



COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 11/30/2017 Meeting Date: 12/7/2017

Name: Ben Scott Department: BCC Administration

Division Manager's Signature:

Ben Scott

1. Nature and purpose of agenda item:

Charter County and Regional Transportation System Surtax

2. Recommended Motion/Action:

There is no recommended motion or action.

3. Fiscal impact on current budget.

This item has no effect on the current budget.

MEMORANDUM

To: Ben Scott, County Manager

From: Joel F. Foreman

Re: Voter approval required for levy of Charter County and Regional Transportation System Surtax

Date: November 28, 2017

Pursuant to our conversations and the request of Chairman Williams, I have reviewed the discretionary sales surtax statute and the options available to the Board for bringing this matter before the voters during the next election.

The applicable statute is section 212.055(1), Florida Statutes, which provides that a charter county that has adopted a charter “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.” The rate of tax imposed may be up to one percent, and the proposal to adopt the levy and create the required trust fund for the taxes collected must be placed on the ballot at a time to be set by the Board.

The proceeds of the tax are statutorily restricted. The permissible uses within the statute include use “by the county for the development, construction, operation, and maintenance of roads and bridges in the county”.

It is clear that the question of the tax can be referred through the Charter Review Commission, however, the Charter Review Commission is not scheduled for appointment until 2019. The tax could also be the subject of a charter amendment pursuant to section 8.3 of the Home Rule Charter, but the special election called for in that process is substantially the same as the process required by the statute. I therefore recommend that the Board use a simple referendum rather than incorporate the levy of this tax into the body of the Charter.

I attach two examples of such ordinances levying this tax or proposing to levy this tax subject to referendum as required by the statute. Ordinance 2012-07 is a .75% surtax levied by Alachua County to fund “Fix Our Roads Alachua County”. You will note in your review of this Ordinance that the county commission provided a relatively high level of specificity in terms of the rationale for the levy of the tax and explanation of what the funds would be used for. The ballot question was set for the general election to occur on November 6, 2012, but the ordinance was adopted on July 10, 2012. Furthermore, the commission included a succinct ballot question that explained the reason for the request to the voters and told voters what the funds would be used for. There are also multiple references to a sunset on the levied tax.

The second ordinance is a draft ordinance for Walton County prepared this year. Walton County relied upon its location within a regional transportation authority in levying a tax pursuant to the same statute. Also distinct from the Alachua County ordinance, the Walton County ordinance would call a special election on the single question of the surtax. The language of the ballot question in the Walton County ordinance is largely taken directly from the statute and is more clinical in the manner it is presented. The Walton County ordinance also prescribes the manner in which the levy of the tax will be effectuated if the electors approve the tax by a majority vote.

I recommend that both ordinances be reviewed for their different approaches and that guidance be obtained from the Board as to the approach or combination of approaches the Board prefers.

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ALACHUA COUNTY
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 2012-07

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, IMPOSING A CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SALES SURTAX OF .75 PERCENT (3/4%) ON CERTAIN TRANSACTIONS OCCURRING WITHIN ALACHUA COUNTY FROM WHICH TAXES ARE PAYABLE TO THE STATE OF FLORIDA UNDER THE PROVISIONS OF CHAPTER 212, FLORIDA STATUTES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING THAT THE IMPOSITION OF THE SALES SURTAX SHALL NOT BE EFFECTIVE UNLESS APPROVED AT A REFERENDUM ELECTION; PROVIDING THAT THE IMPOSITION SHALL BE EFFECTIVE FOR A PERIOD OF FIFTEEN (15) YEARS, BEGINNING JANUARY 1, 2013, AND ENDING ON DECEMBER 31, 2027; PROVIDING FOR DISTRIBUTION AMONG THE GOVERNMENTS OF ALACHUA COUNTY AND ELIGIBLE MUNICIPALITIES PURSUANT TO INTERLOCAL AGREEMENTS; PROVIDING FOR A REFERENDUM ELECTION ON NOVEMBER 6, 2012; PROVIDING BALLOT LANGUAGE; PROVIDING FOR THE USE OF SALES SURTAX PROCEEDS FOR THE PLANNING, DEVELOPMENT, CONSTRUCTION, OPERATION, AND MAINTENANCE OF ROADS AND BRIDGES, AND FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS ISSUED FOR THE CONSTRUCTION OF ROADS AND BRIDGES; ESTABLISHING THE ALACHUA COUNTY TRUST FUND FOR IMPROVEMENT AND MAINTENANCE OF ROADS AND BRIDGES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Subsection 212.055(1), Florida Statutes, the "Charter County and Regional Transportation System Surtax," authorizes Alachua County to impose a charter county and regional transportation system surtax of up to one percent (1%) upon most taxable transactions occurring within Alachua County that are taxable under Chapter 212, Florida Statutes; and,

WHEREAS, revenues received from the Charter County and Regional Transportation System Surtax authorized by Subsection 212.055(1), Florida Statutes, may be utilized by Alachua County and the municipalities within Alachua County for the planning, development, construction, operation, and maintenance of roads and bridges, bus and fixed guideway systems,

1 and on-demand transportation services and for the payment of principal and interest on bonds
2 used for the construction of such fixed guideway systems, bus systems, roads, or bridges; and,

3 WHEREAS, Subsection 212.055(1)(d), Florida Statutes, authorizes the county
4 commission to use the Charter County and Regional Transportation System Surtax proceeds for
5 as many or as few of the uses enumerated in Subsection 212.055(1)(d), Florida Statutes, in
6 whatever combination the county commission deems appropriate; and

7 WHEREAS, Alachua County desires to levy a .75 percent (3/4%) sales surtax to be used
8 for the planning, development, construction, operation and maintenance of roads and bridges;
9 and,

10 WHEREAS, if this sales surtax is approved by a majority vote of the electorate of the
11 County, Alachua County will distribute proceeds of the surtax in accordance with an Interlocal
12 Agreement as amended from time to time between Alachua County and each municipality in the
13 County; and,

14 WHEREAS, a brief description of the projects to be funded is set forth in the ballot
15 language contained in this ordinance; and,

16 WHEREAS, Subsection 212.055(1), Florida Statutes, requires approval by a majority
17 vote of the electorate of the County in a referendum election prior to imposition of the Charter
18 County and Regional Transportation System Surtax; and,

19 WHEREAS, the Board of County Commissioners has determined it appropriate to place
20 the sales surtax issue on the ballot at the November 6, 2012, election.

21 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
22 ALACHUA COUNTY, FLORIDA:

1 SECTION 1. Authorization and Legislative Findings. This Ordinance is authorized by
2 Subsection 212.055(1), Florida Statutes, and other applicable law. The Board of County
3 Commissioners finds and declares that all statements set forth in the preamble of this Ordinance
4 are true and correct and hereby incorporates these statements herein.

5 SECTION 2. .75 Percent (3/4%) Sales Surtax Levy. There shall be levied and imposed
6 throughout the incorporated and unincorporated areas of the County an additional sales tax on all
7 transactions occurring in the County which are subject to the state tax imposed on transactions by
8 Part I of Chapter 212, Florida Statutes (the "Surtax"). This Surtax shall be at the rate of .75
9 percent (3/4%) for each \$1.00 of the sales price or actual value received and for each fractional
10 part of \$1.00 of the sales price or actual value received. This Surtax shall be levied and imposed
11 in accordance with Section 212.054 and Subsection 212.055(1), Florida Statutes, and the Rules
12 promulgated by the Florida Department of Revenue.

13 SECTION 3. Distribution of Surtax Proceeds. In accordance with Subsection
14 212.055(1)(d), Florida Statutes, the proceeds of the surtax levied pursuant to this ordinance may
15 be distributed to the County by the Department of Revenue and the County will distribute the
16 revenues to the municipalities in the County in accordance with interlocal agreements as
17 amended from time to time between Alachua County and the municipalities in the County.

18 SECTION 4. Referendum.

19 a. The proposed levy of the sales surtax in Section 2 of this Ordinance shall be
20 presented to the county electorate by placing the question of approval of the levy of the surtax on
21 the ballot at a referendum election to be held on November 6, 2012.

b. The Supervisor of Elections of Alachua County shall cause the following question to be placed on the ballot on November 6, 2012:

Fix Our Roads Alachua County:
Funding Road Improvements by levying a ¾% sales surtax

Shall Alachua County implement a Road Improvement Plan to extend the life and improve the safety of county Roads by maintaining, paving and reconstructing Roads; and in the Cities of Gainesville, Alachua, Newberry, High Springs, Hawthorne, Waldo and Archer, and the Towns of Micanopy and LaCrosse, funding municipal Road maintenance, construction, reconstruction and paving projects; by levying a ¾% sales surtax for 15 years subject to independent audit and citizen review?

_____ FOR the three-quarters percent (¾%) transportation sales surtax.

_____ AGAINST the three-quarters percent (¾%) transportation sales surtax.

SECTION 5. Use of Surtax Proceeds. In accordance with Subsection 212.055(1)(d), Florida Statutes, the surtax proceeds shall be used for the planning, development, construction, operation, and maintenance of roads and bridges, and to pay principal and interest on bonds issued for the construction of roads and bridges.

SECTION 6. Effective Date and Duration of Surtax. The surtax levied in Section 2 of this Ordinance shall begin on January 1, 2013, only if approved by a majority vote of the electors voting for the surtax in the referendum election to be held on November 6, 2012, and shall continue for a period of fifteen (15) years from January 1, 2013 through December 31, 2027.

SECTION 7. Alachua County Transportation Trust Fund for Improvement of Roads and Bridges. There is hereby established an Alachua County Transportation Trust Fund for Planning, Development, Construction, Operation, Improvement and Maintenance of Roads and Bridges.

1 SECTION 8. Effective Date of Ordinance. A certified copy of this Ordinance shall be
2 filed with the Department of State by the Clerk of the Board of County Commissioners within
3 ten (10) calendar days following the date of enactment by the Board of County Commissioners.
4 This Ordinance shall take effect upon filing with the Department of State.

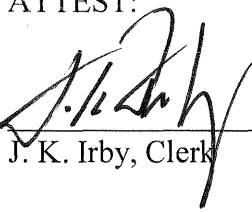
5 SECTION 9. Severability. It is the declared intent of the Board of County
6 Commissioners of Alachua County that if any section, subsection, sentence, clause, phrase, or
7 provision of this Ordinance is held invalid or unconstitutional by a court of competent
8 jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or
9 unconstitutional the remaining provisions of this Ordinance.

10 DULY ADOPTED in regular session, this 10th day of July, A.D., 2012.

11
12 (SEAL)

BOARD OF COUNTY COMMISSIONERS OF
ALACHUA COUNTY, FLORIDA

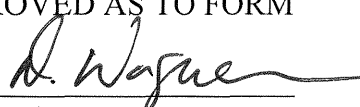
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14 ATTEST:

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18 J. K. Irby, Clerk

By: 

Paula M. DeLaney, Chair

APPROVED AS TO FORM


County Attorney

ORDINANCE NO. 2017-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA, LEVYING THE CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX, SUBJECT TO ELECTOR APPROVAL AT A RATE OF 0.5%; INCORPORATING RECITALS; ESTABLISHING THE EFFECTIVE DATE AND TERMINATION DATE OF THE SURTAX; PROVIDING FOR ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE SURTAX; CREATING THE TRANSPORTATION SYSTEM SURTAX TRUST FUND; PROVIDING FOR USES OF SURTAX REVENUES; CALLING FOR A SPECIAL REFERENDUM ELECTION FOR APPROVAL OF IMPOSITION OF THE SURTAX TO TAKE PLACE ON _____; PROVIDING A BALLOT TITLE AND SUMMARY SUMMARIZING THE SUBSTANCE OF THE PROPOSED REFERENDUM QUESTION; DIRECTING THE COUNTY ADMINISTRATOR TO PROVIDE NOTICE OF THE ORDINANCE AND SPECIAL ELECTION TO THE SUPERVISOR OF ELECTIONS AND PROVIDE REQUIRED NOTICE BY PUBLICATION; PROVIDING FOR NOTICE TO BE GIVEN TO THE DEPARTMENT OF REVENUE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 212.055(1), Florida Statutes, authorizes certain counties in Florida located within a regional transportation authority established under Chapter 343, Florida Statutes, to levy a discretionary sales surtax referred to as the “Charter County and Regional Transportation System Surtax” (hereinafter, the “Surtax”) subject to elector approval; and

WHEREAS, Walton County is located within the Northwest Florida Transportation Corridor Authority, established pursuant to Chapter 343, Part III, Florida Statutes, and is therefore authorized by section 212.055(1), Florida Statutes, to levy the Surtax on the sale of goods taxable pursuant to s. 212.054, Florida Statutes, at a rate of one-half percent (0.5%); and

WHEREAS, it is the intent of the Board of County Commissioners of Walton County, Florida (“Board”) to levy the Charter County and Regional Transportation System Surtax at a

rate of one-half percent (0.5%) pursuant to the provisions contained within section 212.055(1), Florida Statutes; and

WHEREAS, the revenues generated by the Surtax are needed to fund the planning, development, construction, operation, and maintenance of roads and bridges, the infrastructure for those roads, including but not limited to the storm water improvements for the roads and bridges, the construction of improvements associated with the approaches to bridges and for improvements to medians and rights of way in the County, and the debt service on necessary improvements noted above; and

WHEREAS, the use of Surtax revenues for repayment of bonds issued to construct road and bridge improvements is appropriate and permissible in accordance with sections 212.055(1)(d)3. and 4., Florida Statutes; and

WHEREAS, the Board finds that the levy of the Surtax is in the best interests of Walton County, Florida and its citizens and is necessary to sufficiently fund needed transportation improvements.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. INCORPORATION OF RECITALS. The above findings and recitals are hereby incorporated herein and made a part of this Ordinance.

SECTION 2. IMPOSITION AND LEVY OF THE CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX.

(A) There is hereby levied and imposed by Walton County, the Charter County and Regional Transportation System Surtax authorized by section 212.055(1), Florida Statutes, at a rate of one-half percent (0.5%) on transactions taxable pursuant to section 212.054, Florida

Statutes, subject to approval of a majority of the electors of Walton County voting in a special referendum election called for the purpose of determining whether such Surtax should be levied.

(B) The levy of the Surtax, if approved by a majority of the electors as required by paragraph (A), shall be limited for the purposes set forth in this Ordinance and shall take effect January 1, 2018 and shall expire December 31, _____. Any extension of the Surtax beyond the term described in this paragraph shall be subject to additional elector approval.

SECTION 3. ADMINISTRATION, COLLECTION, AND ENFORCEMENT. The Florida Department of Revenue shall have all responsibility for administration, collection and enforcement of the Surtax levied pursuant to this Ordinance.

SECTION 4. CREATION OF TRANSPORTATION SYSTEM SURTAX TRUST FUND. The Board hereby establishes a trust fund to be known as the “Transportation System Surtax Trust Fund” (the “Trust Fund”) into which all revenues generated from the levy of the Charter County and Regional Transportation System Surtax shall be deposited. Revenues deposited into the Trust Fund shall be restricted for the purposes described in this Ordinance. The Trust Fund shall be managed and overseen by the Walton County Clerk of Court in the same manner as all other accounts of the County.

SECTION 5. USES OF SURTAX REVENUES. Revenues collected and deposited into the Trust Fund shall only be used for the following purposes, as authorized in sections 212.055(1)(d)3. and 4., Florida Statutes:

(A) Costs associated with the planning, development, construction, operation, and maintenance of roads and bridges, the infrastructure for those roads, including but not limited to the storm water improvements for the roads and bridges, the construction of improvements

associated with the approaches to bridges and for improvements to medians and rights of way in the County, and the debt service on necessary improvements noted above.

(B) Payment of principal and interest on bonds issued for the purposes described in paragraph (A) of this Section.

(C) As a pledge to secure bonds issued to refinance existing bonds or new bonds issued for the purposes described in paragraph (A) of this Section.

SECTION 6. CONDUCT OF SPECIAL ELECTION. The Board of County Commissioners hereby calls a special election and directs the Walton County Supervisor of Elections to conduct such special election for submission of a referendum question to the electors of Walton County to determine whether a majority of electors of the County voting in the special election are in favor of the levy of the Charter County and Regional Transportation System Surtax on transactions occurring within Walton County. Such special election shall be scheduled to take place on _____, as approved by the Walton County Supervisor of Elections. Reasonable costs associated with conducting the special election shall be paid by the Board of County Commissioners of Walton County, Florida.

SECTION 7. BALLOT TITLE AND SUMMARY.

(A) In accordance with section 212.055(1), Florida Statutes, and s. 101.161, Florida Statutes, the following ballot title and summary are approved for submission to the electors of Walton County, Florida, for approval or rejection by a majority of the electors voting in the special referendum election scheduled for April 24, 2012. The official ballot shall be in substantially the following form:

Title: Levy of Charter County and Regional Transportation
System Surtax.

Summary: Shall Walton County levy a surtax on sales of goods within Walton County at a rate of 0.5%, to build, construct, and maintain roads and bridges and the associated infrastructure, which levy shall be deposited into a restricted-use trust fund, beginning January 1, _____ and expiring December 31, _____ .

_____ FOR the half-cent sales tax
_____ AGAINST the half-cent sales tax

SECTION 8. NOTICE OF ELECTION.

(A) The County Administrator of Walton County, or his designee, is hereby directed to provide certified copies of this Ordinance to the Walton County Supervisor of Elections upon its passage by the Board.

(B) Not less than thirty (30) days' notice of the special election called for by this Ordinance shall be given by publication in a newspaper of general circulation in Walton County. The County Administrator is directed to provide for such publication at least twice, once in the fifth week and once in the third week prior to the week of _____, 2017

SECTION 9. NOTICE TO THE DEPARTMENT OF REVENUE AND DEPARTMENT OF STATE. Upon completion of the special election called for in this Ordinance, the results of the election shall be certified in accordance with Chapter 100 and Chapter 102, Florida Statutes, to the Department of State. If it is determined upon certification of the results that the majority of the electors of Walton County voting in the special election are in favor of the levy of the Surtax, the Clerk of the Circuit Court shall within ten (10) days of such certification submit a copy of this Ordinance and the certification of the special election results to the Florida Department of Revenue.

SECTION 10. EFFECTIVE DATE. This Ordinance shall be in force and take effect immediately upon its passage and recording with the Secretary of State.

PASSED AND ADOPTED this _____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS OF
WALTON COUNTY, FLORIDA**

CECILIA JONES, CHAIR

[SEAL]

ATTEST:

Clerk

Approved as to form and legality:

Mark D. Davis, County Attorney