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CS/CS/HB 777

2022 Legislature

1
 2 An act relating to local tax referenda requirements;
 3 amending ss. 125.0104, 125.0108, and 125.901, F.S.;
 4 requiring referenda elections related to tourist
 5 development taxes, tourist impact taxes, and
 6 children's services and independent special district
 7 property taxes to be held on the day of a general
 8 election; amending ss. 200.091 and 200.101, F.S.;
 9 requiring referenda elections related to increases in
 10 county and municipal ad valorem tax millages to be
 11 held on the day of a general election; amending s.
 12 336.021, F.S.; requiring referenda elections related
 13 to the ninth-cent fuel tax to be held on the day of a
 14 general election; amending s. 336.025, F.S.; requiring
 15 referenda elections related to local option fuel taxes
 16 to be held on the day of a general election; amending
 17 s. 1011.73, F.S.; requiring referenda elections
 18 related to certain school district millage elections
 19 to be held on the day of a general election; providing
 20 an effective date.

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

23
 24 Section 1. Paragraphs (a) and (b) of subsection (6) of
 25 section 125.0104, Florida Statutes, are amended to read:

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26 125.0104 Tourist development tax; procedure for levying;
 27 authorized uses; referendum; enforcement.—

28 (6) REFERENDUM.—

29 (a) No ordinance enacted by any county levying the tax
 30 authorized by paragraphs (3) (b) and (c) shall take effect until
 31 the ordinance levying and imposing the tax has been approved in
 32 a referendum held at a general election, as defined in s.
 33 97.021, by a majority of the electors voting in such election in
 34 the county or by a majority of the electors voting in the
 35 subcounty special tax district affected by the tax.

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

41FOR the Tourist Development Tax

42AGAINST the Tourist Development Tax.

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

45 125.0108 Areas of critical state concern; tourist impact
 46 tax.—

47 (5) The tourist impact tax authorized by this section
 48 shall take effect only upon express approval by a majority vote
 49 of those qualified electors in the area or areas of critical
 50 state concern in the county seeking to levy such tax, voting in

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51 a referendum to be held ~~by the governing board of such county~~ in
 52 conjunction with a general ~~or special~~ election, as defined in s.
 53 97.021, ~~in accordance with the provisions of law relating to~~
 54 ~~elections currently in force.~~ However, if the area or areas of
 55 critical state concern are greater than 50 percent of the land
 56 area of the county and the tax is to be imposed throughout the
 57 entire county, the tax shall take effect only upon express
 58 approval of a majority of the qualified electors of the county
 59 voting in such a referendum.

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

62 125.901 Children's services; independent special district;
 63 council; powers, duties, and functions; public records
 64 exemption.—

65 (1) Each county may by ordinance create an independent
 66 special district, as defined in ss. 189.012 and 200.001(8)(e),
 67 to provide funding for children's services throughout the county
 68 in accordance with this section. The boundaries of such district
 69 shall be coterminous with the boundaries of the county. The
 70 county governing body shall obtain approval at a general
 71 election, as defined in s. 97.021, by a majority vote of those
 72 electors voting on the question, to annually levy ad valorem
 73 taxes which shall not exceed the maximum millage rate authorized
 74 by this section. Any district created pursuant to the provisions
 75 of this subsection shall be required to levy and fix millage

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76 | subject to the provisions of s. 200.065. Once such millage is
77 | approved by the electorate, the district shall not be required
78 | to seek approval of the electorate in future years to levy the
79 | previously approved millage.

80 | (a) The governing body of the district shall be a council
81 | on children's services, which may also be known as a juvenile
82 | welfare board or similar name as established in the ordinance by
83 | the county governing body. Such council shall consist of 10
84 | members, including: the superintendent of schools; a local
85 | school board member; the district administrator from the
86 | appropriate district of the Department of Children and Families,
87 | or his or her designee who is a member of the Senior Management
88 | Service or of the Selected Exempt Service; one member of the
89 | county governing body; and the judge assigned to juvenile cases
90 | who shall sit as a voting member of the board, except that said
91 | judge shall not vote or participate in the setting of ad valorem
92 | taxes under this section. If there is more than one judge
93 | assigned to juvenile cases in a county, the chief judge shall
94 | designate one of said juvenile judges to serve on the board. The
95 | remaining five members shall be appointed by the Governor, and
96 | shall, to the extent possible, represent the demographic
97 | diversity of the population of the county. After soliciting
98 | recommendations from the public, the county governing body shall
99 | submit to the Governor the names of at least three persons for
100 | each vacancy occurring among the five members appointed by the

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101 Governor, and the Governor shall appoint members to the council
102 from the candidates nominated by the county governing body. The
103 Governor shall make a selection within a 45-day period or
104 request a new list of candidates. All members appointed by the
105 Governor shall have been residents of the county for the
106 previous 24-month period. Such members shall be appointed for 4-
107 year terms, except that the length of the terms of the initial
108 appointees shall be adjusted to stagger the terms. The Governor
109 may remove a member for cause or upon the written petition of
110 the county governing body. If any of the members of the council
111 required to be appointed by the Governor under the provisions of
112 this subsection shall resign, die, or be removed from office,
113 the vacancy thereby created shall, as soon as practicable, be
114 filled by appointment by the Governor, using the same method as
115 the original appointment, and such appointment to fill a vacancy
116 shall be for the unexpired term of the person who resigns, dies,
117 or is removed from office.

118 (b) However, any county as defined in s. 125.011(1) may
119 instead have a governing body consisting of 33 members,
120 including: the superintendent of schools, or his or her
121 designee; two representatives of public postsecondary education
122 institutions located in the county; the county manager or the
123 equivalent county officer; the district administrator from the
124 appropriate district of the Department of Children and Families,
125 or the administrator's designee who is a member of the Senior

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126 Management Service or the Selected Exempt Service; the director
 127 of the county health department or the director's designee; the
 128 state attorney for the county or the state attorney's designee;
 129 the chief judge assigned to juvenile cases, or another juvenile
 130 judge who is the chief judge's designee and who shall sit as a
 131 voting member of the board, except that the judge may not vote
 132 or participate in setting ad valorem taxes under this section;
 133 an individual who is selected by the board of the local United
 134 Way or its equivalent; a member of a locally recognized faith-
 135 based coalition, selected by that coalition; a member of the
 136 local chamber of commerce, selected by that chamber or, if more
 137 than one chamber exists within the county, a person selected by
 138 a coalition of the local chambers; a member of the early
 139 learning coalition, selected by that coalition; a representative
 140 of a labor organization or union active in the county; a member
 141 of a local alliance or coalition engaged in cross-system
 142 planning for health and social service delivery in the county,
 143 selected by that alliance or coalition; a member of the local
 144 Parent-Teachers Association/Parent-Teacher-Student Association,
 145 selected by that association; a youth representative selected by
 146 the local school system's student government; a local school
 147 board member appointed by the chair of the school board; the
 148 mayor of the county or the mayor's designee; one member of the
 149 county governing body, appointed by the chair of that body; a
 150 member of the state Legislature who represents residents of the

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151 county, selected by the chair of the local legislative
 152 delegation; an elected official representing the residents of a
 153 municipality in the county, selected by the county municipal
 154 league; and 4 members-at-large, appointed to the council by the
 155 majority of sitting council members. The remaining 7 members
 156 shall be appointed by the Governor in accordance with procedures
 157 set forth in paragraph (a), except that the Governor may remove
 158 a member for cause or upon the written petition of the council.
 159 Appointments by the Governor must, to the extent reasonably
 160 possible, represent the geographic and demographic diversity of
 161 the population of the county. Members who are appointed to the
 162 council by reason of their position are not subject to the
 163 length of terms and limits on consecutive terms as provided in
 164 this section. The remaining appointed members of the governing
 165 body shall be appointed to serve 2-year terms, except that those
 166 members appointed by the Governor shall be appointed to serve 4-
 167 year terms, and the youth representative and the legislative
 168 delegate shall be appointed to serve 1-year terms. A member may
 169 be reappointed; however, a member may not serve for more than
 170 three consecutive terms. A member is eligible to be appointed
 171 again after a 2-year hiatus from the council.

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

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

178 200.091 Referendum to increase millage.—The millage
 179 authorized to be levied in s. 200.071 for county purposes,
 180 including dependent districts therein, may be increased for
 181 periods not exceeding 2 years, provided such levy has been
 182 approved by majority vote of the qualified electors in the
 183 county or district voting in a general an election, as defined
 184 in s. 97.021, called for such purpose. Such an election may be
 185 called by the governing body of any such county or district on
 186 its own motion and shall be called upon submission of a petition
 187 specifying the amount of millage sought to be levied and the
 188 purpose for which the proceeds will be expended and containing
 189 the signatures of at least 10 percent of the persons qualified
 190 to vote in such election, signed within 60 days prior to the
 191 date the petition is filed.

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

194 200.101 Referendum for millage in excess of limits.—The
 195 qualified electors of a municipality may, by majority vote at a
 196 general election, as defined in s. 97.021, ~~of those voting~~
 197 ~~approve an~~ increase ~~of~~ millage above those limits imposed by s.
 198 200.081 in a referendum called for such purpose by the governing
 199 body of the municipality, but the period of such increase may
 200 not exceed 2 years. Such referendum also may be initiated by

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201 submission of a petition to the governing body of the
 202 municipality containing the signatures of 10 percent of those
 203 persons eligible to vote in such referendum, which signatures
 204 were affixed to the petition within 60 days prior to its
 205 submission.

206 Section 6. Paragraph (a) of subsection (4) of section
 207 336.021, Florida Statutes, is amended to read:

208 336.021 County transportation system; levy of ninth-cent
 209 fuel tax on motor fuel and diesel fuel.—

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

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

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

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

224 336.025 County transportation system; levy of local option
 225 fuel tax on motor fuel and diesel fuel.—

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226 (1)

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

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

243 2. The county may, prior to levy of the tax, establish by
 244 interlocal agreement with one or more municipalities located
 245 therein, representing a majority of the population of the
 246 incorporated area within the county, a distribution formula for
 247 dividing the entire proceeds of the tax among county government
 248 and all eligible municipalities within the county. If no
 249 interlocal agreement is adopted before the effective date of the
 250 tax, tax revenues shall be distributed pursuant to the

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251 provisions of subsection (4). If no interlocal agreement exists,
252 a new interlocal agreement may be established prior to June 1 of
253 any year pursuant to this subparagraph. However, any interlocal
254 agreement agreed to under this subparagraph after the initial
255 levy of the tax or change in the tax rate authorized in this
256 section shall under no circumstances materially or adversely
257 affect the rights of holders of outstanding bonds which are
258 backed by taxes authorized by this paragraph, and the amounts
259 distributed to the county government and each municipality shall
260 not be reduced below the amount necessary for the payment of
261 principal and interest and reserves for principal and interest
262 as required under the covenants of any bond resolution
263 outstanding on the date of establishment of the new interlocal
264 agreement.

265 3. County and municipal governments shall use moneys
266 received pursuant to this paragraph for transportation
267 expenditures needed to meet the requirements of the capital
268 improvements element of an adopted comprehensive plan or for
269 expenditures needed to meet immediate local transportation
270 problems and for other transportation-related expenditures that
271 are critical for building comprehensive roadway networks by
272 local governments. For purposes of this paragraph, expenditures
273 for the construction of new roads, the reconstruction or
274 resurfacing of existing paved roads, or the paving of existing
275 graded roads shall be deemed to increase capacity and such

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276 projects shall be included in the capital improvements element
 277 of an adopted comprehensive plan. Expenditures for purposes of
 278 this paragraph shall not include routine maintenance of roads.

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

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

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

296 1011.73 District millage elections.—

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

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301 | general election, as defined in s. 97.021.

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