

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: January 20, 2016

Department: Mayor Heather Carruthers

Bulk Item: Yes No

Staff Contact: Carol Schreck 305-292-3430

AGENDA ITEM WORDING: Discussion and direction of a proposal to revamp the funding mechanisms for fire rescue services and human services in a manner that reduces *ad valorem* taxation but allows for the expansion of services.

ITEM BACKGROUND: The County currently funds fire and rescue services and non-profit entities receiving funding through the Human Services Advisory Board (HSAB) through *ad valorem* property taxes. Through the HSAB process, the County provides funding for more than 2 dozen non-profit entities, which provide services for underserved populations throughout the county.

The Florida Legislature recently adopted F.S. 212.055(8), which authorized local governments to enact an "Emergency Fire Rescue Services and Facilities Surtax" of up to one penny, similar to the infrastructure sales surtax. Using the revenue numbers from infrastructure sales surtax as a guide, if the county were to adopt a fire rescue surtax, an additional penny of surtax would raise approximately \$34 million county-wide. Of that \$34 million, it is estimated that tourists would pay approximately 60% of those funds or \$20.4 million. In 2014, the county and the cities providing emergency fire and rescue services spent approximately \$29 million, all of which was funded by local property owners through property taxes. Under the law, if the fire rescue sales surtax is adopted, property taxes must be reduced by the amount raised by the new sales surtax.

Due to our tourist based economy, the cities and counties in Monroe County are in the unique situation of being able to raise significantly more money (approximately \$5 million) through sales surtax than they collectively spend on fire rescue services county-wide. This situation creates an opportunity to potentially reallocate some of the excess funds raised through sales surtax to fund human services entities which are also currently funded through property taxes. Several of the human services providers report vast unmet needs which could be served with additional funding.

This proposal would require clarification of F.S. 212.055(8), which is a relatively new statute that has yet to be implemented by any county in the state. Because of the statute's novelty, neither the Attorney General nor the Courts have provided guidance yet regarding its implementation or limitations. Board authorization would be required in order to seek such clarification of F.S. 212.055(8) and possibly other laws either through an Attorney General's Opinion or the Legislature, or both.

PREVIOUS RELEVANT BOCC ACTION: n/a

CONTRACT/AGREEMENT CHANGES: n/a

STAFF RECOMMENDATIONS: n/a

TOTAL COST:
COST TO COUNTY:

INDIRECT COST:
SOURCE OF FUNDS:

BUDGETED:

REVENUE PRODUCING: no **AMOUNT PER MONTH** **Year**

APPROVED BY: County Atty *PO* OMB/Purchasing *N/A* Risk Management *N/A*

DOCUMENTATION: Included *X* Not Required

DISPOSITION: _____ **AGENDA ITEM #** _____

Revised 1/09

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. [212.054](#).

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

(a) Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, 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 may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.

(b) The rate shall be up to 1 percent.

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(d) Proceeds from the surtax shall be applied to as many or as few of the uses enumerated below in whatever combination the county commission deems appropriate:

1. Deposited by the county in the trust fund and shall be used 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 by the governing body of the county 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 existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such 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 the construction of fixed guideway rapid transit systems, bus systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads, or bridges and no more than 25 percent used for nontransit 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 the construction

Any change in the distribution formula must take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire land for public recreation, conservation, or protection of natural resources; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. [125.011](#), and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any related land acquisition, land improvement, design, and engineering costs.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. [29.008](#).

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. [252.38](#). Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person

or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. [206.9951](#); and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f)1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

a. The debt service obligations for any year are met;

b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and

c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. [125.66](#) authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. [166.041](#) authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section. A county that was designated as an area of critical state concern for at least 20 consecutive years

prior to removal of the designation, and that qualified to use the surtax for any public purpose at the time of the removal of the designation, may continue to use up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes for 20 years following removal of the designation, notwithstanding subparagraph (a)2. After expiration of the 20-year period, a county may continue to use up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure if the county adopts an ordinance providing for such continued use of the surtax proceeds.

(g) Notwithstanding paragraph (d), a county having a population greater than 75,000 in which the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes for the tax year in which an infrastructure surtax referendum is placed before the voters, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax throughout the duration of the surtax levy or while interest earnings accruing from the proceeds of the surtax are available for such use, whichever period is longer.

(h) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), and (5) in excess of a combined rate of 1 percent.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement that includes a brief general description of the projects to be funded by the surtax and conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing authority of any county that enacts an ordinance calling for a referendum on the levy of the surtax for the purpose of servicing bond indebtedness. The following question shall be placed on the ballot:

FOR the _____-cent sales tax

AGAINST the _____-cent sales tax

(c) Pursuant to s. [212.054](#)(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within the county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population; or
2. If there is no interlocal agreement, according to the formula provided in s. [218.62](#).

Any change in the distribution formula shall take effect on the first day of any month that begins at least 60 days after written notification of that change has been made to the department.

(d)1. If the surtax is levied pursuant to a referendum, the proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. However, if the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the members of the county governing authority, the proceeds and any interest accrued thereto may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(e) A school district, county, or municipality that receives proceeds under this subsection following a referendum may pledge the proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. A jurisdiction may not issue bonds pursuant to this subsection more frequently than once per year. A county and municipality may join together to issue bonds authorized by this subsection.

(f) Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), and (5) in excess of a combined rate of 1 percent.

(4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

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

2. If the ordinance is conditioned on a referendum, a statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . .CENTS TAX
AGAINST THE. . . .CENTS TAX

3. The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in subparagraph 4. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. The plan must also address the services to be provided by the Level I trauma center. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county

and providers, including hospitals with a Level I trauma center, will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, promote the advancement of technology in medical services, recognize the level of responsiveness to medical needs in trauma cases, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. [286.011](#) as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. [408.07](#). The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

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

- a. Qualified as indigent persons as certified by the authorizing county;
- b. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or
- c. Participating in innovative, cost-effective programs approved by the authorizing county.

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

- a. Maintain the moneys in an indigent health care trust fund;
- b. Invest any funds held on deposit in the trust fund pursuant to general law;
- c. Disburse the funds, including any interest earned, to any provider of health care services, as provided in subparagraphs 3. and 4., upon directive from the authorizing county. However, if a county has a population of at least 800,000 residents and has levied the surtax authorized in this paragraph, notwithstanding any directive from the authorizing county, on October 1 of each calendar year, the clerk of the court shall issue a check in the amount of \$6.5 million to a hospital in its jurisdiction that has a Level I trauma center or shall issue a check in the amount of \$3.5 million to a hospital in its jurisdiction that has a Level I trauma center if that county enacts and implements a hospital lien law in accordance with chapter 98-499, Laws of Florida. The issuance of the checks on October 1 of each year is provided in recognition of the Level I trauma center status and shall be in addition to the base contract amount received during fiscal year 1999-2000 and any additional amount negotiated to the base contract. If the hospital receiving funds for its Level I trauma center status requests such funds to be used to generate federal matching funds under Medicaid, the clerk of the court shall instead issue a check to the Agency for Health Care Administration to accomplish that purpose to the extent that it is allowed through the General Appropriations Act; and

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

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

(b) Notwithstanding any other provision of this section, the governing body in each county the government of which is not consolidated with that of one or more municipalities and which has a population of less than 800,000 residents, may levy, by ordinance subject to approval by a majority of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.25 percent for the sole purpose of funding trauma services provided by a trauma center licensed pursuant to chapter 395.

1. A statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing body of the county. The following shall be placed on the ballot:

FOR THE. . . .CENTS TAX
AGAINST THE. . . .CENTS TAX

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

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

a. Maintain the moneys in a trauma services trust fund.

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

c. Disburse the funds, including any interest earned on such funds, to the trauma center in its trauma service area, as provided in the plan set forth pursuant to subparagraph 2., upon directive from the authorizing county. If the trauma center receiving funds requests such funds be used to generate federal matching funds under Medicaid, the custodian of the funds shall instead issue a check to the Agency for Health Care Administration to accomplish that purpose to the extent that the agency is allowed through the General Appropriations Act.

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

4. A discretionary sales surtax imposed pursuant to this paragraph shall expire 4 years after the effective date of the surtax, unless reenacted by ordinance subject to approval by a majority of the electors of the county voting in a subsequent referendum.

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

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. [125.011](#)(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. [125.011](#)(1), for the purposes of this subsection, “county public

general hospital” means a general hospital as defined in s. [395.002](#) which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(a) The rate shall be 0.5 percent.

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

(c) Proceeds from the surtax shall be:

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

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

(d) Except as provided in subparagraphs 1. and 2., the county must continue to contribute each year an amount equal to at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county’s general revenues in the fiscal year of the county ending September 30, 1991:

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

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

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County Public Health Trust, the Dade County Medical Association, the Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not disbursed by the county for any other purpose.

1. The plan shall divide the county into a minimum of four and maximum of six service areas, with no more than one participant hospital per service area. The county public

general hospital shall be designated as the provider for one of the service areas. Services shall be provided through participants' primary acute care facilities.

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. [397.311](#)(41). Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate to be determined by the governing board, agency, or authority created pursuant to this paragraph for the initial emergency room visit, and a per-member per-month fee or capitation for those members enrolled in their service area, as compensation for the services rendered following the initial emergency visit. Except for provisions of emergency services, upon determination of eligibility, enrollment shall be deemed to have occurred at the time services were rendered. The provisions for specific reimbursement of emergency services shall be repealed on July 1, 2001, unless otherwise reenacted by the Legislature. The capitation amount or rate shall be determined prior to program implementation by an independent actuarial consultant. In no event shall such reimbursement rates exceed the Medicaid rate. The plan must also provide that any hospitals owned and operated by government entities on or after the effective date of this act must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. [286.011](#) as to any meeting of the governing board, agency, or authority the subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.

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

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

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

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

(6) SCHOOL CAPITAL OUTLAY SURTAX.—

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

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. The statement shall conform to the requirements of s. [101.161](#) and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

FOR THE	CENTS TAX
AGAINST THE	CENTS TAX

(c) The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.

(d) Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

(7) VOTER-APPROVED INDIGENT CARE SURTAX.—

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

2. Notwithstanding subparagraph 1., the governing body of any county that has a population of fewer than 50,000 residents may levy an indigent care surtax pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. The surtax may be levied at a rate not to exceed 1 percent.

(b) A statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. [101.161](#) shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . .	.CENTS TAX
AGAINST THE. . .	.CENTS TAX

(c)1. The ordinance adopted by the governing body providing for the imposition of the surtax must set forth a plan for providing health care services to qualified residents, as defined in paragraph (d). The plan and subsequent amendments to it shall fund a broad range of health care services for indigent persons and the medically poor, including, but not limited to, primary care and preventive care, as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral

hospital where appropriate. It shall provide that agreements negotiated between the county and providers shall include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment, including, but not limited to, case management. The plan must also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

2. In addition to the uses specified or services required to be provided under this subsection, the ordinance adopted by a county that has a population of fewer than 50,000 residents may pledge surtax proceeds to service new or existing bond indebtedness incurred to finance, plan, construct, or reconstruct a public or not-for-profit hospital in such county and any land acquisition, land improvement, design, or engineering costs related to such hospital, if the governing body of the county determines that a public or not-for-profit hospital existing at the time of issuance of the bonds authorized under this subparagraph would, more likely than not, otherwise cease to operate. The plan required under this paragraph may, by an extraordinary vote of the governing body of such county, provide that some or all of the surtax revenues and any interest earned must be expended for the purpose of servicing such bond indebtedness. Such county may also use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue bonds under this subparagraph. A jurisdiction may not issue bonds under this subparagraph more frequently than once per year. Any county that has a population of fewer than 50,000 residents at the time any bonds authorized in this subparagraph are issued retains the authority granted under this subparagraph throughout the terms of such bonds, including the term of any refinancing bonds, regardless of any subsequent increase in population which would result in such county having 50,000 or more residents.

(d) For the purpose of this subsection, the term "qualified residents" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;
2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; not being eligible for any other state or federal program or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county shall serve as the payor of last resort; or
3. Participating in innovative, cost-effective programs approved by the authorizing county.

(e) Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund.
2. Invest any funds held on deposit in the trust fund pursuant to general law.
3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs (c) and (d), upon directive from the authorizing county.
4. Disburse the funds, including any interest earned, to service any bond indebtedness authorized in this subsection upon directive from the authorizing county, which directive may be irrevocably given at the time the bond indebtedness is incurred.

(f) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent or, if a publicly supported medical school is located in the county or the county has a population of fewer than 50,000 residents, in excess of a combined rate of 1.5 percent.

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

(a) The governing authority of a county, other than a county that has imposed two separate discretionary surtaxes without expiration, may, by ordinance, levy a discretionary sales surtax of up to 1 percent for emergency fire rescue services and facilities as provided in this subsection. As used in this subsection, the term “emergency fire rescue services” includes, but is not limited to, preventing and extinguishing fires; protecting and saving life and property from fires or natural or intentional acts or disasters; enforcing municipal, county, or state fire prevention codes and laws pertaining to the prevention and control of fires; and providing prehospital emergency medical treatment.

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum shall be placed on the ballot of a regularly scheduled election. The ballot for the referendum must conform to the requirements of s. [101.161](#).

(c) Pursuant to s. [212.054](#)(4), the proceeds of the discretionary sales surtax collected under this subsection, less an administrative fee that may be retained by the Department of Revenue, shall be distributed by the department to the county. The county shall distribute the proceeds it receives from the department to each local government entity providing emergency fire rescue services in the county. The surtax proceeds, less an administrative fee not to exceed 2 percent of the surtax collected, shall be distributed by the county based on each entity’s average annual expenditures for fire control and emergency fire rescue services in the 5 fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the 5 fiscal years preceding the fiscal year in which the surtax takes effect. The county shall revise the distribution proportions to reflect a change in the service area of an entity receiving a distribution of the surtax proceeds. If an entity declines its share of surtax revenue, such revenue shall be redistributed proportionally to the entities that are participating in the sharing of such revenue based on each participating entity’s average annual expenditures for fire control and emergency fire rescue services in the preceding 5 fiscal years in proportion to the average annual total of the expenditures for the participating entities in the preceding 5 fiscal years.

(d) If a local government entity requests personnel or equipment from any other service provider on a long-term basis and the personnel or equipment is provided, the local government entity providing the service is entitled to payment from the requesting service provider from that provider’s share of the surtax proceeds for all costs of the equipment or personnel.

(e) Upon the surtax taking effect and initiation of collections, each local government entity receiving a share of surtax proceeds shall reduce the ad valorem tax levy or any non-ad valorem assessment for fire control and emergency rescue services in its next and subsequent budgets by the estimated amount of revenue provided by the surtax.

(f) Use of surtax proceeds authorized under this subsection does not relieve a local government entity from complying with chapter 200 and any related provision of law that establishes millage caps or limits undesignated budget reserves and procedures for establishing rollback rates for ad valorem taxes and budget adoption. If surtax collections

exceed projected collections in any fiscal year, any surplus distribution shall be used to further reduce ad valorem taxes in the next fiscal year. These proceeds shall be applied as a rebate to the final millage, after the TRIM notice is completed in accordance with this provision. If a local government entity receiving a share of the surtax is unable to further reduce ad valorem taxes because the millage rate is zero, the funds shall be applied to reduce any non-ad valorem assessments levied for the purposes described in this section. If no ad valorem or non-ad valorem reduction is possible, the surplus surtax collections shall be returned to the county, and the county shall reduce the county millage rates to offset the surplus surtax proceeds.

(g) Surtax collections shall be initiated on January 1 of the year following a successful referendum in order to coincide with s. [212.054](#)(5).

(h) Notwithstanding s. [212.054](#), if a multicounty independent special district created pursuant to chapter 67-764, Laws of Florida, levies ad valorem taxes on district property to fund emergency fire rescue services within the district and is required by s. 2, Art. VII of the State Constitution to maintain a uniform ad valorem tax rate throughout the district, the county may not levy the discretionary sales surtax authorized by this subsection within the boundaries of the district.

White paper on the financial impacts to Monroe County residents of the Emergency Fire Rescue Services and Facilities Surtax

Introduction

Monroe County is unique in many ways, including its geography and economy. The county is sparsely populated over a string of islands 120 miles in length. This presents cost challenges in providing fire and rescue protection services. Insurance discounts favor all properties that are within 5 miles of a fire station. With Monroe County's geography and population densities, this results in relatively few properties supporting the cost of each fire/rescue facility.

Florida Statute 212.055(8) enables counties to adopt a discretionary sales surtax of up to one percent to help fund emergency fire and rescue services, subject to approval by a majority of qualified electors in a referendum. The statute requires any local government that receives surtax revenues to lower its ad valorem tax levy and non-ad valorem assessments by the same amount.

Like its geography, Monroe County is unique among Florida counties as to its economy. Monroe County's economy is far more dependent on tourism than that of any other Florida county. It is estimated that in excess of 60% of all Monroe County sales tax revenues are generated by tourists and visitors.

While the cost burden on property owners to fund fire rescue services is unusually high due to the unique geographic factors, the capacity to provide fire/rescue services to the roughly 4 million visitors must still be in place. The visitors pay little for these necessary services. Adoption of the Emergency Fire Rescue Services and Facilities Surtax will shift the cost burden of funding fire/rescue services from the current status of essentially 100% residents / 0% visitors to a ratio of roughly 40% residents / 60% visitors.

Financial Impacts

Adoption of the Fire/Rescue surtax will impact Monroe County residents in two ways. The surtax will result in a reduction in property taxes for all property owners. At the same time, all residents will pay more in sales taxes.

The tables below summarize the 2014 financial impact on property owners in each of the 8 taxing districts within Monroe County. The following assumptions were used.

- Assessed value of \$350,000
- One percent sales tax generates \$34 million countywide
- Countywide fire/rescue spending equals \$29 million
- Ambulance revenues of \$3 million are offset against fire/rescue spending

District	Total Millage	Fire/Rescue or Municipal Millage	Fire/Rescue or Municipal Tax	Fire/Rescue Portion of Muni Tax (%)*	Fire/Rescue Tax
Unincorp MC	10.1055	2.1403	\$ 749	N/A	\$ 749
Ocean Reef	7.9652	0	0	N/A	0
Key Largo	8.7875	.8223	\$ 288	N/A	\$ 288
Islamorada	10.0282	2.6459	\$ 926	56 %	\$ 519
Layton	12.1149	2.1403	\$ 749	N/A	\$ 749
Key Colony Bch	9.6336	2.2513	\$ 788	42 %	\$ 331
Marathon	9.6823	2.3000	\$ 805	70 %	\$ 564
Key West	9.9731	2.5908	\$ 907	55 %	\$ 499

* For Islamorada, Marathon and Key West, percentages determined by analysis of Annual Finance Reports filed with the State CFO, per FL Statute 218. Key Colony Beach contracts with the City of Marathon for fire/rescue services. Current fee is \$550,000 per year, or approximately 42% of ad valorem levy.

The statute defines a distribution formula for the surtax revenues based upon the average of five years historical spending on fire/rescue services in each district. A complete analysis of the ultimate financial impact on each property owner is not possible due to unclear statute language.

The Emergency Fire Rescue Services and Facilities Surtax statute requires any excess revenues generated by the tax that exceed projected collections to be used to further reduce ad valorem taxes in the next fiscal year. The statute does not define the projection to use. The DOR does publish projections but the statute does not mandate the use of this projection. Nor does the statute address the situation where projected collections exceed aggregate county-wide fire/rescue expenditures. For Monroe County, projected collections will materially exceed budgeted expenditures but, as the statute is written, the disposition of these excess funds cannot be determined.

The final piece of the financial impact on the residents of Monroe County by the adoption of the fire/rescue surtax is the added sales tax burden. The IRS publishes tables showing the average sales tax paid per wage bracket. Using the median household income for Monroe County¹ of \$54,000 as an example, this household will pay approximately \$125 in additional sales taxes per year as a result of the adoption of the surtax.

Although we cannot determine the ultimate financial impact of property owners in Monroe County, the adoption of the fire/rescue surtax does result in a significant financial benefit for virtually all property owners in Monroe County. Ocean Reef is a special situation. Their fire rescue services are funded entirely by donations and charges for service. Also, since they are not a governmental entity, they would not be eligible for a direct distribution of the surtax revenues. Property owners in Ocean Reef will benefit from a reduction in county-wide millage. Since the average property value in Ocean Reef is high relative to the rest of the County, this financial benefit will not be negligible.

Madok, Kevin – Sr. Director of Strategic Planning
Monroe County BOCC
Key West, Florida

White paper on the financial impacts to Monroe County residents of the Emergency Fire Rescue Services and Facilities Surtax

December, 2015

Revised January, 2016

¹ U.S. Census Bureau; American Factfinder

MEMORANDUM
Office of the Monroe County Attorney

TO: Bob Shillinger, County Attorney

FROM: Cynthia L. Hall, Assistant County Attorney CH

DATE: June 17, 2015

SUBJECT: Fire Rescue Surtax

This memo provides information regarding the procedure by which Monroe County could adopt a fire rescue surtax in accordance with Section 212.055(8), Fla. Stat., as amended by HB 209 in the 2015 session of the Florida legislature.¹

1. Overview of the Surtax

The Emergency Fire Rescue Services and Facilities Surtax (“Surtax”) was originally authorized in 2009 via Ch. 2009-182, Laws of Florida, and is now codified in Section 212.055(8). The Surtax may be levied at the rate of up to one cent pursuant to an ordinance enacted by a majority vote of the county’s governing body, subsequently approved by voters in a countywide referendum during a regularly scheduled election. The Surtax may only be levied by a county that not yet imposed two separate discretionary surtaxes without expiration.² (Section 212.055(8)(a)-(b), Fla. Stat.)

Section 212.055(8) was amended by the Florida legislature in the 2015 session via HB 209. The bill was presented to the Governor on June 1, 2015 and signed into law on June 16, 2015.

The key points of the surtax are as follows:

¹ HB 209 was passed with amendments by both the House and the Senate in April 2015 and signed into law by the Governor on June 16, 2015 . The effective date of the bill is July 1, 2015.

² According to the Florida Department of Revenue, a total of 65 counties are currently eligible to levy the Surtax. See 2015LDSSrates.xls, available at: <http://edr.state.fl.us/Content/revenues/index.cfm>; see also Office of Economic and Demographic Research, *2014 Local Government Financial Information Handbook*, at p. 193. According to the same source, no counties have levied the surtax so far. However, one county (Duval) has passed an ordinance and Managing Deputy General Counsel Margaret Sidman advises that the county is ready to place a referendum on the ballot for a general election.

Monroe County currently levies a one-cent local government infrastructure surtax per F.S. 212.055(2), with an expiration date of December 31, 2033. In addition, the local school district levies a half-penny school district surtax per F.S. 212.055(6), with a December 31, 2026 expiration. <http://edr.state.fl.us/Content/local-government/data/county-municipal/2015LDSSrates.pdf>.

- Funds raised through the Surtax can be used for fire emergency medical services and facilities (note however that the term “facilities” is not defined in the statute);³
- The surtax must be approved in a referendum in a regularly scheduled general election;⁴
- HB 209 dispensed with the need for the ILA between participating jurisdictions, previously required by F.S. 212.055(8). The proceeds must now be distributed according to a statutory formula;⁵ and
- Ad valorem taxes and non-ad valorem assessments must be reduced in the participating jurisdictions by the same estimated amount of revenue to be raised by the surtax.

2. Referendum

The Surtax can be collected beginning on January 1 of the year following a successful referendum. Section 212.055(8)(i).

The referendum must be placed on a ballot of a regularly scheduled election. (Section 212.055(8)(b).) The next three county-wide upcoming regularly scheduled elections⁶ are:

Presidential Preference Primary Election	March 15, 2016
Primary Election.....	August 30, 2016
General Election.....	November 8, 2016

The ballot for the referendum must meet the following requirements from Section 101.61, Fla. Stat.: a ballot title of no more than 15 words and a ballot summary of no more than 75 words.⁷ The Supervisor of Elections advises that the ballot title and ballot summary should be submitted to her office by no later than **December 18, 2015**, for the March 2016 election.

The ordinance passed by the BOCC will take effect if the levy is approved by a majority of electors voting in the referendum.

3. Distribution of Proceeds

The proceeds of the Surtax will be distributed by the Department of Revenue, less an administrative fee that may be retained by the Department. The county must distribute the net proceeds to the participating jurisdictions. The county may charge an administrative fee for

³ Section 212.055(8)(a), F.S.

⁴ Section 212.055(8)(b), F.S.

⁵ Section 212.055(8)(c), F.S.

⁶ <http://www.keys-elections.org/Upcoming-Elections>; <http://election.dos.state.fl.us/calendar/elecdate.shtml>.

⁷ For a referendum, the requirements are (a) a ballot title not more than 15 words in length, and (b) a ballot summary not more than 75 words in length, printed in clear and unambiguous language, which has also been incorporated within the enabling ordinance, followed by the words “yes” and “no,” with “yes” meaning approval and “no” meaning rejection.

receiving and distributing the Surtax in the amount of actual costs incurred, not to exceed 2% of surtax collected.⁸

Each participating jurisdiction receives a share of the Surtax equal to its average annual expenditures for fire rescue services over the past 5 years divided by the total of expenditures by all participating jurisdictions.

Each jurisdiction receiving a share of the surtax proceeds must reduce its ad valorem taxes by estimated amount to be raised through the surtax. If the local government entity is unable to reduce its ad valorem taxes because its millage rate is zero, then it must reduce any non-ad valorem assessments raising funds for the same fire rescue/EMS purpose by the same amount in each budget year in which it receives the surtax. If neither ad valorem taxes nor non-ad valorem assessments can be reduced, the local government entity must return the surtax, and the county will reduce the county millage rates to offset the surplus surtax proceeds.⁹

HB 209 adds new language clarifying that if a participating jurisdiction declines its share of the Surtax proceeds, the remainder is distributed proportionately to the remaining entities.

4. Ordinance and Notice to DOR

The governing body enacting the ordinance must comply with Section 125.66(2), Fla Stat. This requires notice of at least 10 days in a newspaper of general circulation. The county levying the Surtax must notify the Department of Revenue of the Surtax within ten (10) days within final adoption by ordinance or referendum, but no later than November 16 prior to the effective date (i.e., one week after the last general election of the year). The notice to DOR must specify the time period within which the Surtax will be in effect and the rate, and include a copy of the ordinance. Failure to provide the notice to DOR shall result in the delay of the effective date of the ordinance by one year.¹⁰

If the referendum is scheduled to be held after October 1, the county must notify DOR of the upcoming referendum by October 1. Failure to provide this advance notice will also result in the delay of the effective date by one year.¹¹

5. Funds Raised Through the Surtax May Be Used for Emergency Fire Rescue Services and Facilities.

The permissible uses for the Surtax are *emergency fire rescue services* and *facilities*. The term “emergency fire rescue services” is defined in Section 212.055(8)(a):

As used in this subsection, the term “emergency fire rescue services” includes, but is not limited to, preventing and extinguishing fires; protecting and saving life and

⁸ Section 212.055(8)(c), Fla. Stat. HB 209 changes this to read “not to exceed 2 percent” (eliminating the “actual costs incurred” language).

⁹ Section 212.055(8)(f), Fla. Stat.

¹⁰ Section 212.054(7)(a), Fla. Stat.

¹¹ Section 212.054(7)(b), Fla. Stat.

property from fires or natural or intentional acts or disasters; enforcing municipal, county, or state fire prevention codes and laws pertaining to the prevention and control of fires; and providing prehospital emergency medical treatment.

The term “facilities” is not defined in Section 212.055(8). No cases or Attorney General opinions have reached this issue.

Other subsections of 212.055 use the word facilities. Subsection (2) of the statute (Local Government Infrastructure Surtax)¹² defines the term “infrastructure” to *include* facilities “as defined in Section 29.008 (Court-related functions)”, in addition to other items.¹³ Section 29.008 in turn defines the term “facilities” in an expansive way, which includes “reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, . . .”

Similarly, subsection (3) (“Small County Surtax”) states that the surtax may be used for the purpose of servicing bond indebtedness to finance, plan, and construction infrastructure or to acquire land for public recreation or for conservation or protection. Subsection (3) in turn defines “infrastructure” to mean capital expenditures or fixed capital costs associates with construction, reconstruction or improvement of public facilities; however, the subsection provides no further definition of the word “facilities.”

Subsection (6) (“School Capital Outlay Surtax”) states that the surtax can be levied for the construction, reconstruction, or improvement of “school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto.” The subsection does not provide a definition of the term “facilities.”

In the absence of a definition for the word “facility” within subsection (8), the Attorney General has opined that it is also acceptable to look to the use of the word in other statutes.¹⁴ Within Chapter 163 (the Community Planning Act), the term is defined to mean “major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities.”¹⁵ *See also* Section 163.3221(13), Fla. Stat. (same).

Thus, while the statute contains no precise definition of the term, and the legislative history does not discuss the term, it is more likely than not that the Surtax could capital

¹² Monroe County currently levies the one-cent infrastructure surtax (subsection 2) and the half-cent school capital outlay surtax (subsection 6).

¹³ In addition to “facilities as defined in Section 29.008,” Section 212.055(2)(d)1. defines the term “infrastructure” to mean (a) fire department, EMS and law enforcement vehicles; (b) private facilities with a life expectancy of 5 years or more, where the owner agrees to make the building available for use during an emergency on a temporary basis; and (c) land acquisition for residential housing projects, where at least 30% of units are set aside as affordable housing.

¹⁴ Fla. AGO 2007-51, 2007 WL 3357170 (“Recognizing that s. 212.055(2), Fla. Stat., did not contain a definition of ‘public facilities,’ this office in the opinion reviewed other statutes where the term is used and defined.”).

¹⁵ Section 163.3164(38), F.S.

construction, furnishings, and possibly even land acquisition in addition to fire rescue and emergency medical services.

Monroe County, Florida, 2012

Household SURVIVAL Budget, Monroe County, Florida, 2012						
	Single Adult	Married Couple	Adult, One Child	Adult, One Child Care	Two Adults, 2 Children	Two Adults, 2 Child Care
Housing	\$946	\$1,152	\$1,152	\$1,152	\$1,419	\$1,419
Childcare	0	0	\$625	\$625	\$1,250	\$1,250
Food	\$176	\$365	\$355	\$301	\$609	\$531
Transportation	\$350	\$437	\$437	\$437	\$699	\$699
Healthcare	\$107	\$213	\$267	\$267	\$426	\$426
Miscellaneous	\$182	\$245	\$313	\$307	\$477	\$469
Tax	\$242	\$283	\$297	\$293	\$367	\$368
Monthly Total	\$2,002	\$2,695	\$3,440	\$3,382	\$5,248	\$5,164
Annual Total	\$24,020	\$32,342	\$41,282	\$40,588	\$62,981	\$61,962

Note: One childcare refers to an infant; two childcare refers to one infant and one 4 year old.
For an additional infant add 14 percent; for an additional 4 year old add 7 percent; and for an additional child add 10 percent.

Sources: HUD, NACARRA, USDA, BLS, IRS and state treasury.

Household STABILITY Budget, Monroe County, Florida, 2012						
	Single Adult	Married Couple	Adult, One Child	Adult, One Child Care	Two Adults, 2 Children	Two Adults, 2 Child Care
Housing	\$1,440	\$1,774	\$1,774	\$1,774	\$1,866	\$1,866
Childcare	0	0	\$383	\$613	\$767	\$1,179
Food	\$325	\$664	\$671	\$575	\$1,160	\$1,002
Transportation	\$347	\$694	\$694	\$694	\$1,110	\$1,110
Healthcare	\$204	\$461	\$791	\$791	\$951	\$951
Miscellaneous	\$232	\$359	\$431	\$445	\$585	\$611
Savings	\$232	\$359	\$431	\$445	\$585	\$611
Tax	\$298	\$330	\$428	\$421	\$664	\$813
Monthly Total	\$3,077	\$4,641	\$5,603	\$8,142	\$7,689	\$8,142
Annual Total	\$36,929	\$55,697	\$67,236	\$69,076	\$92,264	\$97,708

Note: One childcare refers to an infant; two childcare refers to one infant and one 4 year old.
For an additional infant add 29 percent; for an additional 4 year old add 3 percent; and for an additional child add 4 percent.

Sources: HUD, NACARRA, USDA, BLS, IRS and state treasury.