

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: SB 2406
 SPONSOR: Senator Bennett
 SUBJECT: Sales Surtax Levy/Schools
 DATE: March 26, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Woodruff	O'Farrell	ED	Favorable
2.	_____	_____	CP	_____
3.	_____	_____	FT	_____
4.	_____	_____	AED	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

This bill authorizes the voters of a county to approve through referendum the levy of a new discretionary sales surtax for district school capital outlay and operations purposes. The surtax may be levied in addition to any other surtax levied pursuant to section 212.055. The bill caps the surtax at 1 percent. The resolution to request the surtax must be adopted by a majority vote of the 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 and proposed uses of the surtax. 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.

The bill specifies the content of the statement to be used on the ballot for the public referendum.

The bill 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 facilities must be included. If use for operating purposes is included in the plan, details for the amount and use of such proceeds must be included.

The bill authorizes the proceeds of the surtax to be pledged for the servicing of new bond indebtedness. Districts are authorized to use the Division of Bond Finance to issue any bonds.

The bill requires a 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.

The bill requires that if a school district in a county 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 met. These conditions include a recommendation from the Land Acquisition and Facilities Maintenance Operations Advisory board for the release of the funds.

The bill requires the school board of any county levying the school capital outlay surtax to notify the Department of Revenue within 10 days of final adoption of the ordinance, resolution, or referendum 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.

This bill substantially amends sections 212.055, 125.01, and 212.054 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), Florida Statutes, 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.

III. Effect of Proposed Changes:

Section 1. The bill creates a new subsection of s. 212.055, F.S., that authorizes 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 shall be returned to that county.

The bill 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 bill 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 2. If a school district in a county 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 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 will accomplish corrective actions recommended by the Auditor General and the Office of Program Policy Analysis and Government Accountability.

Section 3. The bill amends section 125.01 by adding a new subsection (8) which prohibits a school board levying the District School Capital Outlay and Operations Surtax from levying any impact fee for school purposes.

Section 4. Section 212.054 (7) is amended 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 ordinance, resolution, or referendum 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 5. The effective date of the bill is October 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 bill 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 2005-06.¹ This assumes collections would begin on January 1.

B. Private Sector Impact:

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

¹ FL Dept. of Revenue - Office of Research and Analysis, March 15, 2004.

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.

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.