

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2710

SPONSOR: Comprehensive Planning Committee and Senator Posey

SUBJECT: Local Government Infrastructure Surtax

DATE: April 16, 2004      REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Cooper  | Yeatman        | CP        | Fav/CS |
| 2. | _____   | _____          | FT        | _____  |
| 3. | _____   | _____          | _____     | _____  |
| 4. | _____   | _____          | _____     | _____  |
| 5. | _____   | _____          | _____     | _____  |
| 6. | _____   | _____          | _____     | _____  |

**I. Summary:**

The Committee Substitute (CS) expands the authorized uses of local government infrastructure surtax (surtax). Surtax proceeds may be used to reduce property taxes and to fund operational expenses, under certain conditions. In addition, it removes the restriction against issuing bonds from surtax proceeds more than once a year.

This bill amends section 212.055 of the Florida Statutes.

**II. Present Situation:**

**Local Discretionary Sales Surtaxes**

Section 212.054(1), F.S., currently limits, exclusively to counties, the authority to levy the discretionary sales surtaxes authorized in and subject to the specifications in s. 212.055, F.S.

Section 212.055, F.S., authorizes counties to impose seven 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 DOR are returned monthly to the county imposing the tax.

The tax rates, duration levied, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. TABLE 1 identifies the seven taxes, the rate limits, the number of counties authorized to impose and the number imposing the tax. The maximum combined rate for the

Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, is 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate is 1.5 percent. The maximum combined rate for counties authorized to levy the Charter County Transit System Surtax is 2.5%. The School Capital Outlay Surtax is capped at 0.5%, and is not included in these tax rate caps.

| TAX                                       | AUTHORIZED<br>LEVY (%)   | # OF COUNTIES<br>AUTHORIZED TO<br>LEVY TAX | # OF COUNTIES<br>LEVYING TAX |
|---|--------------------------|--|------------------------------|
| Charter County<br>Transit System Surtax   | up to 1%                 | 7  | 2                            |
| Local Government<br>Infrastructure Surtax | 0.5% or 1%               | 67   | 25                           |
| Small County Surtax                       | 0.5% or 1%               | 31   | 20                           |
| Indigent Care & Trauma<br>Center Surtax   | up to 0.5%               | 5  | 1                            |
| County Public<br>Hospital Surtax          | 0.5% (Miami-Dade County) | 1  | 1                            |
| School Capital<br>Outlay Surtax           | up to 0.5%               | 67   | 13                           |
| Voter-Approved<br>Indigent Care Surtax    | 0.5% or 1%               | 61   | 0                            |

(Source: Legislative Committee on Intergovernmental Relations, 11/2003)

**Local Government Infrastructure Surtax**

Section 212.055(2), F.S., authorizes the governing board in each county, upon approval by referendum, to impose the Local Government Infrastructure Sales Surtax (surtax) at a rate of 0.5 percent or 1 percent. In addition, the governing bodies of the municipalities representing a majority of the county's population may adopt uniform resolutions establishing the rate of the surtax, and upon county-wide referendum approval, may impose the surtax.

The referendum ballot must include a brief general description of the projects to be funded by the surtax. In addition, surtax proceeds must be distributed between the county and municipalities within the county according to an interlocal agreement or the distribution formula for the Half-Cent Sales Tax proceeds as specified in s. 218.62, F.S. With limited exceptions, proceeds from the surtax may only be used to finance, plan, and construct infrastructure.<sup>1</sup> Absent these

<sup>1</sup> "Infrastructure" is defined in subparagraph (2)(d)2. as "...any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and

expressed exceptions, counties and municipalities are prohibited from using the tax proceeds for operational expenses of any infrastructure.

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.055(2), F.S., to expand the authorized uses of local government infrastructure surtax (surtax), to include operational expenses, under certain conditions.

Subparagraph (2)(d)1., F.S., is amended to require that at least 50 percent of the surtax proceeds be used to finance, plan and construct infrastructure and to acquire land for specified purposes, and to remove the restriction against using the tax proceeds for operational expenses.

Sub-subparagraph (2)(d)2., F.S., is created to allow counties and municipalities to use up to 35 percent of surtax proceeds and interest to reduce property taxes and up to 15 percent of surtax proceeds and interest for operational expenses. The percentage used for operational expenses may not exceed the percentage used to reduce property taxes. Furthermore, the county or municipality may not increase property taxes for the first year following the year in which they chose to use such proceeds and interest for operational expenses above the rollback rate.

The “rolled-back” millage rate is the millage rate which,

“...exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year.”<sup>2</sup>

The rolled-back rate is used in the advertisements for budget hearings and in the Notice of Proposed Property taxes mailed annually to each property owner.<sup>3</sup> Each taxing authority must show in the advertisements and notices a comparison of the millage rate proposed for the current budget year with the rolled-back rate.

This authority may not be exercised until all bond obligations issued prior to July 1, 2004, against which the proceeds have been pledged, are satisfied.

Paragraph (2)(e) of s. 212.055, F.S., is amended to remove the restriction against issuing bonds from surtax proceeds more than once a year.

**Section 2** provides that the act will take affect July 1, 2004.

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any land acquisition, land improvement, design, and engineering costs related thereto...” and “...a fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

<sup>2</sup> s. 200.065(1), F.S.

<sup>3</sup> Section 200.069, F.S., specifies the manner of the notice of the proposed property taxes to property owners. The notice shows the taxpayer’s property taxes in the preceding year, his taxes for the current year if no budget changes are made, and his taxes for the current year under the proposed budgets and millage rates of the taxing authorities. The notice discloses the date, time, and location of public hearings on the local government’s proposed budgets and taxes. It also encourages the taxpayer to participate in the budget process.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

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

The bill expands the authorized uses of local government infrastructure surtax. Surtax proceeds may be used to reduce property taxes and to fund operational expenses, under certain conditions.

**B. Private Sector Impact:**

If counties or municipalities chose to exercise this option, they must reduce property taxes in the respective jurisdiction. If surtax proceeds are used for operational expenses, the bill imposes limits on future increases in property taxes.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.