

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 909 Surtax Proceeds/Parks & Recreation  
**SPONSOR(S):** Jennings  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Affairs (Sub)</u>	<u>9 Y, 0 N</u>	<u>Grayson</u>	<u>Cutchins</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Grayson</u>	<u>Cutchins</u>
3) <u>Finance and Tax</u>	<u>19 Y, 1 N w/CS</u>	<u>Monroe</u>	<u>Diez-Arguelles</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

This bill changes the eligibility criteria for a county to use the Local Government Infrastructure Surtax proceeds for the operation and maintenance of certain parks and recreational programs and facilities, and the criteria for using the Charter County Transit System Surtax for non-transit purposes.

The bill changes the criteria for using the Local Government Infrastructure Surtax proceeds for the operation and maintenance of certain parks and recreational programs and facilities, to extend eligibility to any county in which the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes. This change accounts for the increase in the difference between the market value of property and the taxable value of property (assessment differential) resulting from the Save Our Homes provision of the State Constitution. One effect of that provision has been the loss of this eligibility to some counties originally intended to benefit from the allowable use of the surtax proceeds.

The bill adds a threshold of a population greater than 75,000 for the operational and maintenance use of these surtax proceeds. The bill also ties the eligibility criteria to "the tax year in which an infrastructure surtax referendum is placed before the voters". The bill limits the operational and maintenance use of the surtax proceeds to "throughout the duration of the surtax levy or while interest earnings accruing from the proceeds of the surtax are available for such use, which ever period is greater".

The bill also amends subparagraph 212.055(1)(d)3., F.S., to allow all charter counties, as opposed to just Miami-Dade, to use the proceeds of the Charter County Transit System Surtax for the purposes specified therein. These uses differ from those already available to all counties in that they allow "no more than 25 (of the proceeds to be) used for nontransit uses."

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0909d.ft.doc  
**DATE:** April 6, 2004

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

### B. EFFECT OF PROPOSED CHANGES:

#### Effect on Charter County Transit System Surtax

Under current law, proceeds from the Charter County Transit System Surtax may only be used for specified purposes.<sup>1</sup> The law allows Miami-Dade<sup>2</sup> to use no more than 25 percent for “nontransit uses”. This bill would change the law to allow all counties levying this surtax to take advantage of that provision and use up to 25% of the proceeds for nontransit uses.

#### Effect on Local Government Infrastructure Surtax

This bill changes the eligibility criteria for a county to use the Local Government Infrastructure Surtax proceeds for the operation and maintenance of certain parks and recreational programs and facilities.

Currently, a county in which more than 40 percent of the just value of real property is exempt or immune from taxation qualifies for this exemption. The bill changes the criterion to extend eligibility to allow any county in which the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes.

The bill adds a threshold of a population greater than 75,000 for the operational and maintenance use of the surtax proceeds.

The bill ties the eligibility criteria to “the tax year in which an infrastructure surtax referendum is placed before the voters”.

The bill limits the operational and maintenance use of the surtax proceeds to “throughout the duration of the surtax levy or while interest earnings accruing from the proceeds of the surtax are available for such use, which ever period is greater”.

#### Local Government Infrastructure Surtax – Background

Currently, counties may levy a Local Government Infrastructure Surtax on sales (surtax), the proceeds of which are used for certain infrastructure needs. However, in certain eligible counties the surtax proceeds may additionally be used for the operation and maintenance of parks and recreational programs and facilities established with the surtax proceeds. The eligibility criteria for this “operational and maintenance use” of the surtax proceeds applies to any county in which 40% or more of the just value of real property is exempt or immune from ad valorem taxation. “Just value” of property is

<sup>1</sup> s. 212.055(1)(d), F.S.

<sup>2</sup> See s. 212.055(1)(d)3., F.S. Miami-Dade is the only “county as defined by s.125.011(1)”.

defined as the actual market value of property.<sup>3</sup> “Just value” is distinguished from “taxable value” which means the assessed value of property minus the amount of any applicable exemption provided under Art. VII, ss. 3 or 6, State Constitution, and chapter 196, FS.

As a result of the Save Our Homes provision of the State Constitution, certain property value is non-taxable but not technically considered “exempt or immune” from ad valorem taxation. Additionally, the Save Our Homes provision has resulted in an increase in the “assessment differential” or the difference between the “just (market) value” and the “taxable value” of real property. The increase in the assessment differential has grown to such an extent as to cause some previously eligible counties to lose their eligibility.

Rather than continuing to focus on the amount of exempt or immune property within a county, this bill changes the existing “operational and maintenance use” eligibility criteria to apply to any county in which the taxable value of real property is less than 60% of the just value of real property for ad valorem tax purposes. This changes the criterion’s focus to the percentage of real property that is taxable rather than that which is not taxable.

According to a representative of Alachua County<sup>4</sup>, the “operational and maintenance use” of the surtax proceeds was enacted in 1996 at the request of Alachua County, the City of Gainesville and other cities within the County in order to fully fund a proposed county-wide recreation initiative. In the intervening years and as a result of continually increasing property “just value” and the Save Our Homes provision, Alachua County is no longer eligible to benefit from the “operational and maintenance use” of the surtax proceeds. The bill is now needed to return eligibility to Alachua County and other similarly situated counties. The Alachua County representative believes that the bill will extend eligibility to four counties at this time: Alachua, Escambia, Marion and Leon Counties.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 212.055(2)(g), F.S., revising eligibility criteria for county and municipal for the use of surtax proceeds for the operation and maintenance of parks and recreational facilities.

Section 2. Provides an effective date of upon becoming law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

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<sup>3</sup> *Black’s Law Dictionary*, 6<sup>th</sup> Ed., West Publishing Co., 1990.

<sup>4</sup> Richard Mills, Legislative Affairs Director, Alachua County, 2/26/04.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

Alachua County<sup>5</sup>:

The 1996 Legislature passed legislation (codified as Chapter 96~240, Laws of Florida) that authorized any county in which 40 percent or more of the just value of real property is exempt or immune from ad Valorem taxation (and the municipalities within such a county) to use the proceeds and accrued interest for operation and maintenance of parks and recreation programs at facilities established with the surtax proceeds. This measure was done at the request of Alachua County, the City of Gainesville and the other participating cities in the county in order to fully fund a proposed county-wide recreation initiative. The legislative intent was to allow this additional use of local option sales tax dollars for those medium-sized counties (populations between 75,000 and 500,000) with relatively low ratios of taxable to just value.

Currently, under State definitions, some portions of the just value of property that are not taxable are not technically considered to be "exempt" or "immune". Most notably, the "Real Property Assessment Differential of Capped Parcels" (commonly known as the "Save Our Homes" tax cap) portion of the just value, while untaxable, is not considered to be specifically "exempt" or "immune". Since 1996 when this legislation was passed, the growth in this "capped" portion of the property value (as a percentage of the total just value) has risen dramatically. As a result, while Alachua County's percentage of just value that is taxable has remained below 60%, the county no longer qualifies for the additional use because of a

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<sup>5</sup> Information provided by Richard Mills, Legislative Affairs Director, Alachua County, 3/2/04.

technicality. To rectify the situation and to better reflect the 1996 legislative intent the following changes are requested:

- Change the criteria to look at the percentage of property that is taxable rather than what is not taxable;
- Provide language clarifying that this additional use of the proceeds can be throughout the life of the tax (including the period of time after the duration of the tax when tax proceed interest may be utilized) if a county qualifies for the additional use based on the property value profile for the year when the tax is approved in a referendum.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Subcommittee on Local Affairs at its March 11, 2004, meeting, favorably recommended one amendment. The amendment removes lines 26 – 33 of the bill as filed and inserts language that conforms the bill to the Senate companion. Specifically, the amendment:

- Adds a threshold of a population greater than 75,000 for the operational and maintenance use of the surtax proceeds.
- Ties the effect of the amendment to “the tax year in which an infrastructure surtax referendum is placed before the voters”.
- Limits the operational and maintenance use of the surtax proceeds to “throughout the duration of the surtax levy or while interest earnings accruing from the proceeds of the surtax are available for such use, which ever period is greater”.

The Committee on Local Government & Veterans’ Affairs at its March 16, 2004 meeting adopted the amendment described above.

The Committee on Finance and Tax adopted an amendment adding the provisions regarding the Charter County Infrastructure Surtax to the bill.