

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 243 Charter County and Regional Transportation System Surtax
SPONSOR(S): Transportation & Infrastructure Subcommittee; Avila and Perez
TIED BILLS: **IDEN./SIM. BILLS:** SB 688

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------------------------|---------------------|---------|------------------------------------------|
| 1) Transportation & Infrastructure Subcommittee | 12 Y, 0 N, As CS | Johnson | Vickers |
| 2) Ways & Means Committee | 14 Y, 6 N | Dugan | Langston |
| 3) Government Accountability Committee | | | |

SUMMARY ANALYSIS

Section 212.055(1), F.S., creates the Charter County and Regional Transportation System Surtax, authorizing certain counties to establish a sales surtax of up to one-percent for specified transportation purposes. While 31 counties are eligible to levy the surtax, it is only levied in Duval and Miami-Dade Counties, both at the rate of one-half percent. Since its inception in 2003, Miami-Dade County has collected approximately \$2.6 billion in surtax proceeds. The surtax proceeds may be applied to as many or as few of the uses enumerated in s. 212.055(1) as the county's governing body deems appropriate. In Miami-Dade County, the county transfers surtax proceeds to the county's transit department, the county's public works department, and certain municipalities.

The bill amends the Charter County and Regional Transportation System Surtax providing that in Miami-Dade County, to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, surtax proceeds must be used for the following purposes:

- The planning, design, engineering, and construction of a fixed guideway rapid transit system.
- The acquisition of right-of-way for fixed guideway rapid transit systems or for the development of dedicated facilities for autonomous vehicles.
- The payment of principal and interest on bonds related to a fixed guideway rapid transit system or bus system.
- As security to the county to refinance existing bonds or to issue new bonds for the planning, design, engineering, or construction of fixed guideway rapid transit systems or bus systems.

The bill also prohibits Miami-Dade County's transportation department from using surtax proceeds for salaries or other personnel expenses.

The bill also removes redundant provisions and makes technical changes to the Charter County and Regional Transportation System Surtax statute.

The bill does not have a fiscal impact to state government. However, the bill limits the use of surtax revenues to transit-based capital costs in Miami-Dade County. To the extent Miami-Dade County uses these revenues for another purpose, those expenses will need to be reduced or Miami-Dade County will be required to obtain the revenue from other sources.

The bill is effective July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

History of Charter County and Regional Transportation System Surtax

Created in 1976 as the Charter County Transit System Surtax, the surtax originally authorized counties with charters adopted before June 1, 1976, to levy a one-percent sales surtax subject to voter approval in a countywide referendum. Proceeds from the surtax were restricted to costs associated with developing and constructing fixed guideway and rapid transit systems.¹

In 1985, the Legislature authorized the use of surtax proceeds for countywide bus systems supporting fixed guideway transit systems.² In 1987, the Legislature authorized counties to remit surtax proceeds to an expressway or transportation authority to develop, construct, operate, and maintain roads or bridges, or to operate and maintain a bus system.³ In 1987, the Legislature also authorized any county consolidated with one or more municipalities to levy the surtax at a rate of one percent.⁴

In 1999, the Legislature authorized surtax proceeds to be applied to as many or as few of the statutorily authorized purposes in whatever combination the county's governing body deemed appropriate.⁵

In 2002, the Legislature authorized any county with a charter adopted prior to January 1, 1984, to levy the surtax.⁶ In 2003, the Legislature expanded the number of uses for surtax proceeds.⁷ In 2004, the Legislature authorized all charter counties eligible to levy the surtax to use up to 25 percent of the proceeds for non-transit purposes,⁸ which was previously limited to Miami-Dade County.

In 2009, the surtax was renamed the Charter County Transportation System Surtax and an additional 13 counties become eligible to assess the surtax. In 2009, surtax proceeds were also allowed to be remitted to transit authorities. Additionally, the Legislature required interlocal agreements specifying the distribution of surtax proceeds with one or more municipalities to be revised no less than every five years to reflect recent municipal incorporations.⁹

In 2010, the surtax was renamed the Charter County and Regional Transportation System Surtax and eligibility was extended to counties within or under an interlocal agreement with a regional transportation or transit authority. Additionally, surtax proceeds could be spent to plan, develop, construct, expand, operate, and maintain on-demand transportation services.¹⁰

Based on current statutory criteria, 31 counties are eligible to levy the surtax.¹¹ However, only Duval and Miami-Dade Counties levy the surtax, both at a rate of one-half percent.¹² Duval County began levying the tax in 1989, and Miami-Dade County began levying the tax in 2003.¹³

¹ Chapter 76-284, L.O.F. 2017 Florida Tax Handbook, p. 226.

² Chapter 85-180, L.O.F. 2017 Florida Tax Handbook, p. 226.

³ Chapters 87-99 and 87-100, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁴ Chapter 87-548, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁵ Chapter 99-385, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁶ Chapter 2002-20, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁷ Chapter 2003-254, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁸ Chapter 2004-66, L.O.F. 2017 Florida Tax Handbook, p. 226.

⁹ Chapter 2009-146, L.O.F. 2017 Florida Tax Handbook, pp. 226-227.

¹⁰ Chapter 2010-225, L.O.F. 2017 Florida Tax Handbook p. 227.

¹¹ The counties eligible to levy the surtax are: Alachua, Bay, Brevard, Broward, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton. 2017 Florida Tax Handbook, p. 227.

¹² 2017 Florida Tax Handbook, p. 227.

Miami-Dade County

Section 125.011(1), F.S., defines a county as:

[A]ny county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county.

The local governments authorized to operate under a home rule charter by the State Constitutions of 1885 and 1968 are the City of Key West and Monroe County,¹⁴ Dade County,¹⁵ and Hillsborough County.¹⁶ Of these, only Miami-Dade County operates under a home-rule charter, adopted on May 21, 1957, under this constitutional provision.¹⁷ Therefore, Miami-Dade County is the only county that meets the definition in s. 125.011(1), F.S.

In 2002, Miami-Dade County adopted a resolution calling for a special election for a one-half cent Charter County and Transit System Surtax with the following ballot language:

Shall the county implement the People’s Transportation Plan including: plans to build rapid transit lines to West Dade, Kendall, Florida City, Miami Beach and North Dade; expanding bus service; adding 635 buses; improving traffic signalization to reduce traffic backups; improving major neighborhood roads and highways, including drainage; and funding to municipalities for road and transportation projects by levying a ½ percent sales surtax whose proceeds will be overseen by the Citizen’s Independent Transportation Trust?

Miami-Dade County’s Department of Transportation and Public Works (DTPW) is the 15th largest public transit system in the United States and Florida’s largest transit agency. DTPW annually provides approximately 27.2 million miles of Metrobus revenue service along 98 routes. DTPW has a fleet of 706 full-sized buses, 79 articulated buses, and 64 minibuses. Its system also includes a 25-mile dual elevated Metrorail track, a 20-mile Bus Rapid Transit line, and a 4.4-mile dual elevated Metromover track. Additionally, DTPW provides Special Transportation Services to eligible participants.¹⁸

DTPW also administers a system of roads, bridges, drainage, pathways, traffic signals, signs, and streetlights. Additionally, it administers roadway infrastructure maintenance, inspection, compliance, and improvement programs. DTPW also implements all highway, transit, and neighborhood improvement projects included in Miami-Dade County’s Capital Improvement Plan and the Transportation Improvement Program. DTPW also implements various public works projects using Building Better Communities General Obligation Bonds, and all county transportation capital projects in the People’s Transportation Plan.

2002 Charter County Transit Surtax Law

In 2002, Miami-Dade County passed a referendum authorizing the Charter County Transit Surtax¹⁹ and began levying the surtax in 2003. As written in 2002, s. 212.055(1)(d), F.S., provided Charter County

¹³ 2003 Florida Tax Handbook. p. 154.

¹⁴ FLA. CONST. art. VIII, s. 6, n. 2.

¹⁵ FLA. CONST. art. VIII, s. 6, n. 3.

¹⁶ FLA. CONST. art. VIII, s. 6, n. 4.

¹⁷ Florida Association of Counties, *Charter County Information*, <http://www.fl-counties.com/charter-county-information> (last visited November 17, 2017).

¹⁸ <http://www.miamidade.gov/budget/library/fy2017-18/proposed/transportation-and-public-works.pdf> (Last visited October 30, 2017).

¹⁹ <https://www.miamidade.gov/elections/results/ele02309/RACE054.HTML> (Last visited July 27, 2017)

Transit System Surtax proceeds could be applied to as many or as few of the purposes provided below, in whatever combination the county commission deemed appropriate:

- For the development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;
- Remitted to an expressway or transportation authority for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; and
- In Miami-Dade County, for the development, construction, operation, and maintenance of the county's roads and bridges; for the expansion, operation, and maintenance of bus and fixed guideway systems; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges and no more than 25 percent used for nontransit uses.

Current Charter County and Regional Transportation Surtax Law

Subsequent to 2002, the Legislature amended the authorized uses of surtax proceeds, including allowing proceeds to be used for on-demand transportation services,²⁰ funds being remitted to transit authority for certain purposes related to bus systems, expanded the use of funds limited to Miami-Dade County to all counties. Additionally, the Legislature authorized surtax proceeds to be used by the county for various functions relating to roads and bridges, bus and fixed-guideway systems, on-demand transportation services, and certain bond issuances. Additionally, the statute currently authorizes counties to enter into interlocal agreements to distribute tax proceeds to a municipality, or an expressway or transportation authority for authorized purposes. These interlocal agreements are revised no less than once every five years in order to incorporate new municipalities.²¹

Administration of the Surtax in Miami-Dade County

Miami-Dade County's Citizen's Independent Transportation Trust (CITT) is a 15-member body overseeing the surtax-funded People's Transportation Plan (PTP).²² The CITT's powers and duties include:

- To monitor, oversee, review, audit, and investigate implementation of the transportation and transit projects listed in any levy by the county under s. 212.055, F.S.
- To assure compliance with any limitations imposed in the levy on the expenditure of surtax proceeds, including but not limited to:
 - Any limitation that surtax proceeds only be expended for the transportation and transit purposes specified in state law;
 - Any limitation that no more than five percent of surtax proceeds spent on administrative costs, excluding project management and oversight for projects funded by the surtax; and
 - The limitation that the county commission may not delete or materially change any county project listed in an exhibit attached to the ordinance levying the surtax nor add any project except as specifically provided.
 - Any requirement with regard to maintenance of effort of general fund support for Miami-Dade Transit.
- To assure compliance with any applicable federal and state requirements;

²⁰ Section 212.055(1)(e), F.S., defines "on-demand transportation services" as transportation provided between flexible points of origin and destination selected by individual users with such service being provided at a time that is agreed upon by the user and the provider of the service and that is not fixed-schedule or fixed-route in nature.

²¹ Section 212.055(1)(d), F.S.

²² <http://www.miamidadegov/citt/> (Last visited October 19, 2017).

- To require monthly reports from the manager, county agencies and instrumentalities regarding the implementation of the projects funded by surtax proceeds;
- To file a quarterly report, regarding the implementation of the projects funded by surtax proceeds; and
- To monitor, oversee and periodically report to the county commission on the level of Community Small Business Enterprises and Community Business Enterprises in contracts funded in whole or in part with surtax proceeds, and to recommend ways to increase such participation.²³

The ordinance creating Miami-Dade County's surtax requires the distribution of 20 percent of surtax proceeds to municipalities on a pro rata basis for local transportation and transit projects. Municipalities must apply at least 20 percent of their share of surtax proceeds to transit and are required to submit their transportation plans to the county.²⁴

Since its inception in 2003, through September 2016, Miami-Dade County received approximately \$2.6 billion in surtax revenues, with approximately \$1.8 billion transferred to Miami-Dade Transit, \$563 million to municipalities and \$186 million to public works.²⁵

Proposed Changes

The bill creates s. 212.055(1)(d)2., F.S., providing that to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, Miami-Dade County must use Charter County and Regional Transportation Surtax proceeds for the following purposes:

- The planning, design, engineering or construction of fixed guideway rapid transit systems.
- The acquisition of right-of-way for fixed guideway rapid transit system or dedicated facilities for autonomous vehicles provided that the current owner of the right-of-way is a willing seller.
- The payment of principal and interest on bonds previously issued related to fixed guideway rapid transit systems or bus systems.
- As security by the governing body of Miami-Dade County to refinance existing bonds or to issue new bonds for the planning, design, engineering, or construction of fixed guideway rapid transit systems or bus systems.

The bill prohibits the county from using surtax proceeds for salaries or other personnel expenses of the county transportation department.

The bill also makes technical changes to and removes redundant provisions in s. 212.055(1)(d), F.S.

B. SECTION DIRECTORY:

Section 1 amends s. 212.055, F.S., relating to discretionary sales surtaxes.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

²³ <http://www.miamidade.gov/citt/about-citt.asp> (Last visited October 24, 2017)

²⁴ <http://www.miamidade.gov/citt/about-municipal-program.asp> (Last visited October 30, 2017).

²⁵ <http://www.miamidade.gov/citt/library/finance/2017/ptp-cash-analysis.pdf> (Last visited October 30, 2017).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill changes the statutorily authorized use of Charter County and Regional Transportation Surtax revenues in Miami-Dade County and limits the use to capital costs associated with transit. To the extent surtax revenues are being used for another purpose, the bill may negatively impact expenditures for those purposes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For Miami-Dade County, the bill revises the allocation of funds for the Charter County and Regional Transportation System Surtax to focus on transit systems.

D. FISCAL COMMENTS:

While the bill does not change the tax rate, it revises the authorized uses for surtax proceeds. The bill limits the use of surtax revenues to capital costs related to public transit. To the extent surtax proceeds are allocated to other uses, Miami-Dade County may have to reduce those expenditures or find funds from other sources.

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 action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment revised the authorized uses for the Charter County and Regional Transportation Surtax in Miami-Dade County.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

