

Ways and Means Committee

Tuesday, December 5, 2017

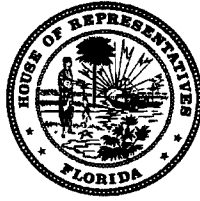
4:00 p.m. – 5:00 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Ways and Means Committee



Richard Corcoran
Speaker

Paul Renner
Chair

AGENDA

December 5, 2017
4:00 p.m. – 5:00 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. Consideration of the following bills:

CS/HB 317 Local Tax Referenda by Local, Federal & Veterans Affairs Subcommittee, Ingoglia
HB 359 State Investments by Nuñez, Diaz, M.

- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 317 Local Tax Referenda
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Ingoglia
TIED BILLS: IDEN./SIM. BILLS: SB 272

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Local, Federal & Veterans Affairs Subcommittee, 12 Y, 2 N, As CS, Darden, Miller. Row 2: 2) Ways & Means Committee, Dugan, Langston. Row 3: 3) Government Accountability Committee.

SUMMARY ANALYSIS

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. Section 212.055, F.S., provides counties limited authority to levy discretionary sales surtaxes for specific purposes on transactions subject to state sales tax. With some exceptions, discretionary sales surtaxes generally are subject to approval by a majority of the qualified electors in a referendum.

Fifty-six counties and 19 school districts across the state levy at least one local discretionary sales surtax. These surtaxes will generate an estimated \$2.3 billion in revenue during fiscal year 2017-18.

The bill requires any referendum to levy a discretionary sales surtax must be held during either a primary or a general election. Any such referendum held during a primary election must be approved by at least 60 percent of electors voting on the ballot question. A referendum held during a general election may be approved by only a majority of electors voting on the question.

The Revenue Estimating Conference determined the bill has no fiscal impact. See Fiscal Analysis Section.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Discretionary Sales Surtax

The Florida Constitution preempts all forms of taxation, except ad valorem taxes on real and tangible personal property, to the state unless otherwise provided by general law.¹ By statute, counties have limited authority to levy a discretionary sales surtax for specific purposes on transactions subject to state sales tax.² These purposes include:

- Operating a transportation system in a charter county;³
- Financing local government infrastructure projects;⁴
- Providing additional revenue for counties having less than 50,000 residents as of April 1, 1992;⁵
- Providing medical care for indigent persons;⁶
- Funding trauma centers;⁷
- Operating, maintaining, and administering a county public general hospital;⁸
- Constructing and renovating schools;⁹
- Providing emergency fire rescue services and facilities; and¹⁰
- Funding pension liability shortfalls.¹¹

The surtax is collected by the Department of Revenue (DOR) using the same procedures utilized for the administration, collection, and enforcement of the general state sales tax.¹² DOR places these funds into the Discretionary Sales Surtax Clearing Trust Fund. A separate account is established for each county imposing a discretionary surtax. The proceeds of the surtax are distributed to the county on a monthly basis, minus an administrative fee of 3 percent or administrative costs solely and directly attributable to the surtax, whichever is less. Each county is liable for administrative costs equal to its prorated share of discretionary sales surtax revenue to the amount collected statewide.¹³

New surtaxes and rate changes to existing surtaxes take effect on January 1, while the repeal of an existing surtax takes effect on December 31.¹⁴ The governing body of the county or the school district must notify DOR of the imposition, termination, or rate change of a discretionary sales surtax within 10 days of final adoption by ordinance or referendum, but no later than November 16. The notification must include the duration of the surtax, the surtax rate, a copy of the ordinance, and any additional information DOR requires by rule.¹⁵ If the county or school district fails to provide timely notice, the effective date of the change is delayed by one year.¹⁶ Counties and school districts are also required to

¹ Article VII, s. 1(a), Fla. Const.

² Section 212.054, F.S.; s. 212.055, F.S.

³ Section 212.055(1), F.S.

⁴ Section 212.055(2), F.S.

⁵ Section 212.055(3), F.S.; 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.

⁶ Section 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents).

⁷ Section 212.055(4)(b), F.S.

⁸ Section 212.055(5), F.S.

⁹ Section 212.055(6), F.S.

¹⁰ Section 212.055(8), F.S.

¹¹ Section 212.055(9), F.S.

¹² Section 212.054(4)(a), F.S.

¹³ Section 212.054(4)(b), F.S.

¹⁴ Section 212.054(5), F.S.

¹⁵ Section 212.054(7)(a), F.S.

¹⁶ Section 212.054(7)(a), F.S.

notify DOR if a referendum or consideration of an ordinance to impose, terminate, or change the rate of a surtax is to occur after October 1.¹⁷

The 56 counties and 19 school districts levying one or more discretionary sales surtaxes are projected to realize \$2.3 billion in revenue in fiscal year 2017-18.¹⁸ If all counties and school districts levied discretionary sales surtaxes at the maximum possible rate, they would be projected to raise \$11.68 billion in revenue in fiscal year 2016-17.¹⁹

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by an extraordinary vote of the county commission.²⁰ For those requiring voter approval, the referendum must be approved by a majority of electors voting.²¹ Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.²²

Referendum Process

The Florida Election Code states the general requirements for a referendum.²³ 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.²⁴ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.²⁵ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.²⁶ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.²⁷

Five types of elections exist under the Florida Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.²⁸ A “general election” is defined as an election 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.²⁹ A “primary election” is defined as an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office.³⁰ Historically, voter turnout during general elections is higher than during primary elections.³¹

Proposed Changes

The bill provides that any referendum to adopt or amend a discretionary sales surtax must be approved during either a primary or general election. If the referendum is held at a primary election, at least 60

¹⁷ Section 212.054(7)(b), F.S. The deadline for this notification is October 1.

¹⁸ *2017 Florida Tax Handbook*, Office of Economic and Demographic Research, p. 220; DOR Discretionary Sales Surtax Information for Calendar Year 2017, available at: http://floridarevenue.com/Forms_library/current/dr15dssyear2017.pdf (last viewed Oct. 23, 2017).

¹⁹ *2016 Local Government Financial Information Handbook*, Office of Economic and Demographic Research, p. 150.

²⁰ See generally s. 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).

²¹ Section 212.055, F.S.

²² 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”).

²³ Section 101.161, F.S.

²⁴ Section 101.161(1), F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ See s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

²⁸ Section 97.021(12), F.S.

²⁹ Article VI, s. 5(a), Fla. Const. (also codified as s. 97.021(16), F.S.)

³⁰ Section s. 97.021(29), F.S.

³¹ Department of State, Division of Elections, Data and Statistics, Election Data, Voter Turnout, available at: <http://dos.myflorida.com/elections/data-statistics/elections-data/voter-turnout/> (last viewed November 13, 2017).

percent of the electors voting must approve of the measure. A referendum on a discretionary sales surtax held during a general election must be approved by a majority of the electors voting. The bill defines the terms "primary election" and "general election" to have the same meaning as defined in s. 97.021, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055, F.S., establishing thresholds for local government discretionary sales surtax referenda.

Section 2: Provides an effective date of July 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:

On December 1, 2017, the Revenue Estimating Conference determined the bill has no revenue impact. The bill does not directly impact current baseline revenue forecasts because they are based on current law and current administration and do not contain assumptions regarding future discretionary sales surtax enactments. However, future revenue impacts from proposed adoptions of or amendments to discretionary sales surtaxes that could pass under current statutory authority may not occur because of the existence of the changes proposed by the bill.

2. Expenditures:

By requiring any discretionary sales surtax referendum to occur on the day of the general or primary election, this bill reduces local government expenditures to the extent local governments would otherwise expend funds to call a special election for approval of a discretionary sales surtax.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b) of article VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate.

It is unclear whether increasing the required percentage for voter approval to adopt a discretionary sales surtax resulting from this bill represents a reduction in revenue raising authority as contemplated by subsection 18(b). If the purpose of subsection 18(b) is to determine whether the amount of potential revenue available to counties and municipalities was reduced, then this bill does not reduce that potential and the requirement for a two-thirds vote is not applicable. However, if the purpose of subsection 18(b) is to look at the methods for adopting a discretionary sales surtax, then the provisions of this bill requiring a supermajority vote to approve a discretionary sales surtax which currently may be adopted by a majority vote, may be considered a mandate requiring a two-thirds vote of the Legislature, even though a surtax may continue to be approved by simple majority vote, if approved at a general election.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 8, 2017, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed a provision requiring the governing body of a municipality to approve any ad valorem tax increase by at least 60 percent of the members voting. The amendment also requires discretionary sales surtax referenda to be held during either a primary or general election. The amendment requires approval by at least 60 percent of the electors voting if the referendum is held during a primary election.

This analysis is drafted to the committee substitute as passed by the Local, Federal & Veterans Affairs Subcommittee.

CS/HB 317

2018

1 A bill to be entitled
2 An act relating to local tax referenda; amending s.
3 212.055, F.S.; requiring local government
4 discretionary sales surtax referenda to be held on
5 specified dates; requiring such referenda to be
6 approved by a specified percentage of voters for
7 passage; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraphs (a) and (c) of subsection (1),
12 paragraph (a) of subsection (2), paragraph (a) of subsection
13 (3), subsections (4) and (5), paragraph (a) of subsection (6),
14 paragraph (a) of subsection (7), paragraph (b) of subsection
15 (8), and paragraph (a) of subsection (9) of section 212.055,
16 Florida Statutes, are amended, and subsection (10) is added to
17 that section, to read:

18 212.055 Discretionary sales surtaxes; legislative intent;
19 authorization and use of proceeds.—It is the legislative intent
20 that any authorization for imposition of a discretionary sales
21 surtax shall be published in the Florida Statutes as a
22 subsection of this section, irrespective of the duration of the
23 levy. Each enactment shall specify the types of counties
24 authorized to levy; the rate or rates which may be imposed; the
25 maximum length of time the surtax may be imposed, if any; the

26 procedure which must be followed to secure voter approval, if
 27 required; the purpose for which the proceeds may be expended;
 28 and such other requirements as the Legislature may provide.
 29 Taxable transactions and administrative procedures shall be as
 30 provided in s. 212.054.

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

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

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

48 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

49 (a)1. The governing authority in each county may levy a
 50 discretionary sales surtax of 0.5 percent or 1 percent. The levy

51 of the surtax shall be pursuant to an ordinance enacted by a
 52 majority of the members of the county governing authority and
 53 approved by ~~a majority of~~ the electors of the county, as set
 54 forth in subsection (10), voting in a referendum on the surtax.
 55 If the governing bodies of the municipalities representing a
 56 majority of the county's population adopt uniform resolutions
 57 establishing the rate of the surtax and calling for a referendum
 58 on the surtax, the levy of the surtax shall be placed on the
 59 ballot and shall take effect if approved by ~~a majority of~~ the
 60 electors of the county, as set forth in subsection (10), voting
 61 in the referendum on the surtax.

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

69 (3) SMALL COUNTY SURTAX.—

70 (a) The governing authority in each county that has a
 71 population of 50,000 or less on April 1, 1992, may levy a
 72 discretionary sales surtax of 0.5 percent or 1 percent. The levy
 73 of the surtax shall be pursuant to an ordinance enacted by an
 74 extraordinary vote of the members of the county governing
 75 authority if the surtax revenues are expended for operating

76 purposes. If the surtax revenues are expended for the purpose of
 77 servicing bond indebtedness, the surtax shall be approved by a
 78 ~~majority of~~ the electors of the county, as set forth in
 79 subsection (10), voting in a referendum on the surtax.

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

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

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

97
 98 FOR THE. . . .CENTS TAX
 99 AGAINST THE. . . .CENTS TAX

100

101 3. The ordinance adopted by the governing body providing
102 for the imposition of the surtax shall set forth a plan for
103 providing health care services to qualified residents, as
104 defined in subparagraph 4. Such plan and subsequent amendments
105 to it shall fund a broad range of health care services for both
106 indigent persons and the medically poor, including, but not
107 limited to, primary care and preventive care as well as hospital
108 care. The plan must also address the services to be provided by
109 the Level I trauma center. It shall emphasize a continuity of
110 care in the most cost-effective setting, taking into
111 consideration both a high quality of care and geographic access.
112 Where consistent with these objectives, it shall include,
113 without limitation, services rendered by physicians, clinics,
114 community hospitals, mental health centers, and alternative
115 delivery sites, as well as at least one regional referral
116 hospital where appropriate. It shall provide that agreements
117 negotiated between the county and providers, including hospitals
118 with a Level I trauma center, will include reimbursement
119 methodologies that take into account the cost of services
120 rendered to eligible patients, recognize hospitals that render a
121 disproportionate share of indigent care, provide other
122 incentives to promote the delivery of charity care, promote the
123 advancement of technology in medical services, recognize the
124 level of responsiveness to medical needs in trauma cases, and
125 require cost containment, including, but not limited to, case

126 management. It must also provide that any hospitals that are
 127 owned and operated by government entities on May 21, 1991, must,
 128 as a condition of receiving funds under this subsection, afford
 129 public access equal to that provided under s. 286.011 as to
 130 meetings of the governing board, the subject of which is
 131 budgeting resources for the rendition of charity care as that
 132 term is defined in the Florida Hospital Uniform Reporting System
 133 (FHURS) manual referenced in s. 408.07. The plan shall also
 134 include innovative health care programs that provide cost-
 135 effective alternatives to traditional methods of service
 136 delivery and funding.

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

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

141 b. Certified by the authorizing county as meeting the
 142 definition of the medically poor, defined as persons having
 143 insufficient income, resources, and assets to provide the needed
 144 medical care without using resources required to meet basic
 145 needs for shelter, food, clothing, and personal expenses; or not
 146 being eligible for any other state or federal program, or having
 147 medical needs that are not covered by any such program; or
 148 having insufficient third-party insurance coverage. In all
 149 cases, the authorizing county is intended to serve as the payor
 150 of last resort; or

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

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

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

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

162 c. Disburse the funds, including any interest earned, to
 163 any provider of health care services, as provided in
 164 subparagraphs 3. and 4., upon directive from the authorizing
 165 county. However, if a county has a population of at least
 166 800,000 residents and has levied the surtax authorized in this
 167 paragraph, notwithstanding any directive from the authorizing
 168 county, on October 1 of each calendar year, the clerk of the
 169 court shall issue a check in the amount of \$6.5 million to a
 170 hospital in its jurisdiction that has a Level I trauma center or
 171 shall issue a check in the amount of \$3.5 million to a hospital
 172 in its jurisdiction that has a Level I trauma center if that
 173 county enacts and implements a hospital lien law in accordance
 174 with chapter 98-499, Laws of Florida. The issuance of the checks
 175 on October 1 of each year is provided in recognition of the

176 Level I trauma center status and shall be in addition to the
 177 base contract amount received during fiscal year 1999-2000 and
 178 any additional amount negotiated to the base contract. If the
 179 hospital receiving funds for its Level I trauma center status
 180 requests such funds to be used to generate federal matching
 181 funds under Medicaid, the clerk of the court shall instead issue
 182 a check to the Agency for Health Care Administration to
 183 accomplish that purpose to the extent that it is allowed through
 184 the General Appropriations Act; and

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

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

193 (b) Notwithstanding any other provision of this section,
 194 the governing body in each county the government of which is not
 195 consolidated with that of one or more municipalities and which
 196 has a population of less than 800,000 residents, may levy, by
 197 ordinance subject to approval by ~~a majority of~~ the electors of
 198 the county, as set forth in subsection (10), voting in a
 199 referendum, a discretionary sales surtax at a rate that may not
 200 exceed 0.25 percent for the sole purpose of funding trauma

201 services provided by a trauma center licensed pursuant to
 202 chapter 395.

203 1. A statement that includes a brief and general
 204 description of the purposes to be funded by the surtax and that
 205 conforms to the requirements of s. 101.161 shall be placed on
 206 the ballot by the governing body of the county. The following
 207 shall be placed on the ballot:

208
 209 FOR THE. . . .CENTS TAX
 210 AGAINST THE. . . .CENTS TAX
 211

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

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

- 222 a. Maintain the moneys in a trauma services trust fund.
- 223 b. Invest any funds held on deposit in the trust fund
- 224 pursuant to general law.
- 225 c. Disburse the funds, including any interest earned on

226 such funds, to the trauma center in its trauma service area, as
 227 provided in the plan set forth pursuant to subparagraph 2., upon
 228 directive from the authorizing county. If the trauma center
 229 receiving funds requests such funds be used to generate federal
 230 matching funds under Medicaid, the custodian of the funds shall
 231 instead issue a check to the Agency for Health Care
 232 Administration to accomplish that purpose to the extent that the
 233 agency is allowed through the General Appropriations Act.

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

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

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

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

251 electors of the county, as set forth in subsection (10), voting
 252 in a referendum. In a county as defined in s. 125.011(1), for
 253 the purposes of this subsection, "county public general
 254 hospital" means a general hospital as defined in s. 395.002
 255 which is owned, operated, maintained, or governed by the county
 256 or its agency, authority, or public health trust.

257 (a) The rate shall be 0.5 percent.

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

265 (c) Proceeds from the surtax shall be:

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

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

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

276 budget appropriated for the operation, administration, and
 277 maintenance of the county public general hospital from the
 278 county's general revenues in the fiscal year of the county
 279 ending September 30, 1991:

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

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

292 (e) A governing board, agency, or authority shall be
 293 chartered by the county commission upon this act becoming law.
 294 The governing board, agency, or authority shall adopt and
 295 implement a health care plan for indigent health care services.
 296 The governing board, agency, or authority shall consist of no
 297 more than seven and no fewer than five members appointed by the
 298 county commission. The members of the governing board, agency,
 299 or authority shall be at least 18 years of age and residents of
 300 the county. No member may be employed by or affiliated with a

301 health care provider or the public health trust, agency, or
 302 authority responsible for the county public general hospital.
 303 The following community organizations shall each appoint a
 304 representative to a nominating committee: the South Florida
 305 Hospital and Healthcare Association, the Miami-Dade County
 306 Public Health Trust, the Dade County Medical Association, the
 307 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 308 County. This committee shall nominate between 10 and 14 county
 309 citizens for the governing board, agency, or authority. The
 310 slate shall be presented to the county commission and the county
 311 commission shall confirm the top five to seven nominees,
 312 depending on the size of the governing board. Until such time as
 313 the governing board, agency, or authority is created, the funds
 314 provided for in subparagraph (d)2. shall be placed in a
 315 restricted account set aside from other county funds and not
 316 disbursed by the county for any other purpose.

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

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

326 hospital emergency room care, and hospital care necessary to
 327 stabilize the patient. For the purposes of this section,
 328 "stabilization" means stabilization as defined in s.
 329 397.311(45). Where consistent with these objectives, the plan
 330 may include services rendered by physicians, clinics, community
 331 hospitals, and alternative delivery sites, as well as at least
 332 one regional referral hospital per service area. The plan shall
 333 provide that agreements negotiated between the governing board,
 334 agency, or authority and providers shall recognize hospitals
 335 that render a disproportionate share of indigent care, provide
 336 other incentives to promote the delivery of charity care to draw
 337 down federal funds where appropriate, and require cost
 338 containment, including, but not limited to, case management.
 339 From the funds specified in subparagraphs (d)1. and 2. for
 340 indigent health care services, service providers shall receive
 341 reimbursement at a Medicaid rate to be determined by the
 342 governing board, agency, or authority created pursuant to this
 343 paragraph for the initial emergency room visit, and a per-member
 344 per-month fee or capitation for those members enrolled in their
 345 service area, as compensation for the services rendered
 346 following the initial emergency visit. Except for provisions of
 347 emergency services, upon determination of eligibility,
 348 enrollment shall be deemed to have occurred at the time services
 349 were rendered. The provisions for specific reimbursement of
 350 emergency services shall be repealed on July 1, 2001, unless

351 otherwise reenacted by the Legislature. The capitation amount or
352 rate shall be determined before program implementation by an
353 independent actuarial consultant. In no event shall such
354 reimbursement rates exceed the Medicaid rate. The plan must also
355 provide that any hospitals owned and operated by government
356 entities on or after the effective date of this act must, as a
357 condition of receiving funds under this subsection, afford
358 public access equal to that provided under s. 286.011 as to any
359 meeting of the governing board, agency, or authority the subject
360 of which is budgeting resources for the retention of charity
361 care, as that term is defined in the rules of the Agency for
362 Health Care Administration. The plan shall also include
363 innovative health care programs that provide cost-effective
364 alternatives to traditional methods of service and delivery
365 funding.

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

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

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

376 budget of the plan, delivery of services, and quality of
 377 services, and makes recommendations to increase the plan's
 378 efficiency. The audit shall take into account participant
 379 hospital satisfaction with the plan and assess the amount of
 380 poststabilization patient transfers requested, and accepted or
 381 denied, by the county public general hospital.

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

386 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

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

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

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

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

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

417 (9) PENSION LIABILITY SURTAX.—

418 (a) The governing body of a county may levy a pension
 419 liability surtax to fund an underfunded defined benefit
 420 retirement plan or system, pursuant to an ordinance conditioned
 421 to take effect upon approval by ~~a majority vote of~~ the electors
 422 of the county, as set forth in subsection (10), voting in a
 423 referendum, at a rate that may not exceed 0.5 percent. The
 424 county may not impose a pension liability surtax unless the
 425 underfunded defined benefit retirement plan or system is below

426 80 percent of actuarial funding at the time the ordinance or
 427 referendum is passed. The most recent actuarial report submitted
 428 to the Department of Management Services pursuant to s. 112.63
 429 must be used to establish the level of actuarial funding for
 430 purposes of determining eligibility to impose the surtax. The
 431 governing body of a county may only impose the surtax if:

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

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

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

450 4. The county currently levies a local government

451 | infrastructure surtax pursuant to subsection (2) which is
 452 | scheduled to terminate and is not subject to renewal.

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

456 | (10) DATES FOR REFERENDA.—A referendum to adopt or amend a
 457 | local government discretionary sales surtax under this section
 458 | shall be held:


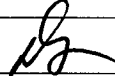
459 | (a) At a primary election, as defined in s. 97.021, and
 460 | requires the approval of 60 percent of the qualified electors
 461 | voting on the ballot question for passage; or

462 | (b) At a general election, as defined in s. 97.021, and
 463 | requires the approval of a majority of the qualified electors
 464 | voting on the ballot question for passage.

465 | Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 359 State Investments
SPONSOR(S): Nuñez, Diaz, and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 70, SB 538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	10 Y, 0 N	Moore	Harrington
2) Ways & Means Committee		Aldridge 	Langston 
3) Government Accountability Committee			

SUMMARY ANALYSIS

The State Board of Administration (SBA) is established by Art. IV, s. 4(e) of the State Constitution and is composed of the Governor, the Chief Financial Officer (CFO), and the Attorney General. The SBA has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan investments and the FRS Investment Plan, which represent approximately \$168.8 billion, or 86.3 percent, of the \$195.7 billion in assets managed by the SBA as of October 26, 2017.

The CFO is the head of the Department of Financial Services and is the constitutional officer with fiduciary responsibility over the State Treasury. The CFO is required to fully invest or deposit all general revenue, trust funds, and funds of each state agency and the judicial branch in a manner that allows the state to realize maximum earnings and benefits. Such funds are managed by the Division of Treasury and are invested as the Treasury Investment Pool. As of September 2017, the Treasury Investment Pool contained \$23.4 billion in assets.

In recent years, the federal government has imposed various sanctions on the government of Venezuela. On August 24, 2017, President Trump signed Executive Order 13808 to prohibit United States persons and entities from engaging in certain financial transactions with the government of Venezuela.

The bill requires the SBA to divest any investment in stocks, securities, or other obligations of any institution or company domiciled in the U.S., or foreign subsidiary of a company domiciled in the U.S., doing business in or with the government of Venezuela, or with any agency or instrumentality thereof, in violation of federal law. The bill also prohibits the SBA from investing in such stocks, securities, or other obligations.

The bill prohibits a state agency from investing in any financial institution or company domiciled in the U.S., or foreign subsidiary of a company domiciled in the U.S. which, directly or through the U.S. foreign subsidiary, extends credit of any kind or character, advances funds in any manner, or purchases or trades any goods or services with the government of Venezuela, or any company doing business in or with the government of Venezuela, in violation of federal law.

The bill defines the term "government of Venezuela" to mean the government of Venezuela, its agencies or instrumentalities, or any company that is majority-owned or controlled by the government of Venezuela.

The Revenue Estimating Conference has not evaluated the bill for potential revenue impacts. However, the bill does not appear to impact state or local government revenues. The bill may have an insignificant negative impact on state government expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Board of Administration

The State Board of Administration (SBA) is established by Art. IV, s. 4(e) of the State Constitution and is composed of the Governor, the Chief Financial Officer (CFO), and the Attorney General. The board members are commonly referred to as "Trustees." The SBA derives its powers to oversee state funds from Art. XII, s. 9 of the Constitution.

The SBA has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan investments and the FRS Investment Plan,¹ which represent approximately \$168.8 billion, or 86.3 percent, of the \$195.7 billion in assets managed by the SBA as of October 26, 2017.² The SBA also manages more than 30 other investment portfolios with combined assets of \$26.9 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Pre-Paid College Plan, and various debt-service accounts for state bond issues.³

The Trustees, at the August 16, 2017, Cabinet meeting, passed a resolution to add the following language to the SBA's Investment Policy Statement for the FRS:

1. Prohibited Investments. Until such as time as the SBA determines it is otherwise prudent to do so, the SBA is prohibited from investing in:
 - a. any financial institution or company domiciled in the United States, or foreign subsidiary of a company domiciled in the United States, which directly or through a United States or foreign subsidiary and in violation of federal law, makes any loan, extends credit of any kind or character, advances funds in any manner, or purchases or trades any goods or services in or with the government of Venezuela; and
 - b. any securities issued by the government of Venezuela or any company that is majority-owned by the government of Venezuela.
2. Proxy Voting. The SBA will not vote in favor of any proxy resolution advocating the support of the Maduro Regime in Venezuela.⁴

The SBA's Investment Advisory Council formally recommended that the language be added to the FRS Investment Policy Statement at its meeting on September 25, 2017. The Trustees accepted the updated Investment Policy Statement at their October 17, 2017, meeting.

State Treasury

The CFO is the head of the Department of Financial Services (DFS) and is the constitutional officer with fiduciary responsibility over the State Treasury. Florida law requires all moneys collected by state agencies, boards, bureaus, commissions, institutions, and departments to be deposited in the State Treasury.⁵ The CFO is required to fully invest or deposit all general revenue, trust funds, and funds of each state agency and the judicial branch in a manner that allows the state to realize maximum earnings and benefits.⁶ Such funds are managed by the Division of Treasury and are invested as the

¹ Members in the FRS may elect to participate in the pension plan, which is a defined benefit plan, or the investment plan, which is a defined contribution plan.

² State Board of Administration, Agency Analysis of 2018 Senate Bill 538, p. 1 (Nov. 2, 2017). The provisions in Senate Bill 538 are substantively the same as the provisions in House Bill 359.

³ *Id.*

⁴ *Id.*

⁵ Section 17.58(1), F.S.

⁶ Sections 17.61(1) and 17.57(1), F.S.

Treasury Investment Pool. As of September 2017, the Treasury Investment Pool contained \$23.4 billion in assets.⁷

Divestment of Securities

Divestment of securities is one method of applying economic pressures to companies, groups, or countries whose practices are not condoned by shareholders. Divestment may be used in conjunction with or in lieu of other sanctioning methods, such as economic embargoes and diplomatic and military activities. Alternatively, divestment may be used as a protective device if a particular investment carries a high level of risk to the performance of a fund.

State Divestment Laws

The state has practiced divestment several times in modern history. From 1986 to 1993, the Legislature directed the SBA to divest of companies doing business with South Africa. From 1988 to 2015, the Legislature placed restrictions on investments in any institution or company doing business in or with Northern Ireland. From 1993 to the present, the Legislature required the SBA to divest of companies doing business in or with Cuba and prohibited state agencies from investing in companies engaging in certain business activities with Cuba. From 1997 until 2001, the SBA made a decision to divest of 16 tobacco stocks due to pending litigation involving the state and those companies. From 2007 to the present, the Legislature has directed the SBA to divest funds from companies that are actively seeking and providing certain business opportunities with Iran and Sudan.⁸

Federal Venezuela Sanctions

In recent years, the federal government has imposed various sanctions on the government of Venezuela. On August 24, 2017, President Trump signed Executive Order 13808 to prohibit U.S. persons and entities from engaging in transactions involving the following:

- New debt with a maturity of greater than 90 days of Petroleos de Venezuela, S.A. (PdVSA), Venezuela's state-owned oil company;
- New debt with a maturity of greater than 30 days, or new equity, of the government of Venezuela, other than debt of PdVSA as defined above;
- Bonds issued by the government of Venezuela prior to August 25, 2017;
- Dividend payments or other distributions of profits to the government of Venezuela from any entity owned or controlled, directly or indirectly, by the government of Venezuela; and
- The purchase, directly or indirectly, of securities from the government of Venezuela, other than security qualifying as new debt with a maturity of less than or equal to 90 days (for PdVSA) or 30 days (for the government of Venezuela).⁹

The executive order defined the term "government of Venezuela" to mean the government of Venezuela, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela and PdVSA, and any person or entity owned or controlled by, or acting for or on behalf of, the government of Venezuela.¹⁰

Effect of Proposed Changes

The bill requires the SBA to divest any investment in stocks, securities, or other obligations of any institution or company domiciled in the U.S., or foreign subsidiary of a company domiciled in the U.S., doing business in or with the government of Venezuela, or with any agency or instrumentality thereof, in violation of federal law. The bill also prohibits the SBA from investing in such stocks, securities, or other obligations. In addition, the bill provides that the SBA may not be a fiduciary with respect to voting on, and may not have the right to vote in favor of, any proxy resolution advocating expanded U.S. trade with Venezuela.

⁷ Division of Treasury, *Florida Treasury Investment Pool Holdings as of September 2017*, <https://www.myfloridacfo.com/Division/Treasury/InvestmentPool/documents/FLTreasuryInvHoldingsSeptember2017.pdf> (last visited Nov. 9, 2017).

⁸ See s. 215.473, F.S.

⁹ Exec. Order No. 13808, 3 C.F.R. 41155 (2017).

¹⁰ *Id.* at 41156.

The bill also prohibits a state agency from investing in any financial institution or company domiciled in the U.S., or foreign subsidiary of a company domiciled in the U.S. which, directly or through the U.S. foreign subsidiary, extends credit of any kind or character, advances funds in any manner, or purchases or trades any goods or services with the government of Venezuela, or any company doing business in or with the government of Venezuela, in violation of federal law.

The bill defines the term “government of Venezuela” to mean the government of Venezuela, its agencies or instrumentalities, or any company that is majority-owned or controlled by the government of Venezuela.

The bill authorizes the Governor to waive the bill’s requirements if the existing regime in Venezuela collapses and there is a need for immediate aid to Venezuela before the convening of the Legislature or for other humanitarian reasons as determined by the Governor.

According to the SBA and DFS, the agencies do not currently invest in any companies that are in violation of federal law as specified in the bill.¹¹

B. SECTION DIRECTORY:

Section 1. Amends s. 215.471, F.S., relating to divestiture by the SBA; reporting requirements.

Section 2. Amends s. 215.472, F.S., relating to prohibited investments.

Section 3. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not evaluated the bill for potential revenue impacts. However, the bill does not appear to impact state government revenues.

2. Expenditures:

The bill may have an insignificant negative fiscal impact on the SBA related to conducting research. These costs, however, will be absorbed by the SBA.¹²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not evaluated the bill for potential revenue impacts. However, the bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹¹ Telephone conversation between House Oversight, Transparency & Administration Subcommittee and SBA staff (Nov. 6, 2017); Telephone conversation between House Oversight, Transparency & Administration Subcommittee and DFS staff (Nov. 9, 2017).

¹² State Board of Administration, Agency Analysis of 2018 Senate Bill 538, p. 3 (Nov. 2, 2017). The provisions in Senate Bill 538 are substantively the same as the provisions in House Bill 359.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The United States Constitution grants the federal government various powers related to foreign affairs, such as the power to declare war,¹³ maintain a military,¹⁴ enter into treaties and other international agreements,¹⁵ regulate foreign commerce,¹⁶ and to hear cases involving foreign states and citizens.¹⁷ These grants of power have been interpreted to grant the federal government the exclusive power to act in the area of foreign affairs.¹⁸ When a state law operates in the field of foreign affairs without federal authorization, a reviewing court might find the state law to be invalid.¹⁹

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹³ Section 8, Art. I, U.S. Constitution.

¹⁴ *Id.*

¹⁵ Section 2, Art. II, U.S. Constitution.

¹⁶ Section 8, Art. I, U.S. Constitution.

¹⁷ Section 2, Art. III, U.S. Constitution.

¹⁸ *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941) (stating that the “Federal Government, representing as it does the collective interests of the forty-eight states, is entrusted with full and exclusive responsibility for the conduct of affairs with foreign sovereignties.”).

¹⁹ *Zschernig v. Miller*, 389 U.S. 429 (1968); *American Ins. Ass’n v. Garamendi*, 539 U.S. 396 (2003).

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A bill to be entitled
 An act relating to state investments; amending s.
 215.471, F.S.; requiring the State Board of
 Administration to divest specified investments and
 prohibiting it from investing in specified investments
 of institutions or companies doing business in or with
 the government of Venezuela or any of its agencies or
 instrumentalities in violation of federal law;
 defining the term "government of Venezuela";
 authorizing the Governor to waive the investment
 prohibitions if certain conditions exist; prohibiting
 the State Board of Administration from voting in favor
 of any proxy resolution advocating expanded United
 States trade with the government of Venezuela;
 amending s. 215.472, F.S.; prohibiting state agencies
 from investing in specified financial entities that
 extend credit, trade or buy goods or services with the
 government of Venezuela or investing in any company
 doing business with Venezuela in violation of federal
 law; defining the term "government of Venezuela";
 authorizing the Governor to waive the investment
 prohibitions under specific circumstances; providing
 an effective date.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

25 WHEREAS, the people of Venezuela believe the current
 26 government of Venezuela is intolerable because it has used and
 27 continues to use extreme violence and political persecution in
 28 the orchestrated suppression of human rights, and

29 WHEREAS, the Maduro regime continues to unjustly detain and
 30 prosecute political prisoners in spite of international calls
 31 for their freedom, and

32 WHEREAS, the State of Florida stands in unity with the
 33 people of Venezuela in their fight for democracy and freedom
 34 from the oppressive Maduro regime, and

35 WHEREAS, the United States deems the situation in Venezuela
 36 as an extraordinary threat to national security and foreign
 37 policy, and

38 WHEREAS, the United States Department of the Treasury's
 39 Office of Foreign Assets Control has issued sanctions against
 40 Venezuelan officials, including Nicolás Maduro who has been
 41 identified as a "Specially Designated National" and labeled a
 42 dictator, NOW, THEREFORE,

43

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

45

46 Section 1. Section 215.471, Florida Statutes, is amended
 47 to read:

48 215.471 Divestiture by the State Board of Administration;
 49 reporting requirements.—

50 (1) The State Board of Administration shall divest any
 51 investment under s. 121.151 and ss. 215.44-215.53, and is
 52 prohibited from investment in stocks, securities, or other
 53 obligations of:

54 (a) Any institution or company domiciled in the United
 55 States, or foreign subsidiary of a company domiciled in the
 56 United States, doing business in or with Cuba, or with agencies
 57 or instrumentalities thereof in violation of federal law.

58 (b) Any institution or company domiciled outside of the
 59 United States if the President of the United States has applied
 60 sanctions against the foreign country in which the institution
 61 or company is domiciled pursuant to s. 4 of the Cuban Democracy
 62 Act of 1992.

63 (c)1. Any institution or company domiciled in the United
 64 States, or foreign subsidiary of a company domiciled in the
 65 United States, doing business in or with the government of
 66 Venezuela, or with any agency or instrumentality thereof, in
 67 violation of federal law. The term "government of Venezuela"
 68 means the government of Venezuela, its agencies or
 69 instrumentalities, or any company that is majority-owned or
 70 controlled by the government of Venezuela.

71 2. The Governor may waive the requirements of this
 72 paragraph if the existing regime in Venezuela collapses and
 73 there is a need for immediate aid to Venezuela before the
 74 convening of the Legislature or for other humanitarian reasons

75 as determined by the Governor.

76 (2) The State Board of Administration may not be a
77 fiduciary under this section with respect to voting on, and may
78 not have the right to vote in favor of, any proxy resolution
79 advocating expanded United States trade with Cuba, ~~or~~ Syria, or
80 Venezuela. The board's staff shall report on its activities in
81 its annual proxy voting report.

82 Section 2. Subsection (3) is added to section 215.472,
83 Florida Statutes, to read:

84 215.472 Prohibited investments.—Notwithstanding any other
85 provision of law, each state agency, as defined in s. 216.011,
86 is prohibited from investing in:

87 (3) (a) Any financial institution or company domiciled in
88 the United States, or foreign subsidiary of a company domiciled
89 in the United States which, directly or through the United
90 States or foreign subsidiary, extends credit of any kind or
91 character, advances funds in any manner, or purchases or trades
92 any goods or services with the government of Venezuela, or any
93 company doing business in or with the government of Venezuela,
94 in violation of federal law. The term "government of Venezuela"
95 means the government of Venezuela, its agencies or
96 instrumentalities, or any company that is majority-owned or
97 controlled by the government of Venezuela.

98 (b) The Governor may waive the requirements of this
99 subsection if the existing regime in Venezuela collapses and

HB 359

2018

100 | there is a need for immediate aid to Venezuela before the
101 | convening of the Legislature or for other humanitarian reasons
102 | as determined by the Governor.

103 | Section 3. This act shall take effect July 1, 2018.