

By the Committee on Fiscal Resource and Senator Carlton

314-1910-00

1 A bill to be entitled
 2 An act relating to local option tourist taxes;
 3 amending s. 125.901, F.S.; authorizing the
 4 appointment of an alternate delegate member for
 5 a county governing body to a council on
 6 children's services; amending ss. 125.0104,
 7 212.0305, F.S.; providing that a county that
 8 elects to assume responsibility for audit and
 9 enforcement with respect to the local option
 10 tourist development tax, area of critical state
 11 concern tourist impact tax, or convention
 12 development taxes may use certified public
 13 accountants in administering its duties;
 14 providing for application of confidentiality
 15 and penalty provisions to such agents; amending
 16 s. 213.053, F.S.; providing for information
 17 sharing; amending s. 212.055, F.S.; providing a
 18 distribution of proceeds from the Local
 19 Government Infrastructure Surtax to be used
 20 solely for county detention facilities under
 21 certain circumstances; providing definitions;
 22 providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:
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26 Section 1. Subsection (10) of section 125.0104,
 27 Florida Statutes, is amended to read:
 28 125.0104 Tourist development tax; procedure for
 29 levying; authorized uses; referendum; enforcement.--
 30 (10) LOCAL ADMINISTRATION OF TAX.--
 31

1 (a) A county levying a tax under this section or s.
2 125.0108 may be exempted from the requirements of the
3 respective section that:

4 1. The tax collected be remitted to the Department of
5 Revenue before being returned to the county; and

6 2. The tax be administered according to chapter 212,
7
8 if the county adopts an ordinance providing for the local
9 collection and administration of the tax.

10 (b) The ordinance shall include provision for, but
11 need not be limited to:

12 1. Initial collection of the tax to be made in the
13 same manner as the tax imposed under chapter 212.

14 2. Designation of the local official to whom the tax
15 shall be remitted, and that official's powers and duties with
16 respect thereto. Tax revenues may be used only in accordance
17 with the provisions of this section.

18 3. Requirements respecting the keeping of appropriate
19 books, records, and accounts by those responsible for
20 collecting and administering the tax.

21 4. Provision for payment of a dealer's credit as
22 required under chapter 212.

23 5. A portion of the tax collected may be retained by
24 the county for costs of administration, but such portion shall
25 not exceed 3 percent of collections.

26 (c) A county adopting an ordinance providing for the
27 collection and administration of the tax on a local basis
28 shall also adopt an ordinance electing either to assume all
29 responsibility for auditing the records and accounts of
30 dealers, and assessing, collecting, and enforcing payments of
31 delinquent taxes, or to delegate such authority to the

1 Department of Revenue. If the county elects to assume such
2 responsibility, it shall be bound by all rules promulgated by
3 the Department of Revenue pursuant to paragraph (3)(k), as
4 well as those rules pertaining to the sales and use tax on
5 transient rentals imposed by s. 212.03. The county may use
6 any power granted in this section to the department to
7 determine the amount of tax, penalties, and interest to be
8 paid by each dealer and to enforce payment of such tax,
9 penalties, and interest. The county may use a certified public
10 accountant licensed in this state in the administration of its
11 statutory duties and responsibilities. Such certified public
12 accountants are bound by the same confidentiality requirements
13 and subject to the same penalties as the county under s.
14 213.053. If the county delegates such authority to the
15 department, the department shall distribute any collections so
16 received, less costs of administration, to the county. The
17 amount deducted for costs of administration by the department
18 shall be used only for those costs which are solely and
19 directly attributable to auditing, assessing, collecting,
20 processing, and enforcing payments of delinquent taxes
21 authorized in this section. If a county elects to delegate
22 such authority to the department, the department shall audit
23 only those businesses in the county that it audits pursuant to
24 chapter 212.

25 Section 2. Subsection (1) of section 125.901, Florida
26 Statutes, is amended to read:

27 125.901 Children's services; independent special
28 district; council; powers, duties, and functions.--

29 (1) Each county may by ordinance create an independent
30 special district, as defined in ss. 189.403(3) and
31 200.001(8)(e), to provide funding for children's services

1 throughout the county in accordance with this section. The
2 boundaries of such district shall be coterminous with the
3 boundaries of the county. The county governing body shall
4 obtain approval, by a majority vote of those electors voting
5 on the question, to annually levy ad valorem taxes which shall
6 not exceed the maximum millage rate authorized by this
7 section. Any district created pursuant to the provisions of
8 this subsection shall be required to levy and fix millage
9 subject to the provisions of s. 200.065. Once such millage is
10 approved by the electorate, the district shall not be required
11 to seek approval of the electorate in future years to levy the
12 previously approved millage.

13 (a) The governing board of the district shall be a
14 council on children's services, which may also be known as a
15 juvenile welfare board or similar name as established in the
16 ordinance by the county governing body. Such council shall
17 consist of 10 members, including: the superintendent of
18 schools; a local school board member; the district
19 administrator from the appropriate district of the Department
20 of Children and Family Services, or his or her designee who is
21 a member of the Senior Management Service or of the Selected
22 Exempt Service; one member of the county governing body or
23 designated alternate member of the county governing body; and
24 the judge assigned to juvenile cases who shall sit as a voting
25 member of the board, except that said judge shall not vote or
26 participate in the setting of ad valorem taxes under this
27 section. In the event there is more than one judge assigned to
28 juvenile cases in a county, the chief judge shall designate
29 one of said juvenile judges to serve on the board. The
30 remaining five members shall be appointed by the Governor, and
31 shall, to the extent possible, represent the demographic

1 diversity of the population of the county. After soliciting
2 recommendations from the public, the county governing body
3 shall submit to the Governor the names of at least three
4 persons for each vacancy occurring among the five members
5 appointed by the Governor, and the Governor shall appoint
6 members to the council from the candidates nominated by the
7 county governing body. The Governor shall make a selection
8 within a 45-day period or request a new list of candidates.
9 All members appointed by the Governor shall have been
10 residents of the county for the previous 24-month period.
11 Such members shall be appointed for 4-year terms, except that
12 the length of the terms of the initial appointees shall be
13 adjusted to stagger the terms. The Governor may remove a
14 member for cause or upon the written petition of the county
15 governing body. If any of the members of the council required
16 to be appointed by the Governor under the provisions of this
17 subsection shall resign, die, or be removed from office, the
18 vacancy thereby created shall, as soon as practicable, be
19 filled by appointment by the Governor, using the same method
20 as the original appointment, and such appointment to fill a
21 vacancy shall be for the unexpired term of the person who
22 resigns, dies, or is removed from office.

23 (b) Nothing in this subsection shall prohibit a county
24 from exercising such power as is provided by general or
25 special law to provide children's services or to create a
26 special district to provide such services.

27 Section 3. Paragraph (c) of subsection (5) of section
28 212.0305, Florida Statutes, is amended to read:

29 212.0305 Convention development taxes; intent;
30 administration; authorization; use of proceeds.--

31 (5) LOCAL ADMINISTRATION OF TAX.--

1 (c) A county adopting an ordinance providing for the
2 collection and administration of the tax on a local basis
3 shall also adopt an ordinance electing either to assume all
4 responsibility for auditing the records and accounts of
5 dealers, and assessing, collecting, and enforcing payments of
6 delinquent taxes, or to delegate such authority to the
7 Department of Revenue. If the county elects to assume such
8 responsibility, it shall be bound by the rules promulgated by
9 the Department of Revenue pursuant to paragraph (3)(f), as
10 well as those rules pertaining to the sales and use tax on
11 transient rentals imposed by s. 212.03. The county may use
12 any power granted in this chapter to the department to
13 determine the amount of tax, penalties, and interest to be
14 paid by each dealer and to enforce payment of such tax,
15 penalties, and interest. The county may use a certified public
16 accountant licensed in this state in the administration of its
17 statutory duties and responsibilities. Such certified public
18 accountants are bound by the same confidentiality requirements
19 and subject to the same penalties as the county under s.
20 213.053. If the county delegates such authority to the
21 department, the department shall distribute any collections so
22 received, less costs of administration, to the county. The
23 amount deducted for costs of administration by the department
24 shall be used only for those costs which are solely and
25 directly attributable to auditing, assessing, collecting,
26 processing, and enforcing payments of delinquent taxes
27 authorized in this section. If a county elects to delegate
28 such authority to the department, the department shall audit
29 only those businesses in the county that it audits pursuant to
30 this chapter.

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1 Section 4. Paragraph (j) of subsection (7) of s.
2 213.053, Florida Statutes, is amended to read:

3 213.053 Confidentiality and information sharing.--

4 (7) Notwithstanding any other provision of this
5 section, the department may provide:

6 (j) Information authorized pursuant to s. 213.0535 to
7 eligible participants and certified public accountants for
8 such participants in the Registration Information Sharing and
9 Exchange Program.

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11 Disclosure of information under this subsection shall be
12 pursuant to a written agreement between the executive director
13 and the agency. Such agencies, governmental or
14 nongovernmental, shall be bound by the same requirements of
15 confidentiality as the Department of Revenue. Breach of
16 confidentiality is a misdemeanor of the first degree,
17 punishable as provided by s. 775.082 or s. 775.083.

18 Section 5. Paragraph (c) of subsection (2) of section
19 212.055, Florida Statutes, is amended to read:

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

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1 may provide. Taxable transactions and administrative
2 procedures shall be as provided in s. 212.054.

3 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

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

8 1. An interlocal agreement between the county
9 governing authority and the governing bodies of the
10 municipalities representing a majority of the county's
11 municipal population, which agreement may include a school
12 district with the consent of the county governing authority
13 and the governing bodies of the municipalities representing a
14 majority of the county's municipal population; ~~or~~

15 2. If there is no interlocal agreement, according to
16 the formula provided in s. 218.62; ~~or~~

17 3. If the governing body of a county enacts an
18 ordinance pursuant to subparagraph (a)1. and paragraph (b)
19 which limits the use of the proceeds from the proposed surtax
20 exclusively to county detention facilities or court
21 facilities, the ordinance may provide that all proceeds from
22 the surtax be distributed solely to the county for the
23 aforementioned purposes. As used in this subparagraph, the
24 term "county detention facility" means buildings, structures,
25 real estate, easements, and related interests in real estate,
26 including, but not limited to, those required to acquire or
27 construct structures for the purpose of a county jail, a
28 county stockade, a county work camp, a county residential
29 probation center, and all equipment, storage, and parking
30 related thereto which are used by a county or county officer
31 for the detention of persons charged with or convicted of

1 either a felony or misdemeanor. As used in this subparagraph,
2 the term "court facility" means buildings, real estate,
3 easements, and related interests in real estate, including,
4 but not limited to, those structures for the purpose of
5 housing either personnel, equipment, or functions of the
6 circuit or county court, public defenders, state attorneys,
7 and court related functions of the clerks of the court and all
8 storage and parking related thereto.

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

14 Section 6. This act shall take effect upon becoming a
15 law.

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17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 SB 1078

20 Changes the term "independent agent" to "certified public
21 accountant".

22 Amends s. 125.901, F.S., adding to the membership of the
23 Juvenile Welfare Board, a designated alternate member of the
24 county governing body in lieu of one member of the county
25 governing body.

26 Amends s. 213.053, F.S., authorizing the Department of Revenue
27 to share information with certified public accountants for
28 participants in the Registration Information Sharing and
29 Exchange Program (R.I.S.E.).

30 Amends s. 215.055, F.S., providing for a distribution of
31 proceeds from the Local Government Infrastructure Surtax to be
used solely for county detention facilities under certain
circumstances.