



2.12.13 #19

TO: The Honorable Chairman and Members of the
Board of County Commissioners

THROUGH: James L. Bennett, County Attorney 

FROM: Dennis R. Long, Chief Assistant County Attorney 

SUBJECT: Charter County and Regional Transportation System Surtax Referendum

DISTRIBUTION: Robert S. LaSala, County Administrator

DATE: February 12, 2013

Pursuant to Article VII, Section 1(a) of the Florida Constitution, the levy of all taxes other than ad valorem taxes reserved to the County requires a general law authorization. The Legislature has authorized seven (7) local option sales taxes for counties, but has restricted the levy of these discretionary sales taxes in Pinellas County to three (3) discretionary surtaxes - the Charter County and Regional Transportation System Surtax, the Local Government Infrastructure Surtax (Penny for Pinellas), and the Indigent Care and Trauma Center Surtax. Further, the combined rate of all local sales taxes may not exceed one percent, excluding the Charter County and Regional Transportation System Surtax ("CCRTS"). The current one percent Penny for Pinellas levy will expire on December 31, 2019, unless extended by referendum.

On January 23, 2013, the Pinellas Suncoast Transit Authority ("PSTA") requested that the County schedule a referendum authorizing the levy of the CCRTS for November 4, 2014. This discretionary sales tax can be levied at the rate of up to one percent, subject to referendum approval. The levy must begin on January 1 and end on December 31, and there is no limit on the duration of the levy. Therefore, the surtax can be levied until repealed.

Attached is a chart that defines how the proceeds of this tax may be used. The levy of this surtax was originally limited to Miami-Dade. The statute was subsequently amended to allow charter counties that adopted a charter before 1984 and consolidated counties to levy this surtax, and more recently the statute was amended to authorize the levy by all charter and consolidated counties, and each county that is within or under an interlocal agreement with certain defined regional transportation or transit authorities. As the Legislature expanded the counties that could levy this sales tax, the permitted uses of the proceeds were also expanded. Proceeds may be applied to the authorized uses in "whatever combination the county commission deems appropriate."

Assuming a November 4, 2014 referendum is scheduled as requested by the PSTA, from a legal perspective an ordinance would have to be adopted levying this surtax subject to referendum approval in the first week of August for the Supervisor of Elections to meet the statutory deadlines. The ordinance would require at least a majority vote of the Board of County Commissioners, and have the ballot language included in the ordinance. The Department of Revenue would have to be notified of the referendum prior to October 1, 2014, and by November 16, 2014, if the levy is approved by referendum, or the effective date would be delayed by one year.

Currently, Duval, Miami-Dade and Walton counties levy a CCRTS of .5%.

Attachment

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Charter County and Regional Transportation System Surtax

Levying Authority	Uses	Approval Requirements / Procedures	Sharing Provisions	Rate
<p>Each charter and consolidated county and each county that is within or under an interlocal agreement with a regional transportation or transit authority created under Chapter 343 or Chapter 349</p>	<p>Any combination of the following that the County Commission (BCC) deems appropriate:</p> <ol style="list-style-type: none"> 1) Used by the county for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, on-demand transportation services, and related costs of a fixed guideway rapid transit system; 2) Remitted to an expressway, transit or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, for the operation and maintenance of on-demand transportation services, for the payment of principal and interest on bonds for roads or bridges; 3) Used by the county for the development, construction, operation, and maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of bus and fixed guideway systems; for the expansion, operation, and maintenance of on-demand transportation services; and for the payment of principal and interest on bonds issued for such projects; and such proceeds may be pledged by the governing body of the county for bonds for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges and no more than 25 percent used for non-transit uses; and 4) Used by the county for the planning, development, construction, operation, and maintenance of roads and bridges in the county; for the planning, development, expansion, operation, and maintenance of bus and fixed guideway systems; for the planning, development, construction, operation, and maintenance of on-demand transportation services; and for the payment of principal and interest on bonds issued for such projects; and such proceeds may be pledged by the governing body of the county for bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads or bridges. Pursuant to an interlocal agreement entered into pursuant to chapter 163, the governing body of the county may distribute proceeds from the tax to a municipality or an expressway or transportation authority created by law to be expended for the purpose authorized by this paragraph. 	<p>Referendum approved by a majority vote of the electorate or referendum approval of a Charter amendment by a majority vote of the electorate; the surtax must take effect on January 1 and terminate on December 31 and may be imposed for a fixed term or until repealed; ordinance levying tax or proposing Charter amendment must be adopted at a regular or special BCC meeting (a super majority vote is not required) with at least ten days notice, and is subject to referendum approval as set out above; the referendum can be placed on ballot at a general or special election; the Department of Revenue must be notified within 10 days after final adoption of ordinance or referendum approval, but no later than November 16th prior to the effective date</p>	<p>No sharing requirement, but county expressly authorized to enter into interlocal agreements and remit funds to cities, or expressway, transit or transportation authorities created by law; any interlocal entered into with cities must be revised no less than every five years to add newly created cities</p>	<p>Up to one percent</p>