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CS/HB 1297, Engrossed 1

2016 Legislature

1  
2 An act relating to discretionary sales surtaxes;  
3 amending s. 112.64, F.S.; authorizing a county to  
4 apply proceeds of a pension liability surtax toward  
5 reducing the unfunded liability of a defined benefit  
6 retirement plan or system; specifying the method of  
7 determining the amortization schedule if a surtax is  
8 approved; amending s. 212.055, F.S.; authorizing a  
9 county to levy a pension liability surtax by ordinance  
10 if certain conditions are met; prescribing the form of  
11 the ballot statement; requiring the Department of  
12 Revenue to distribute the surtax proceeds, less  
13 administrative fees; specifying the manner in which a  
14 local government may use the surtax proceeds;  
15 prescribing requirements for the ordinance that  
16 provides for the imposition of the surtax; specifying  
17 conditions under which the surtax terminates; limiting  
18 the combined rate of specified discretionary sales  
19 surtaxes; providing an effective date.  
20

21 Be It Enacted by the Legislature of the State of Florida:  
22

23 Section 1. Subsection (6) of section 112.64, Florida  
24 Statutes, is renumbered as subsection (7), and a new subsection  
25 (6) is added to that section, to read:

26 112.64 Administration of funds; amortization of unfunded



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27 liability.—

28 (6) (a) Notwithstanding any other provision of this part,  
29 the proceeds of a pension liability surtax imposed by a county  
30 pursuant to s. 212.055, which is levied for the purpose of  
31 funding or amortizing the unfunded liability of a defined  
32 benefit retirement plan or system, excluding the Florida  
33 Retirement System, shall be actuarially recognized, and the  
34 county shall apply the present value of the total projected  
35 proceeds of the surtax to reduce the unfunded liability or to  
36 amortize it as part of the county's annual required  
37 contribution, beginning with the fiscal year immediately  
38 following approval of the pension liability surtax. The unfunded  
39 liability amortization schedule must be adjusted beginning with  
40 the fiscal year immediately following approval of the pension  
41 liability surtax and amortized over a period of 30 years.

42 (b) The payroll of all employees in classifications  
43 covered by a closed retirement plan or system that receives  
44 funds from the pension liability surtax must be included in  
45 determining the unfunded liability amortization schedule for the  
46 closed plan, regardless of the plan in which the employees  
47 currently participate, and the payroll growth assumption must be  
48 adjusted to reflect the payroll of those employees when  
49 calculating the amortization of the unfunded liability.

50 Section 2. Subsection (9) is added to section 212.055,  
51 Florida Statutes, to read:

52 212.055 Discretionary sales surtaxes; legislative intent;



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53 authorization and use of proceeds.—It is the legislative intent  
54 that any authorization for imposition of a discretionary sales  
55 surtax shall be published in the Florida Statutes as a  
56 subsection of this section, irrespective of the duration of the  
57 levy. Each enactment shall specify the types of counties  
58 authorized to levy; the rate or rates which may be imposed; the  
59 maximum length of time the surtax may be imposed, if any; the  
60 procedure which must be followed to secure voter approval, if  
61 required; the purpose for which the proceeds may be expended;  
62 and such other requirements as the Legislature may provide.  
63 Taxable transactions and administrative procedures shall be as  
64 provided in s. 212.054.

65 (9) PENSION LIABILITY SURTAX.—

66 (a) The governing body of a county may levy a pension  
67 liability surtax to fund an underfunded defined benefit  
68 retirement plan or system, pursuant to an ordinance conditioned  
69 to take effect upon approval by a majority vote of the electors  
70 of the county voting in a referendum, at a rate that may not  
71 exceed 0.5 percent. The county may not impose a pension  
72 liability surtax unless the underfunded defined benefit  
73 retirement plan or system is below 80 percent of actuarial  
74 funding at the time the ordinance or referendum is passed. The  
75 most recent actuarial report submitted to the Department of  
76 Management Services pursuant to s. 112.63 must be used to  
77 establish the level of actuarial funding for purposes of  
78 determining eligibility to impose the surtax. The governing body



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79 | of a county may only impose the surtax if:

80 |       1. An employee, including a police officer or firefighter,  
81 | who enters employment on or after the date when the local  
82 | government certifies that the defined benefit retirement plan or  
83 | system formerly available to such an employee has been closed  
84 | may not enroll in a defined benefit retirement plan or system  
85 | that will receive surtax proceeds.

86 |       2. The local government and the collective bargaining  
87 | representative for the members of the underfunded defined  
88 | benefit retirement plan or system or, if there is no  
89 | representative, a majority of the members of the plan or system,  
90 | mutually consent to requiring each member to make an employee  
91 | retirement contribution of at least 10 percent of each member's  
92 | salary for each pay period beginning with the first pay period  
93 | after the plan or system is closed.

94 |       3. The pension board of trustees for the underfunded  
95 | defined benefit retirement plan or system, if such board exists,  
96 | is prohibited from participating in the collective bargaining  
97 | process and engaging in the determination of pension benefits.

98 |       4. The county currently levies a local government  
99 | infrastructure surtax pursuant to subsection (2) which is  
100 | scheduled to terminate and is not subject to renewal.

101 |       5. The pension liability surtax does not take effect until  
102 | the local government infrastructure surtax described in  
103 | subparagraph 4. is terminated.

104 |       (b) A referendum to adopt a pension liability surtax must



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105 meet the requirements of s. 101.161 and must include a brief and  
106 general description of the purposes for which the surtax  
107 proceeds will be used.

108 (c) Pursuant to s. 212.054(4), the proceeds of the surtax  
109 collected under this subsection, less an administrative fee that  
110 may be retained by the department, shall be distributed by the  
111 department to the local government.

112 (d) The local government may use the pension liability  
113 surtax proceeds in the following manner:

114 1. If the proceeds of the pension liability surtax have  
115 been actuarially recognized as provided in s. 112.64(6), the  
116 local government must distribute the proceeds to an eligible  
117 defined benefit retirement plan or system, not including the  
118 Florida Retirement System.

119 2. If the proceeds of the pension liability surtax have  
120 not been actuarially recognized, the local government is  
121 authorized to distribute the proceeds to an eligible defined  
122 benefit retirement plan or system, not including the Florida  
123 Retirement System, to pledge the proceeds of the surtax to repay  
124 debts incurred for the purpose of making advanced payments  
125 toward the unfunded liability of an underfunded defined benefit  
126 retirement plan or system, and to reimburse itself from the  
127 proceeds of the surtax for any borrowing costs associated with  
128 such debts.

129 (e) The ordinance providing for the imposition of the  
130 pension liability surtax must specify how the proceeds will be



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131 used:

132 1. The ordinance must specify the method of determining  
133 the percentage of the proceeds, and the frequency of such  
134 payments, distributed to each eligible defined benefit  
135 retirement plan or system if the proceeds of the pension  
136 liability surtax are actuarially recognized as provided in s.  
137 112.64(6).

138 2. The ordinance must specify the local government's  
139 intention to incur debt for the purpose of making advanced  
140 payments toward the unfunded liability of an underfunded defined  
141 benefit retirement plan or system if the proceeds of the pension  
142 liability surtax are not actuarially recognized as provided in  
143 s. 112.64(6).

144 (f) A pension liability surtax imposed pursuant to this  
145 subsection shall terminate on December 31 of the year in which  
146 the actuarial funding level is expected to reach or exceed 100  
147 percent for the defined benefit retirement plan or system for  
148 which the surtax was levied or December 31, 2060, whichever  
149 occurs first. The most recent actuarial report submitted to the  
150 Department of Management Services pursuant to s. 112.63 must be  
151 used to establish the level of actuarial funding.

152 (g) Notwithstanding any other provision of this section, a  
153 county may not levy local option sales surtaxes authorized in  
154 this subsection and subsections (2), (3), (4), and (5) in excess  
155 of a combined rate of 1 percent.

156 Section 3. This act shall take effect July 1, 2016.