



Ways and Means Committee

Wednesday, March 8, 2017

3:30 p.m. – 6:00 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Ways and Means Committee



Richard Corcoran
Speaker

Jim Boyd
Chair


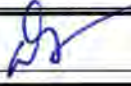
AGENDA

March 8, 2017
3:30 p.m. – 6:00 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. Consideration of the following proposed committee bill(s):
PCB WMC 17-01 -- Local Government Fiscal Transparency
PCB WMC 17-02 -- Local Government Fiscal Responsibility
- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-01 Local Government Fiscal Transparency
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Aldridge 	Langston 

SUMMARY ANALYSIS

The bill contains several elements with an overarching purpose to increase the fiscal transparency of local governments.

The bill requires easy public access to local government governing boards' voting records related to tax increases and issuance of tax-supported debt (phased in over 4 years).

Easy online access to property tax TRIM notices and a 4-year history of property tax rates and amounts at the parcel level is also required. This requirement is phased in over 3 years. Further, a 4-year history of property tax rates and total revenue generated at the jurisdiction level must be provided on government websites (phased in over 4 years).

The bill requires additional public meetings and expands public notice requirements for local option tax increases, other than property taxes, and new long-term, tax-supported debt issuances. Public notices for proposed tax increases would have to contain information regarding the rate and total annual amount of revenue expected from a tax increase, the annual additional revenue expressed as a percent of annual general fund revenue, detailed explanation of intended uses of the levy, and an indication of whether or not the tax proceeds will be used to secure debt. Public notices for proposed new, long-term debt issuance (i.e., debt with duration of more than five years) would have to disclose the total lifetime costs of the debt, annual debt service, and effects of the new debt on a government's debt affordability measures.

Local governments would be required to conduct and consider a debt affordability analysis prior to approving the issuance of new, long-term tax-supported debt. The analysis would consist, at a minimum, of calculating a debt affordability ratio for the most recent five years and at least two projected years to gauge the effects of the proposed new debt issuance on the government's debt service to revenue profile. The debt affordability ratio is the annual debt service for outstanding tax-supported debt divided by total annual revenues available to pay debt service on outstanding debt.

Under current law, local governments are required to have a CPA conduct an annual financial audit, if the Auditor General has not already scheduled an audit of the local government. The bill requires the auditor to report whether or not the local government is in compliance with the provisions of the new "Local Government Fiscal Transparency Act" contained in Part VIII of ch. 218, F.S., created by the bill. The Auditor General must request evidence of corrective action from local governments found not to be in compliance with the Act. Local governments must provide evidence that corrective action has been initiated within 45 days and evidence of completion within 180 days of such request. The Auditor General must report to the Legislative Auditing Committee local governments that do not take corrective action.

The bill provides a statement that the Legislature finds that this act fulfills an important state interest.

The provisions of the bill are expected to require expenditures by local governments, the amount of which is unknown.

The effective date of the bill is July 1, 2017.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb01.WMC.DOCX

DATE: 2/24/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

General Provisions

The bill creates Part VIII of Chapter 218, F.S., titled the "Local Government Fiscal Transparency Act." The substantive provisions of the bill are explained more fully below. The bill contains several definitions as follows:

- "Debt" is defined as meaning bonds, 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.
- "Local government" is defined as meaning any county, municipality, school district, special district dependent to a county or municipality, municipal service taxing unit, or independent special district.
- "Tax increase" is defined as meaning:
 - For ad valorem taxes any increase in a local government's millage rate above the rolled-back rate as defined in s. 200.065(1), F.S.
 - For all other taxes, a tax enactment, extension or an increase in the tax rate.
- "Tax-supported debt" is defined as meaning debt with a term of more than 5 years that is 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.

Voting Record Access: *Property Tax, Local Option Taxes, New Debt Issuance*

Current Situation

While the voting records of local governments governing boards are public records¹ and therefore subject to public disclosure, there is no current requirement under Florida law for local governments to make available, on their website, the voting records of their governing board on votes taken related to tax increases or the new issuance of tax-supported debt.

Under current law, there are a number of different types of public notice requirements for actions taken by local governments related to tax increases and new tax-supported debt issuance. For example, many of these actions by municipalities and counties require the adoption of an ordinance. Generally, the adoption of an ordinance requires publication of notice in a newspaper at least 10 days prior to the meeting where such adoption is scheduled to occur.²

Proposed Changes

The bill requires each local government post on its website, in a manner that is easily accessible to the public, the voting records on any action taken by the governing board of the local government during

¹ See Chapter 119, F.S., generally, and s. 119.01, F.S.

² See Sections 125.66 and 166.041, F.S.

the most recent four years related to tax increases and new tax-supported debt issuance, excluding refinancing or refunding of debt that does not extend the term or increase the outstanding principal amount of the original debt. The bill allows these provisions to be phased in over 4 years.

The bill also requires for any public notice required by law of a tax increase or new tax-supported debt issuance, each local government must include on or with the notice, the address of the internet link or website where the voting records can be found and accessed on its website.

Tax History: *Property Taxes*

Current Situation

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. Section 200.069, F.S., requires the preparation and delivery by the county property appraiser of a "notice of proposed property taxes and non-ad valorem assessments." This is commonly referred to as the truth-in-millage notice or TRIM notice, and is sent on behalf of all taxing authorities and local governing boards levying both ad valorem taxes and non-ad valorem assessments on a parcel to the owner of each parcel on the current year's assessment roll. The TRIM notice contains the following parcel-specific information in the following format for each taxing authority:

Taxing Authority	Your Property Taxes Last Year	Millage Rate Last Year	Your Taxes This Year IF PROPOSED Budget Change is Made	Millage Rate This Year IF PROPOSED Budget Change is Made	A Public Hearing on the Proposed Taxes and Budget Will be Held:	Your Taxes This Year IF NO Budget Change is Made	Millage Rate IF NO Budget Change is Made
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The TRIM notice also includes the times and places for local government board meetings at which tentative budgets and proposed tax rates are to be considered, prior to final approval.

Parcel-specific histories of property tax bills are commonly available on county tax collectors' websites

Proposed Changes

The bill requires each county property appraiser to maintain a website that includes, in a manner easily accessible by the public, for each parcel of property, the TRIM notice and a minimum of four years of history of the millage rate and the amount of tax levied by each taxing authority on each parcel. The bill phases-in the requirement for property appraisers to provide on their website four years of history of the millage rate and the amount of tax levied by each taxing authority for each parcel by requiring:

- By October 1, 2017 two years of history;
- By October 1, 2018, three years of history;
- By October 1, 2019 and thereafter four years of history.

The bill further requires each local government to prominently post on its website, in a manner that is easily accessible to the public, a minimum of four years of history of its annual millage rate(s), and the total annual amount of property tax revenue generated by each of these levies. The bill allows these provisions to be phased in over 4 years.

Public Notice: Local Option Tax Increases and New Debt Issuance

Current Situation

As mentioned above, under current law, there are a number of different types of public notice requirements for actions taken by local governments related to tax increases and new tax-supported debt issuance. For example, many of these actions by municipalities and counties require the adoption of an ordinance. Generally, the adoption of an ordinance requires publication of notice in a newspaper at least 10 days prior to the meeting where such adoption is scheduled to occur. School districts are required to hold elections prior to the issuance of certain bonds³. These elections require publication of notice at least once a week for two consecutive weeks in a newspaper published in the district⁴. These are only some of many examples.

Also as mentioned above, Chapter 200, F.S., generally governs the process, procedures and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority. The chapter specifies all of the steps required by various persons in establishing a millage rate for a given taxing authority. Included in these required steps are various noticing requirements. For example, in addition to the preparation and distribution of the TRIM notice as described above, each local government must hold at least two public hearings to first adopt a tentative budget and then to adopt a final budget. The public meeting held to adopt the final budget requires publication of notice in a newspaper of general circulation in the county of the governing board's intent to adopt a final millage rate and budget⁵. The form of the notice is prescribed in statute⁶.

Proposed Changes

The bill requires an additional public meeting of the local governing board prior to the board's taking final action on a tax increase, except for ad valorem taxes, or final action on new tax-supported debt issuance. In particular, at least 15 days prior to the governing body meeting to take a final vote to approve a tax increase or to approve the issuance of any new tax-supported debt, the governing body shall hold an advertised public hearing, to solicit public input on the proposed tax increase or new tax-supported debt issuance. The public is specifically allowed to speak and ask questions relevant to the proposed tax increase or debt issuance.

The bill also requires each local government, at least 10 days prior to any final action scheduled to be taken by the governing board of the local government, to give public notice related to a tax increase, except for ad valorem taxes, or final action on any new issuance of tax-supported debt. The notice is to be in the form of an advertisement in a newspaper of general circulation in the county or counties where the local government is located. The notice must also be prominently posted on the local government's website in a manner that is easily accessible to the public.

Current noticing and meeting requirements regarding ad valorem taxes are unchanged.

For tax increases, the notice must include at a minimum:

- A statement prominently posted that the local government intends to vote on a proposed new tax enactment, tax extension or tax rate increase.

³ Section 1010.41, F.S.

⁴ Section 1010.43, F.S.

⁵ Section 200.065(2)d), F.S.

⁶ Section 200.065(3), F.S.

- The time and place of the meeting;
- The amount of the tax increase, including both the rate and total amount of annual revenue expected to be generated and the annual revenue expected as a percentage of the local government's general revenue fund;
- A detailed explanation of the intended uses of the levy;
- A statement indicating whether or not the governing board expects to use the tax proceeds to secure debt.

For the new issuance of tax-supported debt, such notice shall include at a minimum:

- A statement prominently posted that the local government intends to vote on a proposed new issuance of tax-supported debt.
- The time and place of the meeting;
- A truth in bonding statement that includes the amount of the debt, the period of time over which the debt is expected to be repaid, a forecasted interest rate for the debt, the total amount of interest expected to be paid over the term of the debt issuance, the source of repayment or security for the debt and a statement that the authorization of the debt will result in a specific amount of money being unavailable to finance the other services of the local government for each year of the term of the debt;
- Presentation of the debt affordability ratios required to be calculated. (see Debt Affordability Measures below).

New Debt Issuance: *Debt Affordability Measures*

Current Situation

Section 215.98, F.S., requires the state to annually prepare a debt affordability report. The report is required to include, at a minimum:

- A listing of state debt outstanding, other debt secured by state revenues, and other contingent debt;
- An estimate of revenues available for the next 10 fiscal years to pay debt service, including general revenues plus any revenues specifically pledged to pay debt service;
- An estimate of additional debt issuance for the next 10 fiscal years for the state's existing borrowing programs;
- A schedule of the annual debt service requirements, including principal and interest allocation, on the outstanding state debt and an estimate of the annual debt service requirements on the debt for each of the next 10 fiscal years;
- An overview of the state's general obligation credit rating;
- Identification and calculation of pertinent debt ratios, including, but not limited to, debt service to revenues available to pay debt service, debt to personal income, and debt per capita for the state's net tax-supported debt;
- The estimated debt capacity available over the next 10 fiscal years without the benchmark debt ratio of debt service to revenue exceeding 6 percent;
- A comparison of the debt ratios prepared for the report with the comparable debt ratios for the 10 most populous states.

Section 215.98, F.S., also requires legislative statements of determination (commonly referred to as "budget statements") in the legislative authorization of new tax-supported debt if the additional borrowing would exceed certain benchmark debt ratios. If the ratio of debt service to revenue available

to pay debt service on tax-supported debt would exceed six percent as a result of the borrowing, the statement of determination is that such authorization and issuance is in the best interest of the state and should be implemented. If the same ratio would exceed seven percent as a result of the borrowing, the required statement is that such additional debt is necessary to address a critical state emergency.

Proposed Changes

The bill requires local governments to conduct and consider a debt affordability analysis prior to approving the issuance of new, long-term tax-supported debt. The analysis would consist, at a minimum, of calculating a debt affordability ratio for the most recent five years and at least two projected years to gauge the effects of the proposed new debt issuance on the government's debt service to revenue profile. The debt affordability ratio is the annual debt service for outstanding tax-supported debt divided by total annual revenues available to pay debt service on outstanding debt. This ratio is required to be calculated both with and without the new debt issuance.

Consequences for Non-Compliance

Current Situation

Section 218.39, F.S., governs annual audit reports of local entities. If, by the first day in any fiscal year, a local governmental entity, district school board, charter school, or charter technical career center has not been notified that a financial audit for that fiscal year will be performed by the Auditor General, certain entities must have an annual financial audit of its accounts and records completed within nine months after the end of its fiscal year by an independent certified public accountant retained by it and paid from its public funds. The types of local governments covered by this provision are:

- Each county;
- Any municipality with revenues or the total of expenditures and expenses in excess of \$250,000, as reported on the fund financial statements;
- Any special district with revenues or the total of expenditures and expenses in excess of \$100,000, as reported on the fund financial statements;
- Each district school board;
- Each charter school established under s. 1002.33, F.S; and
- Each charter technical center established under s. 1002.34, F.S.

At the conclusion of the audit, the auditor must discuss with the statutorily designated person for each entity, all of the auditor's comments that will be included in the audit report. If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to his or her office⁷. The auditor is required to prepare an audit report in accordance with the rules of the Auditor General. The audit report must be filed with the Auditor General within 45 days after delivery of the audit report to the governing body of the audited entity, but no later than nine months after the end of the audited entity's fiscal year. The audit report must include a written statement describing corrective actions to be taken in response to each of the auditor's recommendations included in the audit report.⁸

The Auditor General is required to notify the Legislative Auditing Committee of any audit report prepared pursuant to this section which indicates that an audited entity has failed to take full corrective

⁷ Section 218.39(5), F.S.

⁸ Section 218.39(7), F.S.

action in response to a recommendation that was included in the two preceding financial audit reports.⁹ The Legislative Auditing Committee may direct the governing body of the audited entity to provide a written statement to the committee explaining why full corrective action has not been taken or, if the governing body intends to take full corrective action, describing the corrective action to be taken and when it will occur¹⁰. If the Legislative Auditing Committee determines that the written statement is not sufficient, it may require the chair of the governing body of the local governmental entity or the chair's designee, the elected official of each county agency or the elected official's designee, the chair of the district school board or the chair's designee, the chair of the board of the charter school or the chair's designee, or the chair of the board of the charter technical career center or the chair's designee, as appropriate, to appear before the committee¹¹. If the Legislative Auditing Committee determines that an audited entity has failed to take full corrective action for which there is no justifiable reason for not taking such action, or has failed to comply with committee requests made pursuant to this section, the committee may proceed in accordance with s. 11.40(2), F.S.¹²

Section 11.40, F.S., governs the Legislative Auditing Committee, including the scope of its authority and actions it may take in specified circumstances. In the case of a local governmental entity or district school board, these actions include, but are not limited to, directing the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law.¹³

Proposed Changes

The bill requires the annual audit reports described above to report whether or not the local government has complied with the requirements of the newly created Part VIII of Chapter 218, F.S., as contemplated by the bill. The bill requires local governments not in compliance with Part VIII of Chapter 218, F.S., to provide, upon request of the Auditor General, evidence of the initiation of corrective action within 45 days after the date it is requested by the Auditor General and evidence of completion of corrective action within 180 days after the date it is requested by the Auditor General. The Auditor General must notify the Legislative Auditing Committee if the local government does not take corrective action.

Failure to comply with Part VIII, Chapter 218, F.S., could therefore ultimately result in the Legislative Auditing Committee directing the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law¹⁴. This would include revenue sharing monies that the state shares with local governments. Generally, state-shared revenue programs allocate all or some portion of a state-collected fee or tax to specified local governments based on eligibility requirements. In some cases, a formula has been developed for the allocation of funds between units of local government. While general law restricts the use of several shared revenues, proceeds derived from other shared revenues may be used for the general revenue needs of local governments.

⁹ Section 218.39(8), F.S.

¹⁰ Section 218.39(8)(a), F.S.

¹¹ Section 218.39(8)(b), F.S.

¹² Section 218.39(8)(c), F.S.

¹³ Section 11.40(2)(a), F.S.

¹⁴ Section 11.45(2), F.S.

Administrative and Conforming Changes

Current Situation

Part VIII of Chapter 218, F.S., does not currently exist.

Proposed Changes

As noted above, the bill creates Part VIII of Chapter 218, F.S., titled the "Local Government Fiscal Transparency Act." The bill creates s. 218.801, F.S., providing that the purpose of the Act is to:

Promote the fiscal transparency of local governments in their use of public funds by creating additional requirements for public noticing of local government actions to increase taxes, enact new taxes, extend expiring taxes, or issue tax-supported debt and requiring that voting records of local government governing bodies related to such actions be easily and readily accessible by the public.

The bill creates requirements as described above for various types of information to be prominently placed on local government's websites. The bill provides that if a local government is required to post information to its website, but does not operate a website, that it must inform the county or counties within which the local government is located, of any information required to be posted to a website under this part, and such county shall post the required information from such local government on the county's website.

The bill contains a legislative finding that the act fulfills an important state interest.

Effective Date

The effective date of the bill is July 1, 2017.

B. SECTION DIRECTORY:

- Section 1. Amends s. 11.40(2), F.S., to provide a conforming change.
- Section 2. Amends s. 11.45, F.S., to redesignate paragraphs (d)-(j) as (e)-(k) and adds a new paragraph (d) requiring the Auditor General report certain noncompliance with new Part VIII of ch. 218, F.S., to the Legislative Auditing Committee under specified circumstances.
- Section 3. Renumbers s. 218.80, F.S., to s. 218.795, F.S.
- Section 4. Creates Part VIII of chapter 218, Florida Statutes, consisting of ss. 218.80, 218.801, 218.805, 218.81, 218.82, 218.83, 218.84, 218.88, and 218.89, F.S., providing definitions, requiring certain voting and tax information be available on government websites, requiring expanded public noticing requirements, requiring conduct and consideration of debt affordability analyses, requiring reporting of certain information in local government audit reports.
- Section 5. Amends s. 218.32 to provide a conforming change.
- Section 6. Provides a finding that the act fulfills an important state interest.
- Section 7. Provides that the effective date of the bill is July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

The provisions of the bill are expected to require expenditures by local governments, the amount of which is unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Households and businesses will have improved access to forthcoming local government decisions regarding tax increases and new debt issuance.

D. FISCAL COMMENTS:

The provisions of the bill have no direct impact on local government revenue. The provisions of the bill, though, may increase public scrutiny of local government decisions to increase taxes. Consequently, some tax increases that otherwise would have occurred may not happen.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill could require expenditures related to provision of additional data on local government websites, additional noticing requirements and public meetings, and additional required analysis of debt affordability. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to local government fiscal
 3 transparency; amending s. 11.40, F.S.; expanding the
 4 scope of the Legislative Auditing Committee review to
 5 include compliance with local government fiscal
 6 transparency requirements; amending s. 11.45, F.S.;
 7 providing procedures for the Auditor General and local
 8 governments to comply with the local government fiscal
 9 transparency requirements; creating pt. VIII of ch.
 10 218, consisting of sections 218.80, 218.801, 218.805,
 11 218.81, 218.82, 218.83, 218.84, 218.88, and 218.89,
 12 F.S.; providing a short title; specifying purpose of
 13 the local government fiscal transparency requirements;
 14 providing definitions; requiring local governments to
 15 post certain voting record information on their
 16 websites; requiring the posting of specified links to
 17 related sites if certain documentation or details are
 18 available; requiring property appraisers to post
 19 certain property tax information and history on their
 20 websites; requiring local governments to post certain
 21 property tax information and history on their
 22 websites; requiring public notices for public hearings
 23 and meetings prior to certain increases of local
 24 government tax levies or issuance of new tax-supported
 25 debt; specifying noticing and advertising requirements

26 for such public hearings and meetings; requiring local
 27 governments to conduct certain debt affordability
 28 analyses under specified conditions; revising duties
 29 required of certain certified public accountants and
 30 the Auditor General when conducting audits of local
 31 governments; providing a method for local governments
 32 that do not operate a website to post certain required
 33 information; providing this act fulfills an important
 34 state interest; amending s. 218.32, F.S.; conforming a
 35 cross-reference; providing an effective date.

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. Subsection (2) of section 11.40, Florida
 40 Statutes, is amended to read:

41 11.40 Legislative Auditing Committee.—

42 (2) Following notification by the Auditor General, the
 43 Department of Financial Services, or the Division of Bond
 44 Finance of the State Board of Administration of the failure of a
 45 local governmental entity, district school board, charter
 46 school, or charter technical career center to comply with the
 47 applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s.
 48 218.38, ~~or~~ s. 218.503(3), or part VIII of chapter 218, the
 49 Legislative Auditing Committee may schedule a hearing to
 50 determine if the entity should be subject to further state

51 action. If the committee determines that the entity should be
 52 subject to further state action, the committee shall:

53 (a) In the case of a local governmental entity or district
 54 school board, direct the Department of Revenue and the
 55 Department of Financial Services to withhold any funds not
 56 pledged for bond debt service satisfaction which are payable to
 57 such entity until the entity complies with the law. The
 58 committee shall specify the date such action shall begin, and
 59 the directive must be received by the Department of Revenue and
 60 the Department of Financial Services 30 days before the date of
 61 the distribution mandated by law. The Department of Revenue and
 62 the Department of Financial Services may implement the
 63 provisions of this paragraph.

64 (b) In the case of a special district created by:

65 1. A special act, notify the President of the Senate, the
 66 Speaker of the House of Representatives, the standing committees
 67 of the Senate and the House of Representatives charged with
 68 special district oversight as determined by the presiding
 69 officers of each respective chamber, the legislators who
 70 represent a portion of the geographical jurisdiction of the
 71 special district, and the Department of Economic Opportunity
 72 that the special district has failed to comply with the law.
 73 Upon receipt of notification, the Department of Economic
 74 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
 75 If the special district remains in noncompliance after the

76 process set forth in s. 189.0651, or if a public hearing is not
 77 held, the Legislative Auditing Committee may request the
 78 department to proceed pursuant to s. 189.067(3).

79 2. A local ordinance, notify the chair or equivalent of
 80 the local general-purpose government pursuant to s. 189.0652 and
 81 the Department of Economic Opportunity that the special district
 82 has failed to comply with the law. Upon receipt of notification,
 83 the department shall proceed pursuant to s. 189.062 or s.
 84 189.067. If the special district remains in noncompliance after
 85 the process set forth in s. 189.0652, or if a public hearing is
 86 not held, the Legislative Auditing Committee may request the
 87 department to proceed pursuant to s. 189.067(3).

88 3. Any manner other than a special act or local ordinance,
 89 notify the Department of Economic Opportunity that the special
 90 district has failed to comply with the law. Upon receipt of
 91 notification, the department shall proceed pursuant to s.
 92 189.062 or s. 189.067(3).

93 (c) In the case of a charter school or charter technical
 94 career center, notify the appropriate sponsoring entity, which
 95 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

96 Section 2. Paragraphs (d)-(j) of subsection (7) of section
 97 11.45, Florida Statutes, are redesignated as paragraphs (e)-(k),
 98 respectively, and a new paragraph (d) is added to that
 99 subsection, to read:

100 11.45 Definitions; duties; authorities; reports; rules.—

101 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—
102 (d) During the Auditor General's review of audit reports,
103 he or she shall contact each local government, as defined in s.
104 218.805(2), that is not in compliance with Part VIII of chapter
105 218 and request evidence of corrective action. The local
106 government shall provide the Auditor General with evidence of
107 the initiation of corrective action within 45 days after the
108 date it is requested by the Auditor General and evidence of
109 completion of corrective action within 180 days after the date
110 it is requested by the Auditor General. If the local government
111 fails to comply with the Auditor General's request or is unable
112 to take corrective action within the required timeframe, the
113 Auditor General shall notify the Legislative Auditing Committee.
114 Section 3. Section 218.80, Florida Statutes, is renumbered
115 as section 218.795, Florida Statutes.
116 Section 4. Part VIII of chapter 218, Florida Statutes,
117 consisting of ss. 218.80, 218.801, 218.805, 218.81, 218.82,
118 218.83, 218.84, 218.88, and 218.89, is created to read:
119 PART VIII
120 LOCAL GOVERNMENT FISCAL TRANSPARANCY ACT
121 218.80 Short title.—This part may be cited as the "Local
122 Government Fiscal Transparency Act."
123 218.801 Purpose.—The purpose of this part is to promote
124 the fiscal transparency of local governments when using public
125 funds by requiring additional public noticing of proposed local

126 government actions that would increase taxes, enact new taxes,
 127 extend expiring taxes, or issue tax-supported debt and requiring
 128 voting records of local governing bodies related to such actions
 129 to be easily and readily accessible by the public.

130 218.805 Definitions.—As used in this part, the term:

131 (1) "Debt" means bonds, loans, promissory notes, lease-
 132 purchase agreements, certificates of participation, installment
 133 sales, leases, or any other financing mechanisms or financial
 134 arrangements, whether or not a debt for legal purposes, for
 135 financing or refinancing the acquisition, construction,
 136 improvement, or purchase of capital outlay projects.

137 (2) "Local government" means any county, municipality,
 138 school district, special district dependent to a county or
 139 municipality, municipal service taxing unit, or independent
 140 special district.

141 (3) "Tax increase" means:

142 (a) For ad valorem taxes, any increase in a local
 143 government's millage rate above the rolled-back rate as defined
 144 in s. 200.065(1).

145 (b) For all other taxes, a tax enactment, extension, or an
 146 increase in the tax rate.

147 (4) "Tax-supported debt" means debt with a duration of
 148 more than 5 years secured in whole or in part by state or local
 149 tax levies, whether such security is direct or indirect,
 150 explicit or implicit, and includes, but is not limited to, debt

151 for which annual appropriations pledged for payment are from
 152 government fund types receiving tax revenues or shared revenues
 153 from state tax sources. The term does not include debt secured
 154 solely by revenues generated by the project that is financed
 155 with the debt.

156 218.81 Voting Record Access.—

157 (1) Each local government shall post on its website, in a
 158 manner that is easily accessible to the public, a history of the
 159 voting record of each action taken by the local governing board
 160 that addressed a tax increase or new tax-supported debt
 161 issuance, except debt that was refinanced or refunded and that
 162 did not extend the term or increase the outstanding principal
 163 amount of the original debt, as follows:

164 (a) By October 1, 2017, the voting record history from the
 165 preceding year;

166 (b) By October 1, 2018, the voting record history from the
 167 preceding 2 years;

168 (c) By October 1, 2019, the voting record history from the
 169 preceding 3 years;

170 (d) By October 1, 2020, and thereafter, the voting record
 171 history required pursuant to subsection (1) from the preceding 4
 172 years.

173 (2) The local government's website must provide links to
 174 allow users to navigate to related sites if supporting details
 175 or documentation are available.

176 (3) In any public notice of a tax increase or the issuance
 177 of new tax-supported debt, each local government shall include
 178 with the public notice the website address where the voting
 179 records can be accessed.

180 218.82 Property tax information and history.-

181 (1) Each county property appraiser, as defined in s.
 182 192.001, shall maintain a website that includes, in a manner
 183 easily accessible to the public:

184 (a) The notice of proposed property taxes and non-ad
 185 valorem assessments required under s. 200.069 for each parcel of
 186 property in that county; and

187 (b) A history of the millage rate and the amount of tax
 188 levied by each taxing authority on each parcel as follows:

189 1. By October 1, 2017, the history from the 2 preceding
 190 years;

191 2. By October 1, 2018, the history from the 3 preceding
 192 years;

193 3. By October 1, 2019 and thereafter, the history from the
 194 4 preceding years.

195
 196 This subsection does not apply to information that is otherwise
 197 exempt from public disclosure.

198 (2) Each local government shall post on its website in a
 199 manner that is easily accessible to the public, a history of
 200 each of its millage rates and the total annual amount of revenue

201 generated by each of these levies as follows:

202 (a) By October 1, 2017, the history from the 2 preceding
 203 years;

204 (b) By October 1, 2018, the history from the 3 preceding
 205 years;

206 (c) By October 1, 2019 and thereafter, the history from the
 207 4 preceding years.

208 218.83 Expanded public noticing of tax increases and new
 209 tax-supported debt issuance.-

210 (1) For the purpose of this section, the term "tax
 211 increase" does not include an ad valorem tax increase.

212 (2) A local government that intends to vote on a proposed
 213 tax increase or the issuance of new tax-supported debt shall
 214 advertise a public hearing to solicit public input concerning
 215 the proposed tax increase or new tax-supported debt issuance.
 216 This public hearing must occur at least 15 days prior to the
 217 date that the local governing body meets to take a final vote on
 218 the tax increase or issuance of new tax-supported debt. Any
 219 hearing required under this subsection shall be held after 5
 220 p.m. if scheduled on a day other than Saturday. No hearing shall
 221 be held on a Sunday. The general public shall be allowed to
 222 speak and to ask questions relevant to the tax increase or the
 223 tax-supported debt issuance. The local government shall provide
 224 public notice as set forth in subsection (4).

225 (3) (a) If, following the public hearing required under

226 subsection (2), the local government intends to proceed with a
 227 vote to approve a tax increase or the new issuance of tax-
 228 supported debt, the local government shall provide public notice
 229 in the manner set forth in subsection (4) at least 10 days prior
 230 to the date of the scheduled public meeting.

231 (b) For a tax increase, the notice shall also include, at
 232 a minimum:

233 1. A statement prominently posted that the local
 234 government intends to vote on a proposed new tax enactment, tax
 235 extension or tax rate increase.

236 2. The time and place of the meeting.

237 3. The amount of the tax increase, including both the rate
 238 and total amount of annual revenue expected to be generated and
 239 the expected annual revenue expressed as a percentage of the
 240 government's general fund revenue.

241 4. A detailed explanation of the intended uses of the
 242 levy.

243 5. A statement indicating whether the local government
 244 expects to use the proceeds to secure debt.

245 (c) For new tax-supported debt issuance, the notice shall
 246 also include, at a minimum:

247 1. A statement prominently posted that the local
 248 government intends to vote on a proposed new issuance of tax-
 249 supported debt.

250 2. The time and place of the meeting.

251 3. A truth in bonding statement in substantially the
 252 following form:

253 The ... (insert local government name) ... is proposing to
 254 issue \$... (insert principal) ... of debt or obligation for the
 255 purpose of ... (insert purpose) ... This debt or obligation is
 256 expected to be repaid over a period of ... (insert term of
 257 issue) ... years. At a forecasted interest rate of ... (insert
 258 rate of interest) ... , total interest paid over the life of the
 259 debt or obligation will be \$... (insert sum of interest
 260 payments) The source of repayment or security for this
 261 proposal is the ... (insert the local government name) ...
 262 existing ... (insert fund) ... Authorizing this debt or
 263 obligation will result in \$... (insert the annual amount) ... of
 264 ... (insert local government name) (insert fund) ... moneys
 265 not being available to finance the other services of the
 266 ... (insert local government name) ... each year for ... (insert
 267 the length of the debt or obligation)

268 4. Presentation of the debt affordability ratios
 269 calculated pursuant to s. 218.84, described in substantially the
 270 following form:

271 The following ratios measure the affordability of
 272 outstanding and proposed new long-term, tax-supported debt
 273 issued by... (insert local government name) ... The ratios show
 274 debt service as a percentage of the revenues available to
 275 support that debt, including the new debt being proposed

276 ...(insert 5 year history and 2 year projection of debt
 277 affordability ratio).

278 (4) The notice provided by a local government announcing a
 279 public hearing to take public input as set forth in subsection
 280 (2) or the public meeting to take a final vote as set forth in
 281 subsection (3) must meet the following requirements:

282 (a) The local government must advertise notice in a
 283 newspaper of general circulation in the county or counties where
 284 the local government exists. A local government may advertise in
 285 a geographically limited insert of a general circulation
 286 newspaper if the region encompassed by the insert contains the
 287 jurisdictional boundaries of the local government. The newspaper
 288 must be of general interest with readership in the community and
 289 not one of limited subject matter, pursuant to chapter 50. The
 290 advertisement must be at least one-quarter page in size of a
 291 standard size newspaper or a half-page in size of a tabloid size
 292 newspaper and the headline in the advertisement shall be in a
 293 type no smaller than 18 point. The advertisement may not be
 294 placed in that portion of the newspaper where legal notices and
 295 classified advertisements appear. The advertisement must appear
 296 in a newspaper that is published at least 5 days a week unless
 297 the only newspaper in the county is published less than 5 days a
 298 week. If the advertisement appears in a geographically limited
 299 insert of a general circulation newspaper, the insert must be
 300 one that is published at least twice a week throughout the local

301 government's jurisdiction. In lieu of publishing the notice set
 302 out in this paragraph, the local government may mail a copy of
 303 the notice to each elector residing within the jurisdiction of
 304 the local government; and

305 (b) The local government must post on its website in a
 306 manner that is easily accessible to the public the information
 307 required under subsections (2) and (3), as applicable.

308 (5) This section does not apply to the refinancing or
 309 refunding of debt that does not extend the term or increase the
 310 outstanding principal amount of the original debt.

311 218.84 Local government debt fiscal responsibility.-

312 (1) It is the public policy of this state to encourage
 313 local governments to exercise prudence in authorizing and
 314 issuing debt. Before a local government authorizes debt, it must
 315 consider its ability to meet its total debt service requirements
 316 in light of other demands on the local government's fiscal
 317 resources. Each local government shall perform a debt
 318 affordability analysis as set forth in subsection (2) and the
 319 governing board shall consider the analysis before approving the
 320 issuance of new tax-supported debt.

321 (2) The debt affordability analysis shall, at a minimum,
 322 consist of the calculation of the local government's actual debt
 323 affordability ratio for the 5 fiscal years prior to the year the
 324 debt is expected to be issued and a projection of the ratio for
 325 at least the first 2 fiscal years in which the new debt is

326 expected to be issued. The analysis shall include a comparison
 327 of the debt affordability ratio with and without the new debt
 328 issuance.

329 (3) The debt affordability ratio for a given fiscal year
 330 shall be a ratio:

331 (a) The denominator of which is the total annual revenues
 332 available to pay debt service on outstanding tax-supported debt
 333 of the local government; and

334 (b) The numerator of which is the total annual debt
 335 service for outstanding tax-supported debt of the local
 336 government.

337 218.88 Audits.—A certified public accountant who conducts
 338 an audit of local government pursuant to s. 218.39, and the
 339 Auditor General who conducts an audit of local government
 340 pursuant to s. 11.45, must report, as part of the audit, whether
 341 the local government has complied with this part.

342 218.89 Local government websites.—If a local government is
 343 required under this part to post information on its website, but
 344 does not operate an official website, the local government must
 345 provide the county or counties within which the local government
 346 is located the information required to be posted, and each such
 347 county shall post the required information on its website.

348 Section 5. Paragraph (e) of subsection (1) of section
 349 218.32, Florida Statutes, is amended to read:

350 218.32 Annual financial reports; local governmental

351 entities.—

352 (1)



353 (e) Each local governmental entity that is not required to
 354 provide for an audit under s. 218.39 must submit the annual
 355 financial report to the department no later than 9 months after
 356 the end of the fiscal year. The department shall consult with
 357 the Auditor General in the development of the format of annual
 358 financial reports submitted pursuant to this paragraph. The
 359 format must include balance sheet information used by the
 360 Auditor General pursuant to s. 11.45(7)(g) ~~s. 11.45(7)(f)~~. The
 361 department must forward the financial information contained
 362 within the annual financial reports to the Auditor General in
 363 electronic form. This paragraph does not apply to housing
 364 authorities created under chapter 421.

365 Section 6. The Legislature finds that this act fulfills an
 366 important state interest.

367 Section 7. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 17-02 Local Government Fiscal Responsibility
SPONSOR(S): Ways & Means Committee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Aldridge 	Langston 

SUMMARY ANALYSIS

The bill contains several elements intended to increase the fiscal responsibility of local governments.

The bill creates a new statutory maximum millage rate for local governments other than school districts. A county, municipality, special district dependent to a county or municipality, municipal service taxing unit, or independent special district may not levy a millage rate above its rolled-back rate, unless the government does not have excess unencumbered fund balances in any of its special revenue funds, as of the beginning of the fiscal year for which the millage rate is being considered or, if there are excess balances, appropriations are made 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 bill allows the above special revenue fund excess balances to be used for any public purpose, except for funds subject to restrictions imposed by the federal government or revenues that were approved by vote of the electors. This permission to expend funds applies irrespective of any other limitation on the use of such funds elsewhere in Florida law.

The bill prohibits a municipality or county from enacting, extending or increasing local option taxes other than property taxes, if the municipality or county had adopted a millage rate in excess of its rolled-back rate (with certain specified exceptions) in any of the three previous years. The bill does not apply this prohibition to school districts. However, the bill does amend the process for approval of a school capital outlay discretionary sales surtax. Under current law, in order to levy a school capital outlay discretionary sales surtax, the school board must approve a resolution, by majority vote, to place the question on the ballot for voter approval. The bill requires that the resolution be approved by a 4/5 majority of the school board.

The bill requires any local option or property tax levy, including property taxes levied by special districts, that will be approved by referendum be considered only at a general election. Further, the bill would increase to sixty percent the approval threshold for voter approval of any local option tax or property tax levy.

The bill requires voter approval for any new tax-supported debt that pledges revenues beyond 5 years. The voter approval would be subject to the same election restrictions described above for local option and property taxes. The bill provides an exception to this requirement in certain emergency situations, by allowing the governing board, by a 4/5 majority vote to authorize a vote at an election other than the general election, while still requiring 60 percent voter approval. The bill requires the resolution to declare that an emergency exists, that issuance of new tax-supported debt prior to the next general election is necessary as a direct result of the emergency, and to set forth a plan for use of the proceeds for purposes directly related to the emergency. The bill uses the definition of "emergency" found in Chapter 252, F.S. (Emergency Management).

The changes in the bill could have a negative, but indeterminate, impact on local government revenues.

The bill has an effective date of October 1, 2018.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb02.WMC.DOCX

DATE: 2/24/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

General Provisions

The bill 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 bill 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.¹ 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.²

Property 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.³ 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.⁴

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 central 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

¹ Art. VII, sec. 1(a), Fla. Const.

² 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%.

³ Art. VII, sec 9(b), Fla. Const.

⁴ Section 200.065(5)(b), F.S.

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.

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.⁵

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 changes⁶ that established a maximum millage rate by requiring most taxing authorities to reduce their millage rates below their rolled-back rates.⁷ 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.

The maximum millage rate that most non-school taxing authorities can levy by simple majority vote is the rolled-back assuming the previous year's maximum millage rate was actually levied, adjusted by the change in Florida per capita personal income.⁸ 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.⁹

Unencumbered Excess Fund Balances

Pursuant to s. 218.33, F.S., the Department of Financial Services has developed a Uniform Accounting System Chart of Accounts for use by most Florida local governments in fulfilling their annual financial reporting requirements. The chart of accounts sets forth various fund types, including special revenue funds which are a governmental fund type to account for the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects.

There is no current expression in Florida statutes of the concept of "unencumbered excess fund balances" as is created in the bill 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

⁵ Sections 200.065(2)(d) and (3)(a).

⁶ Ch. 2007-321, Laws of Fla.

⁷ Section 200.065(5), F.S.

⁸ Section 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.

⁹ Section 200.065(5)(a), F.S.

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.”

Proposed Change

The bill creates a new statutory maximum millage rate for local governments other than school districts. A county, municipality, special district dependent to a county or municipality, municipal service taxing unit, or independent special district may not levy a millage rate above its rolled-back rate, unless the government does not have any excess unencumbered fund balances in its special revenue funds as of the beginning of the fiscal year for which the millage rate is being considered, or, if there are excess balances, appropriations are made 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 bill defines “excess unencumbered fund balances” as:

[A]ny non-fee revenues, in any special revenue fund of a county, municipality, special district dependent to a county or municipality, municipal service taxing unit or independent special district, which are not otherwise committed by ordinance or resolution of the governing board to either a contingency reserve or to the future funding of specific projects or services, 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 bill defines “non-fee revenues” 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.

Mirroring the Uniform Accounting System Chart of Accounts used by Florida’s local governments, the bill defines “special revenue fund” as:

A governmental fund type other than the general fund to account for proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects.

The bill allows the above special revenue fund excess balances to be used for any public purpose, except for funds subject to restrictions imposed by the federal government or revenues that were approved by vote of the electors. 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.¹⁰ 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.

Proposed Change

The bill prohibits a municipality or county 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 tax¹¹
- Tourist development tax¹²;
- Tourist impact tax¹³;
- Discretionary surtax on documents;¹⁴
- Public service tax¹⁵;
- Local business tax¹⁶;
- Motor fuel and diesel taxes¹⁷;
- Convention development tax¹⁸;
- Local option food and beverage tax¹⁹;
- Local option sales taxes²⁰;

The restriction against levying millages in excess of the rolled-back rate do not apply to millages approved by a vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution, or millages approved by a vote of the electors pursuant to s. 12, Art. VII of the State Constitution.

The bill does not apply this prohibition to school districts. However, the bill does amend the process for approval of a school capital outlay discretionary sales surtax²¹. Under current law, in order to levy a school capital outlay discretionary sales surtax, the school board must approve a resolution, by majority vote, to place the question on the ballot for voter approval. The bill requires that the resolution be approved by a 4/5 majority of the school board.

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

¹¹ Section 202.19, F.S.

¹² Section 125.0104, F.S.

¹³ Section 125.0108, F.S.

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

¹⁵ Sections 166.231-.235, F.S.

¹⁶ Chapter 205, F.S.

¹⁷ Section 336.021 and .025, F.S.

¹⁸ Section 212.0305, F.S.

¹⁹ Section 212.0306, F.S.

²⁰ Section 212.055, F.S.

²¹ See s. 212.055(6), F.S. The school capital outlay surtax is the only non-property tax local option tax available to school districts.

at a rate of one or two percent requires approval by referendum.²² 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.²³

Motor Fuel and Diesel Fuel Taxes

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 county²⁴. 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 county²⁵. 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 tax²⁶. 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 and school districts have limited authority to levy certain discretionary sales surtaxes for specific purposes on transactions subject to state sales tax.²⁷ There are nine separate discretionary sales surtaxes. However, there are limitations regarding which counties may levy each surtax and which surtaxes may or may not be levied in combination.²⁸ Local discretionary sales surtaxes are generally approved by referendum.²⁹ The referendum must be approved by a majority of electors voting.³⁰ Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.³¹

Discretionary sales surtaxes requiring voter approval are the:

- Charter county and regional transportation system surtax;³²
- Local government infrastructure surtax;³³
- Small county surtax;³⁴
- Indigent care and trauma center surtax;³⁵

²² Section 125.0104(3)(c), F.S.

²³ Section 125.0104(3)(d), F.S.

²⁴ Section 336.021(1)(a), F.S.

²⁵ Section 336.025(1)(a), F.S.

²⁶ Section 336.025(1)(b), F.S.

²⁷ Section 212.054, F.S.; s. 212.055, F.S.

²⁸ Section 212.055, F.S.

²⁹ 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).

³⁰ Section 212.055, F.S.

³¹ *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").

³² Section 212.055(1), F.S.

³³ Section 212.055(2), F.S.

³⁴ Section 212.055(3), F.S.

³⁵ 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

- School capital outlay surtax;³⁶
- Voter-approved indigent care surtax;³⁷
- Emergency fire rescue services and facilities surtax³⁸; and
- Pension liability surtax³⁹.

Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.

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)⁴⁰;
- Debt service, not subject to 10 mill cap⁴¹;
- For special districts (except water management districts), a millage authorized by law and approved by the voters.⁴²

Referendum Process

The Florida Election Code sets forth the general requirements for a referendum.⁴³ 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.⁴⁴ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.⁴⁵ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.⁴⁶ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.⁴⁷

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.⁴⁸ 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.⁴⁹

Proposed Change

The bill requires any local option or property tax levy, including property taxes levied by special districts, that will be approved by referendum be considered only at a general election. Further, the bill would increase to sixty percent the approval threshold for voter approval of any local option tax or property tax levy. The bill amends s. 125.901, F.S., to make clear that these requirements apply to Children’s Services Council independent special districts

least 800,000 to levy a surtax for providing medical care for indigent persons, but that can be approved by either an extraordinary vote of the governing body *or* by referendum.

³⁶ Section 212.055(6), F.S.

³⁷ Section 212.055(7), F.S.

³⁸ Section 212.055(8), F.S.

³⁹ Section 212.055(9), F.S.

⁴⁰ Sections 1011.71(9) and 1011.73(2), F.S.

⁴¹ Art VII, sec (9)(b), Fla Const.

⁴² *Id.*

⁴³ Section 101.161, F.S.

⁴⁴ Section 101.161(1), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

⁴⁸ Section 97.021(11), F.S.

⁴⁹ Art. VI, sec 5(a), Fla. Const. (also codified as s. 97.021(15), F.S.)

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 electors⁵⁰.

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,⁵¹ 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.

⁵⁰ Art VII, sec 12, Fla. Const.

⁵¹ *State v. School Board of Sarasota County*, 561 So.2d 529 (Fla. 1990)

Proposed Change

The bill requires 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 (i.e., referenda must be held at a general election and receive at least 60 percent approval).

The bill 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 bill 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.

The bill provides an exception to the general election requirement in certain emergency situations. The governing board, by a 4/5 majority vote may authorize a vote at an election other than the general election, while still requiring 60 percent voter approval. The bill requires the resolution to declare that an emergency exists, that issuance of new tax-supported debt prior to the next general election is necessary as a direct result of the emergency, and to set forth a plan for use of the proceeds for purposes directly related to or as a consequence of the emergency. The bill uses the definition of "emergency" found in the Emergency Management chapter of Florida Statutes (ch. 252, F.S.).

The term "emergency" per ch. 252.34(4), F.S., means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Administrative and Conforming Change

The bill creates a new Part IX of Chapter 218, F.S., titled the "Local Government Fiscal Responsibility Act." The bill 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.

Effective Date

The effective date of the bill is July 1, 2018.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.0104(6), F.S., to require a referendum that adopts or amends tourist development taxes to be held only at a general election and to require 60 percent voter approval.

- Section 2. Amends s. 125.0108(5), F.S., to require a referendum that adopts or amends tourist impact taxes to be held only at a general election and to require 60 percent voter approval.
- Section 3. Amends s. 125.901, F.S., to clarify that the requirements in the bill for property tax increases to be approved only at a general election and with 60 percent voter approval, apply to Children's Services Council independent special districts.
- Section 4. Amends s. 200.065(5), F.S., to create a new statutory maximum millage rate for all non-school local governments.
- Section 5. Amends s. 200.091, F.S., to require elections held by counties to approve a certain millage rate for no more than two years be held only at a general election and to require 60 percent voter approval.
- Section 6. Amends s. 200.101, F.S., to require elections held by municipalities to approve a certain millage rate for no more than two years be held only at a general election and to require 60 percent voter approval.
- Section 7. Creates s. 200.105, F.S., to require that referenda under ch. 200, F.S., pursuant to s. 9(b), Art. VII of the State Constitution or pursuant to s. 12, Art. VII of the State Constitution be held only at a general election and requiring 60 percent voter approval.
- Section 8. Amends s. 212.055, F.S., to require that referenda approving local discretionary sales surtaxes be held only at a general election and to require 60 percent voter approval.
- Section 9. Provides that the act creates Part IX of chapter 218, Florida Statutes consisting of ss. 218.90, 218.901, 918.905, 218.91, and 218.92, F.S.
- Section 10. Amends s. 336.021(4), F.S., to require that referenda to levy the ninth cent fuel tax be held only at a general election and requiring 60 percent voter approval.
- Section 11. Amends s. 336.025(1)(b) and (3)(b), F.S., to require that referenda to approve certain local option motor fuel taxes be held only at a general election and to require 60 percent voter approval.
- Section 12. Amends s. 1011.73, F.S., to require that certain discretionary millages authorized under s. 9, Art. VII of the State Constitution and under s. 1011.71(9), F.S., be held only at a general election and to require 60 percent voter approval.
- Section 13. Provides that the effective date of the bill is October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The changes in the bill could have a negative, but indeterminate, impact on local government revenues.

2. Expenditures:

Local government expenditures may be reduced by an unknown amount to the extent that the expenses of holding referenda at elections other than general elections are avoided. However, some flexibility in the timing of capital project spending may be lost due to the requirement that voters approve new debt issuance, resulting in higher costs of an unknown amount than otherwise would occur.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the provisions of the bill result in fewer new taxes being enacted, households and businesses will experience lower taxes than otherwise would occur.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The municipality/county mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill prohibits municipalities and counties from enacting, extending or increasing certain local option taxes if they have increased their ad valorem taxes in any of the past three years. The bill also requires that certain excess unencumbered fund balances be reduced before a municipality or county may increase ad valorem taxes. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to local government fiscal
3 responsibility; amending ss. 125.0104, 125.0108, and
4 125.901, F.S.; revising voting requirements for
5 referenda related to the tourist development taxes,
6 tourist impact taxes, and children's services and
7 independent special district property taxes,
8 respectively; amending s. 200.065, F.S.; providing the
9 maximum millage rate local governments may levy under
10 certain circumstances; providing exceptions; amending
11 ss. 200.091 and 200.101, F.S.; revising dates and
12 voting requirements for referenda related to increases
13 in county ad valorem tax millages and increases in
14 municipal ad valorem tax millages, respectively;
15 creating s. 200.105, F.S.; providing dates and
16 approval thresholds for certain referenda; amending s.
17 212.055, F.S.; revising voting requirements for
18 referenda to adopt or amend local government
19 discretionary sales surtaxes; creating part IX of ch.
20 218, consisting of ss. 218.90, 218.901, 218.905,
21 218.91, and 218.92, F.S.; providing a short title;
22 specifying purpose to promote the fiscal
23 responsibility of local governments; providing
24 definitions related to debt; prohibiting certain local
25 governments from enacting, extending, or increasing

26 taxes otherwise authorized under specified conditions;
 27 requiring local governments to receive voter approval
 28 for the issuance of any new tax-supported debt with
 29 certain terms; providing dates and voting requirements
 30 for such referenda; authorizing referenda at times
 31 other than at general election if an emergency exists;
 32 providing exceptions for refunding or refinancing
 33 certain debt; amending s. 336.021, F.S.; providing
 34 voting requirements for certain referenda related to
 35 the ninth-cent fuel tax; amending s. 336.025, F.S.;
 36 revising voting requirements for certain referenda
 37 related to local option fuel taxes; amending s.
 38 1011.73, F.S.; revising dates and voting requirements
 39 for referenda related to certain school voted property
 40 taxes; providing an effective date.

41
 42 Be It Enacted by the Legislature of the State of Florida:

43
 44 Section 1. Subsection (6) of section 125.0104, Florida
 45 Statutes, is amended to read:

46 125.0104 Tourist development tax; procedure for levying;
 47 authorized uses; referendum; enforcement.—

48 (6) REFERENDUM.—

49 (a) A referendum under this section shall be held only at
 50 a general election, as defined in s. 97.021, and requires the

51 approval of 60 percent of the voters voting on the ballot
 52 question for passage of the question.

53 (b) ~~(a)~~ No ordinance enacted by any county levying the tax
 54 authorized by paragraphs (3) (b) and (c) shall take effect until
 55 the ordinance levying and imposing the tax has been approved in
 56 a referendum election by ~~a majority of~~ the electors voting in
 57 such election in the county or by ~~a majority of~~ the electors
 58 voting in the subcounty special tax district affected by the
 59 tax.

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

- 64FOR the Tourist Development Tax
- 65AGAINST the Tourist Development Tax.

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

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

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

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

84 125.0108 Areas of critical state concern; tourist impact
 85 tax.—

86 (5) The tourist impact tax authorized by this section
 87 shall take effect only upon express approval ~~by a majority vote~~
 88 of those qualified electors in the area or areas of critical
 89 state concern in the county seeking to levy such tax, voting in
 90 a referendum to be held by the governing board of such county ~~in~~
 91 ~~conjunction with a general or special election, in accordance~~
 92 ~~with the provisions of law relating to elections currently in~~
 93 ~~force.~~ However, if the area or areas of critical state concern
 94 are greater than 50 percent of the land area of the county and
 95 the tax is to be imposed throughout the entire county, the tax
 96 shall take effect only upon express approval of ~~a majority of~~
 97 the qualified electors of the county voting in such a
 98 referendum. A referendum to adopt or amend the tourist impact
 99 tax authorized by this section shall be held only at a general
 100 election, as defined in s. 97.021, and requires the approval of

101 60 percent of the voters voting on the ballot question for
 102 passage of the question.

103 Section 3. Subsection (1) of section 125.901, Florida
 104 Statutes, is amended to read:

105 125.901 Children's services; independent special district;
 106 council; powers, duties, and functions; public records
 107 exemption.-

108 (1) Each county may by ordinance create an independent
 109 special district, as defined in ss. 189.012 and 200.001(8)(e),
 110 to provide funding for children's services throughout the county
 111 in accordance with this section. The boundaries of such district
 112 shall be coterminous with the boundaries of the county. The
 113 county governing body shall obtain approval, by a ~~majority~~ vote
 114 of those electors voting on the question, to annually levy ad
 115 valorem taxes which shall not exceed the maximum millage rate
 116 authorized by this section. A referendum under this section
 117 shall be held only at a general election, as defined in s.
 118 97.021, and requires the approval of 60 percent of the voters
 119 voting on the ballot question for passage of the question. Any
 120 district created pursuant to the provisions of this subsection
 121 shall be required to levy and fix millage subject to the
 122 provisions of s. 200.065. Once such millage is approved by the
 123 electorate, the district shall not be required to seek approval
 124 of the electorate in future years to levy the previously
 125 approved millage.

126 (a) The governing body of the district shall be a council
127 on children's services, which may also be known as a juvenile
128 welfare board or similar name as established in the ordinance by
129 the county governing body. Such council shall consist of 10
130 members, including: the superintendent of schools; a local
131 school board member; the district administrator from the
132 appropriate district of the Department of Children and Families,
133 or his or her designee who is a member of the Senior Management
134 Service or of the Selected Exempt Service; one member of the
135 county governing body; and the judge assigned to juvenile cases
136 who shall sit as a voting member of the board, except that said
137 judge shall not vote or participate in the setting of ad valorem
138 taxes under this section. If there is more than one judge
139 assigned to juvenile cases in a county, the chief judge shall
140 designate one of said juvenile judges to serve on the board. The
141 remaining five members shall be appointed by the Governor, and
142 shall, to the extent possible, represent the demographic
143 diversity of the population of the county. After soliciting
144 recommendations from the public, the county governing body shall
145 submit to the Governor the names of at least three persons for
146 each vacancy occurring among the five members appointed by the
147 Governor, and the Governor shall appoint members to the council
148 from the candidates nominated by the county governing body. The
149 Governor shall make a selection within a 45-day period or
150 request a new list of candidates. All members appointed by the

151 Governor shall have been residents of the county for the
 152 previous 24-month period. Such members shall be appointed for 4-
 153 year terms, except that the length of the terms of the initial
 154 appointees shall be adjusted to stagger the terms. The Governor
 155 may remove a member for cause or upon the written petition of
 156 the county governing body. If any of the members of the council
 157 required to be appointed by the Governor under the provisions of
 158 this subsection shall resign, die, or be removed from office,
 159 the vacancy thereby created shall, as soon as practicable, be
 160 filled by appointment by the Governor, using the same method as
 161 the original appointment, and such appointment to fill a vacancy
 162 shall be for the unexpired term of the person who resigns, dies,
 163 or is removed from office.

164 (b) However, any county as defined in s. 125.011(1) may
 165 instead have a governing body consisting of 33 members,
 166 including: the superintendent of schools; two representatives of
 167 public postsecondary education institutions located in the
 168 county; the county manager or the equivalent county officer; the
 169 district administrator from the appropriate district of the
 170 Department of Children and Families, or the administrator's
 171 designee who is a member of the Senior Management Service or the
 172 Selected Exempt Service; the director of the county health
 173 department or the director's designee; the state attorney for
 174 the county or the state attorney's designee; the chief judge
 175 assigned to juvenile cases, or another juvenile judge who is the

176 chief judge's designee and who shall sit as a voting member of
 177 the board, except that the judge may not vote or participate in
 178 setting ad valorem taxes under this section; an individual who
 179 is selected by the board of the local United Way or its
 180 equivalent; a member of a locally recognized faith-based
 181 coalition, selected by that coalition; a member of the local
 182 chamber of commerce, selected by that chamber or, if more than
 183 one chamber exists within the county, a person selected by a
 184 coalition of the local chambers; a member of the early learning
 185 coalition, selected by that coalition; a representative of a
 186 labor organization or union active in the county; a member of a
 187 local alliance or coalition engaged in cross-system planning for
 188 health and social service delivery in the county, selected by
 189 that alliance or coalition; a member of the local Parent-
 190 Teachers Association/Parent-Teacher-Student Association,
 191 selected by that association; a youth representative selected by
 192 the local school system's student government; a local school
 193 board member appointed by the chair of the school board; the
 194 mayor of the county or the mayor's designee; one member of the
 195 county governing body, appointed by the chair of that body; a
 196 member of the state Legislature who represents residents of the
 197 county, selected by the chair of the local legislative
 198 delegation; an elected official representing the residents of a
 199 municipality in the county, selected by the county municipal
 200 league; and 4 members-at-large, appointed to the council by the

201 majority of sitting council members. The remaining 7 members
 202 shall be appointed by the Governor in accordance with procedures
 203 set forth in paragraph (a), except that the Governor may remove
 204 a member for cause or upon the written petition of the council.
 205 Appointments by the Governor must, to the extent reasonably
 206 possible, represent the geographic and demographic diversity of
 207 the population of the county. Members who are appointed to the
 208 council by reason of their position are not subject to the
 209 length of terms and limits on consecutive terms as provided in
 210 this section. The remaining appointed members of the governing
 211 body shall be appointed to serve 2-year terms, except that those
 212 members appointed by the Governor shall be appointed to serve 4-
 213 year terms, and the youth representative and the legislative
 214 delegate shall be appointed to serve 1-year terms. A member may
 215 be reappointed; however, a member may not serve for more than
 216 three consecutive terms. A member is eligible to be appointed
 217 again after a 2-year hiatus from the council.

218 (c) This subsection does not prohibit a county from
 219 exercising such power as is provided by general or special law
 220 to provide children's services or to create a special district
 221 to provide such services.

222 Section 4. Subsection (5) of section 200.065, Florida
 223 Statutes, is amended to read:

224 200.065 Method of fixing millage.—

225 (5) In each fiscal year:

226 (a) A county, municipality, dependent special district as
 227 defined in s. 189.012, municipal service taxing unit or
 228 independent special district may not levy a millage rate in
 229 excess of the rolled-back rate as defined in subsection (1)
 230 unless the county, municipality, dependent special district,
 231 municipal service taxing unit, or independent special district
 232 has no excess unencumbered fund balances as of the beginning of
 233 the fiscal year for which the millage rate is being considered,
 234 or, if excess unencumbered fund balances are expected, the
 235 budget for the fiscal year for which the millage is being
 236 considered must approve expenditures to eliminate the excess
 237 unencumbered fund balances. Notwithstanding any restriction on
 238 the use of funds within those balances, expenditures of excess
 239 unencumbered fund balances may be for any public purpose, with
 240 the exception of funds subject to restrictions imposed by the
 241 federal government or revenues that were approved by referendum
 242 of the electors in the affected jurisdiction.

243 1. For purposes of this subsection, the term "excess
 244 unencumbered fund balances" means any non-fee revenues, in any
 245 special revenue fund of a county, municipality, dependent
 246 special district, municipal service taxing unit or independent
 247 special district, which are not otherwise committed by ordinance
 248 or resolution of the governing board to either a contingency
 249 reserve or to the future funding of specific projects or
 250 services, are not encumbered by appropriations or contractual

251 obligations and are in excess of 10 percent of total annual
 252 revenues to the account or fund. The term does not include
 253 monies subject to restrictions imposed by the federal government
 254 or revenues that were approved by referendum of the electors in
 255 the affected jurisdiction. The term "non-fee revenues" means any
 256 monies, except as otherwise provided in this subsection, that
 257 are derived from any taxes levied by a local government, revenue
 258 shared by another government with a local government, or
 259 revenues, the use of which may be for any public purpose,
 260 derived from other sources. The term "special revenue fund"
 261 means a governmental fund type other than the general fund to
 262 account for proceeds of specific revenue sources that are
 263 restricted or committed to expenditure for specified purposes
 264 other than debt service or capital projects.

265 2. The maximum millage rate limitation in this paragraph
 266 does not apply to any millage approved by a vote of the electors
 267 pursuant to s. 9(b), Art. VII of the State Constitution, or
 268 millage approved by a vote of the electors pursuant to s. 12,
 269 Art. VII of the State Constitution.

270 (b)-(a) If the maximum millage rate under paragraph (a) is
 271 not applicable, then the maximum millage rate that a county,
 272 municipality, special district dependent to a county or
 273 municipality, municipal service taxing unit, or independent
 274 special district may levy is a rolled-back rate based on the
 275 amount of taxes which would have been levied in the prior year

276 if the maximum millage rate had been applied, adjusted for
277 change in per capita Florida personal income, unless a higher
278 rate was adopted, in which case the maximum is the adopted rate.
279 The maximum millage rate applicable to a county authorized to
280 levy a county public hospital surtax under s. 212.055 and which
281 did so in fiscal year 2007 shall exclude the revenues required
282 to be contributed to the county public general hospital in the
283 current fiscal year for the purposes of making the maximum
284 millage rate calculation, but shall be added back to the maximum
285 millage rate allowed after the roll back has been applied, the
286 total of which shall be considered the maximum millage rate for
287 such a county for purposes of this subsection. The revenue
288 required to be contributed to the county public general hospital
289 for the upcoming fiscal year shall be calculated as 11.873
290 percent times the millage rate levied for countywide purposes in
291 fiscal year 2007 times 95 percent of the preliminary tax roll
292 for the upcoming fiscal year. A higher rate may be adopted only
293 under the following conditions:

294 1. A rate of not more than 110 percent of the rolled-back
295 rate based on the previous year's maximum millage rate, adjusted
296 for change in per capita Florida personal income, may be adopted
297 if approved by a two-thirds vote of the membership of the
298 governing body of the county, municipality, or independent
299 district; or

300 2. A rate in excess of 110 percent may be adopted if

301 approved by a unanimous vote of the membership of the governing
 302 body of the county, municipality, or independent district or by
 303 a three-fourths vote of the membership of the governing body if
 304 the governing body has nine or more members, or if the rate is
 305 approved by a referendum.

306 (c)~~(b)~~ The millage rate of a county or municipality,
 307 municipal service taxing unit of that county, and any special
 308 district dependent to that county or municipality may exceed the
 309 maximum millage rate calculated pursuant to this subsection if
 310 the total county ad valorem taxes levied or total municipal ad
 311 valorem taxes levied do not exceed the maximum total county ad
 312 valorem taxes levied or maximum total municipal ad valorem taxes
 313 levied respectively. Voted millage and taxes levied by a
 314 municipality or independent special district that has levied ad
 315 valorem taxes for less than 5 years are not subject to this
 316 limitation. The millage rate of a county authorized to levy a
 317 county public hospital surtax under s. 212.055 may exceed the
 318 maximum millage rate calculated pursuant to this subsection to
 319 the extent necessary to account for the revenues required to be
 320 contributed to the county public hospital. Total taxes levied
 321 may exceed the maximum calculated pursuant to subsection (6) as
 322 a result of an increase in taxable value above that certified in
 323 subsection (1) if such increase is less than the percentage
 324 amounts contained in subsection (6) or if the administrative
 325 adjustment cannot be made because the value adjustment board is

326 still in session at the time the tax roll is extended;
 327 otherwise, millage rates subject to this subsection may be
 328 reduced so that total taxes levied do not exceed the maximum.

329
 330 Any unit of government operating under a home rule charter
 331 adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State
 332 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
 333 State Constitution of 1968, which is granted the authority in
 334 the State Constitution to exercise all the powers conferred now
 335 or hereafter by general law upon municipalities and which
 336 exercises such powers in the unincorporated area shall be
 337 recognized as a municipality under this subsection. For a
 338 downtown development authority established before the effective
 339 date of the 1968 State Constitution which has a millage that
 340 must be approved by a municipality, the governing body of that
 341 municipality shall be considered the governing body of the
 342 downtown development authority for purposes of this subsection.

343 Section 5. Section 200.091, Florida Statutes, is amended
 344 to read:

345 200.091 Referendum to increase millage.—The millage
 346 authorized to be levied in s. 200.071 for county purposes,
 347 including dependent districts therein, may be increased for
 348 periods not exceeding 2 years, provided such levy has been
 349 approved by a majority vote, as set forth in s. 200.105, of the
 350 qualified electors in the county or district voting in an

351 election called for such purpose. Such an election may be called
 352 by the governing body of any such county or district on its own
 353 motion and shall be called upon submission of a petition
 354 specifying the amount of millage sought to be levied and the
 355 purpose for which the proceeds will be expended and containing
 356 the signatures of at least 10 percent of the persons qualified
 357 to vote in such election, signed within 60 days prior to the
 358 date the petition is filed.

359 Section 6. Section 200.101, Florida Statutes, is amended
 360 to read:

361 200.101 Referendum for millage in excess of limits.—The
 362 qualified electors of a municipality may ~~by majority vote, as~~
 363 set forth in s. 200.105, to ~~of those voting approve an~~ increase
 364 ~~of~~ millage above those limits imposed by s. 200.081 in a
 365 referendum called for such purpose by the governing body of the
 366 municipality, but the period of such increase may not exceed 2
 367 years. Such referendum also may be initiated by submission of a
 368 petition to the governing body of the municipality containing
 369 the signatures of 10 percent of those persons eligible to vote
 370 in such referendum, which signatures were affixed to the
 371 petition within 60 days prior to its submission.

372 Section 7. Section 200.105, Florida Statutes, is created
 373 to read:

374 200.105 Dates for referenda.—A referendum under this
 375 chapter, pursuant to s. 9(b), Art. VII of the State Constitution

376 or pursuant to s. 12, Art. VII of the State Constitution, shall
 377 be held only at a general election, as defined in s. 97.021, and
 378 requires the approval of 60 percent of the voters voting on the
 379 ballot question for passage of the question.

380 Section 8. Paragraphs (a) and (c) of subsection (1),
 381 paragraph (a) of subsection (2), paragraph (a) of subsection
 382 (3), subsections (4) and (5), paragraph (a) of subsection (6),
 383 paragraph (a) of subsection (7), paragraph (b) of subsection
 384 (8), and paragraph (a) of subsection (9) of section 212.055,
 385 Florida Statutes, are amended, and subsection (10) is added to
 386 that section, to read:

387 212.055 Discretionary sales surtaxes; legislative intent;
 388 authorization and use of proceeds.—It is the legislative intent
 389 that any authorization for imposition of a discretionary sales
 390 surtax shall be published in the Florida Statutes as a
 391 subsection of this section, irrespective of the duration of the
 392 levy. Each enactment shall specify the types of counties
 393 authorized to levy; the rate or rates which may be imposed; the
 394 maximum length of time the surtax may be imposed, if any; the
 395 procedure which must be followed to secure voter approval, if
 396 required; the purpose for which the proceeds may be expended;
 397 and such other requirements as the Legislature may provide.
 398 Taxable transactions and administrative procedures shall be as
 399 provided in s. 212.054.

400 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM

401 SURTAX.—

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

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

417 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

418 (a)1. The governing authority in each county may levy a
 419 discretionary sales surtax of 0.5 percent or 1 percent. The levy
 420 of the surtax shall be pursuant to ordinance enacted by a
 421 majority of the members of the county governing authority and
 422 approved by ~~a majority of the electors of the county,~~ as set
 423 forth in subsection (10), voting in a referendum on the surtax.
 424 If the governing bodies of the municipalities representing a
 425 majority of the county's population adopt uniform resolutions

426 establishing the rate of the surtax and calling for a referendum
 427 on the surtax, the levy of the surtax shall be placed on the
 428 ballot and shall take effect if approved by ~~a majority of~~ the
 429 electors of the county, as set forth in subsection (10), voting
 430 in the referendum on the surtax.

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

438 (3) SMALL COUNTY SURTAX.—

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

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

450 (a)1. The governing body in each county the government of

451 which is not consolidated with that of one or more
 452 municipalities, which has a population of at least 800,000
 453 residents and is not authorized to levy a surtax under
 454 subsection (5), may levy, pursuant to an ordinance either
 455 approved by an extraordinary vote of the governing body or
 456 conditioned to take effect only upon approval by ~~a majority vote~~
 457 of the electors of the county, as set forth in subsection (10),
 458 voting in a referendum, a discretionary sales surtax at a rate
 459 that may not exceed 0.5 percent.

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

466 FOR THE. . . .CENTS TAX

467 AGAINST THE. . . .CENTS TAX

468 3. The ordinance adopted by the governing body providing
 469 for the imposition of the surtax shall set forth a plan for
 470 providing health care services to qualified residents, as
 471 defined in subparagraph 4. Such plan and subsequent amendments
 472 to it shall fund a broad range of health care services for both
 473 indigent persons and the medically poor, including, but not
 474 limited to, primary care and preventive care as well as hospital
 475 care. The plan must also address the services to be provided by

476 the Level I trauma center. It shall emphasize a continuity of
477 care in the most cost-effective setting, taking into
478 consideration both a high quality of care and geographic access.
479 Where consistent with these objectives, it shall include,
480 without limitation, services rendered by physicians, clinics,
481 community hospitals, mental health centers, and alternative
482 delivery sites, as well as at least one regional referral
483 hospital where appropriate. It shall provide that agreements
484 negotiated between the county and providers, including hospitals
485 with a Level I trauma center, will include reimbursement
486 methodologies that take into account the cost of services
487 rendered to eligible patients, recognize hospitals that render a
488 disproportionate share of indigent care, provide other
489 incentives to promote the delivery of charity care, promote the
490 advancement of technology in medical services, recognize the
491 level of responsiveness to medical needs in trauma cases, and
492 require cost containment including, but not limited to, case
493 management. It must also provide that any hospitals that are
494 owned and operated by government entities on May 21, 1991, must,
495 as a condition of receiving funds under this subsection, afford
496 public access equal to that provided under s. 286.011 as to
497 meetings of the governing board, the subject of which is
498 budgeting resources for the rendition of charity care as that
499 term is defined in the Florida Hospital Uniform Reporting System
500 (FHURS) manual referenced in s. 408.07. The plan shall also

501 include innovative health care programs that provide cost-
 502 effective alternatives to traditional methods of service
 503 delivery and funding.

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

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

508 b. Certified by the authorizing county as meeting the
 509 definition of the medically poor, defined as persons having
 510 insufficient income, resources, and assets to provide the needed
 511 medical care without using resources required to meet basic
 512 needs for shelter, food, clothing, and personal expenses; or not
 513 being eligible for any other state or federal program, or having
 514 medical needs that are not covered by any such program; or
 515 having insufficient third-party insurance coverage. In all
 516 cases, the authorizing county is intended to serve as the payor
 517 of last resort; or

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

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

525 a. Maintain the moneys in an indigent health care trust

526 fund;

527 b. Invest any funds held on deposit in the trust fund

528 pursuant to general law;

529 c. Disburse the funds, including any interest earned, to

530 any provider of health care services, as provided in

531 subparagraphs 3. and 4., upon directive from the authorizing

532 county. However, if a county has a population of at least

533 800,000 residents and has levied the surtax authorized in this

534 paragraph, notwithstanding any directive from the authorizing

535 county, on October 1 of each calendar year, the clerk of the

536 court shall issue a check in the amount of \$6.5 million to a

537 hospital in its jurisdiction that has a Level I trauma center or

538 shall issue a check in the amount of \$3.5 million to a hospital

539 in its jurisdiction that has a Level I trauma center if that

540 county enacts and implements a hospital lien law in accordance

541 with chapter 98-499, Laws of Florida. The issuance of the checks

542 on October 1 of each year is provided in recognition of the

543 Level I trauma center status and shall be in addition to the

544 base contract amount received during fiscal year 1999-2000 and

545 any additional amount negotiated to the base contract. If the

546 hospital receiving funds for its Level I trauma center status

547 requests such funds to be used to generate federal matching

548 funds under Medicaid, the clerk of the court shall instead issue

549 a check to the Agency for Health Care Administration to

550 accomplish that purpose to the extent that it is allowed through

551 the General Appropriations Act; and

552 d. Prepare on a biennial basis an audit of the trust fund
 553 specified in sub-subparagraph a. Each ~~Commencing February 1,~~
 554 ~~2004,~~ such audit shall be delivered to the governing body and to
 555 the chair of the legislative delegation of each authorizing
 556 county.

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

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

571 1. A statement that includes a brief and general
 572 description of the purposes to be funded by the surtax and that
 573 conforms to the requirements of s. 101.161 shall be placed on
 574 the ballot by the governing body of the county. The following
 575 shall be placed on the ballot:

576 FOR THE. . . .CENTS TAX

577 AGAINST THE. . . .CENTS TAX

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

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

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

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

591 c. Disburse the funds, including any interest earned on
 592 such funds, to the trauma center in its trauma service area, as
 593 provided in the plan set forth pursuant to subparagraph 2., upon
 594 directive from the authorizing county. If the trauma center
 595 receiving funds requests such funds be used to generate federal
 596 matching funds under Medicaid, the custodian of the funds shall
 597 instead issue a check to the Agency for Health Care
 598 Administration to accomplish that purpose to the extent that the
 599 agency is allowed through the General Appropriations Act.

600 d. Prepare on a biennial basis an audit of the trauma

601 services trust fund specified in sub-subparagraph a., to be
 602 delivered to the authorizing county.

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

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

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

623 (a) The rate shall be 0.5 percent.

624 (b) If the ordinance is conditioned on a referendum, the
 625 proposal to adopt the county public hospital surtax shall be

626 placed on the ballot in accordance with law and must be approved
 627 in a referendum as set forth in subsection (10) at a time to be
 628 ~~set at the discretion of the governing body~~. The referendum
 629 question on the ballot shall include a brief general description
 630 of the health care services to be funded by the surtax.

631 (c) Proceeds from the surtax shall be:

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

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

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

646 1. Twenty-five percent of such amount must be remitted to
 647 a governing board, agency, or authority that is wholly
 648 independent from the public health trust, agency, or authority
 649 responsible for the county public general hospital, to be used
 650 solely for the purpose of funding the plan for indigent health

651 care services provided for in paragraph (e);

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

658 (e) A governing board, agency, or authority shall be
659 chartered by the county commission upon this act becoming law.
660 The governing board, agency, or authority shall adopt and
661 implement a health care plan for indigent health care services.
662 The governing board, agency, or authority shall consist of no
663 more than seven and no fewer than five members appointed by the
664 county commission. The members of the governing board, agency,
665 or authority shall be at least 18 years of age and residents of
666 the county. No member may be employed by or affiliated with a
667 health care provider or the public health trust, agency, or
668 authority responsible for the county public general hospital.
669 The following community organizations shall each appoint a
670 representative to a nominating committee: the South Florida
671 Hospital and Healthcare Association, the Miami-Dade County
672 Public Health Trust, the Dade County Medical Association, the
673 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
674 County. This committee shall nominate between 10 and 14 county
675 citizens for the governing board, agency, or authority. The

676 slate shall be presented to the county commission and the county
677 commission shall confirm the top five to seven nominees,
678 depending on the size of the governing board. Until such time as
679 the governing board, agency, or authority is created, the funds
680 provided for in subparagraph (d)2. shall be placed in a
681 restricted account set aside from other county funds and not
682 disbursed by the county for any other purpose.

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

689 2. The plan and subsequent amendments to it shall fund a
690 defined range of health care services for both indigent persons
691 and the medically poor, including primary care, preventive care,
692 hospital emergency room care, and hospital care necessary to
693 stabilize the patient. For the purposes of this section,
694 "stabilization" means stabilization as defined in s.
695 397.311(44). Where consistent with these objectives, the plan
696 may include services rendered by physicians, clinics, community
697 hospitals, and alternative delivery sites, as well as at least
698 one regional referral hospital per service area. The plan shall
699 provide that agreements negotiated between the governing board,
700 agency, or authority and providers shall recognize hospitals

701 that render a disproportionate share of indigent care, provide
702 other incentives to promote the delivery of charity care to draw
703 down federal funds where appropriate, and require cost
704 containment, including, but not limited to, case management.
705 From the funds specified in subparagraphs (d)1. and 2. for
706 indigent health care services, service providers shall receive
707 reimbursement at a Medicaid rate to be determined by the
708 governing board, agency, or authority created pursuant to this
709 paragraph for the initial emergency room visit, and a per-member
710 per-month fee or capitation for those members enrolled in their
711 service area, as compensation for the services rendered
712 following the initial emergency visit. Except for provisions of
713 emergency services, upon determination of eligibility,
714 enrollment shall be deemed to have occurred at the time services
715 were rendered. The provisions for specific reimbursement of
716 emergency services shall be repealed on July 1, 2001, unless
717 otherwise reenacted by the Legislature. The capitation amount or
718 rate shall be determined before program implementation by an
719 independent actuarial consultant. In no event shall such
720 reimbursement rates exceed the Medicaid rate. The plan must also
721 provide that any hospitals owned and operated by government
722 entities on or after the effective date of this act must, as a
723 condition of receiving funds under this subsection, afford
724 public access equal to that provided under s. 286.011 as to any
725 meeting of the governing board, agency, or authority the subject

726 of which is budgeting resources for the retention of charity
 727 care, as that term is defined in the rules of the Agency for
 728 Health Care Administration. The plan shall also include
 729 innovative health care programs that provide cost-effective
 730 alternatives to traditional methods of service and delivery
 731 funding.

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

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

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

748 (f) Notwithstanding any other provision of this section, a
 749 county may not levy local option sales surtaxes authorized in
 750 this subsection and subsections (2) and (3) in excess of a

751 combined rate of 1 percent.

752 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

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

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

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

784 (9) PENSION LIABILITY SURTAX.—

785 (a) The governing body of a county may levy a pension
 786 liability surtax to fund an underfunded defined benefit
 787 retirement plan or system, pursuant to an ordinance conditioned
 788 to take effect upon approval by ~~a majority vote of~~ the electors
 789 of the county, as set forth in subsection (10), voting in a
 790 referendum, at a rate that may not exceed 0.5 percent. The
 791 county may not impose a pension liability surtax unless the
 792 underfunded defined benefit retirement plan or system is below
 793 80 percent of actuarial funding at the time the ordinance or
 794 referendum is passed. The most recent actuarial report submitted
 795 to the Department of Management Services pursuant to s. 112.63
 796 must be used to establish the level of actuarial funding for
 797 purposes of determining eligibility to impose the surtax. The
 798 governing body of a county may only impose the surtax if:

- 799 1. An employee, including a police officer or firefighter,
 800 who enters employment on or after the date when the local

801 government certifies that the defined benefit retirement plan or
 802 system formerly available to such an employee has been closed
 803 may not enroll in a defined benefit retirement plan or system
 804 that will receive surtax proceeds.

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

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

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

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

823 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
 824 local government discretionary sales surtax under this section
 825 shall be held only at a general election, as defined in s.

826 97.021, and requires the approval of 60 percent of the voters
 827 voting on the ballot question for passage of the question.

828 Section 9. Part IX of chapter 218, Florida Statutes,
 829 consisting of sections 218.90, 218.901, 218.905, 218.91, and
 830 218.92, is created to read:

831 PART IX

832 LOCAL GOVERNMENT FISCAL RESPONSIBILITY ACT

833 218.90 Short title.—This part may be cited as the "Local
 834 Government Fiscal Responsibility Act."

835 218.901 Purpose.—The purpose of this part is to promote
 836 the fiscal responsibility of local governments in using public
 837 funds by providing additional conditions under which local
 838 governments may increase taxes, enact new taxes, extend expiring
 839 taxes, or issue new tax-supported debt.

840 218.905 Definitions.—As used in this part, the following
 841 words or terms shall have the following meanings:

842 (1) "Debt" means bonds, loans, promissory notes, lease-
 843 purchase agreements, certificates of participation, installment
 844 sales, leases, or any other financing mechanism or financial
 845 arrangement, whether or not a debt for legal purposes, for
 846 financing or refinancing the acquisition, construction,
 847 improvement, or purchase of capital outlay projects.

848 (2) "Tax-supported debt" means debt secured in whole or in
 849 part by state or local tax levies, whether such security is
 850 direct or indirect, explicit or implicit, including, but not

851 limited to, debt for which annual appropriations pledged for
 852 payment are from government fund types receiving tax revenues or
 853 shared revenues from state tax sources. The term does not
 854 include debt that is secured solely by the revenues generated by
 855 the project that is financed with the debt.

856 218.91 Local Option Tax Limitation.-

857 (1) Notwithstanding any other provision of law, a
 858 municipality or county that has levied a millage in any of the
 859 previous 3 years, other than a millage as authorized in
 860 subsection (2), in excess of the rolled-back rate, as defined in
 861 s. 200.065(1), may not enact, extend, or increase any tax
 862 otherwise authorized under:

863 (a) Section 125.0104, relating to local option tourist
 864 development taxes;

865 (b) Section 125.0108, relating to tourist impact tax;

866 (c) Sections 125.0167 and 201.031, relating to
 867 discretionary surtaxes on documents;

868 (d) Sections 166.231-235, relating to public service
 869 taxes;

870 (e) Section 166.271, relating to municipal parking
 871 facility space surcharges;

872 (f) Section 202.19, relating to communications services
 873 taxes;

874 (g) Chapter 205, relating to local business taxes;

875 (h) Chapter 206, relating to motor fuel and diesel fuel

876 taxes;
 877 (i) Section 212.0305, relating to convention development
 878 taxes;
 879 (j) Section 212.0306, relating to local option food and
 880 beverage taxes; and
 881 (k) Section 212.055, relating to local option sales taxes.
 882 (2) This section does not apply to any millage approved by
 883 a vote of the electors pursuant to s. 9(b), Art. VII or s. 12,
 884 Art. VII of the State Constitution.
 885 218.92 Voter approval of tax-supported debt.—
 886 (1) Notwithstanding any other provision of law, a county,
 887 municipality, dependent special district, municipal service
 888 taxing unit, independent special district, or school district
 889 must receive voter approval, by referendum, of 60 percent of the
 890 voters voting on the ballot question for passage, for the
 891 issuance of any new tax-supported debt with a term of more than
 892 5 years.
 893 (2) Except as provided in subsection (3), a referendum
 894 under this section shall be held only at a general election, as
 895 defined in s. 97.021.
 896 (3) In order to provide funding related to an emergency as
 897 defined in s. 252.34, the governing board of a county,
 898 municipality, dependent special district, municipal service
 899 taxing unit, independent special district, or school district
 900 may seek voter approval pursuant to subsection (1) at an

901 election other than a general election by adopting a resolution
 902 by a four-fifths vote of the membership of such board that:

903 (a) Declares that such an emergency exists;

904 (b) Declares that issuance of new tax-supported debt prior
 905 to the next general election is necessary as a direct result of
 906 the emergency;

907 (c) Sets forth a plan for the use of the tax-supported
 908 debt proceeds. The proceeds of new tax-supported debt issued
 909 pursuant to this subsection may only be used for purposes
 910 directly related to or as a consequence of the emergency.

911 (4) This section does not apply to the refinancing or
 912 refunding of debt that does not extend the term or increase the
 913 outstanding principle amount of the original debt.

914 Section 10. Paragraph (a) of subsection (4) of section
 915 336.021, Florida Statutes, is amended to read:

916 336.021 County transportation system; levy of ninth-cent
 917 fuel tax on motor fuel and diesel fuel.-

918 (4) (a) 1. A certified copy of the ordinance proposing to
 919 levy the tax pursuant to referendum shall be furnished by the
 920 county to the department within 10 days after approval of such
 921 ordinance.

922 2. The referendum shall be held only at a general election,
 923 as defined in s. 97.021, and requires the approval of 60 percent
 924 of the voters voting on the ballot question for passage of the
 925 question.

926 3. ~~Furthermore,~~ The county levying the tax pursuant to
 927 referendum shall notify the department within 10 days after the
 928 passage of the referendum of such passage and of the time period
 929 during which the tax will be levied. The failure to furnish the
 930 certified copy will not invalidate the passage of the ordinance.

931 Section 11. Paragraph (b) of subsection (1) and paragraph
 932 (b) of subsection (3) of section 336.025, Florida Statutes, are
 933 amended to read:

934 336.025 County transportation system; levy of local option
 935 fuel tax on motor fuel and diesel fuel.-

936 (1)

937 (b) In addition to other taxes allowed by law, there may
 938 be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-
 939 cent, 4-cent, or 5-cent local option fuel tax upon every gallon
 940 of motor fuel sold in a county and taxed under the provisions of
 941 part I of chapter 206. The tax shall be levied by an ordinance
 942 adopted by a majority plus one vote of the membership of the
 943 governing body of the county or by referendum. A referendum
 944 under this subsection shall be held only at a general election,
 945 as defined in s. 97.021, and requires the approval of 60 percent
 946 of the voters voting on the ballot question for passage of the
 947 question.

948 1. All impositions and rate changes of the tax shall be
 949 levied before October 1, to be effective January 1 of the
 950 following year. However, levies of the tax which were in effect

951 on July 1, 2002, and which expire on August 31 of any year may
 952 be reimposed at the current authorized rate effective September
 953 1 of the year of expiration.

954 2. The county may, prior to levy of the tax, establish by
 955 interlocal agreement with one or more municipalities located
 956 therein, representing a majority of the population of the
 957 incorporated area within the county, a distribution formula for
 958 dividing the entire proceeds of the tax among county government
 959 and all eligible municipalities within the county. If no
 960 interlocal agreement is adopted before the effective date of the
 961 tax, tax revenues shall be distributed pursuant to the
 962 provisions of subsection (4). If no interlocal agreement exists,
 963 a new interlocal agreement may be established prior to June 1 of
 964 any year pursuant to this subparagraph. However, any interlocal
 965 agreement agreed to under this subparagraph after the initial
 966 levy of the tax or change in the tax rate authorized in this
 967 section shall under no circumstances materially or adversely
 968 affect the rights of holders of outstanding bonds which are
 969 backed by taxes authorized by this paragraph, and the amounts
 970 distributed to the county government and each municipality shall
 971 not be reduced below the amount necessary for the payment of
 972 principal and interest and reserves for principal and interest
 973 as required under the covenants of any bond resolution
 974 outstanding on the date of establishment of the new interlocal
 975 agreement.

976 3. County and municipal governments shall use moneys
 977 received pursuant to this paragraph for transportation
 978 expenditures needed to meet the requirements of the capital
 979 improvements element of an adopted comprehensive plan or for
 980 expenditures needed to meet immediate local transportation
 981 problems and for other transportation-related expenditures that
 982 are critical for building comprehensive roadway networks by
 983 local governments. For purposes of this paragraph, expenditures
 984 for the construction of new roads, the reconstruction or
 985 resurfacing of existing paved roads, or the paving of existing
 986 graded roads shall be deemed to increase capacity and such
 987 projects shall be included in the capital improvements element
 988 of an adopted comprehensive plan. Expenditures for purposes of
 989 this paragraph shall not include routine maintenance of roads.

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

992 (b) If no interlocal agreement or resolution is adopted
 993 pursuant to subparagraph (a)1. or subparagraph (a)2.,
 994 municipalities representing more than 50 percent of the county
 995 population may, prior to June 20, adopt uniform resolutions
 996 approving the local option tax, establishing the duration of the
 997 levy and the rate authorized in paragraph (1)(a), and setting
 998 the date for a countywide referendum on whether to levy the tax
 999 provided that the county shall bear the costs thereof. A
 1000 referendum under this subsection shall be held only at a general

1001 election, as defined in s. 97.021, and requires the approval of
 1002 60 percent of the voters voting on the ballot question for
 1003 passage of the question. ~~shall be held in accordance with the~~
 1004 ~~provisions of such resolution and applicable state law, provided~~
 1005 ~~that the county shall bear the costs thereof.~~ The tax shall be
 1006 levied and collected countywide on January 1 following 30 days
 1007 after voter approval.

1008 Section 12. Subsections (1), (2), and (3) of section
 1009 1011.73, Florida Statutes, are amended to read:

1010 1011.73 District millage elections.—

1011 (1) MILLAGE AUTHORIZED NOT TO EXCEED 2 YEARS.—The district
 1012 school board, pursuant to resolution adopted at a regular
 1013 meeting, shall direct the county commissioners to call an
 1014 election at which the electors within the school districts may
 1015 approve an ad valorem tax millage as authorized in s. 9, Art.
 1016 VII of the State Constitution. ~~Such election may be held at any~~
 1017 ~~time, except that not more than one such election shall be held~~
 1018 ~~during any 12-month period.~~ Any millage so authorized shall be
 1019 levied for a period not in excess of 2 years or until changed by
 1020 another millage election, whichever is the earlier. In the event
 1021 any such election is invalidated by a court of competent
 1022 jurisdiction, such invalidated election shall be considered not
 1023 to have been held.

1024 (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.—The district
 1025 school board, pursuant to resolution adopted at a regular

1026 meeting, shall direct the county commissioners to call an
 1027 election at which the electors within the school district may
 1028 approve an ad valorem tax millage as authorized under s.
 1029 1011.71(9). ~~Such election may be held at any time, except that~~
 1030 ~~not more than one such election shall be held during any 12-~~
 1031 ~~month period.~~ Any millage so authorized shall be levied for a
 1032 period not in excess of 4 years or until changed by another
 1033 millage election, whichever is earlier. If any such election is
 1034 invalidated by a court of competent jurisdiction, such
 1035 invalidated election shall be considered not to have been held.

1036 (3) HOLDING ELECTIONS.—All school district millage
 1037 elections shall be held and conducted in the manner prescribed
 1038 by law for holding general elections, except as provided in this
 1039 chapter. A referendum under this part shall be held only at a
 1040 general election, as defined in s. 97.021, and requires the
 1041 approval of 60 percent of the voters voting on the ballot
 1042 question for passage of the question.

1043 Section 13. This act shall take effect October 1, 2018.

