

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 777 Local Tax Referenda Requirements

SPONSOR(S): State Affairs Committee and Public Integrity & Elections Committee, Robinson, W. and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1194

FINAL HOUSE FLOOR ACTION: 111 Y's 2 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

CS/CS/HB 777 passed the House on February 24, 2022, and subsequently passed the Senate on March 2, 2022.

Counties and municipalities have authority to levy a variety of optional taxes conditioned upon approval of a majority of electors voting in a referendum. Presently, a number of such taxes may be approved in special elections. The referenda approving such taxes are held at elections called by the applicable local governing body. Such elections may be special elections or may be held in conjunction with other local elections, primary elections or general elections.

CS/CS/HB 777 requires referenda authorizing certain optional local taxes to be held at a general election. The affected taxes are as follows:

- Tourist development tax.
- Areas of critical state concern tourist impact tax.
- Children's services independent special district tax.
- County temporary excess ad valorem millage.
- Municipal temporary excess ad valorem millage.
- County transportation motor fuel tax.
- Local option fuel tax.
- School district millage.

The bill does not appear to have a fiscal impact on the state, but may have a fiscal impact on local governments.

Subject to the Governor's veto powers, the effective date of the bill is October 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Counties and municipalities have authority to levy a variety of optional taxes conditioned upon approval of a majority of electors voting in a referendum. Presently, a number of such taxes may be approved in special elections. The referenda approving such taxes are held at elections called by the applicable local governing body. Such elections may be special elections or may be held in conjunction with other local elections, primary elections or general elections.¹

Tourist Development Tax²

A tourist development tax is a county tax on consideration paid on residential rentals of six months or less. The tax funds tourism-related uses specified in the authorizing statute. The initiation of the tax must be approved by a referendum of voters living in the jurisdiction in which the tax is imposed. The original tax may be repealed by a referendum initiated by a petition signed by 15 percent of voters³ subject to the interest of the holders of any revenue bonds repayment of which is secured by the tax. Once the tax is in place, additional taxes⁴ may be levied by a vote of the county commissioners.

Areas of Critical State Concern Tourist Impact Tax⁵

An area of critical state concern tourist impact tax is a tax on the consideration paid on residential rentals of six months or less imposed by a county creating a land authority pursuant to the state laws regulating land use planning in areas of critical state concern.⁶ The tax is distributed to the land authority for use in the area of critical state concern pursuant to the land authority's responsibilities⁷ and to the governing body of the county to offset ad valorem taxes lost due to public acquisitions provided for in the act establishing the areas of critical state concern.⁸ The tax may not take effect until approval of a referenda by a majority of the voters residing in the affected jurisdiction. The referendum must be held in conjunction with a general or special election.⁹

Children's Services Independent Special District Tax

The children's services independent special district tax is an ad valorem tax not to exceed 0.5 mills of assessed valuation of all property subject to county ad valorem taxes, assessed in a county having an independent special district to fund children's services in the county. The ad valorem tax must be approved initially by a majority vote of county voters.¹⁰

Temporary Excess Ad Valorem Millage

A temporary excess ad valorem millage is a tax in excess of the 10-mill limit,¹¹ imposed for a period not to exceed two years in a county, dependent special district, or municipality. The levy must be approved by a majority vote of the county, district, or municipal voters.¹²

County Transportation Motor Fuel Tax¹³

¹ S. 5(a), Art. IV, Fl. Const. Ss. 100.151, 100.342, 100.351, F.S.

² S. 125.0104, F.S.

³ S. 125.0104(6)(d), F.S.

⁴ S. 125.0104(3)(l), (m), and (n), F.S. Two of the three additional taxes require extraordinary votes for enactment.

⁵ S. 125.0108, F.S.

⁶ Ss. 380.05 to 380.0685, F.S.

⁷ S. 380.0666, F.S.

⁸ Ch. 86-170, Laws of Fla.

⁹ S. 125.0108(5), F.S.

¹⁰ S. 125.901(1), F.S. (The revenues collected fund the services authorized in s. 125.901, F.S.)

¹¹ Ss. 200.071 and 200.081, F.S.

¹² Ss. 200.091 and 200.101, F.S.

¹³ Ss. 206.41(1)(d), 206.87(1)(b), and 336.021, F.S.

The county transportation motor fuel tax is a local option, 1 cent per gallon fuel tax for specified¹⁴ transportation expenditures. The tax is identified as “the ninth cent fuel tax”¹⁵ and may be levied by any county by extraordinary vote of the membership of the governing body or subject to a referendum.¹⁶

Local Option Fuel Taxes¹⁷

With regard to local option fuel taxes, two different taxes¹⁸ may be levied, each up to 6 cents per gallon on motor fuels. They may be levied by ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.¹⁹

School District Millage²⁰

School district millage is ad valorem tax levied for specified periods including millage supplementing the minimal local taxes required by the education code. One tax may be used for school operational purposes²¹ or the other for any lawful school district purpose.²²

Effect of Proposed Changes

The bill requires a referendum approving each of the above described local taxes to be held at a general election only. With respect to the tourist development tax, the bill affects the referenda called to initiate the tax but does not appear to affect the election timing of the referenda authorized to repeal the tax.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

¹⁴ Ss. 336.021(1)(a) and 336.025(7), F.S.

¹⁵ S. 336.021(2)(a), F.S.

¹⁶ S. 336.021(1)(a), F.S.

¹⁷ S. 336.025, F.S.

¹⁸ S. 336.025(1)(a) and (b), F.S.

¹⁹ S. 336.025(1)(b) and (3)(a), F.S.

²⁰ S. 1011.73, F.S.

²¹ Ss. 1011.71(9) and 1011.73(2), F.S.

²² S. 9(a), Art. VII, Fl. Const. S. 1011.73(1), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

By requiring that local option tax referenda occur on the day of the general election, this bill may reduce local government expenditures to the extent local governments would have otherwise expended funds to call a special election solely for approval of such local option taxes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.