

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 2406

SPONSOR: Comprehensive Planning Committee and Senator Bennett

SUBJECT: Sales Surtax Levy/Schools

DATE: April 16, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Woodruff</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>AED</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

I. Summary:

This Committee Substitute (CS)

- Expands the authorized uses of the School Capital Outlay Surtax by allowing county school districts to use up to 50 percent of the tax proceeds to pay salaries and benefits for teachers under certain circumstances.
- Authorizes a county school board to levy, subject to referendum approval, a new discretionary sales surtax of up to 1% for school capital outlay and operations purposes. This surtax may be levied in addition to any other local option sales surtaxes levied in the county. However, any school board levying this new surtax may not impose any school or educational facilities impact fee and, prior to levying the surtax, must repeal any existing school or educational facilities impact fee imposed by the school board.
- Requires that if certain school districts levies the new surtax, proceeds of the surtax must be placed in reserve by the Executive Office of the Governor until the Commissioner of Education certifies that conditions for release of the funds have been met.
- Provides school districts an exemption from educational facilities construction and funding standards set forth in Florida Law.

This bill substantially amends sections 125.01, 212.054, 212.055, and creates s. 1013.352, F.S., of the Florida Statutes.

II. Present Situation:

Local Discretionary Sales Surtaxes

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

Section 212.055, Florida Statutes, 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 for administering, collecting, and enforcing 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, Florida Statutes. TABLE 1 identifies the seven taxes, the rate limits, and the number of counties authorized to impose a surtax 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 percent. 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 percent. The School Capital Outlay Surtax is capped at 0.5 percent, and is not included in these tax rate caps.

**TABLE 1
Local Discretionary Sales Surtaxes**

TAX	AUTHORIZED LEVY (%)	# OF COUNTIES AUTHORIZED TO LEVY TAX	# OF COUNTIES LEVYING TAX
Charter County Transit System Surtax	up to 1%	7	2
Local Government Infrastructure Surtax	0.5% or 1%	67	26
Small County Surtax	0.5% or 1%	31	20
Indigent Care & Trauma Center Surtax	up to 0.5%	5	1
County Public Hospital Surtax	0.5% (Miami-Dade County)	1	1
School Capital Outlay Surtax	up to 0.5%	67	14
Voter-Approved Indigent Care Surtax	0.5% or 1%	61	1

(Source: Legislative Committee on Intergovernmental Relations, 11/2003, updated 3/2004)

School Capital Outlay Surtax

Section 212.055(6), F.S., grants county school boards the authority to levy, upon referendum approval, the School Capital Outlay Surtax at the rate of 0.5 percent. Proceeds of the surtax may be used for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related to these projects. Proceeds may also be used to fund technology implementation, including hardware and software, for the various sites within the school district. School districts are authorized to finance these projects through bond indebtedness.

Any school board imposing the surtax must implement a freeze on non-capital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition. This millage rate provision does not apply to existing debt service or required state taxes.

Tax proceeds may not be used for operational expenses.

Public School Construction Standards

Section 1013.37, F.S., requires a uniform statewide building code for the planning and construction of public educational facilities by district school boards. This code must be adopted by the Florida Building Commission within the Florida Building Code. This code must conform with, among other things, the rules and regulations in 44 C.F.R. parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency.

Section 1013.371, F.S., requires all public educational facilities to conform to the Florida Building Code and the Florida Fire Prevention Code. Section 1013.372, F.S., requires the Department of Education to include within the code public shelter design criteria to ensure that appropriate new educational facilities can serve as public shelters for emergency management purposes.

State funding for K-12 school facilities is appropriated to local school districts, provided certain construction and program standards are met. Part IV of ch. 1013, F.S., provides these standards.

III. Effect of Proposed Changes:

Section 1 creates an undesignated provision of Florida Law to specify that if a school district in a county as defined in section 125.011(1), F.S.,¹ with a population greater than 2 million levies the surtax, proceeds of the surtax must be placed in reserve by the Executive Office of the Governor until the Commissioner of Education certifies that conditions for release of the funds have been

¹ s. 125.011(1), F.S., provides that "County" means any 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. Currently, only Miami-Dade County qualifies under this definition.

met. These conditions include a recommendation from the Land Acquisition and Facilities Maintenance Operations Advisory Board for the release of the funds. Such a recommendation must include certification that policies established, procedures followed, and expenditures made by such school board that are related to site acquisition and facilities planning, construction, and facilities maintenance operations are consistent with recommendations of the advisory board and the school board will accomplish corrective actions recommended by the Auditor General and the Office of Program Policy Analysis and Government Accountability.

Section 2 amends section 125.01, F.S., to add a new subsection (8) to prohibit a school board levying the District School Capital Outlay and Operations Surtax from levying any impact fee for school purposes.

Section 3 amends s. 212.054(7), F.S., to require the school board of any county levying the District School Capital Outlay and Operations Surtax to notify the Department of Revenue within a time certain of final adoption by resolution of an imposition, termination, or rate change of the surtax. Should a school board not notify the Department of Revenue within the timeframes specified, imposition of the surtax shall be delayed for a period of 1 year.

Section 4 amends s. 212.055(6), F.S., to expand the authorized uses of the School Capital Outlay Surtax by allowing county school districts to use up to 50 percent of the tax proceeds to pay salaries and benefits for teachers. If districts choose to use tax proceeds for this purpose, it must be specified in the resolution providing for the imposition of the surtax (which requires referendum approval) and the required plan setting forth the use of surtax proceeds.

Districts which have levied the surtax before the effective date of this act that wish to use surtax revenues for teacher salaries and benefits may do so only pursuant to a new resolution approved by referendum. However, districts may not designate surtax revenues for this purpose if such revenues have been otherwise dedicated to service bond indebtedness.

This authority to exercise this option is repealed July 1, 2008.

Section 4 also creates subsection (8) of s. 212.055, F.S., to authorize an additional discretionary sales surtax, the District School Capital Outlay and Operations Surtax, the proceeds of which may be used solely for school capital outlay or any operating purposes. Funds collected in a county levying the surtax must be returned to that county.

The provision caps the surtax at 1 percent. The resolution to request the surtax must be adopted by a majority vote of the district school board and the levy must be approved by a majority vote of the electors of the county voting in a referendum. The board's resolution must specify the term for which the surtax will be collected and the proposed uses of the surtax. No limit is placed on the length of time for which the surtax may be levied. Proceeds of the surtax may be used solely for school capital outlay or any operating purposes identified by the school board.

The bill requires public hearings to be held on the proposed resolution. Such public hearings must comply with the public meeting and notice requirements of section 200.065, Florida Statutes. A hearing must be held in each municipality in the county to discuss the proposed resolution and the term, projects, and uses specified in the resolution. If a board chooses to use

proceeds from the surtax for operating purposes, no restrictions are placed on the type of operational activities for which the funds may be spent.

Contents of the statement to be used on the ballot for the public referendum are specified in the legislation.

The measure being considered also requires specific information be included in the resolution detailing a plan for use of the surtax proceeds. If facilities are included in the plan, an implementation schedule for construction of the facilities must also be included. If the use of proceeds for operating purposes is included in the plan, details for the amount and use of such proceeds must be included.

Proceeds of the surtax may be pledged for the servicing of new bond indebtedness. Districts are authorized to use the Division of Bond Finance to issue any bonds.

The provision requires any school board levying the surtax to repeal any existing school or educational facilities impact fee imposed by the board, prior to levying the surtax. If a county is levying the surtax, the county may not begin to levy an impact fee for school purposes.

Section 5 creates s. 1013.352, F.S., to provide school districts an exemption from educational facilities construction and funding standards. A school district is authorized to exempt itself from Department of Education educational facilities construction and funding standards and adopt alternative standards upon referendum approval. The proposed alternative construction and funding standards must be based on a 20-year projection plan recommended by an educational facilities task force, consisting of elected municipal officials and the county commissioners, convened by the school district. The proposed alternative standards must be published in one newspaper of general circulation in the school district at least 30 days prior to the referendum. However, the exemption may not include exemption from any educational facilities environmental or safety standards.

Section 6. The effective date of the bill is July 1, 2004.

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:**

This CS expands, upon referendum approval, the authorized uses of the School Capital Outlay Surtax by allowing county school districts to use up to 50 percent of the tax proceeds to pay salaries and benefits for teachers.

The Florida Department of Revenue estimates that the School Capital Outlay Surtax would generate, if imposed by all Florida School Districts, \$1.175 billion in FY 2003/04.² Currently, 13 county school districts levy this tax,³ generating an estimated \$269.1 million in FY 2003/04. This leaves \$906 million in revenue capacity.

This CS authorizes a district school board to seek voter approval for a 1 percent surtax for a District School Capital Outlay and Operations Surtax.

The Revenue Estimating Conference estimates that the District School Capital Outlay and Operations Surtax would generate, if imposed by all Florida School Districts, \$997.6 million in Fiscal Year 2004-05 and \$2.5 billion in Fiscal Year 2005-06.⁴ This assumes collections would begin on January 1.

B. Private Sector Impact:

By expanding the authorized uses of School Capital Outlay Surtax proceeds, the electorate may be more likely to approve, by referendum, the imposition of the surtax. To the extent that the electorate approves the surtax, the public will pay 0.05 percent more on taxable purchases made in the county.

In each county in which the electorate approves the additional surtax levy, the public will pay 1 percent more on taxable purchases.

C. Government Sector Impact:

If approved by the electorate, the Department of Revenue will incur additional administrative costs in distributing the new sales tax revenues to those counties in which this local option tax is imposed.

VI. Technical Deficiencies:

None.

² FL Dept. of Revenue - Office of Research and Analysis Revised Sept. 3, 2003.

³ Bay, Escambia, Flagler, Gulf, Hernando, Jackson, Leon, Manatee, Monroe, Orange, St. Lucie, Santa Rosa, & Volusia counties.

⁴ FL Dept. of Revenue - Office of Research and Analysis, March 15, 2004.

VII. Related Issues:

The payment of operational expenses of a district are usually considered to be a recurring cost to a school district and are paid from recurring funds. If a referendum is approved by the electorate to pay operational expenses from the sales surtax, such funds are time-limited to the number of years specified in the referendum. At the end of the time-limit, the district will face a deficit in funds used to pay that portion of the operational budget which had been paid with revenue from the sales surtax. In the past, one district used time-limited (non-recurring) funds to pay for salaries and benefits to district employees. When the time-limited funds were no longer available, the district faced a major financial problem in trying to meet the salary expectations of its employees.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
