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# **Ways and Means Committee**

Tuesday, February 21, 2017

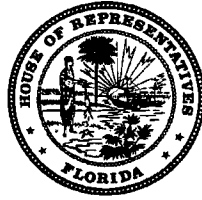
1:00 p.m. – 3:30 p.m.

Morris Hall

**MEETING PACKET**

# The Florida House of Representatives

## Ways and Means Committee



**Richard Corcoran**  
**Speaker**

**Jim Boyd**  
**Chair**

### **AGENDA**

February 21, 2017  
1:00 p.m. – 3:30 p.m.  
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. HJR 21 – Limitations on Property Tax Assessments by Burton
- IV. Workshop on Local Government Fiscal Responsibility Concepts
- V. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HJR 21 Limitations on Property Tax Assessments  
**SPONSOR(S):** Burton  
**TIED BILLS:** IDEN./SIM. BILLS: SJR 76

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee		Dobson <i>MD</i>	Langston <i>SL</i>
2) Commerce Committee			

### SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e., market value) on January 1 of each year for purposes of ad valorem taxation, subject to assessment limitations and exemptions in certain circumstances. Such assessments are used to calculate property taxes that fund counties, municipalities, district school boards and special districts. In 2008, Florida voters approved a constitutional amendment limiting annual assessment increases for most nonhomestead parcels to 10 percent of prior year assessed value. This limitation does not apply to district school board assessments or in years when a property undergoes certain changes, including changes in ownership. Unless renewed, the 2008 amendment is set to expire on January 1, 2019. Existing constitutional language directs the legislature to propose a constitutional amendment, for the 2018 general election, that would retain the cap beyond its scheduled expiration date.

This joint resolution proposes a constitutional amendment to permanently retain the 10 percent cap on annual nonhomestead parcel assessment increases.

Subject to approval by 60 percent of the voters in the 2018 general election, the joint resolution provides that the proposed amendment will take effect on January 1, 2019. The joint resolution is not subject to the governor's veto powers.

The Revenue Estimating Conference has not reviewed the joint resolution. Because the proposed amendment requires voter approval, the revenue impact will be either zero, if voters disapprove, or negative indeterminate to local governments if approved. Should voters approve the proposed amendment, staff estimates that beginning in FY 2019-20, non-school property tax bases will be lower than otherwise, implying foregone annual tax revenue of approximately \$430 million, **assuming current tax rates**.

Based on 2016 advertising costs, the estimated publication costs for advertising the proposed constitutional amendment is approximately \$43,262. This sum would be paid from non-recurring General Revenue funds.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### Present Situation

##### Calculating Ad Valorem Taxes

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> Ad Valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the “just” or fair market value of real and tangible property determined by county property appraisers as of January 1<sup>st</sup> of each year.<sup>2</sup> Fair market value of a parcel, is further adjusted by any applicable exceptions to the just value requirement. Examples of such exceptions are the annual “save our homes” limitation on homestead property assessment increases, the special classification of agricultural property, and the 10 percent non-homestead assessment cap.<sup>3</sup> The figure arrived at after accounting for just value exceptions is known as the assessed value. Property Appraisers then reduce the assessed value by an amount equal to any applicable exemption(s), which produces the taxable value.<sup>4</sup> Each year local government governing boards levy millage rates (i.e., tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

##### Nonhomestead Assessment Growth Limitation

Pursuant to a constitutional amendment approved by the voters in 2008, Article VII, sections 4(g) and (h) of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations, respectively. For all levies, with the exception of school levies, the assessed value of parcels in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, the assessment increase limitation does not apply in any year following a qualified improvement or change in ownership or control.<sup>5</sup> “Qualified improvements” are those substantially completed improvements that increase a property’s just value by 25% or more.<sup>6</sup>

Per the terms of the 2008 constitutional amendment, the nonhomestead assessment cap is repealed on January 1, 2019. Additionally, the constitution directs the Legislature to propose a constitutional amendment for the 2018 general election abrogating the repeal, effective January 1, 2019.

#### A. EFFECT OF PROPOSED CHANGES:

This joint resolution proposes an amendment to the Florida Constitution that would retain the 10 percent nonhomestead assessment increase cap currently scheduled for repeal on January 1, 2019. Approving the joint resolution will place the amendment on the 2018 general election ballot. If approved by the voters, the amendment will take effect on January 1, 2019.

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<sup>1</sup> Fla. Const. art. VII, s. 1(a).

<sup>2</sup> See Fla. Const. art. VII, s. 4.

<sup>3</sup> See s. 193.1555(3), F.S.

<sup>4</sup> See generally, s. 196.031, F.S.

<sup>5</sup> s. 193.1555(5), F.S. For non-homestead properties other than those containing 9 units or fewer, “Change in Ownership or Control” means any sale, foreclosure, transfer of legal or beneficial title in equity to any person. The term also refers to cumulative transfer of more than 50 percent ownership of a legal entity holding title to a property. There is no change in ownership when title is transferred to correct an error or the transfer is between legal and equitable title. Title to land owned by a publicly traded company does not change ownership if ownership of the company changes due to stock market trading or merger or acquisition. *Id.* at (b).

<sup>6</sup> *Id.* at (a).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

Based on 2016 advertising costs, staff estimates the full publication costs for advertising the proposed constitutional amendment to be approximately \$43,262. This would be paid from non-recurring General Revenue funds.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by electors, annual increases in the assessed value of nonhomestead parcels owned by private businesses and other organizations will be capped at 10 percent of the prior year's assessed value.

### D. FISCAL COMMENTS:

The Revenue Estimating Conference has not provided an official estimate of the joint resolution's impact. However, because the proposed amendment requires voter approval, the revenue impact will be either zero, if voters disapprove, or negative indeterminate to local governments if approved.

If the proposed amendment is approved by the voters, then tax base increases and potential revenue gains expected under current law will not occur. Staff estimates that under current law, beginning in FY 2019-20, non-school local government property tax bases will increase approximately 8 percent, beyond that which would otherwise occur, as a result of the scheduled repeal of the nonhomestead assessment limitation. **At current millage rates**, the tax revenues from that tax base increase would be approximately \$430 million annually. These tax base increases and potential revenue impacts are expected to diminish over time.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

House Joint Resolution

A joint resolution proposing an amendment to Section 27 of Article XII of the State Constitution to remove a future repeal of provisions in Section 4 of Article VII that limit the amount of annual increases in assessments, except for school district levies, of specified nonhomestead real property.

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

That the following amendment to Section 27 of Article XII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election:

ARTICLE XII

Schedule

SECTION 27. Property tax exemptions and limitations on property tax assessments.—

(a) The amendments to Sections 3, 4, and 6 of Article VII, providing a \$25,000 exemption for tangible personal property, providing an additional \$25,000 homestead exemption, authorizing transfer of the accrued benefit from the limitations on the assessment of homestead property, and this section, if submitted to the electors of this state for approval or rejection at a special election authorized by law to be held on January 29,



26 | 2008, shall take effect upon approval by the electors and shall  
 27 | operate retroactively to January 1, 2008, or, if submitted to  
 28 | the electors of this state for approval or rejection at the next  
 29 | general election, shall take effect January 1 of the year  
 30 | following such general election. The amendments to Section 4 of  
 31 | Article VII creating subsections (g)~~(f)~~ and (h)~~(g)~~ of that  
 32 | section, creating a limitation on annual assessment increases  
 33 | for specified real property, shall take effect upon approval of  
 34 | the electors and shall first limit assessments beginning January  
 35 | 1, 2009, if approved at a special election held on January 29,  
 36 | 2008, or shall first limit assessments beginning January 1,  
 37 | 2010, if approved at the general election held in November of  
 38 | 2008. ~~Subsections (f) and (g) of Section 4 of Article VII are~~  
 39 | ~~repealed effective January 1, 2019; however, the legislature~~  
 40 | ~~shall by joint resolution propose an amendment abrogating the~~  
 41 | ~~repeal of subsections (f) and (g), which shall be submitted to~~  
 42 | ~~the electors of this state for approval or rejection at the~~  
 43 | ~~general election of 2018 and, if approved, shall take effect~~  
 44 | ~~January 1, 2019.~~

45 |       (b) The amendment to subsection (a) abrogating the  
 46 | scheduled repeal of subsections (g) and (h) of Section 4 of  
 47 | Article VII of the State Constitution as it existed in 2017,  
 48 | shall take effect January 1, 2019.

49 |       BE IT FURTHER RESOLVED that the following statement be  
 50 | placed on the ballot:

51                                    C O N S T I T U T I O N A L   A M E N D M E N T  
52                                    A R T I C L E   X I I ,   S E C T I O N   2 7  
53            L I M I T A T I O N S   O N   P R O P E R T Y   T A X   A S S E S S M E N T S . — P r o p o s i n g   a n  
54   a m e n d m e n t   t o   t h e   S t a t e   C o n s t i t u t i o n   t o   r e t a i n   p r o v i s i o n s   a d o p t e d  
55   i n   2 0 0 8   t h a t   l i m i t   i n c r e a s e s   i n   a s s e s s m e n t s ,   e x c e p t   f o r   s c h o o l  
56   d i s t r i c t   l e v i e s ,   o f   s p e c i f i e d   n o n h o m e s t e a d   r e a l   p r o p e r t y ,   t o   1 0  
57   p e r c e n t   e a c h   y e a r .   I f   a p p r o v e d ,   t h e   a m e n d m e n t   r e m o v e s   t h e  
58   s c h e d u l e d   r e p e a l   o f   s u c h   p r o v i s i o n s   i n   2 0 1 9   a n d   s h a l l   t a k e  
59   e f f e c t   J a n u a r y   1 ,   2 0 1 9 .

Local Government Fiscal  
Responsibility Concepts

## **LOCAL GOVERNMENT FISCAL RESPONSIBILITY CONCEPT LANGUAGE OVERVIEW**

### **Purpose**

The draft language contains several elements with an overarching purpose to increase the fiscal responsibility of local governments. This is accomplished by:

- Prohibiting property tax increases unless certain excess unencumbered fund balances are eliminated.
- Prohibiting the enactment, extension or increase in local option taxes unless the levying entity had not increased property taxes in any of the previous 3 years.
- Requiring referenda for local option taxes that are approved by voters under current law, including some property taxes, to be held only at a general election. Further, such referenda would require a sixty percent vote for approval.
- Requiring that new tax-supported debt (broadly defined) that pledges revenues beyond 5 years to be first approved by referendum, subject to the same election restrictions included for taxes above.

### **General Provisions**

The concept language creates Part IX of Chapter 218, F.S., titled the “Local Government Fiscal Responsibility Act.” It also amends several provisions of current law. The substantive provisions of the concept language are explained more fully below.

### **Property Tax Increases: *Spend Excess Balances***

#### Current Law

##### *Constitutional Provisions*

The Florida Constitution reserves ad valorem taxation to local governments. The State is prohibited from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The Florida Constitution further requires that counties, municipalities and school districts be authorized to levy ad valorem taxes by law. Special districts *may* be authorized by law to levy ad valorem taxes. The constitution also prohibits the levy of ad valorem taxes in excess of the following:

- Ten mills for county purposes,
- Ten mills for municipal purposes,
- Ten mills for school purposes,
- One mill for water management purposes, except in Northwest Florida where the limit is .05 mill,
- Millage authorized by law approved by voters for special districts.<sup>2</sup>

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<sup>1</sup> Art. VII, sec. 1(a), Fla. Const.

<sup>2</sup> Art. VII, sec. 9, Fla. Const. A mill is equal to \$1 per \$1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations.<sup>3</sup> Counties providing municipal services may also levy up to an additional ten mills above the ten mill county limitation within those areas receiving municipal-type services.<sup>4</sup>

### *The Rolled-Back Rate*

Chapter 200, F.S., is titled "Determination of Millage" and generally governs the process, procedures and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority.

A key concept is the "rolled-back rate," as defined in s. 200.065(1), F.S., which is:

[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.

The rolled-back rate is important because if a local government levies a property tax rate in excess of the rolled-back rate, such levy must be characterized as a tax increase in the authorizing resolution or ordinance and in the advertisement required prior to adoption of a final millage rate and budget.<sup>5</sup>

### *Maximum Statutory Millage Rates*

Chapter 200 also sets forth maximum millage rates applicable to counties, municipalities, and special districts. In 2007, the Legislature enacted statutory changes<sup>6</sup> that established a maximum millage rate by requiring most taxing authorities to reduce their millage rates below their rolled-back rates.<sup>7</sup> Exceptions were made for certain fiscally limited governments and for certain types of activities. The same legislation created a formula to determine a maximum millage rate (and implicitly a maximum revenue) that could be levied by a county, municipal, or special district governing board by simple majority vote. Exceeding the maximum would require the governing board to achieve certain extraordinary votes.

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<sup>3</sup> Art. VII, sec 9(b), Fla. Const.

<sup>4</sup> Section 200.065(5)(b), F.S.

<sup>5</sup> Sections 200.065(2)(d) and (3)(a).

<sup>6</sup> Ch. 2007-321, Laws of Fla.

<sup>7</sup> Section 200.065(5), F.S.

The maximum millage rate that most non-school taxing authorities can levy by simple majority vote is the rolled-back rate based on the previous year's maximum millage rate, adjusted by the change in Florida per capita personal income.<sup>8</sup> Local governments are allowed to override this maximum rate by extraordinary votes of their governing boards or by referendum. A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a two-thirds vote of the membership of the governing body of the taxing authority; or
- A rate in excess of 110 percent may be adopted if approved by a unanimous vote of the membership of the governing body of the taxing authority or by a three-fourths vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.<sup>9</sup>

#### *Unencumbered Excess Fund Balances*

There is no current expression in Florida statutes of the concept of "unencumbered excess fund balances" as is created in the concept language and is described more fully below. Similar concepts do exist, though for different purposes. For example, Part IV of Chapter 218, F.S., is titled "Investment of Local Government Surplus Funds." The purpose of that part as described in s. 218.401, F.S., is "to promote, through state assistance, the maximization of net interest earnings on invested surplus funds of local units of government, based on the principals of investor protection, mandated transparency, and proper governance, with the goal of reducing the need for imposing additional taxes." Section 218.403(8), F.S., defines "surplus funds" as meaning "any funds in any general or special account or fund of a unit of local government, or funds held by an independent trustee on behalf of a unit of local government, which in reasonable contemplation will not be immediately needed for the purposes intended."

#### Concept Language

The concept language creates a new statutory maximum millage rate for local governments. A county, municipality, special district dependent to a county or municipality, municipal service taxing unit, independent special district, or school district may not levy a millage rate above its rolled-back rate, unless the government does not have any excess unencumbered fund balances as of the beginning of the fiscal year for which the millage rate is being considered or makes appropriations to reduce any such balances. This, in effect, prohibits property tax increases, as defined in current law, unless certain excess fund balances are spent down.

The concept language defines "excess unencumbered fund balances" as:

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<sup>8</sup> s. 200.065(5), F.S. The calculation of Florida per capita personal income is to be provided by the Office of Economic and Demographic Research, per s. 200.001(8)(i), F.S.

<sup>9</sup> s. 200.065(5)(a), F.S.

[A]ny non-fee revenue, in any general or special account or fund of a county, municipality, special district dependent to a county or municipality, municipal service taxing unit, independent special district, or school district, or non-fee revenue held by an independent trustee on behalf of a county, municipality, special district dependent to a county or municipality, municipal service taxing unit, independent special district, or school district, which are not encumbered by appropriations or contractual obligations and are in excess of 10 percent of total annual revenues to the account or fund. The term does not include monies subject to restrictions imposed by the federal government or revenues that were approved by referendum of the electors in the affected jurisdiction.

The concept language defines “non-fee revenue” as:

[A]ny monies, except as otherwise provided in this section, which are derived from any taxes levied by a local government, revenue shared by another government with a local government, or revenues, the use of which may be for any public purpose, derived from other sources.

In order to eliminate excess unencumbered fund balances, the concept language allows these types of local governments to use such fund balances for any public purpose, except for funds subject to restrictions imposed by the federal government or revenues that were approved by referendum of the electors in the affected jurisdiction. This permission to expend funds applies irrespective of any other limitation on the use of such funds elsewhere in Florida law.

### **Local Option Tax Increases: *Property Tax Restraint***

#### Current Law

The Florida Constitution preempts all forms of taxation, except for ad valorem taxes on real estate and tangible personal property, to the state unless otherwise provided by general law.<sup>10</sup> Over the years, the legislature has, by general law, authorized many different local option taxes. Each local option tax source comes with its own set of rules or prescriptions relating to the method for adopting and levying the tax.

#### Concept Language

The concept language prohibits a municipality, county, or school district from enacting, extending or increasing any of the following local option taxes, if such local government had adopted a millage rate in excess of its rolled-back rate (with certain specified exceptions) in any of the three previous years:

- Local communications services tax<sup>11</sup>
- Tourist development tax<sup>12</sup>;

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<sup>10</sup> Art VII, sec 9, Fla Const.

<sup>11</sup> Section 202.19, F.S.

- Tourist impact tax<sup>13</sup>;
- Discretionary surtax on documents;<sup>14</sup>
- Public service tax<sup>15</sup>;
- Local business tax<sup>16</sup>;
- Motor fuel and diesel taxes<sup>17</sup>;
- Convention development tax<sup>18</sup>;
- Local option food and beverage tax<sup>19</sup>;
- Local option sales taxes<sup>20</sup>;

The restriction against levying millages in excess of the rolled-back rate do not apply to nonvoted required school operating millages identified in s. 200.001(3)(a), F.S., millages approved by a vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution, millages approved by a vote of the electors pursuant to s. 12, Art. VII of the State Constitution, or millages approved by the voters as authorized under s. 1011.71(9), F.S.

### **Voter Approved Taxes: *Elections***

#### Current Law

Currently, certain local option taxes and property taxes require voter approval prior to being levied. Others have voter approval as an option that the local government may use to approve the levy.

#### *Tourist Development Taxes*

Section 125.0104, F.S., authorizes five separate tourist development taxes that county governments may levy. Depending on a county's eligibility to levy, the tax rate applied to transient rental transactions may be as high as 6 percent. Of these five levies, the initial levy of tourist development tax by a county at a rate of one or two percent requires approval by referendum.<sup>21</sup> Counties are authorized to levy an additional one percent tourist development tax, which may be approved by an extraordinary vote of the governing board of the county or by referendum.<sup>22</sup>

#### *Motor Fuel and Diesel Fuel Taxes*

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<sup>12</sup> Section 125.0104, F.S.

<sup>13</sup> Section 125.0108, F.S.

<sup>14</sup> Only Miami Dade County may levy this tax. See ss. 125.0167 and 201.031, F.S.

<sup>15</sup> Sections 166.231-.235, F.S.

<sup>16</sup> Chapter 205, F.S.

<sup>17</sup> Section 336.021 and .025, F.S.

<sup>18</sup> Section 212.0305, F.S.

<sup>19</sup> Section 212.0306, F.S.

<sup>20</sup> Section 212.055, F.S.

<sup>21</sup> Section 125.0104(3)(c), F.S.

<sup>22</sup> Section 125.0104(3)(d), F.S.



County governments are authorized to levy up to 12 cents of local option fuel taxes in the form of three separate levies. The first is a tax of 1 cent on every net gallon of motor and diesel fuel sold within a county<sup>23</sup>. Known as the ninth-cent fuel tax, this tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a countywide referendum, and the proceeds are used to fund specified transportation expenditures. The second is a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold within a county<sup>24</sup>. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a countywide referendum, and the proceeds are used to fund specified transportation expenditures. The third tax is a 1 to 5 cents levy upon every net gallon of motor fuel sold within a county, and diesel fuel is not subject to this tax<sup>25</sup>. This additional tax may be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body or voter approval in a countywide referendum, and the proceeds are used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan.

#### *Discretionary Sales Surtaxes*

By statute, counties have limited authority to levy certain discretionary sales surtaxes for specific purposes on transactions subject to state sales tax.<sup>26</sup> There are nine separate discretionary sales surtaxes. However, limitations exist regarding which counties may levy each surtax and which surtaxes may or may not be levied in combination.<sup>27</sup> Local discretionary sales surtaxes are generally approved by referendum.<sup>28</sup> The referendum must be approved by a majority of electors voting.<sup>29</sup> Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.<sup>30</sup>

Discretionary sales surtaxes requiring voter approval are the:

- Charter county and regional transportation system surtax,<sup>31</sup>
- Local government infrastructure surtax,<sup>32</sup>
- Small county surtax,<sup>33</sup>

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<sup>23</sup> Section 336.021(1)(a), F.S.

<sup>24</sup> Section 336.025(1)(a), F.S.

<sup>25</sup> Section 336.025(1)(b), F.S.

<sup>26</sup> Section 212.054, F.S.; s. 212.055, F.S.

<sup>27</sup> Section 212.055, F.S.

<sup>28</sup> Section 212.055, F.S., *but see* s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission, as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

<sup>29</sup> Section 212.055, F.S.

<sup>30</sup> *E.g.* s. 212.055(1)(c), F.S. (referendum for charter county and regional transportation system to be held at a time “set at the discretion of the governing body”); *but see* s. 212.055(8)(b), F.S. (referendum for emergency fire rescue services and facilities surtax must be placed on the ballot of a “regularly scheduled election”).

<sup>31</sup> Section 212.055(1), F.S.

<sup>32</sup> Section 212.055(2), F.S.

<sup>33</sup> Section 212.055(3), F.S.

- Indigent care and trauma center surtax,<sup>34</sup>
- School capital outlay surtax,<sup>35</sup>
- Voter-approved indigent care surtax,<sup>36</sup>
- Emergency fire rescue services and facilities surtax<sup>37</sup>; and
- Pension liability surtax<sup>38</sup>;

### *Ad Valorem Taxes (Property Taxes)*

Most property tax levies under current law do not require voter approval, with the following exceptions:

- Operating purposes for up to 2 years, not subject to 10 mill cap;
- School additional operating millage (not to exceed four years)<sup>39</sup>;
- Debt service, not subject to 10 mill cap<sup>40</sup>;

### *Referendum Process*

The Florida Election Code sets forth the general requirements for a referendum.<sup>41</sup> The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.<sup>42</sup> The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.<sup>43</sup> The ballot summary and title must be included in the resolution or ordinance calling for the referendum.<sup>44</sup> For some discretionary sales surtaxes, the form of the ballot question is specified by statute.<sup>45</sup>

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.<sup>46</sup> A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.<sup>47</sup>

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<sup>34</sup> Section 212.055(4)(b), F.S. Only the portion of the surtax for funding trauma services provided by a trauma center in counties with a population of less than 800,000 requires voter approval. Section 212.055(4)(a), F.S., also authorizes counties with a population of at least 800,000 to levy a surtax for providing medical care for indigent persons, but that can be approved by either a an extraordinary vote of the governing body *or* by referendum.

<sup>35</sup> Section 212.055(6), F.S.

<sup>36</sup> Section 212.055(7), F.S.

<sup>37</sup> Section 212.055(8), F.S.

<sup>38</sup> Section 212.055(9), F.S.

<sup>39</sup> Sections 1011.71(9) and 1011.73(2), F.S.

<sup>40</sup> Art VII, sec (9)(b), Fla Const.

<sup>41</sup> Section 101.161, F.S.

<sup>42</sup> Section 101.161(1), F.S.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> See s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

<sup>46</sup> Section 97.021(11), F.S.

<sup>47</sup> Art. VI, sec 5(a), Fla. Const. (also codified as s. 97.021(15), F.S.)

### Concept Language

The concept language would require any local option or property tax levy that will be approved by referendum be considered only at a general election. Further, the concept language would increase to sixty percent the threshold for approval of any local option tax or property tax levy voted on at the general election to sixty percent.

### **New Tax-Supported Debt Issuance: *Required Referenda***

#### Current Law

Local governments are authorized to issue debt supported by tax revenues. For example, s. 125.01(1)(r), F.S., provides:

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

\*\*\*

(r) Levy and collect taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit, and special assessments; borrow and expend money; and issue bonds, revenue certificates, and other obligations of indebtedness, which power shall be exercised in such manner, and subject to such limitations, as may be provided by general law. There shall be no referendum required for the levy by a county of ad valorem taxes, both for county purposes and for the providing of municipal services within any municipal service taxing unit.

Section 166.111, F.S., provides:

The governing body of every municipality may borrow money, contract loans, and issue bonds as defined in s. 166.101 from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds.

The Florida Constitution authorizes counties, municipalities, school districts, special districts, and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness, or any form of tax anticipation certificates, that pledge ad valorem tax revenues and mature more than 12 months after issuance to finance or refinance capital projects authorized by law when approved by vote of the electors<sup>48</sup>.

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<sup>48</sup> Art VII, sec 12, Fla. Const.

However, not all forms of obligations for financing capital outlay entered into by local governments fall under this constitutional grant of authority. For example, school districts often use long-term lease finance arrangements generally referred to as “certificates of participation” as a financing mechanism for construction and improvements of school facilities. These arrangements have been found not to require voter approval,<sup>49</sup> because they are created where there is no express pledge of ad valorem tax revenues to support the debt, even though they may use tax revenues, including property taxes, as a revenue source for repayment. Essentially, if a bondholder has no right to compel the levy of ad valorem taxes by judicial action to meet the bond obligations, such an arrangement does not require voter approval under the state constitution.

Further, there is no general requirement that new local government tax-supported debt that pledges revenues beyond five years be approved by the voters.

### Concept Language

The concept language would require voter approval for any new tax-supported debt that pledges revenues beyond five years. The voter approval would be subject to the same election restrictions described above for local option and property taxes. The concept language defines “debt” to mean:

[B]onds, loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing the acquisition, construction, improvement, or purchase of capital outlay projects.

The concept language defines “tax-supported debt” to mean:

[D]ebt secured in whole or in part by state or local tax levies, whether such security is direct or indirect, explicit or implicit, including but not limited to debt for which annual appropriations pledged for payment are from government fund types receiving tax revenues or shared revenues from state tax sources. The term does not include debt that is secured solely by the revenues generated by the project that is financed with the debt.

### **Administrative and Conforming Change**

The concept language creates a new Part IX of Chapter 218, F.S., titled the “Local Government Fiscal Responsibility Act.” The concept language creates s. 218.901, F.S., providing that the purpose of the Act is to:

Promote the fiscal responsibility of local governments in their use of public funds by providing additional conditions under which local governments may increase taxes, enact new taxes, extend expiring taxes, or issue new tax-supported debt.

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<sup>49</sup> *State v. School Board of Sarasota County*, 561 So.2d 529 (Fla. 1990)

**Fiscal Impacts**

The changes suggested by the concept language could have a negative, but indeterminate, impact on local government revenues.

**Effective Date**

The effective date of the concept language is July 1, 2017.

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1 A bill to be entitled  
2 An act relating to local government fiscal  
3 responsibility; amending s. 125.0104(6), F.S.;  
4 providing dates for certain referenda; providing  
5 voting requirements for certain referenda; amending s.  
6 125.0108(5), F.S.; providing dates for certain  
7 referenda; providing voting requirements for certain  
8 referenda; amending s. 200.065(5), F.S.; providing the  
9 maximum millage local governments may levy under  
10 certain circumstances; amending s. 200.091, F.S.;  
11 providing referenda to increase a millage must conform  
12 to the voting requirements in as set forth in s.  
13 200.105; amending s. 200.101, F.S.; providing  
14 referenda to exceed certain millage limits must  
15 conform to the voting requirements in as set forth in  
16 s. 200.105; creating s. 200.105, F.S.; providing dates  
17 for certain referenda; amending s. 212.055, F.S.;  
18 providing dates for referenda to adopt or amend local  
19 government discretionary sales surtaxes; providing  
20 voting requirements for referenda to adopt or amend  
21 local government discretionary sales surtaxes;  
22 creating s. 218.90, F.S.; providing a short title;  
23 creating s. 218.901, F.S.; specifying purpose of newly  
24 created Part IX of chapter 218; creating s. 218.905,  
25 F.S.; providing definitions; creating s. 218.91, F.S.;

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26 |       restricting local governments from enacting, extending  
 27 |       or increasing taxes otherwise authorized under  
 28 |       provisions listed in s. 218.91; creating s. 218.92,  
 29 |       F.S.; requiring local governments must to receive  
 30 |       voter approval for the issuance of any new tax-  
 31 |       supported debt with a term of more than five years;  
 32 |       providing dates and voting requirements for such  
 33 |       referenda; amending s. 336.021(4), F.S.; providing  
 34 |       dates for certain referenda; providing voting  
 35 |       requirements for certain referenda; amending 336.025,  
 36 |       F.S.; providing dates for certain referenda; providing  
 37 |       voting requirements for certain referenda; amending  
 38 |       1011.73, F.S.; providing dates for certain referenda;  
 39 |       providing voting requirements for certain referenda;  
 40 |       providing this act creates Part IX of Chapter 218;  
 41 |       providing an effective date.

42 |  
 43 | Be It Enacted by the Legislature of the State of Florida:

44 |  
 45 |       Section 1. Subsection (6) of section 125.0104, Florida  
 46 | Statutes, is amended to read:

47 |       125.0104 Tourist development tax; procedure for levying;  
 48 | authorized uses; referendum; enforcement.—

49 |       (6) REFERENDUM.—

50 |       (a) No ordinance enacted by any county levying the tax

51 authorized by paragraphs (3)(b) and (c) shall take effect until  
 52 the ordinance levying and imposing the tax has been approved in  
 53 a referendum election by ~~a majority of~~ the electors voting in  
 54 such election in the county or by ~~a majority of~~ the electors  
 55 voting in the subcounty special tax district affected by the  
 56 tax. A referendum to adopt or amend the taxes authorized by  
 57 paragraphs (3)(b), (c) or (d) may not be held during a special  
 58 election. A referendum under this section shall be held only at  
 59 a general election, as defined in s. 97.021, and requires the  
 60 approval of sixty percent of the voters voting on the ballot  
 61 question for passage.

62 (b) The governing board of the county levying the tax  
 63 shall arrange to place a question on the ballot at an ~~the next~~  
 64 ~~regular or special~~ election to be held within the county,  
 65 substantially as follows:

- 66 ....FOR the Tourist Development Tax
- 67 ....AGAINST the Tourist Development Tax.

68 (c) If ~~a majority of~~ the electors voting on the question  
 69 approve the levy, the ordinance shall be deemed to be in effect.

70 (d) In any case where a referendum levying and imposing  
 71 the tax has been approved pursuant to this section and 15  
 72 percent of the electors in the county or 15 percent of the  
 73 electors in the subcounty special district in which the tax is  
 74 levied file a petition with the board of county commissioners  
 75 for a referendum to repeal the tax, the board of county



76 commissioners shall cause an election to be held for the repeal  
 77 of the tax which election shall be subject only to the  
 78 outstanding bonds for which the tax has been pledged. However,  
 79 the repeal of the tax shall not be effective with respect to any  
 80 portion of taxes initially levied in November 1989, which has  
 81 been pledged or is being used to support bonds under paragraph  
 82 (3)(d) or paragraph (3)(1) until the retirement of those bonds.

83 Section 2. Subsection (5) of section 125.0108, Florida  
 84 Statutes, is amended to read:

85 125.0108 Areas of critical state concern; tourist impact  
 86 tax.—

87 (5) The tourist impact tax authorized by this section  
 88 shall take effect only upon express approval ~~by a majority vote~~  
 89 of those qualified electors in the area or areas of critical  
 90 state concern in the county seeking to levy such tax, voting in  
 91 a referendum to be held by the governing board of such county ~~in~~  
 92 ~~conjunction with a general or special election, in accordance~~  
 93 ~~with the provisions of law relating to elections currently in~~  
 94 ~~force.~~ However, if the area or areas of critical state concern  
 95 are greater than 50 percent of the land area of the county and  
 96 the tax is to be imposed throughout the entire county, the tax  
 97 shall take effect only upon express approval of ~~a majority of~~  
 98 the qualified electors of the county voting in such a  
 99 referendum. A referendum to adopt or amend the tourist impact  
 100 tax authorized by this section shall be held only at a general

101 election, as defined in s. 97.021, and requires the approval of  
 102 sixty percent of the voters voting on the ballot question for  
 103 passage.

104 Section 3. Subsection (5) of section 200.065, Florida  
 105 Statutes, is amended to read:

106 200.065 Method of fixing millage.—

107 (5) In each fiscal year:

108 (a) The maximum millage rate a county, municipality,  
 109 special district dependent to a county or municipality,  
 110 municipal service taxing unit, independent special district, or  
 111 school district may levy is the rolled-back rate as that term is  
 112 defined in subsection (1), unless the provisions of sub-  
 113 paragraph 1. are met.

114 1. The county, municipality, special district dependent to  
 115 a county or municipality, municipal service taxing unit,  
 116 independent special district, or school district does not have  
 117 any excess unencumbered balances as of the beginning of the  
 118 fiscal year for which the millage rate is being considered, or,  
 119 if such balances are expected, then the budget for the fiscal  
 120 year for which the millage is being considered must approve  
 121 expenditures to eliminate such unencumbered excess balances.  
 122 Notwithstanding any restriction on the use of such funds for  
 123 specific purposes, expenditures of excess unencumbered fund  
 124 balances may be for any public purpose, with the exception of  
 125 funds subject to restrictions imposed by the federal government

126 | or revenues that were approved by referendum of the electors in  
 127 | the affected jurisdiction.

128 | 2. For purposes of this section:

129 | a. The term "non-fee revenue" means any monies, except as  
 130 | otherwise provided in this section, which are derived from any  
 131 | taxes levied by a local government, revenue shared by another  
 132 | government with a local government, or revenues, the use of  
 133 | which may be for any public purpose, derived from other sources.

134 | b. The term "excess unencumbered fund balances" means any  
 135 | non-fee revenue, in any general or special account or fund of a  
 136 | county, municipality, special district dependent to a county or  
 137 | municipality, municipal service taxing unit, independent special  
 138 | district, or school district, or non-fee revenue held by an  
 139 | independent trustee on behalf of a a county, municipality,  
 140 | special district dependent to a county or municipality,  
 141 | municipal service taxing unit, independent special district, or  
 142 | school district, which are not encumbered by appropriations or  
 143 | contractual obligations and are in excess of 10 percent of total  
 144 | annual revenues to the account or fund. The term does not  
 145 | include monies subject to restrictions imposed by the federal  
 146 | government or revenues that were approved by referendum of the  
 147 | electors in the affected jurisdiction.

148 | 3. The maximum millage rate limitation in this paragraph  
 149 | does not apply to nonvoted required school operating millages  
 150 | identified in s. 200.001(3)(a), millages approved by a vote of

151 the electors pursuant to s. 9(b), Art. VII of the State  
 152 Constitution, millages approved by a vote of the electors  
 153 pursuant to s. 12, Art. VII of the State Constitution, or  
 154 millages approved by the voters as authorized under s.  
 155 1011.71(9).

156 (b) ~~(a)~~ If the maximum millage rate under (a) is not  
 157 applicable, then tThe maximum millage rate that a county,  
 158 municipality, special district dependent to a county or  
 159 municipality, municipal service taxing unit, or independent  
 160 special district may levy is a rolled-back rate based on the  
 161 amount of taxes which would have been levied in the prior year  
 162 if the maximum millage rate had been applied, adjusted for  
 163 change in per capita Florida personal income, unless a higher  
 164 rate was adopted, in which case the maximum is the adopted rate.  
 165 The maximum millage rate applicable to a county authorized to  
 166 levy a county public hospital surtax under s. 212.055 and which  
 167 did so in fiscal year 2007 shall exclude the revenues required  
 168 to be contributed to the county public general hospital in the  
 169 current fiscal year for the purposes of making the maximum  
 170 millage rate calculation, but shall be added back to the maximum  
 171 millage rate allowed after the roll back has been applied, the  
 172 total of which shall be considered the maximum millage rate for  
 173 such a county for purposes of this subsection. The revenue  
 174 required to be contributed to the county public general hospital  
 175 for the upcoming fiscal year shall be calculated as 11.873

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176 | percent times the millage rate levied for countywide purposes in  
 177 | fiscal year 2007 times 95 percent of the preliminary tax roll  
 178 | for the upcoming fiscal year. A higher rate may be adopted only  
 179 | under the following conditions:

180 |       1. A rate of not more than 110 percent of the rolled-back  
 181 | rate based on the previous year's maximum millage rate, adjusted  
 182 | for change in per capita Florida personal income, may be adopted  
 183 | if approved by a two-thirds vote of the membership of the  
 184 | governing body of the county, municipality, or independent  
 185 | district; or

186 |       2. A rate in excess of 110 percent may be adopted if  
 187 | approved by a unanimous vote of the membership of the governing  
 188 | body of the county, municipality, or independent district or by  
 189 | a three-fourths vote of the membership of the governing body if  
 190 | the governing body has nine or more members, or if the rate is  
 191 | approved by a referendum.

192 |       (c) ~~(b)~~ The millage rate of a county or municipality,  
 193 | municipal service taxing unit of that county, and any special  
 194 | district dependent to that county or municipality may exceed the  
 195 | maximum millage rate calculated pursuant to this subsection if  
 196 | the total county ad valorem taxes levied or total municipal ad  
 197 | valorem taxes levied do not exceed the maximum total county ad  
 198 | valorem taxes levied or maximum total municipal ad valorem taxes  
 199 | levied respectively. Voted millage and taxes levied by a  
 200 | municipality or independent special district that has levied ad

201 valorem taxes for less than 5 years are not subject to this  
 202 limitation. The millage rate of a county authorized to levy a  
 203 county public hospital surtax under s. 212.055 may exceed the  
 204 maximum millage rate calculated pursuant to this subsection to  
 205 the extent necessary to account for the revenues required to be  
 206 contributed to the county public hospital. Total taxes levied  
 207 may exceed the maximum calculated pursuant to subsection (6) as  
 208 a result of an increase in taxable value above that certified in  
 209 subsection (1) if such increase is less than the percentage  
 210 amounts contained in subsection (6) or if the administrative  
 211 adjustment cannot be made because the value adjustment board is  
 212 still in session at the time the tax roll is extended;  
 213 otherwise, millage rates subject to this subsection may be  
 214 reduced so that total taxes levied do not exceed the maximum.

215  
 216 Any unit of government operating under a home rule charter  
 217 adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State  
 218 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the  
 219 State Constitution of 1968, which is granted the authority in  
 220 the State Constitution to exercise all the powers conferred now  
 221 or hereafter by general law upon municipalities and which  
 222 exercises such powers in the unincorporated area shall be  
 223 recognized as a municipality under this subsection. For a  
 224 downtown development authority established before the effective  
 225 date of the 1968 State Constitution which has a millage that

226 must be approved by a municipality, the governing body of that  
 227 municipality shall be considered the governing body of the  
 228 downtown development authority for purposes of this subsection.

229 Section 4. Section 200.091, Florida Statutes, is amended  
 230 to read:

231 200.091 Referendum to increase millage.—The millage  
 232 authorized to be levied in s. 200.071 for county purposes,  
 233 including dependent districts therein, may be increased for  
 234 periods not exceeding 2 years, provided such levy has been  
 235 approved by a majority vote, as set forth in s. 200.105, of the  
 236 qualified electors in the county or district voting in an  
 237 election called for such purpose. Such an election may be called  
 238 by the governing body of any such county or district on its own  
 239 motion and shall be called upon submission of a petition  
 240 specifying the amount of millage sought to be levied and the  
 241 purpose for which the proceeds will be expended and containing  
 242 the signatures of at least 10 percent of the persons qualified  
 243 to vote in such election, signed within 60 days prior to the  
 244 date the petition is filed.

245 Section 5. Section 200.101, Florida Statutes, is amended  
 246 to read:

247 200.101 Referendum for millage in excess of limits.—The  
 248 qualified electors of a municipality may ~~by majority vote,~~ as  
 249 set forth in s. 200.105, ~~to of these voting approve an increase~~  
 250 of millage above those limits imposed by s. 200.081 in a

251 referendum called for such purpose by the governing body of the  
 252 municipality, but the period of such increase may not exceed 2  
 253 years. Such referendum also may be initiated by submission of a  
 254 petition to the governing body of the municipality containing  
 255 the signatures of 10 percent of those persons eligible to vote  
 256 in such referendum, which signatures were affixed to the  
 257 petition within 60 days prior to its submission.

258 Section 6. Section 200.105, Florida Statutes, is created  
 259 to read:

260 200.105 DATES FOR REFERENDA.-- A referendum under this  
 261 chapter or pursuant to s. 12, Art. VII of the State  
 262 Constitution, shall be held only at a general election, as  
 263 defined in s. 97.021, and requires the approval of sixty percent  
 264 of the voters voting on the ballot question for passage.

265 Section 7. Paragraphs (a) and (c) of subsection (1),  
 266 paragraph (a) of subsection (2), paragraph (a) of subsection  
 267 (3), subsections (4) and (5), paragraph (a) of subsection (6),  
 268 paragraph (a) of subsection (7), paragraph (b) of subsection  
 269 (8), and paragraph (a) of subsection (9) of section 212.055,  
 270 Florida Statutes, are amended, and subsection (10) is added to  
 271 that section, to read:

272 212.055 Discretionary sales surtaxes; legislative intent;  
 273 authorization and use of proceeds.--It is the legislative intent  
 274 that any authorization for imposition of a discretionary sales  
 275 surtax shall be published in the Florida Statutes as a



276 subsection of this section, irrespective of the duration of the  
 277 levy. Each enactment shall specify the types of counties  
 278 authorized to levy; the rate or rates which may be imposed; the  
 279 maximum length of time the surtax may be imposed, if any; the  
 280 procedure which must be followed to secure voter approval, if  
 281 required; the purpose for which the proceeds may be expended;  
 282 and such other requirements as the Legislature may provide.  
 283 Taxable transactions and administrative procedures shall be as  
 284 provided in s. 212.054.

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

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

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

301 ~~governing body.~~

302 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

303 (a)1. The governing authority in each county may levy a  
 304 discretionary sales surtax of 0.5 percent or 1 percent. The levy  
 305 of the surtax shall be pursuant to ordinance enacted by a  
 306 majority of the members of the county governing authority and  
 307 approved by ~~a majority of~~ the electors of the county, as set  
 308 forth in subsection (10), voting in a referendum on the surtax.

309 If the governing bodies of the municipalities representing a  
 310 majority of the county's population adopt uniform resolutions  
 311 establishing the rate of the surtax and calling for a referendum  
 312 on the surtax, the levy of the surtax shall be placed on the  
 313 ballot and shall take effect if approved by ~~a majority of~~ the  
 314 electors of the county, as set forth in subsection (10), voting  
 315 in the referendum on the surtax.

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

323 (3) SMALL COUNTY SURTAX.—

324 (a) The governing authority in each county that has a  
 325 population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a

326 discretionary sales surtax of 0.5 percent or 1 percent. The levy  
 327 of the surtax shall be pursuant to ordinance enacted by an  
 328 extraordinary vote of the members of the county governing  
 329 authority if the surtax revenues are expended for operating  
 330 purposes. If the surtax revenues are expended for the purpose of  
 331 servicing bond indebtedness, the surtax shall be approved by a  
 332 ~~majority of~~ the electors of the county, as set forth in  
 333 subsection (10), voting in a referendum on the surtax.

334 (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

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

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

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351 FOR THE. . . .CENTS TAX  
 352 AGAINST THE. . . .CENTS TAX  
 353 3. The ordinance adopted by the governing body providing  
 354 for the imposition of the surtax shall set forth a plan for  
 355 providing health care services to qualified residents, as  
 356 defined in subparagraph 4. Such plan and subsequent amendments  
 357 to it shall fund a broad range of health care services for both  
 358 indigent persons and the medically poor, including, but not  
 359 limited to, primary care and preventive care as well as hospital  
 360 care. The plan must also address the services to be provided by  
 361 the Level I trauma center. It shall emphasize a continuity of  
 362 care in the most cost-effective setting, taking into  
 363 consideration both a high quality of care and geographic access.  
 364 Where consistent with these objectives, it shall include,  
 365 without limitation, services rendered by physicians, clinics,  
 366 community hospitals, mental health centers, and alternative  
 367 delivery sites, as well as at least one regional referral  
 368 hospital where appropriate. It shall provide that agreements  
 369 negotiated between the county and providers, including hospitals  
 370 with a Level I trauma center, will include reimbursement  
 371 methodologies that take into account the cost of services  
 372 rendered to eligible patients, recognize hospitals that render a  
 373 disproportionate share of indigent care, provide other  
 374 incentives to promote the delivery of charity care, promote the  
 375 advancement of technology in medical services, recognize the

376 level of responsiveness to medical needs in trauma cases, and  
 377 require cost containment including, but not limited to, case  
 378 management. It must also provide that any hospitals that are  
 379 owned and operated by government entities on May 21, 1991, must,  
 380 as a condition of receiving funds under this subsection, afford  
 381 public access equal to that provided under s. 286.011 as to  
 382 meetings of the governing board, the subject of which is  
 383 budgeting resources for the rendition of charity care as that  
 384 term is defined in the Florida Hospital Uniform Reporting System  
 385 (FHURS) manual referenced in s. 408.07. The plan shall also  
 386 include innovative health care programs that provide cost-  
 387 effective alternatives to traditional methods of service  
 388 delivery and funding.

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

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

393 b. Certified by the authorizing county as meeting the  
 394 definition of the medically poor, defined as persons having  
 395 insufficient income, resources, and assets to provide the needed  
 396 medical care without using resources required to meet basic  
 397 needs for shelter, food, clothing, and personal expenses; or not  
 398 being eligible for any other state or federal program, or having  
 399 medical needs that are not covered by any such program; or  
 400 having insufficient third-party insurance coverage. In all

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401 cases, the authorizing county is intended to serve as the payor  
 402 of last resort; or

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

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

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

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

414 c. Disburse the funds, including any interest earned, to  
 415 any provider of health care services, as provided in  
 416 subparagraphs 3. and 4., upon directive from the authorizing  
 417 county. However, if a county has a population of at least  
 418 800,000 residents and has levied the surtax authorized in this  
 419 paragraph, notwithstanding any directive from the authorizing  
 420 county, on October 1 of each calendar year, the clerk of the  
 421 court shall issue a check in the amount of \$6.5 million to a  
 422 hospital in its jurisdiction that has a Level I trauma center or  
 423 shall issue a check in the amount of \$3.5 million to a hospital  
 424 in its jurisdiction that has a Level I trauma center if that  
 425 county enacts and implements a hospital lien law in accordance

426 with chapter 98-499, Laws of Florida. The issuance of the checks  
 427 on October 1 of each year is provided in recognition of the  
 428 Level I trauma center status and shall be in addition to the  
 429 base contract amount received during fiscal year 1999-2000 and  
 430 any additional amount negotiated to the base contract. If the  
 431 hospital receiving funds for its Level I trauma center status  
 432 requests such funds to be used to generate federal matching  
 433 funds under Medicaid, the clerk of the court shall instead issue  
 434 a check to the Agency for Health Care Administration to  
 435 accomplish that purpose to the extent that it is allowed through  
 436 the General Appropriations Act; and

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

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

445         (b) Notwithstanding any other provision of this section,  
 446 the governing body in each county the government of which is not  
 447 consolidated with that of one or more municipalities and which  
 448 has a population of fewer ~~less~~ than 800,000 residents, may levy,  
 449 by ordinance subject to approval by ~~a majority of~~ the electors  
 450 of the county, as set forth in subsection (10), voting in a

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451 referendum, a discretionary sales surtax at a rate that may not  
 452 exceed 0.25 percent for the sole purpose of funding trauma  
 453 services provided by a trauma center licensed pursuant to  
 454 chapter 395.

455 1. A statement that includes a brief and general  
 456 description of the purposes to be funded by the surtax and that  
 457 conforms to the requirements of s. 101.161 shall be placed on  
 458 the ballot by the governing body of the county. The following  
 459 shall be placed on the ballot:

460 FOR THE. . . .CENTS TAX

461 AGAINST THE. . . .CENTS TAX

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

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

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

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

475 c. Disburse the funds, including any interest earned on



476 such funds, to the trauma center in its trauma service area, as  
 477 provided in the plan set forth pursuant to subparagraph 2., upon  
 478 directive from the authorizing county. If the trauma center  
 479 receiving funds requests such funds be used to generate federal  
 480 matching funds under Medicaid, the custodian of the funds shall  
 481 instead issue a check to the Agency for Health Care  
 482 Administration to accomplish that purpose to the extent that the  
 483 agency is allowed through the General Appropriations Act.

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

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

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

496 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined  
 497 in s. 125.011(1) may levy the surtax authorized in this  
 498 subsection pursuant to an ordinance either approved by  
 499 extraordinary vote of the county commission or conditioned to  
 500 take effect only upon approval by ~~a majority vote of~~ the

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501 electors of the county, as set forth in subsection (10), voting  
 502 in a referendum. In a county as defined in s. 125.011(1), for  
 503 the purposes of this subsection, "county public general  
 504 hospital" means a general hospital as defined in s. 395.002  
 505 which is owned, operated, maintained, or governed by the county  
 506 or its agency, authority, or public health trust.

507 (a) The rate shall be 0.5 percent.

508 (b) If the ordinance is conditioned on a referendum, the  
 509 proposal to adopt the county public hospital surtax shall be  
 510 placed on the ballot in accordance with law and must be approved  
 511 in a referendum as set forth in subsection (10) ~~at a time to be~~  
 512 ~~set at the discretion of the governing body~~. The referendum  
 513 question on the ballot shall include a brief general description  
 514 of the health care services to be funded by the surtax.

515 (c) Proceeds from the surtax shall be:

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

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

523 (d) Except as provided in subparagraphs 1. and 2., the  
 524 county must continue to contribute each year an amount equal to  
 525 at least 80 percent of that percentage of the total county

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526 budget appropriated for the operation, administration, and  
 527 maintenance of the county public general hospital from the  
 528 county's general revenues in the fiscal year of the county  
 529 ending September 30, 1991:

530 1. Twenty-five percent of such amount must be remitted to  
 531 a governing board, agency, or authority that is wholly  
 532 independent from the public health trust, agency, or authority  
 533 responsible for the county public general hospital, to be used  
 534 solely for the purpose of funding the plan for indigent health  
 535 care services provided for in paragraph (e);

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

542 (e) A governing board, agency, or authority shall be  
 543 chartered by the county commission upon this act becoming law.  
 544 The governing board, agency, or authority shall adopt and  
 545 implement a health care plan for indigent health care services.  
 546 The governing board, agency, or authority shall consist of no  
 547 more than seven and no fewer than five members appointed by the  
 548 county commission. The members of the governing board, agency,  
 549 or authority shall be at least 18 years of age and residents of  
 550 the county. No member may be employed by or affiliated with a

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551 health care provider or the public health trust, agency, or  
 552 authority responsible for the county public general hospital.  
 553 The following community organizations shall each appoint a  
 554 representative to a nominating committee: the South Florida  
 555 Hospital and Healthcare Association, the Miami-Dade County  
 556 Public Health Trust, the Dade County Medical Association, the  
 557 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade  
 558 County. This committee shall nominate between 10 and 14 county  
 559 citizens for the governing board, agency, or authority. The  
 560 slate shall be presented to the county commission and the county  
 561 commission shall confirm the top five to seven nominees,  
 562 depending on the size of the governing board. Until such time as  
 563 the governing board, agency, or authority is created, the funds  
 564 provided for in subparagraph (d)2. shall be placed in a  
 565 restricted account set aside from other county funds and not  
 566 disbursed by the county for any other purpose.

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

573 2. The plan and subsequent amendments to it shall fund a  
 574 defined range of health care services for both indigent persons  
 575 and the medically poor, including primary care, preventive care,

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576 hospital emergency room care, and hospital care necessary to  
 577 stabilize the patient. For the purposes of this section,  
 578 "stabilization" means stabilization as defined in s.  
 579 397.311(44). Where consistent with these objectives, the plan  
 580 may include services rendered by physicians, clinics, community  
 581 hospitals, and alternative delivery sites, as well as at least  
 582 one regional referral hospital per service area. The plan shall  
 583 provide that agreements negotiated between the governing board,  
 584 agency, or authority and providers shall recognize hospitals  
 585 that render a disproportionate share of indigent care, provide  
 586 other incentives to promote the delivery of charity care to draw  
 587 down federal funds where appropriate, and require cost  
 588 containment, including, but not limited to, case management.  
 589 From the funds specified in subparagraphs (d)1. and 2. for  
 590 indigent health care services, service providers shall receive  
 591 reimbursement at a Medicaid rate to be determined by the  
 592 governing board, agency, or authority created pursuant to this  
 593 paragraph for the initial emergency room visit, and a per-member  
 594 per-month fee or capitation for those members enrolled in their  
 595 service area, as compensation for the services rendered  
 596 following the initial emergency visit. Except for provisions of  
 597 emergency services, upon determination of eligibility,  
 598 enrollment shall be deemed to have occurred at the time services  
 599 were rendered. The provisions for specific reimbursement of  
 600 emergency services shall be repealed on July 1, 2001, unless

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601 otherwise reenacted by the Legislature. The capitation amount or  
 602 rate shall be determined before program implementation by an  
 603 independent actuarial consultant. In no event shall such  
 604 reimbursement rates exceed the Medicaid rate. The plan must also  
 605 provide that any hospitals owned and operated by government  
 606 entities on or after the effective date of this act must, as a  
 607 condition of receiving funds under this subsection, afford  
 608 public access equal to that provided under s. 286.011 as to any  
 609 meeting of the governing board, agency, or authority the subject  
 610 of which is budgeting resources for the retention of charity  
 611 care, as that term is defined in the rules of the Agency for  
 612 Health Care Administration. The plan shall also include  
 613 innovative health care programs that provide cost-effective  
 614 alternatives to traditional methods of service and delivery  
 615 funding.

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

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

624 5. At the end of each fiscal year, the governing board,  
 625 agency, or authority shall prepare an audit that reviews the

626 budget of the plan, delivery of services, and quality of  
 627 services, and makes recommendations to increase the plan's  
 628 efficiency. The audit shall take into account participant  
 629 hospital satisfaction with the plan and assess the amount of  
 630 poststabilization patient transfers requested, and accepted or  
 631 denied, by the county public general hospital.

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

636 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

642 (7) VOTER-APPROVED INDIGENT CARE SURTAX.—

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

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

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

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

667           (9) PENSION LIABILITY SURTAX.—

668           (a) The governing body of a county may levy a pension  
 669 liability surtax to fund an underfunded defined benefit  
 670 retirement plan or system, pursuant to an ordinance conditioned  
 671 to take effect upon approval by ~~a majority vote of~~ the electors  
 672 of the county, as set forth in subsection (10), voting in a  
 673 referendum, at a rate that may not exceed 0.5 percent. The  
 674 county may not impose a pension liability surtax unless the  
 675 underfunded defined benefit retirement plan or system is below



676 80 percent of actuarial funding at the time the ordinance or  
 677 referendum is passed. The most recent actuarial report submitted  
 678 to the Department of Management Services pursuant to s. 112.63  
 679 must be used to establish the level of actuarial funding for  
 680 purposes of determining eligibility to impose the surtax. The  
 681 governing body of a county may only impose the surtax if:

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

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

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

700 4. The county currently levies a local government

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701 infrastructure surtax pursuant to subsection (2) which is  
 702 scheduled to terminate and is not subject to renewal.

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

706 (10) DATES FOR REFERENDA.- A referendum to adopt or amend  
 707 a local government discretionary sales surtax under this section  
 708 shall be held only at a general election, as defined in s.  
 709 97.021, and requires the approval of sixty percent of the voters  
 710 voting on the ballot question for passage.

711 Section 8. Section 218.90, Florida Statutes, is created to  
 712 read:

713 218.90 Short title.-This part may be cited as the "Local  
 714 Government Fiscal Responsibility Act."

715 Section 9. Section 218.901, Florida Statutes, is created  
 716 to read:

717 218.901 Purpose.- The purpose of this part is to promote  
 718 the fiscal responsibility of local governments in their use of  
 719 public funds by providing additional conditions under which  
 720 local governments may increase taxes, enact new taxes, extend  
 721 expiring taxes, or issue new tax-supported debt.

722 Section 10. Section 218.905, Florida Statutes, is created  
 723 to read:

724 218.905 Definitions.-As used in this part, the following  
 725 words or terms shall have the following meanings:

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726           (1) "Debt" means bonds, loans, promissory notes, lease-  
 727 purchase agreements, certificates of participation, installment  
 728 sales, leases, or any other financing mechanism or financial  
 729 arrangement, whether or not a debt for legal purposes, for  
 730 financing or refinancing the acquisition, construction,  
 731 improvement, or purchase of capital outlay projects.

732           (2) "Tax-supported debt" means debt secured in whole or in  
 733 part by state or local tax levies, whether such security is  
 734 direct or indirect, explicit or implicit, including but not  
 735 limited to debt for which annual appropriations pledged for  
 736 payment are from government fund types receiving tax revenues or  
 737 shared revenues from state tax sources. The term does not  
 738 include debt that is secured solely by the revenues generated by  
 739 the project that is financed with the debt.

740           Section 11. Section 218.91, Florida Statutes, is created  
 741 to read:

742           218.91 Local Option Tax Limitation.-

743           (1) Notwithstanding any other provision of law, a  
 744 municipality, county or school district that has levied, in any  
 745 of the previous three years, a millage rate other than those  
 746 identified in subsection (2) in excess of the rolled-back rate  
 747 as that term is defined in s. 200.065(1), may not enact, extend  
 748 or increase any tax otherwise authorized under:

749           (a) Section 125.0104, the local option tourist development  
 750 act;

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751           (b) Section 125.0108, tourist impact tax;  
 752           (c) Sections 125.0167 and 201.031, discretionary surtax on  
 753 documents;  
 754           (d) Sections 166.231-235, public service tax;  
 755           (e) Section 166.271, municipal parking facility space  
 756 surcharges;  
 757           (f) Section 202.19, communications services tax;  
 758           (g) Chapter 205, local business tax;  
 759           (h) Chapter 206, motor fuel and diesel fuel taxes;  
 760           (i) Section 212.0305, convention development tax;  
 761           (j) Section 212.0306, local option food and beverage tax;  
 762           (k) Section 212.055, local option sales taxes.  
 763           (2) This section does not apply to nonvoted required school  
 764 operating millages identified in s. 200.001(3)(a), millages  
 765 approved by a vote of the electors pursuant to s. 9(b), Art. VII  
 766 of the State Constitution, millages approved by a vote of the  
 767 electors pursuant to s. 12, Art. VII of the State Constitution,  
 768 or millages approved by the voters as authorized under s.  
 769 1011.71(9).  
 770           Section 12. Section 218.92, Florida Statutes, is created  
 771 to read:  
 772           218.92 Voter approval of tax-supported debt.-  
 773           (1) Notwithstanding any other provision of law, a county,  
 774 municipality, special district dependent to a county or  
 775 municipality, municipal service taxing unit, independent special

776 district, or school district must receive voter approval, by  
 777 referendum, for the issuance of any new tax-supported debt with  
 778 a term of more than five years.

779 (2) A referendum under this section shall be held only at a  
 780 general election, as defined in s. 97.021, and requires the  
 781 approval of sixty percent of the voters voting on the ballot  
 782 question for passage.

783 (3) This section does not apply to refinancing or refunding  
 784 of debt that does not extend the term or increase the  
 785 outstanding principle amount of the original debt.

786 Section 13. Paragraph (a) of subsection (4) of section  
 787 336.021, Florida Statutes, is amended to read:

788 336.021 County transportation system; levy of ninth-cent  
 789 fuel tax on motor fuel and diesel fuel.—

790 (4) (a) 1. A certified copy of the ordinance proposing to  
 791 levy the tax pursuant to referendum shall be furnished by the  
 792 county to the department within 10 days after approval of such  
 793 ordinance.

794 2. A referendum under this section shall be held only at a  
 795 general election, as defined in s. 97.021, and requires the  
 796 approval of sixty percent of the voters voting on the ballot  
 797 question for passage.

798 3. Furthermore, t The county levying the tax pursuant to  
 799 referendum shall notify the department within 10 days after the  
 800 passage of the referendum of such passage and of the time period

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801 during which the tax will be levied. The failure to furnish the  
 802 certified copy will not invalidate the passage of the ordinance.

803 Section 14. Paragraph (b) of subsection (1) and paragraph  
 804 (b) of subsection (3) of section 336.025, Florida Statutes, is  
 805 amended to read:

806 336.025 County transportation system; levy of local option  
 807 fuel tax on motor fuel and diesel fuel.-

808 (1)

809 (b) In addition to other taxes allowed by law, there may  
 810 be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-  
 811 cent, 4-cent, or 5-cent local option fuel tax upon every gallon  
 812 of motor fuel sold in a county and taxed under the provisions of  
 813 part I of chapter 206. The tax shall be levied by an ordinance  
 814 adopted by a majority plus one vote of the membership of the  
 815 governing body of the county or by referendum. A referendum  
 816 under this subsection shall be held only at a general election,  
 817 as defined in s. 97.021, and requires the approval of sixty  
 818 percent of the voters voting on the ballot question for passage.

819 1. All impositions and rate changes of the tax shall be  
 820 levied before October 1, to be effective January 1 of the  
 821 following year. However, levies of the tax which were in effect  
 822 on July 1, 2002, and which expire on August 31 of any year may  
 823 be reimposed at the current authorized rate effective September  
 824 1 of the year of expiration.

825 2. The county may, prior to levy of the tax, establish by

826 interlocal agreement with one or more municipalities located  
 827 therein, representing a majority of the population of the  
 828 incorporated area within the county, a distribution formula for  
 829 dividing the entire proceeds of the tax among county government  
 830 and all eligible municipalities within the county. If no  
 831 interlocal agreement is adopted before the effective date of the  
 832 tax, tax revenues shall be distributed pursuant to the  
 833 provisions of subsection (4). If no interlocal agreement exists,  
 834 a new interlocal agreement may be established prior to June 1 of  
 835 any year pursuant to this subparagraph. However, any interlocal  
 836 agreement agreed to under this subparagraph after the initial  
 837 levy of the tax or change in the tax rate authorized in this  
 838 section shall under no circumstances materially or adversely  
 839 affect the rights of holders of outstanding bonds which are  
 840 backed by taxes authorized by this paragraph, and the amounts  
 841 distributed to the county government and each municipality shall  
 842 not be reduced below the amount necessary for the payment of  
 843 principal and interest and reserves for principal and interest  
 844 as required under the covenants of any bond resolution  
 845 outstanding on the date of establishment of the new interlocal  
 846 agreement.

847         3. County and municipal governments shall use moneys  
 848 received pursuant to this paragraph for transportation  
 849 expenditures needed to meet the requirements of the capital  
 850 improvements element of an adopted comprehensive plan or for

851 expenditures needed to meet immediate local transportation  
 852 problems and for other transportation-related expenditures that  
 853 are critical for building comprehensive roadway networks by  
 854 local governments. For purposes of this paragraph, expenditures  
 855 for the construction of new roads, the reconstruction or  
 856 resurfacing of existing paved roads, or the paving of existing  
 857 graded roads shall be deemed to increase capacity and such  
 858 projects shall be included in the capital improvements element  
 859 of an adopted comprehensive plan. Expenditures for purposes of  
 860 this paragraph shall not include routine maintenance of roads.

861 (3) The tax authorized pursuant to paragraph (1)(a) shall  
 862 be levied using either of the following procedures:

863 (b) If no interlocal agreement or resolution is adopted  
 864 pursuant to subparagraph (a)1. or subparagraph (a)2.,  
 865 municipalities representing more than 50 percent of the county  
 866 population may, prior to June 20, adopt uniform resolutions  
 867 approving the local option tax, establishing the duration of the  
 868 levy and the rate authorized in paragraph (1)(a), and setting  
 869 the date for a countywide referendum on whether to levy the tax  
 870 provided that the county shall bear the costs thereof. A  
 871 referendum under this subsection shall be held only at a general  
 872 election, as defined in s. 97.021, and requires the approval of  
 873 sixty percent of the voters voting on the ballot question for  
 874 passage. ~~shall be held in accordance with the provisions of such~~  
 875 ~~resolution and applicable state law provided that the county~~



876 ~~shall bear the costs thereof.~~ The tax shall be levied and  
 877 collected countywide on January 1 following 30 days after voter  
 878 approval.

879 Section 15. Subsections (1), (2), and (3) of section  
 880 1011.73, Florida Statutes, are amended to read:

881 1011.73 District millage elections.—

882 (1) MILLAGE AUTHORIZED NOT TO EXCEED 2 YEARS.—The district  
 883 school board, pursuant to resolution adopted at a regular  
 884 meeting, shall direct the county commissioners to call an  
 885 election at which the electors within the school districts may  
 886 approve an ad valorem tax millage as authorized in s. 9, Art.  
 887 VII of the State Constitution. ~~Such election may be held at any~~  
 888 ~~time, except that not more than one such election shall be held~~  
 889 ~~during any 12-month period.~~ Any millage so authorized shall be  
 890 levied for a period not in excess of 2 years or until changed by  
 891 another millage election, whichever is the earlier. In the event  
 892 any such election is invalidated by a court of competent  
 893 jurisdiction, such invalidated election shall be considered not  
 894 to have been held.

895 (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.—The district  
 896 school board, pursuant to resolution adopted at a regular  
 897 meeting, shall direct the county commissioners to call an  
 898 election at which the electors within the school district may  
 899 approve an ad valorem tax millage as authorized under s.  
 900 1011.71(9). ~~Such election may be held at any time, except that~~

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901 ~~not more than one such election shall be held during any 12-~~  
 902 ~~month period.~~ Any millage so authorized shall be levied for a  
 903 period not in excess of 4 years or until changed by another  
 904 millage election, whichever is earlier. If any such election is  
 905 invalidated by a court of competent jurisdiction, such  
 906 invalidated election shall be considered not to have been held.

907 (3) HOLDING ELECTIONS.—All school district millage  
 908 elections shall be held and conducted in the manner prescribed  
 909 by law for holding general elections, except as provided in this  
 910 chapter. A referendum under this part shall be held only at a  
 911 general election, as defined in s. 97.021, and requires the  
 912 approval of sixty percent of the voters voting on the ballot  
 913 question for passage.

914 Section 16. This act creates Part IX of Chapter 218,  
 915 consisting of sections 218.90, 218.901, 218.905, 218.91, and  
 916 218.92, as amended or created by this act.

917 Section 17. This act shall take effect July 1, 2017.