

House Bill No. 509

An act relating to taxation; amending s. 197.182, F.S.; providing that amounts paid by a taxpayer in error because of an error in the tax notice must be refunded by the tax collector or applied to taxes actually due; amending s. 120.80, F.S.; providing for the award of reasonable attorney's fees and costs of an appeal to a prevailing appellant on an appeal of an assessment imposed or refund denied under chapter 212, F.S., under specified circumstances; amending s. 213.21, F.S.; providing conditions under which a taxpayer's liability may be compromised when the taxpayer establishes reasonable reliance on written advice issued by the department; providing application; amending s. 199.185, F.S.; providing an exemption from the tax on government leaseholds; amending ss. 125.0104, 212.0305, F.S.; authorizing the expiration of bonds issued by a county to finance a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, upon the expiration of any agreement by the county for the operation or maintenance, or both, of the facility; allowing a county to extend a tourist development tax ordinance for the purpose of operating, maintaining, repairing, or renewing and replacing such a facility; providing that a county that elects to assume responsibility for audit and enforcement with respect to the local option tourist development tax, area of critical state concern tourist impact tax, or convention development taxes may use certified public accountants in administering its duties; providing for application of confidentiality and penalty provisions to such agents; amending s. 213.053, F.S.; providing for information sharing; expanding the authorized use of the indigent care surtax to include trauma centers; renaming the surtax; requiring the plan set out in the ordinance to include additional provisions concerning Level I trauma centers; providing requirements for annual disbursements to hospitals on October 1 to be in recognition of the Level I trauma center status and to be in addition to a base contract amount, plus any negotiated additions to indigent care funding; authorizing funds received to be used to generate federal matching funds under certain conditions and authorizing payment by the clerk of the court; authorizing the School Board of Sarasota County to levy additional millage for one year to support the cost of converting to charter district status; requiring a referendum; amending s. 212.055, F.S.; revising provisions that require the counties authorized to levy the surtax to annually appropriate a specified minimum amount for operation, administration, and maintenance of the county public general hospital; providing procedure for disbursement of funds; requiring a governing board, agency, or authority in such counties to adopt and implement a health care plan for indigent health care services; providing for appointment of members of such entity; specifying provisions of the plan; providing for annual audit; providing for compensation to service providers; providing for future review and repeal;

amending s. 125.0104, F.S.; exempting certain tourist development taxes from provisions providing for tax repeal by referendum; creating s. 192.0105, F.S.; creating the Florida Taxpayer's Bill of Rights for property taxes and assessments, which compiles taxpayer rights as found in the Florida Statutes and rules of the Department of Revenue, including the right to know, the right to due process, the right to redress, and the right to confidentiality; amending s. 212.055, F.S.; authorizing certain counties to levy a voter-approved indigent care discretionary sales surtax; providing for the surtax to be conditioned upon approval by a majority vote of the electors; limiting the rate of the surtax; providing requirements for the ordinance adopted by the governing body of the county which imposes the surtax; providing for proceeds of the surtax to be used to provide health care services to qualified residents; defining "qualified residents"; providing for the administration of proceeds collected pursuant to the surtax; limiting the total amount of certain local option sales surtaxes that may be imposed by a county; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1) and subsection (3) of section 197.182, Florida Statutes, are amended to read:

197.182 Department of Revenue to pass upon and order refunds.—

(1)(a) Except as provided in paragraph (b), the department shall pass upon and order refunds when payment of taxes assessed on the county tax rolls has been made voluntarily or involuntarily under any of the following circumstances:

1. When an overpayment has been made.
2. When a payment has been made when no tax was due.
3. When a bona fide controversy exists between the tax collector and the taxpayer as to the liability of the taxpayer for the payment of the tax claimed to be due, the taxpayer pays the amount claimed by the tax collector to be due, and it is finally adjudged by a court of competent jurisdiction that the taxpayer was not liable for the payment of the tax or any part thereof.
4. When a payment has been made in error by a taxpayer to the tax collector, if, within 24 months of the date of the erroneous payment and prior to any transfer of the assessed property to a third party for consideration, the party seeking a refund makes demand for reimbursement of the erroneous payment upon the owner of the property on which the taxes were erroneously paid and reimbursement of the erroneous payment is not received within 45 days after such demand. The demand for reimbursement shall be sent by certified mail, return receipt requested, and a copy thereof shall be sent to the tax collector. If the payment was made in error by the taxpayer because of an error in the tax notice sent to the taxpayer, refund must be made as provided in paragraph (b)2.

5. When any payment has been made for tax certificates that are subsequently corrected or are subsequently determined to be void under s. 197.443.

(b)1. Those refunds that have been ordered by a court and those refunds that do not result from changes made in the assessed value on a tax roll certified to the tax collector shall be made directly by the tax collector without order from the department and shall be made from undistributed funds without approval of the various taxing authorities. Overpayments in the amount of \$5 or less may be retained by the tax collector unless a written claim for a refund is received from the taxpayer. Overpayments over \$5 resulting from taxpayer error, if determined within the 4-year period of limitation, are to be automatically refunded to the taxpayer. Such refunds do not require approval from the department.

2. When a payment has been made in error by a taxpayer to the tax collector because of an error in the tax notice sent to the taxpayer, refund must be made directly by the tax collector and does not require approval from the department. At the request of the taxpayer, the amount paid in error may be applied by the tax collector to the taxes for which the taxpayer is actually liable.

(3) A refund ordered by the department pursuant to this section shall be made by the tax collector in one aggregate amount composed of all the pro rata shares of the several taxing authorities concerned, except that a partial refund is allowed when one or more of the taxing authorities concerned do not have funds currently available to pay their pro rata shares of the refund and this would cause an unreasonable delay in the total refund. A statement by the tax collector explaining the refund shall accompany the refund payment. When taxes become delinquent as a result of a refund pursuant to subparagraph (1)(a)4. or subparagraph (1)(b)2., the tax collector shall notify the property owner that the taxes have become delinquent and that a tax certificate will be sold if the taxes are not paid within 30 days after the date of delinquency.

Section 2. Paragraph (b) of subsection (14) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(14) DEPARTMENT OF REVENUE.—

(b) Taxpayer contest proceedings.—

1. In any administrative proceeding brought pursuant to this chapter as authorized by s. 72.011(1), the taxpayer shall be designated the “petitioner” and the Department of Revenue shall be designated the “respondent,” except that for actions contesting an assessment or denial of refund under chapter 207, the Department of Highway Safety and Motor Vehicles shall be designated the “respondent,” and for actions contesting an assessment or denial of refund under chapters 210, 550, 561, 562, 563, 564, and 565, the Department of Business and Professional Regulation shall be designated the “respondent.”

2. In any such administrative proceeding, the applicable department's burden of proof, except as otherwise specifically provided by general law, shall be limited to a showing that an assessment has been made against the taxpayer and the factual and legal grounds upon which the applicable department made the assessment.

3.a. Prior to filing a petition under this chapter, the taxpayer shall pay to the applicable department the amount of taxes, penalties, and accrued interest assessed by that department which are not being contested by the taxpayer. Failure to pay the uncontested amount shall result in the dismissal of the action and imposition of an additional penalty of 25 percent of the amount taxed.

b. The requirements of s. 72.011(2) and (3)(a) are jurisdictional for any action under this chapter to contest an assessment or denial of refund by the Department of Revenue, the Department of Highway Safety and Motor Vehicles, or the Department of Business and Professional Regulation.

4. Except as provided in s. 220.719, further collection and enforcement of the contested amount of an assessment for nonpayment or underpayment of any tax, interest, or penalty shall be stayed beginning on the date a petition is filed. Upon entry of a final order, an agency may resume collection and enforcement action.

5. The prevailing party, in a proceeding under ss. 120.569 and 120.57 authorized by s. 72.011(1), may recover all legal costs incurred in such proceeding, including reasonable attorney's fees, if the losing party fails to raise a justiciable issue of law or fact in its petition or response.

6. Upon review pursuant to s. 120.68 of final agency action concerning an assessment of tax, penalty, or interest with respect to a tax imposed under chapter 212, or the denial of a refund of any tax imposed under chapter 212, if the court finds that the Department of Revenue improperly rejected or modified a conclusion of law, the court may award reasonable attorney's fees and reasonable costs of the appeal to the prevailing appellant.

Section 3. Subsections (2) and (3) of section 213.21, Florida Statutes, are amended to read:

213.21 Informal conferences; compromises.—

(2)(a) The executive director of the department or his or her designee is authorized to enter into closing agreements with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). Such agreements shall be in writing when the amount of tax, penalty, or interest compromised exceeds \$30,000 or for lesser amounts when the department deems it appropriate or when requested by the taxpayer. When a written closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no

additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of \$250,000 or less.

(b) Notwithstanding the provisions of paragraph (a), for the purpose of facilitating the settlement and distribution of an estate held by a personal representative, the executive director of the department may, on behalf of the state, agree upon the amount of taxes at any time due or to become due from such personal representative under the provisions of chapter 198; and payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

(c) Notwithstanding paragraph (a), for the purpose of compromising the liability of any taxpayer for tax or interest on the grounds of doubt as to liability based on the taxpayer's reasonable reliance on a written determination issued by the department as described in paragraph (3)(b), the department may compromise the amount of such tax or interest liability resulting from such reasonable reliance.

(3)(a) A taxpayer's liability for any tax or interest specified in s. 72.011(1) may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. A taxpayer who establishes reasonable reliance on the written advice issued by the department to the taxpayer will be deemed to have shown reasonable cause for the noncompliance. In addition, a taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) in excess of 25 percent of the tax shall be settled or compromised if the department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. The records of compromise under this paragraph shall not be subject to disclosure pursuant to s. 119.07(1) and shall be considered confidential information governed by the provisions of s. 213.053.

(b) Doubt as to liability of a taxpayer for tax and interest exists if the taxpayer demonstrates that he or she reasonably relied on a written determination of the department in the following circumstances:

1. The audit workpapers clearly show that the same issue was considered in a prior audit of the taxpayer conducted by or on behalf of the department and, after consideration of the issue, the department's auditor determined that no assessment was appropriate in regard to that issue.

2. The same issue was raised in a prior audit of the taxpayer and, during the informal protest of the proposed assessment, the department issued a notice of decision withdrawing the issue from the assessment.

3. The taxpayer received a technical assistance advisement pursuant to s. 213.22 in regard to the issue.

The circumstances listed in this paragraph are not intended to be the only circumstances in which doubt as to liability exists. Nothing contained in this section shall interfere with the state's ability to structure a remedy to cure a judicially determined constitutional defect in a tax law.

(c) A taxpayer shall not be deemed to have reasonably relied on a written determination of the department under any of the following circumstances:

1. The taxpayer misrepresented material facts or did not fully disclose material facts at the time the written determination was issued.

2. The specific facts and circumstances have changed in such a material manner that the written determination no longer applies.

3. The statutes or regulations on which the determination was based have been materially revised or a published judicial opinion constituting precedent in the taxpayer's jurisdiction has overruled the department's determination on the issue.

4. The department has informed the taxpayer in writing that its previous written determination has been revised and should no longer be relied upon.

(d)(b) A taxpayer's liability for the service fee required by s. 215.34(2) may be settled or compromised if it is determined that the dishonored check, draft, or order was returned due to an error committed by the issuing financial institution, and the error is substantiated by the department. The department shall maintain records of all compromises, and the records shall state the basis for the compromise.

Section 4. The amendments to section 213.21(2) and (3), Florida Statutes, by this act shall apply only to notices of intent to conduct an audit issued on or after October 1, 2000.

Section 5. Paragraph (n) is added to subsection (1) of section 199.185, Florida Statutes, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(n)1. A leasehold estate in governmental property where the lessee is required to furnish space on the leasehold estate for public use by governmental agencies at no charge to the governmental agencies.

2. The provisions of this exemption shall apply retroactively. However, notwithstanding the retroactivity of the exemption, it does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 6. Subsections (7) and (10) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(7) **AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.**—Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the later of:

(a) Retirement of all bonds issued by the county for financing the same; or

(b) The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum. However, nothing herein shall preclude that county from amending the ordinance extending the tax to the extent that the board of the county determines to be necessary to provide funds with which to operate, maintain, repair, or renew and replace a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum or from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

(10) **LOCAL ADMINISTRATION OF TAX.**—

(a) A county levying a tax under this section or s. 125.0108 may be exempted from the requirements of the respective section that:

1. The tax collected be remitted to the Department of Revenue before being returned to the county; and

2. The tax be administered according to chapter 212,

if the county adopts an ordinance providing for the local collection and administration of the tax.

(b) The ordinance shall include provision for, but need not be limited to:

1. Initial collection of the tax to be made in the same manner as the tax imposed under chapter 212.

2. Designation of the local official to whom the tax shall be remitted, and that official's powers and duties with respect thereto. Tax revenues may be used only in accordance with the provisions of this section.

3. Requirements respecting the keeping of appropriate books, records, and accounts by those responsible for collecting and administering the tax.
4. Provision for payment of a dealer's credit as required under chapter 212.
5. A portion of the tax collected may be retained by the county for costs of administration, but such portion shall not exceed 3 percent of collections.

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by all rules promulgated by the Department of Revenue pursuant to paragraph (3)(k), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this section to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. The county may use a certified public accountant licensed in this state in the administration of its statutory duties and responsibilities. Such certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to chapter 212.

Section 7. Paragraph (c) of subsection (5) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.—

(5) LOCAL ADMINISTRATION OF TAX.—

(c) A county adopting an ordinance providing for the collection and administration of the tax on a local basis shall also adopt an ordinance electing either to assume all responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate such authority to the Department of Revenue. If the county elects to assume such responsibility, it shall be bound by the rules promulgated by the Department of Revenue pursuant to paragraph (3)(f), as well as those rules pertaining to the sales and use tax on transient rentals imposed by s. 212.03. The county may use any power granted in this chapter to the department to determine the amount of tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest. The county may use a certified public accountant licensed in this

state in the administration of its statutory duties and responsibilities. Such certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053. If the county delegates such authority to the department, the department shall distribute any collections so received, less costs of administration, to the county. The amount deducted for costs of administration by the department shall be used only for those costs which are solely and directly attributable to auditing, assessing, collecting, processing, and enforcing payments of delinquent taxes authorized in this section. If a county elects to delegate such authority to the department, the department shall audit only those businesses in the county that it audits pursuant to this chapter.

Section 8. Paragraph (j) of subsection (7) of s. 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(j) Information authorized pursuant to s. 213.0535 to eligible participants and certified public accountants for such participants in the Registration Information Sharing and Exchange Program.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 9. In addition to the discretionary millage authorized in the 2000-2001 General Appropriations Act, the School Board of Sarasota County may levy up to 1.0 additional mill of discretionary school millage for one year only, conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, for the purpose of implementing the transition to charter district status under section 228.058, F.S. Funds generated by such additional millage shall not become a part of the calculation of Florida Education Finance Program total potential funds in 2000-2001 or any subsequent year and shall not be incorporated in the calculation of any hold harmless or other component of the Florida Education Finance Program formula in any year.

Section 10. Paragraph (d) of subsection (5) of section 212.055, Florida Statutes, is amended, paragraph (e) is redesignated as paragraph (f), and a new paragraph (e) is added to said subsection, to read:

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.

(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.

(d) Except as provided in subparagraphs 1. and 2., the county must shall 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(30). 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.

Section 11. The provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.

Section 12. This act shall take effect October 1, 2000.

Section 13. Paragraph (c) of subsection (2) and subsection (4) of section 212.055, Florida Statutes, are amended to read:

(4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

(a) 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) or subsection (6), 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.

(b) 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

(c) 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 paragraph (d). 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.

(d) For the purpose of this subsection, the term “qualified resident” 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; 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
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; and
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. However, if a county has a population of at least 800,000 residents and has levied the surtax authorized in this subsection, 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.

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

(g) This subsection expires October 1, 2005.

Section 14. Paragraph (d) of subsection (6) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(6) REFERENDUM.—

(d) In any case where a referendum levying and imposing the tax has been approved pursuant to this section and 15 percent of the electors in the county or 15 percent of the electors in the subcounty special district in which the tax is levied file a petition with the board of county commissioners for a referendum to repeal the tax, the board of county commissioners shall cause an election to be held for the repeal of the tax which election shall be subject only to the outstanding bonds for which the tax has been pledged. However, the repeal of the tax shall not be effective with respect to any portion of taxes initially levied in November 1989, which has been pledged or is being used to support bonds under paragraph (3)(d) or paragraph (3)(l) until the retirement of those bonds.

Section 15. Section 192.0105, Florida Statutes, is created to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are

implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(1) THE RIGHT TO KNOW.—

(a) The right to be mailed notice of proposed property taxes and proposed or adopted non-ad valorem assessments (see ss. 194.011(1), 200.065(2)(b) and (d) and (13)(a), and 200.069). The notice must also inform the taxpayer that the final tax bill may contain additional non-ad valorem assessments (see s. 200.069(12)).

(b) The right to notification of a public hearing on each taxing authority's tentative budget and proposed millage rate and advertisement of a public hearing to finalize the budget and adopt a millage rate (see s. 200.065(2)(c) and (d)).

(c) The right to advertised notice of the amount by which the tentatively adopted millage rate results in taxes that exceed the previous year's taxes (see s. 200.065(2)(d) and (3)). The right to notification by first-class mail of a comparison of the amount of the taxes to be levied from the proposed millage rate under the tentative budget change, compared to the previous year's taxes, and also compared to the taxes that would be levied if no budget change is made (see ss. 200.065(2)(b) and 200.069(2), (3), (4), and (9)).

(d) The right that the adopted millage rate will not exceed the tentatively adopted millage rate. If the tentative rate exceeds the proposed rate, each taxpayer shall be mailed notice comparing his or her taxes under the tentatively adopted millage rate to the taxes under the previously proposed rate, before a hearing to finalize the budget and adopt millage (see s. 200.065(2)(d)).

(e) The right to be sent notice by first-class mail of a non-ad valorem assessment hearing at least 20 days before the hearing with pertinent information, including the total amount to be levied against each parcel. All affected property owners have the right to appear at the hearing and to file written objections with the local governing board (see s. 197.3632(4)(b) and (c) and (10)(b)2.b.).

(f) The right of an exemption recipient to be sent a renewal application for that exemption, the right to a receipt for homestead exemption claim when filed, and the right to notice of denial of the exemption (see ss. 196.011(6), 196.131(1), 196.151, and 196.193(1)(c) and (5)).

(g) The right, on property determined not to have been entitled to homestead exemption in a prior year, to notice of intent from the property appraiser to record notice of tax lien and the right to pay tax, penalty, and interest before a tax lien is recorded for any prior year (see s. 196.161(1)(b)).

(h) The right to be informed during the tax collection process, including: notice of tax due; notice of back taxes; notice of late taxes and assessments and consequences of nonpayment; opportunity to pay estimated taxes and non-ad valorem assessments when the tax roll will not be certified in time;

notice when interest begins to accrue on delinquent provisional taxes; notice of the right to prepay estimated taxes by installment; a statement of the taxpayer's estimated tax liability for use in making installment payments; and notice of right to defer taxes and non-ad valorem assessments on homestead property (see ss. 197.322(3), 197.3635, 197.343, 197.363(2)(c), 197.222(3) and (5), 197.2301(3), 197.3632(8)(a), 193.1145(10)(a), and 197.254(1)).

(i) The right to an advertisement in a newspaper listing names of taxpayers who are delinquent in paying tangible personal property taxes, with amounts due, and giving notice that interest is accruing at 18 percent and that, unless taxes are paid, warrants will be issued, prior to petition made with the circuit court for an order to seize and sell property (see s. 197.402(2)).

(j) The right to be mailed notice when a petition has been filed with the court for an order to seize and sell property and the right to be mailed notice, and to be served notice by the sheriff, before the date of sale, that application for tax deed has been made and property will be sold unless back taxes are paid (see ss. 197.413(5), 197.502(4)(a), and 197.522(1)(a) and (2)).

(2) THE RIGHT TO DUE PROCESS.—

(a) The right to an informal conference with the property appraiser to present facts the taxpayer considers to support changing the assessment and to have the property appraiser present facts supportive of the assessment upon proper request of any taxpayer who objects to the assessment placed on his or her property (see s. 194.011(2)).

(b) The right to petition the value adjustment board over objections to assessments, denial of exemption, denial of agricultural classification, denial of historic classification, denial of high-water recharge classification, disapproval of tax deferral, and any penalties on deferred taxes imposed for incorrect information willfully filed. Payment of estimated taxes does not preclude the right of the taxpayer to challenge his or her assessment (see ss. 194.011(3), 196.011(6) and (9)(a), 196.151, 196.193(1)(c) and (5), 193.461(2), 193.503(7), 193.625(2), 197.253(2), 197.301(2), and 197.2301(11)).

(c) The right to file a petition for exemption or agricultural classification with the value adjustment board when an application deadline is missed, upon demonstration of particular extenuating circumstances for filing late (see ss. 193.461(3)(a) and 196.011(1), (7), (8), and (9)(c)).

(d) The right to prior notice of the value adjustment board's hearing date and the right to the hearing within 4 hours of scheduled time (see s. 194.032(2)).

(e) The right to notice of date of certification of tax rolls and receipt of property record card if requested (see ss. 193.122(2) and (3) and 194.032(2)).

(f) The right, in value adjustment board proceedings, to have all evidence presented and considered at a public hearing at the scheduled time, to be

represented by attorney or agent, to have witnesses sworn and cross-examined, and to examine property appraisers or evaluators employed by the board who present testimony (see ss. 194.034(1)(a) and (c) and (4), and 194.035(2)).

(g) The right to be mailed a timely written decision by the value adjustment board containing findings of fact and conclusions of law and reasons for upholding or overturning the determination of the property appraiser, and the right to advertised notice of all board actions, including appropriate narrative and column descriptions, in brief and nontechnical language (see ss. 194.034(2) and 194.037(3)).

(h) The right at a public hearing on non-ad valorem assessments or municipal special assessments to provide written objections and to provide testimony to the local governing board (see ss. 197.3632(4)(c) and 170.08).

(i) The right to bring action in circuit court to contest a tax assessment or appeal value adjustment board decisions to disapprove exemption or deny tax deferral (see ss. 194.036(1)(c) and (2), 194.171, 196.151, and 197.253(2)).

(3) THE RIGHT TO REDRESS.—

(a) The right to discounts for early payment on all taxes and non-ad valorem assessments collected by the tax collector, the right to pay installment payments with discounts, and the right to pay delinquent personal property taxes under an installment payment program when implemented by the county tax collector (see ss. 197.162, 197.3632(8) and (10)(b)3., 197.222(1), and 197.4155).

(b) The right, upon filing a challenge in circuit court and paying taxes admitted in good faith to be owing, to be issued a receipt and have suspended all procedures for the collection of taxes until the final disposition of the action (see s. 194.171(3)).

(c) The right to have penalties reduced or waived upon a showing of good cause when a return is not intentionally filed late, and the right to pay interest at a reduced rate if the court finds that the amount of tax owed by the taxpayer is greater than the amount the taxpayer has in good faith admitted and paid (see ss. 193.072(4) and 194.192(2)).

(d) The right to a refund when overpayment of taxes has been made under specified circumstances (see ss. 193.1145(8)(e) and 197.182(1)).

(e) The right to an extension to file a tangible personal property tax return upon making proper and timely request (see s. 193.063).

(f) The right to redeem real property and redeem tax certificates at any time before a tax deed is issued, and the right to have tax certificates canceled if sold where taxes had been paid or if other error makes it void or correctable. Property owners have the right to be free from contact by a certificateholder for 2 years (see ss. 197.432(14) and (15), 197.442(1), 197.443, and 197.472(1) and (7)).

(g) The right of the taxpayer, property appraiser, tax collector, or the department, as the prevailing party in a judicial or administrative action brought or maintained without the support of justiciable issues of fact or law, to recover all costs of the administrative or judicial action, including reasonable attorney's fees, and of the department and the taxpayer to settle such claims through negotiations (see ss. 57.105 and 57.111).

(4) THE RIGHT TO CONFIDENTIALITY.—

(a) The right to have information kept confidential, including federal tax information, ad valorem tax returns, social security numbers, all financial records produced by the taxpayer, Form DR-219 returns for documentary stamp tax information, and sworn statements of gross income, copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents (see ss. 192.105, 193.074, 193.114(6), 195.027(3) and (6), and 196.101(4)(c)).

(b) The right to limiting access to a taxpayer's records by a property appraiser, the Department of Revenue, and the Auditor General only to those instances in which it is determined that such records are necessary to determine either the classification or the value of taxable nonhomestead property (see s. 195.027(3)).

Section 16. Subsection (7) is added to section 212.055, Florida Statutes, to read:

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.

(7) VOTER-APPROVED INDIGENT CARE SURTAX.—

(a) The governing body in each county that has a population of less 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.

(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) 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.

(d) For the purpose of this subsection, "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.

(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, in excess of a combined rate of 1.5 percent.

Section 17. This act shall take effect upon becoming a law.

Approved by the Governor June 16, 2000.

Filed in Office Secretary of State June 16, 2000.