

## CHAPTER 2022-214

### Committee Substitute for Committee Substitute for House Bill No. 777

An act relating to local tax referenda requirements; amending ss. 125.0104, 125.0108, and 125.901, F.S.; requiring referenda elections related to tourist development taxes, tourist impact taxes, and children's services and independent special district property taxes to be held on the day of a general election; amending ss. 200.091 and 200.101, F.S.; requiring referenda elections related to increases in county and municipal ad valorem tax millages to be held on the day of a general election; amending s. 336.021, F.S.; requiring referenda elections related to the ninth-cent fuel tax to be held on the day of a general election; amending s. 336.025, F.S.; requiring referenda elections related to local option fuel taxes to be held on the day of a general election; amending s. 1011.73, F.S.; requiring referenda elections related to certain school district millage elections to be held on the day of a general election; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (6) of section 125.0104, Florida Statutes, are amended to read:

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

(6) REFERENDUM.—

(a) No ordinance enacted by any county levying the tax authorized by paragraphs (3)(b) and (c) shall take effect until the ordinance levying and imposing the tax has been approved in a referendum held at a general election, as defined in s. 97.021, by a majority of the electors voting in such election in the county or by a majority of the electors voting in the subcounty special tax district affected by the tax.

(b) The governing board of the county levying the tax shall arrange to place a question on the ballot at a general ~~the next regular or special~~ election, as defined in s. 97.021, to be held within the county, which question shall be in substantially the following form as follows:

.....FOR the Tourist Development Tax

.....AGAINST the Tourist Development Tax.

Section 2. Subsection (5) of section 125.0108, Florida Statutes, is amended to read:

125.0108 Areas of critical state concern; tourist impact tax.—

(5) The tourist impact tax authorized by this section shall take effect only upon express approval by a majority vote of those qualified electors in the area or areas of critical state concern in the county seeking to levy such tax, voting in a referendum to be held by the governing board of such county in conjunction with a general or special election, ~~as defined in s. 97.021, in accordance with the provisions of law relating to elections currently in force.~~ However, if the area or areas of critical state concern are greater than 50 percent of the land area of the county and the tax is to be imposed throughout the entire county, the tax shall take effect only upon express approval of a majority of the qualified electors of the county voting in such a referendum.

Section 3. Subsection (1) of section 125.901, Florida Statutes, is amended to read:

125.901 Children's services; independent special district; council; powers, duties, and functions; public records exemption.—

(1) Each county may by ordinance create an independent special district, as defined in ss. 189.012 and 200.001(8)(e), to provide funding for children's services throughout the county in accordance with this section. The boundaries of such district shall be coterminous with the boundaries of the county. The county governing body shall obtain approval at a general election, as defined in s. 97.021, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes which shall not exceed the maximum millage rate authorized by this section. Any district created pursuant to the provisions of this subsection shall be required to levy and fix millage subject to the provisions of s. 200.065. Once such millage is approved by the electorate, the district shall not be required to seek approval of the electorate in future years to levy the previously approved millage.

(a) The governing body of the district shall be a council on children's services, which may also be known as a juvenile welfare board or similar name as established in the ordinance by the county governing body. Such council shall consist of 10 members, including: the superintendent of schools; a local school board member; the district administrator from the appropriate district of the Department of Children and Families, or his or her designee who is a member of the Senior Management Service or of the Selected Exempt Service; one member of the county governing body; and the judge assigned to juvenile cases who shall sit as a voting member of the board, except that said judge shall not vote or participate in the setting of ad valorem taxes under this section. If there is more than one judge assigned to juvenile cases in a county, the chief judge shall designate one of said juvenile judges to serve on the board. The remaining five members shall be appointed by the Governor, and shall, to the extent possible, represent the demographic diversity of the population of the county. After soliciting recommendations from the public, the county governing body shall submit to the Governor the names of at least three persons for each vacancy occurring among the five members appointed by the Governor, and the Governor shall appoint members to the council from the candidates nominated by the county governing body. The Governor shall make a selection within a 45-day

period or request a new list of candidates. All members appointed by the Governor shall have been residents of the county for the previous 24-month period. Such members shall be appointed for 4-year terms, except that the length of the terms of the initial appointees shall be adjusted to stagger the terms. The Governor may remove a member for cause or upon the written petition of the county governing body. If any of the members of the council required to be appointed by the Governor under the provisions of this subsection shall resign, die, or be removed from office, the vacancy thereby created shall, as soon as practicable, be filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

(b) However, any county as defined in s. 125.011(1) may instead have a governing body consisting of 33 members, including: the superintendent of schools, or his or her designee; two representatives of public postsecondary education institutions located in the county; the county manager or the equivalent county officer; the district administrator from the appropriate district of the Department of Children and Families, or the administrator's designee who is a member of the Senior Management Service or the Selected Exempt Service; the director of the county health department or the director's designee; the state attorney for the county or the state attorney's designee; the chief judge assigned to juvenile cases, or another juvenile judge who is the chief judge's designee and who shall sit as a voting member of the board, except that the judge may not vote or participate in setting ad valorem taxes under this section; an individual who is selected by the board of the local United Way or its equivalent; a member of a locally recognized faith-based coalition, selected by that coalition; a member of the local chamber of commerce, selected by that chamber or, if more than one chamber exists within the county, a person selected by a coalition of the local chambers; a member of the early learning coalition, selected by that coalition; a representative of a labor organization or union active in the county; a member of a local alliance or coalition engaged in cross-system planning for health and social service delivery in the county, selected by that alliance or coalition; a member of the local Parent-Teachers Association/Parent-Teacher-Student Association, selected by that association; a youth representative selected by the local school system's student government; a local school board member appointed by the chair of the school board; the mayor of the county or the mayor's designee; one member of the county governing body, appointed by the chair of that body; a member of the state Legislature who represents residents of the county, selected by the chair of the local legislative delegation; an elected official representing the residents of a municipality in the county, selected by the county municipal league; and 4 members-at-large, appointed to the council by the majority of sitting council members. The remaining 7 members shall be appointed by the Governor in accordance with procedures set forth in paragraph (a), except that the Governor may remove a member for cause or upon the written petition of the council. Appointments by the Governor must, to the extent reasonably possible, represent the geographic and demographic diversity of

the population of the county. Members who are appointed to the council by reason of their position are not subject to the length of terms and limits on consecutive terms as provided in this section. The remaining appointed members of the governing body shall be appointed to serve 2-year terms, except that those members appointed by the Governor shall be appointed to serve 4-year terms, and the youth representative and the legislative delegate shall be appointed to serve 1-year terms. A member may be reappointed; however, a member may not serve for more than three consecutive terms. A member is eligible to be appointed again after a 2-year hiatus from the council.

(c) This subsection does not prohibit a county from exercising such power as is provided by general or special law to provide children's services or to create a special district to provide such services.

Section 4. Section 200.091, Florida Statutes, is amended to read:

200.091 Referendum to increase millage.—The millage authorized to be levied in s. 200.071 for county purposes, including dependent districts therein, may be increased for periods not exceeding 2 years, provided such levy has been approved by majority vote of the qualified electors in the county or district voting in a general an election, as defined in s. 97.021, called for such purpose. Such an election may be called by the governing body of any such county or district on its own motion and shall be called upon submission of a petition specifying the amount of millage sought to be levied and the purpose for which the proceeds will be expended and containing the signatures of at least 10 percent of the persons qualified to vote in such election, signed within 60 days prior to the date the petition is filed.

Section 5. Section 200.101, Florida Statutes, is amended to read:

200.101 Referendum for millage in excess of limits.—The qualified electors of a municipality may, by majority vote at a general election, as defined in s. 97.021, ~~of those voting approve an~~ increase of millage above those limits imposed by s. 200.081 in a referendum called for such purpose by the governing body of the municipality, but the period of such increase may not exceed 2 years. Such referendum also may be initiated by submission of a petition to the governing body of the municipality containing the signatures of 10 percent of those persons eligible to vote in such referendum, which signatures were affixed to the petition within 60 days prior to its submission.

Section 6. Paragraph (a) of subsection (4) of section 336.021, Florida Statutes, is amended to read:

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.—

(4)(a)1. A certified copy of the ordinance proposing to levy the tax pursuant to referendum shall be furnished by the county to the department within 10 days after approval of such ordinance.

2. A referendum under this subsection shall be held only at a general election, as defined in s. 97.021.

3. Furthermore, The county levying the tax pursuant to referendum shall notify the department within 10 days after the passage of the referendum of such passage and of the time period during which the tax will be levied. The failure to furnish the certified copy will not invalidate the passage of the ordinance.

Section 7. Paragraph (b) of subsection (1) and paragraph (b) of subsection (3) of section 336.025, Florida Statutes, are amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum. A referendum under this subsection shall be held only at a general election, as defined in s. 97.021.

1. All impositions and rate changes of the tax shall be levied before October 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate provided the tax is levied before July 1 and is effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall use moneys received pursuant to this paragraph for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

(3) The tax authorized pursuant to paragraph (1)(a) shall be levied using either of the following procedures:

(b) If no interlocal agreement or resolution is adopted pursuant to subparagraph (a)1. or subparagraph (a)2., municipalities representing more than 50 percent of the county population may, prior to June 20, adopt uniform resolutions approving the local option tax, establishing the duration of the levy and the rate authorized in paragraph (1)(a), and setting the date for a countywide referendum on whether to levy the tax. A referendum under this subsection shall be held only at a general election, as defined in s. 97.021 ~~shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs thereof.~~ The tax shall be levied and collected countywide on January 1 following 30 days after voter approval.

Section 8. Subsection (3) of section 1011.73, Florida Statutes, is amended to read:

1011.73 District millage elections.—

(3) HOLDING ELECTIONS.—All school district millage elections shall be held and conducted in the manner prescribed by law for holding general elections, except as provided in this chapter. A referendum under this part shall be held only at a general election, as defined in s. 97.021.

Section 9. This act shall take effect October 1, 2022.

Approved by the Governor June 24, 2022.

Filed in Office Secretary of State June 24, 2022.