

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1394

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee and Senator Mitchell

SUBJECT: Discretionary sales surtaxes

DATE: April 13, 2000                      REVISED: 04/18/00        \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/1 amendment</u>
3.	_____	_____	<u>FR</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The CS creates a new Voter-Approved Indigent Care Surtax for counties with less than 800,000 residents, to be imposed after referendum approval. In addition, the CS renames the Indigent Care Surtax as the Indigent Care and Trauma Center Surtax, and requires tax proceeds to be provided to a hospital with a Level I trauma center in the county.

This bill amends section 212.055 of the Florida Statutes.

**II. Present Situation:**

Section 212.055, F.S., authorizes counties to impose six local discretionary sales surtaxes (taxes) on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, and admissions. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. This \$5,000 cap does not apply to the sale of any other service. The Department of Revenue (DOR) is responsible to administer, collect, and enforce all sales taxes. Collections received by the department are returned monthly to the county imposing the tax. These taxes are in addition to the state and local sales taxes imposed on transient rentals.

The tax rates, duration levied, method of imposition, and use of proceeds are individually specified in s. 212.055, F.S. **TABLE 1** identifies the six taxes, the rate limits, and the number of counties authorized to impose and the number imposing the tax. The maximum rate for any combination of the Infrastructure Surtax, the Indigent Care Surtax, the County Public Hospital Surtax, and the Small County Surtax, is 1 percent. The maximum combined rate for counties authorized to levy the Charter County Transit System Surtax is 2.5 percent. The School Capital Outlay Surtax is capped at 0.5 percent, and is not included in these tax rate caps.

<b>TABLE 1</b>			
<b>Local Discretionary Sales Surtaxes</b>			
TAX	AUTHORIZED LEVY (%)	NO. OF COUNTIES AUTHORIZED TO LEVY TAX	NO. OF COUNTIES LEVYING TAX
Charter County Transit System Surtax	up to 1%	5	1
Local Government Infrastructure Surtax	0.5% or 1%	67	28
Indigent Care Surtax	up to 0.5%	5	1
County Public Hospital Surtax	0.5%	(Miami-Dade County)	1
Small County Surtax	0.5% or 1%	31	17
School Capital Outlay Surtax	up to 0.5%	67	8
<b>Total Collections, FY 97/98: \$730,663,561</b>			
(Source: Legislative Committee on Governmental Relations, Sept., 1999)			

**Indigent Care Surtax**

In 1991, the Legislature authorized certain counties to levy the Indigent Care Surtax at the rate of 0.5 percent. A county with a total population of 800,000 or more is eligible to levy this tax; however, counties consolidated with that of one or more municipalities (Duval), and counties authorized to levy the County Public Hospital Surtax (Miami-Dade), are ineligible. The proceeds must be used to fund health care services, including, but not limited to, primary care, preventive care, and hospital care for indigent and medically poor persons. Persons defined as medically poor lack sufficient income, resources, and assets to provide for needed medical care without using resources required to meet the basic needs for shelter, food, clothing, and personal expenses. Medically poor individuals lack sufficient third-party insurance coverage and are not eligible for any other state or federal third-party insurance coverage. These persons are not eligible for any other state or federal program or have medical needs that are not covered by such program.

This tax may be imposed by either an extraordinary vote of the county’s governing body or by voter approval in a county wide referendum. The authority to levy this tax expires October 1, 2005.

While Broward, Hillsborough, Palm Beach, Pinellas, and Orange Counties are currently authorized to levy this tax, only Hillsborough does so. In FY 1997/98, the county collected approximately \$73.3 million from this tax.

### ***Hillsborough County Lien Authority***

Chapter 98-499, Laws of Florida, (a special law limited to Hillsborough County) authorizes the Hillsborough County Commission to adopt an ordinance for liens in favor of all operators of hospitals in Hillsborough County and in favor of Hillsborough County, when the county pays for medical care, treatment, or maintenance of qualifying residents of the county, upon all causes of action which the injured person or his legal representative may assert, as well as the proceeds of any settlements or judgments arising from the cause of action that required hospitalization and medical treatment. The county ordinance may provide for the attachment, perfection priority, and enforcement of such liens and for necessary and appropriate procedures to carry out the purposes of the ordinance. Any ordinance adopted by Hillsborough County under this act must grant identical remedies to every hospital operating in the county and to the County Indigent Health Care Plan. Specific Appropriation Category 217 in the Senate 2000 General Appropriations Act (Senate Bill 2200 1st Eng.) contains proviso language which provides that no Disproportionate Share Program payments shall be made to Tampa General Hospital after September 30, 2000, unless documentation is provided to the Agency for Health Care Administration that a \$6 million payment was made by Hillsborough County to Tampa General Hospital, or a \$3 million payment was made by Hillsborough County to Tampa General Hospital in conjunction with the passage of an ordinance that implements a hospital lien law in accordance with ch. 98-499, L.O.F.

### ***State Trauma Centers***

Section 413.20(32), F.S., defines “trauma center” as a state-approved acute care facility that provides diagnosis and treatment of persons who have brain or spinal cord injuries. Section 395.401(1)(d) and (e), F.S., defines the two levels of trauma centers. Level I centers have formal trauma care research and education programs, while Level II centers serve as a resource facility to community hospitals and provides an organized system of trauma care. Section 395.402, F.S., divides the state into 19 trauma service areas, with a maximum 44 state sponsored Level I and II trauma centers in the state. There are six Level I trauma centers in the state: Tampa General Hospital, Jackson Memorial Hospital, Broward General Medical Center, Orlando Regional Medical Center, Memorial Regional Hospital, and Shands Jacksonville Medical Center.

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

**Section 1.** Amends s. 212.055(4), F.S., to rename the Indigent Care Surtax as the Indigent Care and Trauma Center Surtax. The CS requires that the county plan setting forth the use of tax proceeds, as required in current law, must also address the services to be provided by the Level I trauma center, any agreements with hospitals with a Level I trauma center, and must promote the advancement of technology in medical services and recognize the level of responsiveness to medical needs in trauma cases.

The Clerk of Court is required to annually send \$6 million to a hospital in the county with a Level I trauma center. If the county enacts a hospital lien law in accordance with ch. 98-499, L.O.F., the clerk must send \$3 million to the hospital. (However, ch. 98-499, L.O.F., applies only to Hillsborough County, thus making this option unavailable to any other county that enacts this surtax.) The CS also contains a provision specifying that these allocations “shall be in addition to the base contract amount received during fiscal year 1999-2000 and any additional amount negotiated to the base contract.”

This CS also creates subsection (7), to establish a new “Voter-Approved Indigent Care Surtax.” Counties with less than 800,000 residents may impose the surtax, with referendum approval. The rate is capped at 0.5 percent. The CS establishes ballot language and requires the county to develop a plan, by ordinance, for providing health care services to qualified residents, as defined in this section.

Tax proceeds must be used to fund health care services for indigent and medically poor persons, including, but not limited to, primary care, preventive care, and hospital care. Persons defined as medically poor lack sufficient income, resources, and assets to provide for the needed medical care without using resources required to meet the basic needs for shelter, food, clothing, and personal expenses. Medically poor individuals lack sufficient third-party insurance coverage and are not eligible for any other state or federal third-party insurance coverage. These persons are not eligible for any other state or federal program or have medical needs that are not covered by such program.

The Department of Revenue is required to collect and remit the tax proceeds to the Clerk of Court, who must deposit the funds in an indigent health care trust fund, invest the deposits as prescribed in general law, and disburse the funds to qualified providers of health care services.

The maximum rate for any combination of the Infrastructure Surtax, the Voter-Approved Indigent Care Surtax, and the Small County Surtax, is one percent.

Because many counties currently levy the Local Government Infrastructure Surtax at 1 percent, only 20 counties will be eligible to levy the tax (Alachua, Bay, Brevard, Citrus, Collier, Duval, Flagler, Franklin, Gulf, Hernando, Lee, Manatee, Marion, Pasco, Polk, Putnam, Santa Rosa, St. Johns, St. Lucie, and Volusia).

**Section 2.** Provides that the act will take effect upon becoming a law.

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

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

Under the new subsection (7), the bill requires the Department of Revenue to collect and remit the tax proceeds to the Clerk of Court, who must deposit the funds in an indigent health care trust fund, invest the deposits as prescribed in general law, and disburse the funds to qualified health care providers. To the extent that this requirement creates a trust fund in a local government entity (*a public body*), it raises constitutional issues regarding the creation of trust funds by the Legislature. Article III, Section 19 of the State Constitution provides that no trust fund of the State of Florida or *other public body* may be created by law without a three-fifths vote of the membership of each house of the legislature in a separate bill for that purpose only.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The following is an estimate of potential revenues for those counties eligible to levy this tax: Alachua, \$12.3m; Bay, \$10.1m; Brevard, \$21.5m; Citrus, \$4m; Collier, \$19.6m; Duval, \$53.3m; Flagler, \$1.6m; Franklin, \$0.4m; Gulf, \$0.35m; Hernando, \$4.1m; Lee, \$31m; Manatee, \$13.5m; Marion, \$13.2m; Pasco, \$12.1m; Polk, \$24.4m; Putnam, \$2.2m; Santa Rosa, \$3m; St. Johns, \$7m; St. Lucie, \$7.4m; and Volusia, \$21.5m.

**B. Private Sector Impact:**

If any county imposes these taxes, consumers in that county will pay up to an additional 0.5 percent sales tax on taxable purchases.

**C. Government Sector Impact:**

Imposition of this tax will provide counties with additional resources to fund health care services for indigent and medically poor persons.

**VI. Technical Deficiencies:**

The changes to the surtax in s. 212.055(4), F.S., appear to be crafted to apply to only one county. It may be awkward for the three counties other than Hillsborough County to implement the new provision relating to “base contract amount” received in FY 99-00.

The bill does not provide a definition for Level I trauma center. Section 395.401, F.S., defines “Level I trauma center” to mean a hospital that is determined by the Department of Health to be in substantial compliance with trauma center and pediatric trauma referral center verification standards as established by rule of the department, and which: has formal research and education

programs for the enhancement of trauma care; serves as a resource facility to Level II trauma centers, pediatric trauma referral centers, and community hospitals; and ensures an organized system of trauma care.

## **VII. Related Issues:**

The Hillsborough County Home Rule Charter took effect May 1985 and provides for local self-determination and grants all powers of a chartered county under Section I, Article VIII, Florida Constitution, 1968, as amended. One of the features of the Hillsborough County charter as described in “Home Rule Charter for Hillsborough County Florida, Approved by Hillsborough County Voters, September, 1983,” is:

Special laws enacted by the Florida Legislature may be effective in Hillsborough County without approval by County electors if they relate to the following: civil service, aviation, the port, sports, transportation, **hospitals**, planning, environment, solid waste management, consumer affairs, resource recovery, criminal justice, historic preservation, and the arts. [Emphasis added.]

## **VIII. Amendments:**

#1 by Health, Aging and Long-Term Care:

Requires the Clerk of Court to annually send \$6.5 million to a hospital in the county with a Level I trauma center. If the county enacts a hospital lien law in accordance with ch. 98-499, L.O.F., the clerk must send \$3.5 million to the hospital. Chapter 98-499, L.O.F., (a special law limited to Hillsborough County) authorizes the Hillsborough County Commission to adopt an ordinance for liens in favor of all operators of hospitals in Hillsborough County and in favor of Hillsborough County, when the county pays for medical care, treatment, or maintenance of qualifying residents of the county, upon all causes of action which the injured person or his legal representative may assert, as well as the proceeds of any settlements or judgments arising from the cause of action that required hospitalization and medical treatment.