

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1664

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Trumbull

SUBJECT: Local Option Taxes

DATE: April 21, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Shuler	Fleming	CA	Fav/CS
2. Byrd	Khan	FT	Fav/CS
3. Byrd	Sadberry	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1664 requires that any local discretionary sales surtax or tourist development tax that must be enacted by a referendum and is in effect on June 30, 2025 must be renewed on or before January 1, 2033 or the expiration date for the tax, whichever is later. The bill provides similar requirements for a tax approved by voters, but not yet levied. A tax must have an expiration date. If local discretionary sales surtax or tourist development tax levies are pledged for debt service, the levy may continue until the debt is retired and the levy will be subject to renewal the following January 1st. Additionally, an ordinance must specify certain information about the indebtedness. None of these changes affect the pension liability discretionary sales surtax.

The bill also provides requirements for the local option food and beverage tax in certain cities. A tax levied and in effect on June 30, 2025, must be reenacted by an ordinance approved in a referendum on or before January 1, 2033, or the expiration date for the tax as of June 30, 2025, whichever is later. A tax must have an expiration date.

The Revenue Estimating Conference determined that CS/SB 1664 does not have a revenue impact. Staff estimate that CS/CS/SB 1664 will also not have a revenue impact. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

II. Present Situation:

Local Discretionary Sales Surtaxes

Counties have been granted limited authority to levy a discretionary sales surtaxes for specific purposes on all transactions occurring in the county subject to the state sales tax in ch. 212, F.S., and on communications services as defined in ch. 202, F.S.¹ A discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to the sales price above \$5,000 on any item of tangible personal property.

Approved purposes for levying a surtax include:

- Operating a transportation system;²
- Financing local government infrastructure projects;³
- Providing additional revenue for specified small counties;⁴
- Providing medical care for indigent persons;⁵
- Funding trauma centers;⁶
- Operating, maintaining, and administering a county public general hospital;⁷
- Constructing and renovating schools;⁸
- Providing emergency fire rescue services and facilities; and⁹
- Funding pension liability shortfalls.¹⁰

Current rates range from 0.5% to 2.0% in each of the 65 counties currently levying one or more surtaxes.¹¹ Many of the levies have restrictions on what combination of taxes can be levied by a single county at one time.¹²

¹ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

² Section 212.055(1), F.S.

³ Section 212.055(2), F.S.

⁴ 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.

⁵ Section 212.055(4)(a), F.S. (for counties with more than 800,000 residents); Section 212.055(7), F.S. (for counties with less than 800,000 residents).

⁶ Section 212.055(4)(b), F.S.

⁷ Section 212.055(5), F.S.

⁸ Section 212.055(6), F.S.

⁹ Section 212.055(8), F.S.

¹⁰ Section 212.055(9), F.S.

¹¹ Fla. Dep't of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2025, Form DR-15DSS*, available at https://floridarevenue.com/Forms_library/current/dr15dss.pdf (last visited April 10, 2025)

¹² See, e.g., ss. 212.055(4)(a)6., F.S., 212.055(5)(f), F.S., and s. 212.055(9)(g), F.S.

Fiscal Year 2023-24 levies for these taxes were as follows:

Surtax	Florida Statute	Counties Levying/ Can Levy ¹³	2023-24 Statewide Revenue ¹⁴
Charter County Transportation	Section 212.055(1), F.S.	3/23	\$1.07 Billion
Local Gov't Infrastructure	Section 212.055(2), F.S.	26/67	\$2.32 Billion
Small County	Section 212.055(3), F.S.	30/31	\$211 Million
Indigent Care (divided by population)	Sections 212.055(4)(a), F.S. and 212.055(7), F.S.	1/9 (greater than 800k); 5/58 (fewer than 800k)	\$195 Million; \$88 Million
Trauma Center	Section 212.055(4)(b), F.S.	0/58	\$ -
County General Hospital	Section 212.055(5), F.S.	1/1	\$403 Million
School Construction	Section 212.055(6), F.S.	30/67	\$1.56 Billion
Emergency Fire Rescue Services	Section 212.055(8), F.S.	1/65	\$311, 042
Pension Liability	Section 212.055(9), F.S.	0/27 ¹⁵	\$-

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by a vote of the county commission.¹⁶ Some of the surtaxes have set periods of time that they can be enacted for before requiring reenactment, others have no such specified time limit. For example, the Trauma Center Sales Surtax that may be levied for counties with a population of fewer than 800,000 residents expires four years after the effective date of the surtax, unless reenacted through a referendum.¹⁷ On the other hand, the Charter County and Regional Transportation System Surtax in s. 212.055(1), F.S. is currently limited to 30 years if adopted on or after July 1, 2020.

Tourist Development Taxes

The Local Option Tourist Development Act¹⁸ authorizes counties to levy five separate taxes on transient rental¹⁹ transactions (tourist development taxes or TDTs) for specified purposes, all of which are generally related to the tourism industry.

Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

¹³ Levy details available at Office of Economic and Demographic Research, *2023 Local Discretionary Sales Surtax Rates in Florida's Counties*, <https://edr.state.fl.us/Content/local-government/data/county-municipal/2023LDSSrates.pdf> (last visited April 11, 2025).

¹⁴ Revenue Estimates taken from: Legislative Office of Economic and Demographic (EDR) *2023 Local Government Financial Information Handbook*, (Jan. 2024) available at <https://edr.state.fl.us/Content/local-government/reports/lghfih23.pdf> (last visited April 11, 2025).

¹⁵ The Pension Liability Surtax has been approved in a referendum to take effect in Duval County no later than January 1, 2031; but is not currently levied.

¹⁶ 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 governing authority as long as surtax revenues are not used for servicing bond indebtedness), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

¹⁷ Section 212.055(4)(b)4., F.S.

¹⁸ Section 125.0104, F.S.

¹⁹ Section 125.0104(3)(a)1., F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

- The original TDT may be levied at the rate of 1 or 2 percent.²⁰
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least 3 years.²¹
- A high tourism impact tax may be levied at an additional 1 percent.²²
- A professional sports franchise facility tax may be levied up to an additional 1 percent.²³
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.²⁴

TDTs are levied in 62 of 67 counties, and total rates range from 2% to 6%.²⁵

Fiscal Year 2023-24 levies for these taxes were as follows:

Tax	Florida Statute	Counties Levying/ Can Levy²⁶	2023-24 Statewide Revenues²⁷
Original TDT	Section 125.0104(3)(c), F.S.	62/67 (all at 2%)	\$709 Million
Additional TDT	Section 125.0104(3)(d), F.S.	56/59	\$291 Million
High Tourism Impact TDT	Section 125.0104(3)(m), F.S.	10/14	\$201 Million
Pro Sports TDT	Section 125.0104(3)(l), F.S.	46/67	\$330 Million
Additional Pro Sports TDT	Section 125.0104(3)(n), F.S.	36/65	\$252 Million

Prior to the authorization of a new TDT, the levy must be approved by a countywide referendum held at a general election and approved by a majority of the electors voting in the county.²⁸ TDTs have no maximum period for which they may be levied, and no currently adopted TDT has a scheduled expiration date.²⁹

Each county proposing to levy the original one or two percent tax must adopt an ordinance for the levy and imposition of the tax, which must include a plan for tourist development prepared by the tourist development council.³⁰ The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy,

²⁰ Section 125.0104(3)(c), F.S.

²¹ Section 125.0104(3)(d), F.S.

²² Section 125.0104(3)(m), F.S.

²³ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism.

²⁴ Section 125.0104(3)(n), F.S.

²⁵ Office of Economic and Demographic Research, *2024 Local Option Tourist/Food and Beverage Tax Rates in Florida's Counties*, available at <https://edr.state.fl.us/content/local-government/data/county-municipal/2024LOTTRates.pdf> (last visited April 11, 2025).

²⁶ *Id.*

²⁷ Office of Economic and Demographic Research, *2023 Local Government Financial Information Handbook* (Jan. 2024), <http://edr.state.fl.us/Content/local-government/reports/lghfih23.pdf> (last visited April 11, 2025).

²⁸ Section 125.0104(6), F.S.

²⁹ Office of Economic and Demographic Research, *Local Option Tourist Taxes - Summary of Impositions, Expirations, and Rate Changes*, available at <https://www.edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited April 11, 2025).

³⁰ Section 125.0104(4), F.S.

as well as a list of the proposed uses of the tax and the approximate cost for each project or use.³¹ The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.³²

Currently, once a county has obtained approval to levy a TDT tax through a referendum, that county is not required to seek electorate approval through a referendum to continue levying such TDT.

Local Option Food & Beverage Tax (Miami-Dade)

In 1967, Florida authorized the municipal resort tax.³³ The law authorized cities and towns meeting certain population requirements located within counties also meeting certain population requirements to levy the tax.³⁴ Currently, the tax may be levied at a rate of up to 4 percent on rentals of hotel rooms and similar accommodations, and it could also be levied on sales of food and certain beverages consumed in restaurants and bars at a rate of up to 2 percent.³⁵ The municipal resort tax is currently levied in the cities of Bal Harbour, Surfside, and Miami Beach, all of which are located within Miami-Dade County.³⁶

Florida has since authorized Miami Dade County to levy the local option food and beverage tax.³⁷ The local option food and beverage tax consists of two taxes: a 2 percent tax on the sale of food, beverages, and alcoholic beverages sold in hotels and motels, and a 1 percent tax on the sale of food, beverages, and alcoholic beverages sold at an establishment licensed by the state to sell alcoholic beverages on site.³⁸ Sales in cities levying the municipal resort tax were required to be exempt from the local option food and beverage tax through July 1, 2023.³⁹

In 2023, the Legislature, authorized the imposition of the 1 percent local option food and beverage tax in a city or town that levies the municipal resort tax if the levy is approved by referendum in the city or town at a general election.⁴⁰ In 2024, the Legislature clarified that the approval of the tax in a referendum as authorized in 2023 must be by a majority of the voters voting in the election (not a majority of registered voters).⁴¹

³¹ Section 125.0104(4)(c), F.S.

³² Section 125.0104(4)(d), F.S. The provisions found in s. 125.0104(4)(a)-(d), F.S., do not apply to the additional 1% tax, high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

³³ Chapter 67-930, Laws of Fla.

³⁴ Section 1, ch. 67-930, Laws of Fla.

³⁵ Florida Revenue Estimating Conference, *2024 Florida Tax Handbook*, available at: <https://edr.state.fl.us/content/revenues/reports/tax-handbook/> (last visited April 11, 2025).

³⁶ Fla. Dep't of Revenue, *History of Local Sales Tax and Current Rates*, (Mar. 1, 2025) available at <https://floridarevenue.com/taxes/Documents/flHistorySalesTaxRates.pdf> (last visited April 11, 2025).

³⁷ Section 212.0306, F.S.

³⁸ Section 212.0306(1), F.S.

³⁹ Section 212.0306(2)(d), F.S. (2022)

⁴⁰ Chapter 2023-157, Laws of Fla.

⁴¹ Chapter 2024-158, Laws of Fla.

Miami-Dade County reports collections for food and beverage taxes were \$53.6 million in County Fiscal Year 2022-2023 and estimates collections of \$56 million in County Fiscal Year 2023-2024 and \$55.0 million in County Fiscal Year 2024-2025.⁴²

Referendum Procedures

The Florida Election Code provides 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 Florida Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.⁴⁸ Historically, voter turnout during a general election is higher than during other elections.⁴⁹ A referendum to adopt, amend, or reenact a local government discretionary sales surtax must be held at a general election. A referendum to reenact an expiring surtax must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted surtax. Such a referendum may appear on the ballot only once within the 48-month period.⁵⁰

III. Effect of Proposed Changes:

Local Discretionary Sales Surtaxes

This bill requires that, for any local discretionary sales surtax that currently must be enacted pursuant to a referendum and that is in effect on June 30, 2025, the local government must renew or continue such tax by a referendum on or before January 1, 2033, or the expiration date for the tax as of June 30, 2025, whichever is later, in order for the tax to remain in effect after January 1, 2033, or the existing expiration date.

Additionally, a tax approved by voters in a referendum before July 1, 2025, which has not yet been levied, must be renewed or continued by an ordinance approved in a referendum on or before 8 years from the date the tax takes effect, or the expiration date for the tax as of June 30, 2025, whichever is later, in order to remain in effect.

⁴² Office of Economic and Demographic Research, *Local Option Food and Beverage Tax Collections*, available at <https://www.edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited April 11, 2025).

⁴³ Section 101.161, F.S.

⁴⁴ Section 101.161(1), F.S.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *See, e.g.,* s. 212.055(4)(b), F.S.

⁴⁸ Section 97.021(13), F.S.

⁴⁹ *See* Dep’t of State, *Voter Turnout*, <http://dos.myflorida.com/elections/data-statistics/elections-data/voter-turnout/> (last visited April 11, 2025).

⁵⁰ Section 212.055(10), F.S.

A tax which is required to be approved by voters in a referendum must have an expiration date and be subject to approval by a majority of the electors voting in a subsequent referendum in order to be renewed or continued.

If taxes are pledged for debt service, the levy may continue until the debt is retired, and the levy will be subject to renewal the following January 1st.

Additionally, if proceeds will be used for the purpose of servicing bond indebtedness, the ordinance enacting a new tax or reenacting an existing tax must specify that the proceeds from the tax will be used for the purpose of servicing bond indebtedness and that the maximum duration of such bond indebtedness is not to exceed 30 years. The ordinance must also provide specificity regarding the purposes of the bond indebtedness. The referendum question on the ballot must specify that the proceeds of the tax will be used for that purpose and must include a brief and general description of the purposes for which the indebtedness will be incurred and the maximum length of time the tax may be imposed.

None of these changes affect the pension liability discretionary sales surtax found in s. 212.055(9), F.S.

Tourist Development Taxes

For any tourist development tax that currently must be enacted pursuant to a referendum and that is in effect on June 30, 2025, the local government must renew or reenact such tax by a referendum on or before January 1, 2033, or the expiration date for the tax as of June 30, 2025, whichever is later, in order for the tax to remain in effect after January 1, 2033, or the existing expiration date.

Additionally, a tax approved by voters in a referendum before July 1, 2025, which has not yet been levied, must be renewed or reenacted by an ordinance approved in a referendum on or before 8 years from the date the tax takes effect, or the expiration date for the tax as of June 30, 2025, whichever is later, in order to remain in effect.

A tax which is required to be approved by voters in a referendum must have an expiration date and be subject to approval by a majority of the electors voting in a subsequent referendum in order to be renewed or reenacted.

If tax levies are pledged for debt service, the levy may continue until the debt is retired, and the levy will be subject to renewal the following January 1st.

Additionally, if proceeds will be used for the purpose of servicing bond indebtedness, the ordinance enacting a new tax or renewing or reenacting an existing tax must specify that the proceeds from the tax will be used for the purpose of servicing bond indebtedness and that the maximum duration of such bond indebtedness is not to exceed 30 years. The ordinance must also provide specificity regarding the purposes of the bond indebtedness. The referendum question on the ballot must specify that the proceeds of the tax will be used for that purpose and must include a brief and general description of the purposes for which the indebtedness will be incurred and the maximum length of time the tax may be imposed.

Local Option Food & Beverage Tax (Miami-Dade)

The bill also provides requirements for the imposition of the local option food and beverage tax in those cities in Miami-Dade County that currently levy the municipal resort tax. Any tax levied and in effect on June 30, 2025, must be reenacted by an ordinance approved in a referendum on or before January 1, 2033, or the expiration date for the tax as of June 30, 2025, whichever is later, in order to remain in effect after January 1, 2033, or the existing expiration date. Any tax levied must also have an expiration date.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the State Constitution provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. The mandate requirement does not apply to laws having an insignificant impact,⁵¹ which for Fiscal Year 2025-2026 is forecast at approximately \$2.4 million.

The bill requires certain local taxes to have an expiration date and be renewed by referendum. Reduction of a local government's authority to raise revenues generally refers to limiting its power to levy a tax, raising the vote of the governing body required to levy a tax, lowering the rate of a tax, or reducing the base against which a tax is levied. In the case of these local taxes, a local government's authority extends only to the ability to submit taxes for referendum approval, which remains unchanged under the bill.

If the anticipated effect of the imposition of a time limit on these local taxes is considered a not-insignificant reduction of local authority to raise taxes, the bill must be approved by a two-thirds' vote of each house of the legislature to be validly enacted.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵¹ FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Fla. S. Comm. on Cmty. Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 11, 2025).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that CS/SB 1664 does not have a revenue impact. Staff estimate that CS/CS/SB 1664 will also not have a revenue impact.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments may incur additional expenses due to the potential increased frequency of referendums.

Because the bill does not remove the authority of local government to levy local discretionary sales surtaxes, tourist development taxes, or local option food and beverage taxes, staff does not anticipate that the bill will have an impact on local government revenues. However, revenues would be impacted if a referendum to renew an existing levy were not to pass.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.0104, 212.0306, and 212.055.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Finance and Tax on April 15, 2025:**

For the tourist development taxes and local discretionary sales surtaxes, the committee substitute:

- Clarifies that the bill applies to a tax which is required to be approved by voters in a referendum.
- Adds that a tax must be renewed, reenacted, or continued by referendum before January 1, 2033, or the expiration date for the tax, whichever is later.
- Adds that a tax approved in a referendum before July 1, 2025 that has not yet been levied, must be renewed, reenacted, or continued in a referendum on or before 8 years from the date the tax takes effect, or the expiration date for the tax, whichever is later.
- Requires that a tax must have an expiration date and be subject to future approval by a majority of electors.

For only the local discretionary sales surtaxes, the committee substitute:

- Retains an existing expiration for the charter county and regional transportation system surtax.

For certain local option food and beverage taxes, the committee substitute:

- Removes the 8-year renewal requirement.
- Adds that a tax in effect on June 30, 2025, must be reenacted in a referendum on or before January 1, 2033, or the expiration date for the tax, whichever is later.
- Requires that any tax must have an expiration date.

CS by Community Affairs on March 25, 2025:

The committee substitute:

- Applies the new referendum requirement for a surtax to remain in effect to only those discretionary sales surtaxes required under existing law to be approved by referendum;
- Corrects cross-references and dates; and
- Specifies additional content to be included in ordinances and referendum ballot questions.

B. Amendments:

None.