

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 767 Discretionary Sales Surtaxes  
**SPONSOR(S):** Military & Local Affairs Policy Committee and Gibson  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1036

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>12 Y, 1 N, As CS</u>	<u>Noriega</u>	<u>Hoagland</u>
2)	<u>Health Care Regulation Policy Committee</u>	<u></u>	<u></u>	<u></u>
3)	<u>Finance &amp; Tax Council</u>	<u></u>	<u></u>	<u></u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

Current law authorizes certain counties with a total population of at least 800,000 residents to levy, by ordinance or referendum, an Indigent Care and Trauma Center Surtax not to exceed 0.5 percent. For these counties, the proceeds of the Indigent Care and Trauma Center Surtax must be used to fund health care services, including but not limited to, primary care, preventive care, and hospital care for indigent and medically needy poor persons, as well as Level I trauma center services. However, counties that are consolidated with one or more municipalities (Duval County) and counties that are authorized to levy a County Public Hospital Surtax (Miami-Dade County) are not authorized to levy the Indigent Care and Trauma Center Surtax.

This bill amends the Indigent Care and Trauma Center Surtax by removing the restriction to levy the surtax for counties with a total resident population of at least 800,000 that are consolidated with one or more municipalities. At present, this change would only apply to Duval County.

This bill provides that counties that are consolidated with one or more municipalities may only levy this surtax if the ordinance is approved by referendum.

The imposition of this surtax will provide Duval County with additional revenues to fund health care services for indigent and medically needy poor persons and Level I trauma center services.

The Department of Revenue (DOR) has indicated that it can handle the provisions of this bill with existing resources.

This bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Background

Article VII, section 9 of the Florida Constitution generally limits the annual millage rates that may be levied by counties and municipalities to 10 mills (or 1 percent) of ad valorem tax on the taxable value of property within their jurisdiction.<sup>1</sup>

Section 212.055, F.S., allows counties to levy eight different types of Local Discretionary Sales Surtaxes (also referred to as "local option taxes"), and expresses the legislative intent that any authorization for imposition of a discretionary sales surtax be published in the Florida Statutes as a subsection of this section. Each enactment must specify the types of counties authorized to levy, the rates which may be imposed, the maximum length of time the surtax may be imposed, the approval required, the purpose for which the proceeds may be expended, and such other requirements as the Legislature may provide.

These surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions pursuant to ch. 212, F.S., and communications services as defined for purposes of ch. 202, F.S.<sup>2</sup>

##### Local Discretionary Sales Surtaxes<sup>3</sup>

The Local Discretionary Sales Surtax rate varies from county to county, depending on the levies authorized within each jurisdiction. Discretionary sales surtaxes must be collected when the transaction occurs in, or when delivery is into, a county that imposes the surtax, and the sale is subject to the state's sales and use tax. The eight Local Discretionary Sales Surtaxes are as follows:

- Charter County Transportation System;
- Emergency Fire Rescue Services and Facilities;

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<sup>1</sup> A rate of one mill may be expressed as follows: 1 mill = 0.1 cent or \$0.001; \$1 per \$1,000; or 0.1 percent.

<sup>2</sup> Section 212.054(2), F.S.

<sup>3</sup> Most of the information in this section is from the *2009 Local Government Financial Information Handbook*, prepared by the Legislative Committee on Intergovernmental Relations (LCIR), August 2009, pp. 165-186.

- Local Government Infrastructure;
- Small County;
- Indigent Care and Trauma Center;
- County Public Hospital;
- School Capital Outlay; and
- Voter-Approved Indigent Care.

Not all counties are eligible to impose each of these eight surtaxes. Also, while the array of levies for discretionary sales surtaxes varies from county to county, the maximum potential county levy rate for these surtaxes is currently 3.5 percent, which applies to three Florida counties.<sup>4</sup>

The following table summarizes the eight current Local Discretionary Sales Surtaxes, along with other relevant information about their associated levies:

<u>Local Discretionary Tax</u>	<u>Authorized Rate of Maximum Levy</u>	<u>Number of Counties Authorized</u>	<u>Number of Counties Levying</u>
Charter County Transportation System	Up to 1 percent (for charter counties only)	20	2
Emergency Fire Rescue Services and Facilities	Up to 1 percent	65	0
Local Government Infrastructure	0.5 percent <u>or</u> 1 percent	67	21
Small County	0.5 percent <u>or</u> 1 percent	31	28
Indigent Care and Trauma Center	Up to 0.25 percent <u>or</u> Up to 0.5 percent	60 5	0 1
County Public Hospital	0.5 percent	1	1
School Capital Outlay	Up to 0.5 percent	67	16
Voter-Approved Indigent Care	Up to 0.5 percent <u>or</u> up to 1 percent	60	4

#### The Department of Revenue's Role

Section 212.054, F.S., provides for the distribution of the proceeds from discretionary sales surtaxes. The Department of Revenue (DOR) is charged with administering, collecting, and enforcing Local Discretionary Sales Surtaxes,<sup>5</sup> which must be enacted by an ordinance adopted by the governing body

<sup>4</sup> These counties are Alachua, Leon, and Wakulla.

<sup>5</sup> Section 212.054(4)(a), F.S.

of the county levying the surtax.<sup>6</sup> No initial levy or rate increase or decrease may take effect on a date other than January 1, and no levy may terminate on a day other than December 31.<sup>7</sup>

The governing body of any county or school board that levies a surtax must notify the DOR within 10 days after the final adoption by ordinance or referendum of an imposition, termination, or rate change. The DOR must receive this notice no later than November 16 prior to the January 1 effective date. In addition, the notice must specify the rate as well as the time period during which the surtax will be in effect and must include a copy of the ordinance and such other information required by departmental rule. Failure to timely provide such notification to the DOR will result in the delay of the effective date for a period of one year.<sup>8</sup>

Section 212.054(4)(b), F.S., provides that the proceeds of each county's discretionary sales surtax collections must be transferred to the Discretionary Sales Surtax Clearing Trust Fund and a separate account within the trust fund must be established for each county imposing the surtax. DOR is authorized to take an administrative cost deduction of not more than 3 percent of the total surtax revenues generated by all levying counties. This administrative cost deduction must be used only for those costs solely and directly attributable to the surtax, and these costs must be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties.

The proceeds of a discretionary sales surtax are distributed at the county level and not at the jurisdictional level.

#### The Role of the Clerk of Circuit Court

Section 212.055(4)(a)5.c., F.S., provides that the clerk of the circuit court shall disburse the funds, including any interest earned, to any provider of health care services to indigent persons and the medically poor, including hospitals with Level I trauma centers,<sup>9</sup> upon directive from the authorizing county. However, if a county has a population of at least 800,000 residents and has levied the Indigent Care and Trauma Center Surtax, notwithstanding any directive from the authorizing county, the clerk of the court shall, on October 1 of each calendar year, issue a check for \$6.5 million to a hospital in its jurisdiction that has a Level I trauma center.

Section 212.055(4)(a)5.c., F.S., also provides that the issuance of the checks on October 1 of each year is provided in recognition of the Level I trauma center status and shall be in addition to the base contract amount received during fiscal year 1999-2000 and any additional amount negotiated to the base contract. If the hospital receiving funds for its Level I trauma center status requests such funds to be used to generate federal matching funds under Medicaid, the clerk of the court shall instead issue a check to the Agency for Health Care Administration (AHCA) to accomplish that purpose to the extent that it is allowed through the General Appropriations Act.

#### Indigent Care and Trauma Center Surtax

Section 212.055(4)(a), F.S., authorizes certain counties with a population of at least 800,000 residents to levy an Indigent Care and Trauma Center Surtax not to exceed 0.5 percent. This surtax may be

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<sup>6</sup> Section 125.66(2), F.S.

<sup>7</sup> Section 212.054(5), F.S.

<sup>8</sup> Section 212.054(7)(a), F.S.

<sup>9</sup> Section 395.4001, F.S., defines a "Level I trauma center" as one that:

- (a) has formal research and education programs for the enhancement of trauma care; is verified by the Department of Health (DOH) to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by DOH to operate as a Level I trauma center;
- (b) serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities; and
- (c) participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

imposed by ordinance approved by an extraordinary vote of the governing body or conditioned upon approval by a majority vote of the electors in a countywide referendum.<sup>10</sup>

Section 212.055(4)(b), F.S., authorizes certain counties with a population of less than 800,000 residents to levy an Indigent Care and Trauma Center Surtax not to exceed 0.25 percent. This surtax may be imposed by ordinance subject to approval by a majority vote of the electors in a countywide referendum,<sup>11</sup> and expires four years after the effective date of the surtax unless reenacted by ordinance subject to a subsequent referendum.<sup>12</sup>

In total, 65 of Florida's 67 counties are authorized to levy the Indigent Care and Trauma Center Surtax. However, counties that are consolidated with one or more municipalities (Duval County) and counties that are authorized to levy a County Public Hospital Surtax (Miami-Dade County) are not authorized to levy the Indigent Care and Trauma Center Surtax.

For non-consolidated counties with a population of at least 800,000 residents, the proceeds of the surtax must be used to fund health care services, including but not limited to, primary care, preventive care, and hospital care for indigent and medically needy poor persons,<sup>13</sup> as well as Level I trauma center services.<sup>14</sup> For non-consolidated counties with populations of less than 800,000 residents, the proceeds of the surtax must be used for the sole purpose of funding trauma services provided a Florida licensed trauma center.<sup>15</sup>

According to the University of Florida's Bureau of Economic and Business Research (BEBR), the April 1, 2009, population estimate for Duval County is 900,518.

The five non-consolidated Florida counties with more than 800,000 residents that are currently eligible to levy the Indigent Care and Trauma Center Surtax are Broward, Hillsborough, Orange, Palm Beach, and Pinellas. Of these counties, only Hillsborough is currently levying the surtax and is doing so at a rate of 0.5 percent.<sup>16</sup>

Currently, the only Level I trauma center in Duval County is located at the Shands Jacksonville Medical Center (Shands Jacksonville).<sup>17</sup>

### **Effect of the Proposed Changes**

This bill amends the Indigent Care and Trauma Center Surtax by removing the restriction to levy the surtax for counties with a total resident population of at least 800,000 that are consolidated with one or more municipalities. At present, this change would only apply to Duval County.

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<sup>10</sup> Section 212.055(4)(a)1., F.S.

<sup>11</sup> Section 212.055(4)(b), F.S.

<sup>12</sup> Section 212.055(4)(b)4., F.S.

<sup>13</sup> Medically needy poor are persons having "insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage." Section 212.055(4)(a)4.b., F.S.

<sup>14</sup> Section 212.055(4)(a)3., F.S.

<sup>15</sup> Section 212.055(4)(b), F.S.

<sup>16</sup> Hillsborough County has one Level I trauma center located at Tampa General Hospital.

<sup>17</sup> According to its web site, Shands Jacksonville is an academic medical center affiliated with the University of Florida, and one of seven hospitals in the Shands HealthCare family.

This bill provides that counties that are consolidated with one or more municipalities may only levy this surtax if the ordinance is approved by a majority vote of the electors in a countywide referendum.

This bill has an effective date of July 1, 2010.

**B. SECTION DIRECTORY:**

Section 1. Amends ss. 212.055(4)(a), F.S., by removing the restriction on counties that are consolidated with one or municipalities from levying the surtax; requires referendum approval for the surtax in certain counties.

Section 2. Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

None.

2. Expenditures:

DOR has indicated that this bill will result in insignificant operational costs that can be handled with existing resources. The Department of Health (DOH) has indicated that this bill will have no fiscal impact on its operations.

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

1. Revenues:

The imposition of the Indigent Care and Trauma Center Surtax will provide Duval County with additional revenues to fund health care services for indigent and medically needy poor persons and Level I trauma center services, upon directive from Duval County. If this surtax is imposed, the Duval County Clerk of the Court must disburse a minimum of \$6.5 million on October 1 of each calendar year, including any interest earned, to Shands Jacksonville in recognition of its Level I trauma center status.

In its *2009 Local Government Financial Information Handbook*, the Legislative Committee on Intergovernmental Relations (LCIR) indicated that a 1 percent local option sales tax would have generated \$125,842,228 million in Duval County for the local fiscal year ending September 30, 2010. Therefore, if Duval County had levied a 0.5 percent Indigent Care and Trauma Center Surtax for local fiscal year 2009-10, this surtax would have generated \$62,921,114 million for the county.

2. Expenditures:

Duval County may incur costs to hold a referendum (if it elects to do so), and to implement the provisions of this bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Consumers will pay up to an additional 0.5 percent sales surtax on taxable purchases in counties eligible to impose this surtax.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

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

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### **Other Comments**

Shands Jacksonville is a proponent of this bill. According to Shands Jacksonville, it operates the only trauma center and teaching hospital located north of Gainesville and east of Pensacola. Also, Shands Jacksonville has indicated that it provides most of the indigent care in the Duval County area, and that this bill would provide funding for the treatment of the indigent population and trauma victims that are referred to the hospital.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Military & Local Affairs Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute. This amendment provides that counties that are consolidated with one or more municipalities may only levy this surtax if the ordinance is approved by referendum.

This analysis reflects the amendment adopted by the Military & Local Affairs Policy Committee.