST. Art. VI, s. 5(a). *See also* s. 97.021(16), F.S.

**Section 2** provides that the act takes effect July 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(b) 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 legislation 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.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The Revenue Estimating Conference determined this bill does not affect state or local government revenues.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill sponsor may wish to consider extending the November 16 deadline for notifying DOR of the imposition of a pending local option discretionary sales surtax, if possible; county canvassing boards may not be able to formally certify sales tax referenda election results until after the current deadline — depending on the speed and efficiency of the county’s vote count/recount process and *what calendar day* the General Election falls on in November (first TUE after the first MON; varies from year-to-year).

**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.)

**CS by Finance and Tax on March 20, 2019:**

The CS:

- Changes the effective date of the act from “upon becoming law” to July 1, 2019.

**B. Amendments:**

None.



453388

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2019	.	
	.	
	.	
	.	

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The Committee on Finance and Tax (Brandes) recommended the following:

**Senate Amendment**

Delete line 65  
and insert:  
Section 2. This act shall take effect July 1, 2019.



189830

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/20/2019	.	
	.	
	.	
	.	

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The Committee on Finance and Tax (Gruters) recommended the following:

**Senate Amendment (with directory and title amendments)**

Between lines 64 and 65  
insert:

(12) SURTAX EXPIRATION.—A discretionary sales surtax that takes effect on January 1, 2021, or any year thereafter, expires 6 years after the effective date of the surtax or as specified in the ordinance, resolution, or charter amendment, whichever comes first. This subsection does not apply to the trauma center surtax under paragraph (4) (b) or to the pension liability surtax



189830

11 under subsection (9).

12

13 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

14 And the directory clause is amended as follows:

15 Delete line 13

16 and insert:

17 (11), and a new subsection (10) and subsection (12) are added to  
18 that section, to

19

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

21 And the title is amended as follows:

22 Delete lines 2 - 5

23 and insert:

24 An act relating to discretionary sales surtaxes;  
25 amending s. 212.055, F.S.; providing that a referendum  
26 to adopt or amend a local discretionary sales surtax  
27 must be held at a general election; providing for the  
28 expiration of certain surtaxes taking effect on or  
29 after a certain date; providing an effective date.

By Senator Brandes

24-00390-19

2019336\_\_

A bill to be entitled

An act relating to local tax referenda; amending s. 212.055, F.S.; providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election; providing an effective date.

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

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, present subsection (10) of that section is redesignated as subsection (11), and a new 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 that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

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

Page 1 of 3

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

24-00390-19

2019336\_\_

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

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

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

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

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum

Page 2 of 3

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

24-00390-19

2019336\_\_

59 shall be placed on the ballot of a general ~~regularly scheduled~~  
60 election. The ballot for the referendum must conform to the  
61 requirements of s. 101.161.

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

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



The Florida Senate  
**COMMITTEE VOTE RECORD**

**COMMITTEE:** Finance and Tax  
**ITEM:** SB 336  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Wednesday, March 20, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** 401 Senate Building

FINAL VOTE		SENATORS	3/20/2019 1 Amendment 453388		3/20/2019 2 Amendment 189830 (Late-Filed)		3/20/2019 3 Motion to vote "YEA" after Roll Call	
			Brades	Gruters	Stargel			
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
	X	Pizzo						
	X	Powell						
VA		Stargel						
X		Gruters, VICE CHAIR						
X		Gainer, CHAIR						
6	2	<b>TOTALS</b>	RCS	-	-	WD	FAV	-
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable    RCS=Replaced by Committee Substitute    TP=Temporarily Postponed    WD=Withdrawn  
 UNF=Unfavorable    RE=Replaced by Engrossed Amendment    VA=Vote After Roll Call    OO=Out of Order  
 -R=Reconsidered    RS=Replaced by Substitute Amendment    VC=Vote Change After Roll Call    AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator George B. Gainer  
Committee on Finance and Tax

**Subject:** Committee Agenda Request

**Date:** February 13, 2019

---

I respectfully request that **Senate Bill #336**, 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)

3-20-19

Meeting Date

336

Bill Number (if applicable)

453382

Amendment Barcode (if applicable)

Topic Local Surtax Referenda

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850-701-3621

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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3-20-19

Meeting Date

334

Bill Number (if applicable)

Topic LOCAL GOVERNMENT SURTAX

453388-Brande

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title LEGISLATIVE COUNSEL

Address 100 S. MONROE ST

Phone 294-1838

Street

TAL

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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3-20-19

Meeting Date

334

Bill Number (if applicable)

Topic LOCAL GOVERNMENT SURTAY

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title LEGISLATIVE COUNSEL

Address 100 S. MONROE

Phone 294-1838

Street

TAL

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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

2-20-19

Meeting Date

336

Bill Number (if applicable)

Topic Local Surtax Referenda

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-701-3621

Street

Tallahassee

City

FL

State

32302

Zip

Email \_\_\_\_\_

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.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/20/19

Meeting Date

336

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address 200 W. College Ave

Phone \_\_\_\_\_

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 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.**

S-001 (10/14/14)

# CourtSmart Tag Report

Room: SB 401 Case No.:  
Caption: Senate Committee on Finance and Tax

Type:  
Judge:

Started: 3/20/2019 1:31:17 PM  
Ends: 3/20/2019 2:05:04 PM Length: 00:33:48

1:31:16 PM Meeting called to order by Chair Gainer  
1:31:19 PM Roll Call  
1:31:34 PM Quorum present  
1:31:38 PM Comments from Chair Gainer  
1:31:58 PM Introduction of Tab 3, SB 338 by Chair Gainer  
1:32:03 PM Explanation of SB 336, Local Tax Referenda by Senator Brandes  
1:32:19 PM Comments from Chair Gainer  
1:32:24 PM Question from Senator Pizzo  
1:32:45 PM Response from Senator Brandes  
1:33:12 PM Introduction of Amendment Barcode No. 453388 by Chair Gainer  
1:33:23 PM Explanation of Amendment Barcode No. 453388 by Senator Brandes  
1:33:54 PM Laura Youmans, Legislative Counsel, Florida Association of Counties waives in support  
1:34:08 PM Amber Hughes, Senior Legislative Advocate, Florida Leagues of Cities waives in support  
1:34:29 PM Closure waived  
1:34:33 PM Amendment Barcode No. 453388 adopted  
1:34:42 PM Introduction of Late-file Amendment Barcode No. 189830 by Chair Gainer  
1:34:55 PM Late-filed Amendment withdrawn by Senator Gruters  
1:35:34 PM Speaker Phillip Suderman, Policy Director, Americans for Prosperity in support  
1:37:16 PM Laura Youmans, Legislative Counsel, Florida Association of Counties waives in support  
1:37:42 PM Senator Power in debate  
1:38:19 PM Senator Baxley in debate  
1:40:20 PM Senator Pizzo in debate  
1:41:18 PM Senator Brandes in closure  
1:41:57 PM Comments from Chair Gainer  
1:42:57 PM Roll Call  
1:43:08 PM CS/SB 336 reported favorably  
1:43:55 PM Introduction of Tab 2, SB 176 by Chair Gainer  
1:44:03 PM Explanation of SB 176, Sales Tax Exemption/Items by Senator Berman  
1:44:26 PM Introduction of Amendment Barcode No. 381174 by Chair Gainer  
1:44:33 PM Explanation of Amendment Barcode No. 381174 by Senator Berman  
1:45:26 PM Comments from Chair Gainer  
1:45:45 PM Debate on Amendment by Senator Baxley  
1:46:40 PM Amendment adopted  
1:46:54 PM Zayne Smith, Associate State Director, AARP waives in support  
1:47:24 PM Closure waived  
1:47:32 PM Roll Call  
1:47:41 PM CS/SB 176 reported favorably  
1:48:00 PM Comments from Senator Powell regarding introduction  
1:48:29 PM Introduction of Tab 1, SB 144 by Senator Gainer  
1:48:34 PM Explanation of SB 144, Impact Fees by Senator Gruters  
1:48:54 PM Amendment Barcode No. 142060 withdrawn per Senator Gruters  
1:49:08 PM Question from Senator Pizzo  
1:49:52 PM Response from Senator Gruters  
1:49:58 PM Question from Senator Powell  
1:50:08 PM Response from Senator Gruters  
1:50:42 PM Follow-up question from Senator Powell  
1:50:57 PM Response from Senator Gruters  
1:51:19 PM Tim Nungesser, Legislative Director, National Federation of Independent Business waives in support  
1:51:35 PM Kari Hebator, Florida Home Builders, Association, NUCA of Florida waives in support  
1:51:50 PM Joanna Bonfanti, Government Affairs, Florida Section American Water Works Association waives in support  
1:52:06 PM Edward Briggs, Consultant, Highland Homes waives in support



**1:52:17 PM** Comments from Chair Gainer  
**1:52:23 PM** Question from Senator Bradley  
**1:52:34 PM** Response from Senator Gruters  
**1:53:27 PM** Follow-up question from Senator Bradley  
**1:53:36 PM** Response from Senator Gruters  
**1:53:52 PM** Additional question from Senator Bradley  
**1:54:02 PM** Response from Senator Gruters  
**1:54:24 PM** Additional question from Senator Bradley  
**1:54:30 PM** Response from Senator Gruters  
**1:54:41 PM** Question from Senator Pizzo  
**1:55:14 PM** Response from Joanna Bonfanti  
**1:57:15 PM** Follow-up question from Senator Pizzo  
**1:58:07 PM** Response from Ms. Bonfanti  
**2:00:13 PM** Additional question from Senator Pizzo  
**2:00:28 PM** Response from Ms. Bonfanti  
**2:01:04 PM** Question from Senator Bradley  
**2:01:15 PM** Response from Ms. Bonfanti  
**2:01:57 PM** Question from Senator Baxley  
**2:02:13 PM** Response from Senator Gruters  
**2:02:55 PM** Comments from Senator Gruters  
**2:03:13 PM** Senator Gruters on closure  
**2:03:23 PM** Roll Call  
**2:03:46 PM** SB 144 reported favorably  
**2:04:06 PM** Senator Stargel's motion to be voting in the affirmative - CS/SB 336  
**2:04:45 PM** Senator Baxley moves to adjourn