A bill to be entitled

An act relating to local tax referenda; amending s. 212.055, F.S.; requiring a two-thirds vote of the county governing board to authorize a discretionary sales surtax; requiring local government discretionary sales surtax referenda to be held on a specified date; requiring such referenda to be approved by a specified percentage of voters for passage; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (a) and (c) of subsection (1), paragraph (a) of subsection (2), paragraph (a) of subsection (3), subsections (4) and (5), paragraph (a) of subsection (6), paragraph (a) of subsection (7), paragraph (b) of subsection (8), and paragraph (a) of subsection (9) of section 212.055, Florida Statutes, are amended, present subsection (10) of that section is redesignated as subsection (11), and a new subsection (10) is added to that section, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX.—

(a) Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, and each county that is within or under an interlocal agreement with a regional transportation or transit authority created under chapter 343 or chapter 349 may levy a discretionary sales surtax~~, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county~~.

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law and must be approved in a referendum as set forth in subsection (10) ~~at a time to be set at the discretion of the governing body~~.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by ~~a majority of~~ the electors of the county, as set forth in subsection (10), voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by ~~a majority of~~ the electors of the county, as set forth in subsection (10), voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of ~~a majority of~~ the electors of the county, as set forth in subsection (10), voting in a referendum on the surtax.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by two-thirds ~~an extraordinary~~ vote of the members of the county governing authority if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by ~~a majority of~~ the electors of the county, as set forth in subsection (10), voting in a referendum on the surtax.

(d)1. If the surtax is levied pursuant to a referendum, the proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. However, if the surtax is levied pursuant to an ordinance approved by two-thirds ~~an extraordinary~~ vote of the members of the county governing authority, the proceeds and any interest accrued thereto may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more

years and any land acquisition, land improvement, design, and engineering costs related thereto.

(4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

(a)1. The governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy a surtax under subsection (5), may levy, pursuant to an ordinance either approved by <u>two-thirds</u> ~~an extraordinary~~ vote of the governing body or conditioned to take effect only upon approval by ~~a majority vote of~~ the electors of the county<u>, as set forth in subsection (10),</u> voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

2. If the ordinance is conditioned on a referendum, a statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . .CENTS TAX

AGAINST THE. . . .CENTS TAX

3. The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in subparagraph 4. Such plan and subsequent amendments

to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. The plan must also address the services to be provided by the Level I trauma center. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers, including hospitals with a Level I trauma center, will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, promote the advancement of technology in medical services, recognize the level of responsiveness to medical needs in trauma cases, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. 408.07. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

4. For the purpose of this paragraph, the term "qualified resident" means residents of the authorizing county who are:

a. Qualified as indigent persons as certified by the authorizing county;

b. Certified by the authorizing county as meeting the definition of the medically poor, defined as 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. In all cases, the authorizing county is intended to serve as the payor of last resort; or

c. Participating in innovative, cost-effective programs approved by the authorizing county.

5. Moneys collected pursuant to this paragraph remain the property of the state and shall be distributed by the Department

of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

a. Maintain the moneys in an indigent health care trust fund;

b. Invest any funds held on deposit in the trust fund pursuant to general law;

c. Disburse the funds, including any interest earned, to any provider of health care services, as provided in subparagraphs 3. and 4., upon directive from the authorizing county. However, if a county has a population of at least 800,000 residents and has levied the surtax authorized in this paragraph, notwithstanding any directive from the authorizing county, on October 1 of each calendar year, the clerk of the court shall issue a check in the amount of $6.5 million to a hospital in its jurisdiction that has a Level I trauma center or shall issue a check in the amount of $3.5 million to a hospital in its jurisdiction that has a Level I trauma center if that county enacts and implements a hospital lien law in accordance with chapter 98-499, Laws of Florida. 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 to accomplish that purpose to the extent that it is allowed through the General Appropriations Act; and

d. Prepare on a biennial basis an audit of the trust fund specified in sub-subparagraph a. Commencing February 1, 2004, such audit shall be delivered to the governing body and to the chair of the legislative delegation of each authorizing county.

6. Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this paragraph and subsections (2) and (3) in excess of a combined rate of 1 percent.

(b) Notwithstanding any other provision of this section, the governing body in each county the government of which is not consolidated with that of one or more municipalities and which has a population of <u>fewer</u> ~~less~~ than 800,000 residents, may levy, by ordinance subject to approval by ~~a majority of~~ the electors of the county<u>, as set forth in subsection (10),</u> voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.25 percent for the sole purpose of funding trauma services provided by a trauma center licensed pursuant to chapter 395.

1. A statement that includes a brief and general description of the purposes to be funded by the surtax and that

conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following shall be placed on the ballot:

FOR THE. . . .CENTS TAX

AGAINST THE. . . .CENTS TAX

2. The ordinance adopted by the governing body of the county providing for the imposition of the surtax shall set forth a plan for providing trauma services to trauma victims presenting in the trauma service area in which such county is located.

3. Moneys collected pursuant to this paragraph remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

a. Maintain the moneys in a trauma services trust fund.

b. Invest any funds held on deposit in the trust fund pursuant to general law.

c. Disburse the funds, including any interest earned on such funds, to the trauma center in its trauma service area, as provided in the plan set forth pursuant to subparagraph 2., upon directive from the authorizing county. If the trauma center receiving funds requests such funds be used to generate federal matching funds under Medicaid, the custodian of the funds shall instead issue a check to the Agency for Health Care

Administration to accomplish that purpose to the extent that the agency is allowed through the General Appropriations Act.

d. Prepare on a biennial basis an audit of the trauma services trust fund specified in sub-subparagraph a., to be delivered to the authorizing county.

4. A discretionary sales surtax imposed pursuant to this paragraph shall expire 4 years after the effective date of the surtax, unless reenacted by ordinance subject to approval by ~~a majority of~~ the electors of the county, as set forth in subsection (10), voting in a subsequent referendum.

5. Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this paragraph and subsections (2) and (3) in excess of a combined rate of 1 percent.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by two-thirds ~~extraordinary~~ vote of the county commission or conditioned to take effect only upon approval by ~~a majority vote of~~ the electors of the county, as set forth in subsection (10), voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

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(a) The rate shall be 0.5 percent.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with <u>subsection (10)</u> ~~law at a time to be set at the discretion of the governing body~~. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(c) Proceeds from the surtax shall be:

1. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and

2. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

(d) Except as provided in subparagraphs 1. and 2., the county must continue to contribute each year an amount equal to at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county's general revenues in the fiscal year of the county ending September 30, 1991:

1. Twenty-five percent of such amount must be remitted to a governing board, agency, or authority that is wholly

independent from the public health trust, agency, or authority responsible for the county public general hospital, to be used solely for the purpose of funding the plan for indigent health care services provided for in paragraph (e);

2. However, in the first year of the plan, a total of $10 million shall be remitted to such governing board, agency, or authority, to be used solely for the purpose of funding the plan for indigent health care services provided for in paragraph (e), and in the second year of the plan, a total of $15 million shall be so remitted and used.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County Public Health Trust, the Dade County Medical Association, the

Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not disbursed by the county for any other purpose.

1. The plan shall divide the county into a minimum of four and maximum of six service areas, with no more than one participant hospital per service area. The county public general hospital shall be designated as the provider for one of the service areas. Services shall be provided through participants' primary acute care facilities.

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. 397.311(45). Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least

one regional referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate to be determined by the governing board, agency, or authority created pursuant to this paragraph for the initial emergency room visit, and a per-member per-month fee or capitation for those members enrolled in their service area, as compensation for the services rendered following the initial emergency visit. Except for provisions of emergency services, upon determination of eligibility, enrollment shall be deemed to have occurred at the time services were rendered. The provisions for specific reimbursement of emergency services shall be repealed on July 1, 2001, unless otherwise reenacted by the Legislature. The capitation amount or rate shall be determined before program implementation by an independent actuarial consultant. In no event shall such reimbursement rates exceed the Medicaid rate. The plan must also provide that any hospitals owned and operated by government entities on or after the effective date of this act must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to any meeting of the governing board, agency, or authority the subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.

3. The plan's benefits shall be made available to all county residents currently eligible to receive health care services as indigents or medically poor as defined in paragraph (4)(d).

4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

(f) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(6) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by ~~a majority vote of~~ the electors of the county, as set forth in subsection (10), voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(7) VOTER-APPROVED INDIGENT CARE SURTAX.—

(a)1. The governing body in each county that has a population of fewer than 800,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by ~~a majority vote of~~ the electors of the county, as set forth in subsection (10), voting in a referendum. The surtax may be levied at a rate not to exceed 0.5 percent, except that if a publicly supported medical school is located in the county, the rate shall not exceed 1 percent.

2. Notwithstanding subparagraph 1., the governing body of any county that has a population of fewer than 50,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by ~~a majority vote of~~ the electors of the county, as set forth in subsection (10), voting in a referendum. The surtax may be levied at a rate not

to exceed 1 percent.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by ~~a majority of~~ the electors of the county, as set forth in subsection (10), voting in a referendum held for such purpose. The referendum shall be placed on the ballot of a regularly scheduled election. The ballot for the referendum must conform to the requirements of s. 101.161.

(9) PENSION LIABILITY SURTAX.—

(a) The governing body of a county may levy a pension liability surtax to fund an underfunded defined benefit retirement plan or system, pursuant to an ordinance conditioned to take effect upon approval by ~~a majority vote of~~ the electors of the county, as set forth in subsection (10), voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63 must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may only impose the surtax if:

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1. An employee, including a police officer or firefighter, who enters employment on or after the date when the local government certifies that the defined benefit retirement plan or system formerly available to such an employee has been closed may not enroll in a defined benefit retirement plan or system that will receive surtax proceeds.

2. The local government and the collective bargaining representative for the members of the underfunded defined benefit retirement plan or system or, if there is no representative, a majority of the members of the plan or system, mutually consent to requiring each member to make an employee retirement contribution of at least 10 percent of each member's salary for each pay period beginning with the first pay period after the plan or system is closed.

3. The pension board of trustees for the underfunded defined benefit retirement plan or system, if such board exists, is prohibited from participating in the collective bargaining process and engaging in the determination of pension benefits.

4. The county currently levies a local government infrastructure surtax pursuant to subsection (2) which is scheduled to terminate and is not subject to renewal.

5. The pension liability surtax does not take effect until the local government infrastructure surtax described in subparagraph 4. is terminated.

<u>(10) REFERENDA REQUIREMENTS.—A referendum to adopt or</u>

<u>amend a local government discretionary sales surtax under this section shall be held at a general election, as defined in s. 97.021, and requires the approval of two-thirds of the qualified electors voting on the ballot question for passage.</u>

Section 2. This act shall take effect upon becoming a law.