


12.10.13 #48

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

FROM: James L. Bennett, County Attorney 

SUBJECT: Recommendation to Approve a Proposed Ordinance Levying a One  
Percent Charter County and Regional Transportation System Surtax  
Subject to Referendum Approval

DISTRIBUTION: Robert S. LaSala, County Administrator

DATE: December 10, 2013

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY  
COMMISSIONERS APPROVE THE ATTACHED ORDINANCE LEVYING A ONE  
PERCENT CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM  
SURTAX SUBJECT TO REFERENDUM APPROVAL.

DISCUSSION: As provided by law, each charter county in Florida is authorized to levy a  
discretionary sales surtax of up to one percent for regional transportation improvements  
("Surtax") upon approval by a majority vote of the electors of the County. The Board of County  
Commissioners ("Board") previously adopted Resolution No. 13-19 declaring its intent to place  
a referendum question of the November 4, 2014 ballot seeking approval of a levy of the Surtax,  
conducted workshops on the issue, and authorized the advertisement of the public hearing on the  
proposed ordinance at the November 19, 2013 Board meeting.

The attached ordinance was revised in accordance with the Board's direction on  
November 19, 2013, and levies the Surtax at the rate of one percent until repealed as provided by  
law for public transit uses, including expanded bus service, bus rapid transit, and local passenger  
rail service, subject to referendum approval. The ordinance schedules the referendum for  
November 4, 2014, establishes the permitted uses of the proceeds, authorizes the proceeds to be  
shared with the PSTA pursuant to interlocal agreement, and provides the ballot title and question.

JLB:DRL:sme

Attachment

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**ORDINANCE NO. 13- \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY LEVYING THE CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX SUBJECT TO ELECTOR APPROVAL AT A RATE OF ONE PERCENT; ESTABLISHING THE EFFECTIVE DATE OF THE SURTAX; PROVIDING FOR ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE SURTAX; PROVIDING FOR THE DISTRIBUTION, USE, AND FINANCIAL MANAGEMENT OF SURTAX PROCEEDS; CALLING FOR A REFERENDUM ELECTION FOR APPROVAL OF IMPOSITION OF THE SURTAX; PROVIDING A BALLOT TITLE AND SUMMARY OF THE PROPOSED REFERENDUM QUESTION; PROVIDING FOR NOTICE OF THE REFERENDUM ELECTION; PROVIDING FOR NOTICE TO BE GIVEN TO THE DEPARTMENT OF REVENUE; PROVIDING FOR INCLUSION IN THE PINELLAS COUNTY CODE; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Sections 212.054 and 212.055(1), Florida Statutes (the “Acts”), authorize certain counties in Florida, including charter counties, to levy a discretionary sales surtax referred to as the “Charter County and Regional Transportation System Surtax” (“Surtax”) subject to elector approval; and

**WHEREAS**, the Pinellas County Board of County Commissioners (“Board”) previously declared its intent in Resolution No. 13-19 to place a referendum question on the November 4, 2014 ballot seeking approval of a levy of up to one percent Surtax to fund countywide transportation projects; and

**WHEREAS**, the Pinellas Suncoast Transit Authority (“PSTA”), a transportation authority created by a special act to purchase, own and/or operate transit facilities within Pinellas County, has developed a plan for the improvement, construction, equipping, operation, maintenance and financing of public transit benefitting Pinellas County, including an expanded bus system with bus rapid transit, increased frequency and extended hours, and local passenger rail and regional connections, commonly referred to as the “Greenlight Pinellas Plan;” and

**WHEREAS**, the revenues generated by the Surtax are needed to fund the costs of public transit and the repayment of any bonds or other obligations or indebtedness which may be incurred for those purposes; and

**WHEREAS**, it is the intent of the Board to levy the Surtax at a rate of one percent (1%) pursuant to the provisions contained in the Acts as provided herein; and

**WHEREAS**, pursuant to Chapter 163, Florida Statutes, and the Acts, the Board is authorized and intends to enter into an interlocal agreement with the PSTA remitting the Surtax proceeds to the PSTA for the improvement, construction, operation, maintenance and financing of public transit benefitting Pinellas County, including an expanded bus system with bus rapid transit, increased frequency and extended hours, and local passenger rail and regional connections (the “Interlocal Agreement”); and

**WHEREAS**, the use of Surtax revenues for the repayment of bonds and other obligations or indebtedness incurred to provide public transit is appropriate and permissible in accordance with the Acts; and

**WHEREAS**, the Board finds that the transportation improvements will enhance access to major employment centers in Pinellas County, increasing the County’s economic competitiveness, promote walkable communities, enhance mixed-use neighborhoods, promote economic and community redevelopment, protect stable neighborhoods, expand mobility choices for the citizens and visitors of County, promote environmental stewardship, create jobs for the citizens of the County, address traffic congestion which will promote a more efficient countywide transportation system, including without limitation, indirectly promoting more efficient delivery of public safety services, and provide greater community and regional connectivity; and

**WHEREAS**, the transportation improvements therefore will further various important public purposes; and

**WHEREAS**, the levy of the Surtax therefore is in the best interests of Pinellas County and its citizens and is necessary to sufficiently fund needed transportation improvements benefitting the County.

**NOW, THEREFORE**, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, in a meeting duly assembled this \_\_\_\_ day of \_\_\_\_\_, 2013, that:

Section 1.      Incorporation of Recitals.

The above findings and recitals are hereby incorporated herein and made a part of this Ordinance.

Section 2.      Imposition and Levy of the Charter County and Regional Transportation System Surtax.

(a)      There is levied and imposed by Pinellas County (“County”), the Charter County and Regional Transportation System Surtax authorized by Section 212.055(1), Florida Statutes, throughout the incorporated and unincorporated areas of Pinellas County, at the rate of one percent (1%) on transactions taxable pursuant to Section 212.054, Florida Statutes, subject to the approval of a majority of the electors of Pinellas County voting in a referendum election called for the purpose of determining whether such Surtax should be levied.

(b)      The levy of the Surtax, if approved by a majority of the electors as required by paragraph 2(a) shall be limited to the purposes set forth in this Ordinance and shall take effect January 1, 2016, and shall remain in effect until December 31<sup>st</sup> of the year in which the levy is repealed as provided by law.

Section 3. Administration, Collection and Enforcement.

The Florida Department of Revenue shall have all responsibility for the administration, collection, and enforcement of the Surtax levied pursuant to this Ordinance.

Section 4. Distribution, Use and Financial Management of Surtax Proceeds.

(a) The Surtax shall be collected by the Department of Revenue and distributed monthly to the County. The County shall deposit the proceeds into the Transportation System Surtax Trust Fund, which fund is hereby created, to be held by the Pinellas County Clerk of the Circuit Court and Comptroller (“Clerk”) solely for the benefit and distribution in accordance with the terms of this Ordinance and any interlocal agreements providing for the distribution of Surtax proceeds.

(b) Subject to the limitations imposed by applicable law, the Surtax proceeds shall be used for the improvement, construction, operation, and maintenance of public transit benefitting Pinellas County, including an expanded bus system with bus rapid transit, increased frequency and extended hours, and local passenger rail and regional connections, and for the payment of the principal and interest on indebtedness (including refinancing thereof) or other financial obligations which may be incurred for such transportation improvements, as authorized by the Acts. The County is authorized to enter into interlocal agreements pursuant to the Acts providing for the distribution of the proceeds from the Surtax to be expended for the purposes authorized in this Ordinance.

(c) The County shall enter into the Interlocal Agreement with PSTA for the distribution and use of the proceeds of the Surtax as provided in subsection 4(b) herein. Any Surtax proceeds deposited in the Transportation System Surtax Trust Fund shall be remitted to the PSTA in accordance with the Interlocal Agreement, and shall be used for the purposes authorized in subsection 4(b) herein, including the payment of the principal and interest on bonds

or other obligations or indebtedness, or refinancing such bonds or other obligations, issued or incurred for such transit improvements, as authorized by the Acts and this Ordinance.

(d) The issuance of all bonds or other obligations or indebtedness pledging the Surtax proceeds shall be subject to the prior approval of the Board, as provided in and pursuant to an interlocal agreement with the agency receiving Surtax proceeds.

Section 5. Conduction of Referendum Election.

The Board hereby calls a referendum election and directs the Pinellas County Supervisor of Elections to conduct such election in conjunction with the General Election on November 4, 2014, for the submission of a referendum question to the electors of Pinellas County to determine whether a majority of electors voting in the election are in favor of the levy of the Surtax on transactions occurring within Pinellas County as provided by law. Reasonable costs associated with conducting said election shall be paid by the County.

Section 6. Ballot Title and Summary.

(a) In accordance with the Acts, and Section 101.161, Florida Statutes, the following ballot title and summary are approved for submission to the electors of Pinellas County, Florida, for approval or rejection by a majority of the electors voting in the referendum election scheduled for November 4, 2014. The official ballot shall be in substantially the following form:

Title: Levy of Countywide One Percent Sales Surtax to Fund Greenlight Pinellas Plan for Public Transit.

Summary: Shall the improvement, construction, operation, maintenance and financing of public transit benefitting Pinellas County, including an expanded bus system with bus rapid transit, increased frequency and extended hours, local passenger rail and regional connections be funded by levying a one percent sales surtax from January 1, 2016 until repealed, with the proceeds initially deposited in a dedicated trust fund?

\_\_\_\_\_ YES, for the 1% sales surtax

\_\_\_\_\_ NO, against the 1% sales surtax

Section 7. Notice of Election.

The Clerk shall publish notice of the referendum in accordance with Section 100.342, Florida Statutes, on the following dates: October 1, 2014 and October 15, 2014.

Section 8. Notice to the Department of Revenue and Department of State.

Upon completion of the referendum election called for in this Ordinance, the results of such election shall be certified in accordance with Chapter 100 and Chapter 102, Florida Statutes, to the Department of State. If it is determined upon certification of the results that the majority of the electors of Pinellas County voting in the referendum election are in favor of the levy of the Surtax, the Clerk shall, within ten (10) days of such certification, but in no event later than November 16, 2015, submit a copy of this Ordinance and the certification of the election results to the Florida Department of Revenue. The notice shall specify that the Surtax will go into effect on January 1, 2016, and will be in effect until repealed as provided by law, that a surtax of 1% will be imposed and provide such other information as the Department of Revenue requires by rule. The Clerk shall also provide the additional notice to the Department of Revenue required pursuant to Section 212.054(7)(b), Florida Statutes.

Section 9. Severability.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

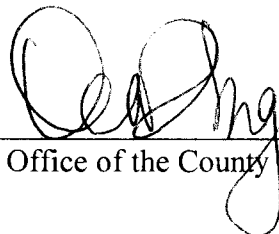
Section 10. Inclusion in the Pinellas County Code.

The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

Section 11. Filing of Ordinance; Effective Date.

In addition to the notices to the Department of Revenue as provided herein, pursuant to Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk within ten (10) days after the enactment by the Board. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM

By:   
Office of the County Attorney