

Chapter 7

Municipal Finance

Section 7-1

Introduction to Municipal Finance

A. SOURCES OF INFORMATION

This chapter of the manual, “Municipal Finance,” provides descriptions of the majority of revenue sources available to municipalities and a brief discussion of municipal expenditures. The text for this part is substantially drawn from the publication: *Local Government Financial Information Handbook* – September 2007 (available online at www.floridalcir.gov/reports). This publication was prepared and issued by the Florida Legislative Committee on Intergovernmental Relations (LCIR). Created in 1977, the LCIR is an entity of the Florida Legislature that facilitates the development of intergovernmental policies and practices and seeks to improve the coordination and cooperation between state agencies, local governments and the federal government. The LCIR authorized and supported the use and reprinting of portions of this publication in this manual. (All information and quotations not otherwise attributed are from this LCIR publication.)

The *Local Government Financial Information Handbook* is a reference shared with counties and municipalities. In its entirety, the publication provides information that assists municipal officials in budgeting and financial planning. Preparation of the handbook was primarily a joint effort of LCIR and the Department of Revenue’s Office of Research and Analysis. LCIR updated the text and accompanying summary tables to reflect relevant changes to general law; the Office of Research and Analysis prepared the estimated distributions of the various taxes. Additional assistance was provided by the Division of Economic and Demographic Research of the Joint Legislative Management Committee.

This LCIR publication is the major resource for municipal financial officers in the State of Florida. Therefore, it was appropriate to base this part of the manual on the LCIR handbook in order to maintain a compatibility of financial terms and definitions for the reader. If copies of this report are desired, contact your municipal financial officer or contact: Florida LCIR, The Florida Legislature, c/o House Mail Services, Tallahassee, FL 32399-1300, (850) 488-9627. Also used as a source in this part of the manual is “A Municipal Budget Guide,” a joint project of the Florida League of Cities and Florida Tax Watch, Inc.

B. MUNICIPAL REVENUE SOURCES

Municipalities within the State of Florida are entitled by law to collect and expand revenues for eligible public purposes. Municipalities generate their revenue from a combination of sources including fees and charges, property taxes, state shared revenue and specifically authorized taxes.

Florida cities reported approximately \$18 billion in revenues for FY 2005-06. (See Chart 7-1 at the end of this section.) These revenues were reported in the following categories to the Department of Banking and Finance:

	%Total Revenues
1. Charges for services	35.5%
2. Property tax	20.2%
3. Intergovernmental (federal, state other local government)	16.7%
4. Miscellaneous (including interest earnings and special assessments)	13.0%
5. Local option sales and gas taxes	3.7%
6. Franchise fees	3.5%
7. Fines and forfeitures	0.8%
8. Public service taxes (utility tax)	4.2%
9. Local Business Tax (FKA) Occupational license tax	0.7%
10. Communications Services Tax	1.6%

The following sections of this manual will present and discuss these municipal revenue sources in a way which we believe will provide the most clarity to a municipal official.

C. LONG-TERM DEBT (BONDS)

In addition to the revenue sources previously identified, municipalities have the option of “financing” or utilizing “borrowed” revenue. Article VII, Section 12, Florida Constitution, authorizes municipalities:

...to issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than 12 months after issuance only:

- (a) to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation; or
- (b) to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate.

General provisions for municipal borrowing are codified in Chapter 166, Part III, Florida Statutes. According to s. 166.101, F.S., there are five basic forms of bonds: general obligation bonds, ad valorem bonds, revenue bonds, improvement bonds, and refunding bonds. The following forms of bonds **require** a referendum:

- 1. Ad valorem bonds – these bonds are payable from the proceeds of ad valorem taxes levied on real and tangible personal property.
- 2. General obligation bonds – these are known as “full faith and credit bonds” because their repayment is unconditional and based on the general credit and taxing powers of the borrowing government; since the power to levy and collect property taxes provides the basic security to these bonds, they require voter approval to issue them; general obligation bonds generally carry the lowest interest rates, and are typically used to finance general-purpose public buildings, roads and public safety facilities. (For most practical purposes, a general obligation bond is an ad valorem bond.)

The following forms of debt do **not** require a referendum:

- 1. Revenue bonds – these bonds are obligations in which repayment of debt service is entirely from revenues derived from sources other than ad valorem taxes; the

most common municipal issues are for water, wastewater, electric, parking garages, civic centers, stadiums and airports.

2. Improvement bonds – these are special obligations of the municipality which are payable solely from the proceeds of special assessments levied for a project.
3. Refunding bonds – these bonds are issued to refinance outstanding bonds of any type and the interest and redemption premium; they should be issued and payable in the same manner as the refinanced bonds but require no electorate approval.

The use of borrowed funds for municipal government needs varies radically among jurisdictions. The selection of the appropriate instrument is dependent upon the financing circumstances of the project and the specific municipality.

Due to the size and sophistication of the financial market, most municipalities use financial advisors and/or other consulting services when dealing with long-term debt instruments. Local governments may also use the services of the Division of Bond Finance of the State Board of Administration to issue bonds.

REFERENCES

- LCIR Publications.
- Florida League of Cities.

Section 7-2

Charges for Services

“Charges for services” are defined by the Florida comptroller as “voluntary payments based on direct, measurable consumption of publicly provided goods and services.” This category of revenues is, by far, the single largest category of municipal revenues.

Accounting for almost 36 percent of the average municipal budget, charges for services are derived from charges for water, wastewater, natural gas, electricity, mass transit, garbage collection, recreation, building inspections, public transportation and a variety of other services. The amount of revenue generated by these charges, of course, depends on which services the municipality chooses to provide and the level of such services. (See the “Sanitation” section of this manual for a more detailed discussion of charges for services for sanitation services.)

For some services, fees are charged at rates below actual cost and are partially offset by taxes; this may be necessary for services such as public transportation and recreation so that low-income residents are not excluded due to high prices. On the other hand, some services may be selected and charged rates to achieve a higher profit margin, in order to generate surplus revenue for other uses by the municipality.

Charges for services resulted in total revenues of \$6.3 billion, or 35.5 percent of total municipal revenues, in FY 2005-06.

REFERENCES

LCIR Publications.
“A Municipal Budget Guide.”

Section 7-3

Property Taxes

A. AD VALOREM TAXES AS REVENUE SOURCE

Ad valorem tax or “property tax” is a major source of revenue for local governments in Florida. “Ad valorem” is Latin for “the value of.” In FY 2005-06, ad valorem taxes constituted 31.7 percent of total county revenue (\$9.0 billion), and 20.2 percent of total municipal revenues (\$1.7 billion), making it by far the largest single source of general revenue for general-purpose governments in Florida. In addition, the property tax is the primary revenue source for school districts and “special purpose” local governments, such as special districts and other political subdivisions.

Besides being important for the amount of revenue it generates, the property tax is the only tax **not** preempted to the state by the Florida Constitution. However, the property tax is a limited revenue source. The Florida Constitution caps the millage rate assessed against the value of the property at 10 mills per taxing entity. That is, taxing units are prohibited from levying more than \$10 in taxes per \$1,000 of taxable value on properties they tax, without obtaining voter approval at least every two years.

B. MUNICIPAL DATA

- The statewide **weighted average** operating millage rate for municipalities for FY 2007-08 is 4.18 mills. No municipalities are at the 10-mill cap; however, two are approaching the 10-mill limit (more than 9 mills).
- Municipal ad valorem revenues for FY 2007-08 were \$3.98 billion. Municipal taxable value was \$941 billion in 2007.
- Twenty-seven of 411 municipalities do not levy property taxes. All of these municipalities, except one, have a total population less than 12,000.

C. EXEMPTIONS

1. Exemptions and Differential Assessments

Ad valorem tax **exemptions** are specific dollar amounts that are deducted from the assessed value of property. The homestead exemption is the largest of ad valorem exemptions in Florida. For 2000 assessed values, the homestead exemption represents 5.5 percent of total taxable value statewide. Ad valorem assessments may also be reduced by **differential assessments** resulting from a valuation standard other than fair market value, usually the value of the property. In Florida, significant property tax exemptions and differential assessments include, but are not limited to, the following:

1. Exemptions: homestead, governmental, widows/widowers, disability, institutional, economic development
2. Differentials: agricultural, park and recreational, pollution control devices

2. “Save Our Seniors” Amendment

In 1998, the Florida electorate approved the “Save Our Seniors” amendment to the Florida Constitution, which was placed on the ballot through the legislative joint resolution process. This constitutional amendment, which was amended in 2006, allowed the Legislature to authorize counties and municipalities by general law to

provide an additional \$50,000 homestead exemption for permanent homeowners ages 65 and older with household incomes less than \$20,000 (and adjusted each year by CPT).

The implementing law, which passed in 1999 and was amended in 2007, authorizes a county or municipality to provide a homestead exemption up to \$50,000 for homeowners ages 65 and older with a combined household income of less than \$20,000. Income is defined as "adjusted gross income" in accordance with the Internal Revenue Service. The law allows each local government to choose the amount of the property tax exemption up to \$50,000, but it requires the household income threshold to be annually adjusted for inflation.

3. "Save Our Homes" (SOH) Amendment

As provided in Section 193.155(1), F.S., beginning in 1995, or the year after the property receives homestead exemption, an annual increase in assessment shall not exceed the lower of the following:

- Three percent of the assessed value of the property for the prior year; or
- The percentage change in the Consumer Price Index (CPI) for all urban consumers for the preceding calendar year as initially reported by the U.S. Department of Labor, Bureau of Labor Statistics.

Under "Save Our Homes," the assessed value of homestead property cannot increase more than 3 percent each year, unless construction or improvement occurs on the property. (The yearly limit varies based on the change in the CPI, but it cannot be more than 3 percent.) For most homesteads, this limitation results in an assessed value that is lower than the market value of the home.

Currently, if you are a Florida homesteader and you buy a new home and make it your homestead, your new home will be assessed at market value the first year you own it.

Following the passage of Amendment 1 to the Florida Constitution on January 29, 2008, some or all of the difference between the old homestead's assessed value and its market value can be applied to the assessment of a new home in the first year it is owned. Then the "Save Our Homes" limit will apply each year after that.

How much of the difference between assessed and market value ("Save Our Homes difference") can be applied depends on how the value of the new home compares to the value of the old home.

If the new home's market value is the same or greater than the old home's market value, the entire difference will be applied to the new home, so that the difference between the market and assessed values of the new home will be the same as the difference between the market and assessed values of the old home.

If the new home's market value is less than the old home's market value, the entire amount of the difference will not be applied to the new home.

Instead, the new home's Save Our Homes difference will be the same percentage of its market value as the old home's difference is of the old home's market value. For example, if the old home's Save Our Homes difference is 40 percent of its market value, the new home's difference can be determined by multiplying 40 percent times the new home's market value. Then subtract that amount from the market value to arrive at the assessed value.

Maximum deduction from market value: The amendment sets \$500,000 as the maximum amount that can be subtracted from the market value of a homesteader's new

home to determine the assessed value. The maximum applies no matter what the relationship of the new home's market value is to the old home's.

4. Amendment 1

In addition to the portability provision noted above with SOH, the January 29, 2008, Amendment 1 also modified property tax in the following ways:

1. Increases the homestead exemption by exempting the assessed value between \$50,000 and \$75,000. This exemption does not apply to school district taxes.
2. Authorizes an exemption from property taxes of \$25,000 of assessed value of tangible personal property. This provision applies to all taxes.
3. Limits the assessment increases for specified nonhomestead real property to 10 percent each year. Property will be assessed at just value following an improvement, as defined by general law, and may be assessed at just value following a change of ownership or control if provided by general law. This limitation does not apply to school district taxes. This limitation is repealed effective January 1, 2019, unless renewed by a vote of the electors in the general election held in 2018.

Further, this revision:

1. Repealed obsolete language on the homestead exemption when it was less than \$25,000 and did not apply uniformly to property taxes levied by all local governments.
2. Provides for homestead exemptions to be repealed if a future constitutional amendment provides for assessment of homesteads "at less than just value" rather than as currently provided "at a specified percentage" of just value.
3. Provides that the changes take effect upon approval by the electors and operates retroactively to January 1, 2008. The limitation on annual assessment increases for specified real property shall first apply to the 2009 tax roll.

a. SB 1588

During the 2008 regular session, the Legislature passed SB 1588 as a "glitch bill" to amend several technical problems associated with Amendment 1. One such amendment was to specify that the supermajority vote requirement necessary to exceed the maximum millage rate is based on the total membership of the governing body rather than the membership present at the meeting.

The bill contained a last-minute amendment to include a provision that would result in an additional loss of revenue for local governments. Under previous law, local governments were allowed, if they chose, to levy a millage rate in FY 2008-09 to recover the losses from the reduced tax base caused by Amendment 1 by a simple majority vote. The amendment to SB 1588 changed the calculation of the "maximum" millage rate that a county, municipality or special district may levy by a simple majority vote for FY 2008-09 only. It provides that the millage rate for FY 2008-09 (the millage rate that can be levied by a simple majority vote) must be calculated as if the tax base had not been reduced by Amendment 1. This would cause the "maximum" millage rate to be reduced to a rate below that of previous law.

Thus, if a local government experienced a 10-percent loss to its tax base resulting from Amendment 1, that government's simple majority vote "cap" would have been lowered by 10 percent, but offset partially by the change in per capita Florida personal income (+4.15 percent for FY 2008-09). In almost all cases, this meant that it would have required a 2/3 vote of the membership of the governing

body for a local government to hold itself harmless from the effects of Amendment 1. The maximum millage rate that may be levied by a 2/3 vote or unanimous vote of the membership of the governing body under existing law did not change. This means a taxing authority may levy a millage rate up to a rate that is 110 percent of the (traditional) rolled-back rate, plus the change in per capita Florida personal income (+4.15 percent for FY 2008-09), by a 2/3 vote of the membership of the governing body. Similarly, a taxing authority may levy a millage rate in excess of 110 percent of the (traditional) rolled-back rate, plus the change in per capita Florida personal income (+4.15 percent for FY 2008-09), by a unanimous vote of the membership of the governing body.

In future years, FY 2009-10 and beyond, the maximum millage rate that may be adopted by a simple majority vote of the membership of the governing body, is the traditional rolled-back rate, plus the change in per capita Florida personal income as published by the Office of Economic and Demographic Research by April 1 of each year.

Furthermore, the definitions used in the TRIM law, such as the definition of the “rolled-back rate,” did not change. This means the existing definition of “rolled-back rate” in the TRIM law is still the threshold for the rate that constitutes a “tax increase” subject to the advertising requirements in FY 2008-09 and beyond.

REFERENCES

LCIR Publications.

Section 7-4

Sales Tax Programs

Municipalities in Florida participate in two sales tax programs:

1. Local Government Half-Cent Sales Tax, and
2. "Local Option Sales Tax."

These programs are explained in detail below, including the complete distribution formulas for each.

A. LOCAL GOVERNMENT HALF-CENT SALES TAX PROGRAM

Authorized in 1982, the program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature. It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible fiscally constrained counties. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.

The program includes three distributions to state sales tax revenues collected. The ordinary distribution to eligible county and municipal governments is possible due to the transfer of 8.814 percent of net sales tax proceeds to the Local Government Half-cent Sales Tax Clearing Trust Fund [hereinafter Trust Fund]. The emergency and supplemental distributions are possible due to the transfer of 0.095 percent of net sales tax proceeds to the Trust Fund. The emergency and supplemental distributions are available to select counties that meet certain fiscal-related eligibility requirements to have an inmate population of greater than seven percent of the total county population, respectively.

As of July 1, 2006, the program includes a separate distribution from the Trust Fund to select counties that meet statutory criteria to qualify as a fiscally constrained county. A fiscally constrained county is one that is entirely within a rural area of critical economic concern as designated by the governor, or for which the value of one mill of property tax levy will raise no more than \$5 million in revenue based on the taxable value. This separate distribution is in addition to the qualifying county's ordinary distribution and any emergency or supplemental distribution.

A county or municipality is authorized to pledge the proceeds for the payment of principal and interest on any capital project. The determination of actual revenue is calculated as follows:

Calculation of Ordinary Distribution Factors for Counties and Municipalities

Distribution Factor = Municipal Population divided by [(Total County Population + (2/3 x Incorporated Population)]

Municipal Share = Distribution x Total Half-Cent Ordinary Factor for Each County

B. LOCAL OPTION SALES TAX

Seven different types of local discretionary sales surtaxes (also referred to as local option sales taxes) are currently authorized in law and represent potential revenue sources for county and municipal governments and school districts. The local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions, and communications.

The local discretionary sales surtax rate varies from county to county, depending on the particular levies authorized in that jurisdiction. Discretionary sales surtax must be collected when the transaction occurs in, or delivery is into, a county that imposes the surtax, and the sale is subject to state's sales and use tax. The following table summarizes how the surtax is collected.

if the sale occurs in a:	And delivery is in:	The surtax is:
County with a surtax	The same county	collected
County with a surtax	A county without a surtax	Not collected
County with a surtax	A different county with a surtax	Collected at the county rate where delivery is made
County without a surtax	A county with a surtax	Collected at the county rate where delivery is made
County without a surtax	County without a surtax	Not collected

Discretionary sales surtax applies to the first \$5,000 of any single taxable item, when sold to the same purchaser at the same time. Single items include items normally sold in bulk and items assembled to comprise a working unit. The \$5,000 limitation does not apply to the rental of commercial real property, transient rentals, or services. With regard to the sale of motor vehicles, mobile homes, boats or aircraft, the surtax applies only to the first \$5,000 of the total sales price. On the sale of a motor vehicle or mobile home, the tax rate is determined by the county where the purchaser resides as shown on the title or registration. On the sale of a boat or aircraft, the tax rate is determined by the county where the boat or aircraft is delivered.

The local discretionary sales surtax applies to communications services. Because the new communications services tax base is much larger than the base under prior law, discretionary sales surtax conversion rates were specified in law. For any county or school board that levies the surtax, the tax rate on communications services.

Of the local discretionary sales surtaxes, proceeds of only three are available to **municipalities**:

1. Local Government Infrastructure Surtax
2. Small County Surtax
3. Charter County Transit System Surtax

1. Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax shall be levied at the rate of 0.5 or 1 percent pursuant to an ordinance enacted by a majority vote of the county's governing body and approved by voters in a countywide referendum. Generally, the proceeds must be expended to finance, plan, and construct infrastructure; to acquire land for public recreation or conservation or protection of natural resources; and to finance the closure of local government-owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection (DEP). Additional spending authority exists for select counties.

A. Authorization to Levy

Local government may levy this surtax at a rate of 0.5 or 1 percent. This levy shall be pursuant to an ordinance enacted by a majority of the members of the county's governing body and approved by the voters in a countywide referendum. In lieu of action by the county's governing body, municipalities representing a majority of the county's population may initiate the surtax through the adoption of uniform resolutions calling for a countywide referendum on the issue. If the proposal to levy the surtax is approved by a majority of the electors, the levy shall take effect.

Additionally, the surtax may not be levied beyond the time established in the ordinance if the surtax was levied pursuant to a referendum held before July 1, 1993. If the pre-July 1, 1993, ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. There is no state-mandated limit on the length of levy for those surtax ordinances enacted after July 1, 1993. The levy may only be extended by voter approval in a countywide referendum.

This surtax is one of several surtaxes subject to a combined rate limitation. A county shall not levy this surtax and the Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1 percent.

B. Distribution

The surtax proceeds shall be distributed to the county and its respective municipalities according to one of the following procedures.

1. An interlocal agreement between the county's governing body and the governing bodies of the municipalities representing a majority of the county's municipal population. This agreement may include a school district with the consent of all governing bodies previously mentioned.
2. If there is no interlocal agreement, then the distribution will be based on the Local Government Half-cent Sales Tax formulas.

C. Authorized Uses

A school district, county, or municipalities within the county, or municipalities within another county in the case of a negotiated joint county agreement, may use the surtax proceeds and any accrued interest only for the following purposes.

1. Finance, plan, and construct infrastructure.
2. Acquire land for public recreation or conservation or protection of natural resources.
3. Finance the closure of county or municipal-owned solid waste landfills that are already closed or are required to close by order of the DEP. Any use of such proceeds or interest for purposes of landfill closures prior to July 1, 1993, is ratified.

Neither the proceeds nor any accrued interest shall be used to fund the operational expenses of infrastructure, except that any county with a population of 75,000 or less that is required to close a landfill by order of the DEP may use the proceeds and accrued interest for long-term maintenance costs associated with landfill closures. Counties, (i.e., Miami-Dade County) and charter counties may use the proceeds and accrued interest to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred for such refunded bonds prior to July 1, 1999, is ratified.

The term infrastructure is defined as any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of five or more years and any related land acquisition, land improvement, design, and engineering costs. This definition also includes a fire department vehicle, emergency medical services vehicle, sheriff's office vehicle, police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least five years. Additionally, infrastructure means any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, those court facilities, as well as any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of five or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or staging area for emergency response equipment during an emergency officially declared by the state or by the local government. Additionally, these "private facility" improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters, and the private facility's owner shall enter into a written contract with the local government providing the improvement funding to make such private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum period of 10 years after the completion of the improvement, with the provision that such obligation will transfer to any subsequent owner until the end of the minimum period.

An amount not to exceed 15 percent of the surtax proceeds may be allocated for the purpose of funding county economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The referendum ballot statement must indicate the intention to make such an allocation.

School districts, counties, and municipalities may pledge the surtax proceeds for the purpose of servicing new bonded indebtedness. Local governments may use the services of the Division of Bond Finance of the State Board of Administration to issue bonds, and counties and municipalities may join together for the issuance of bonds.

A county with a total population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern that imposed the surtax before July 1, 1992, may use the proceeds and accrued interest of the surtax for any public purpose if the county satisfies the following criteria: 1) the debt-service obligations for any year are met; 2) the county's comprehensive plan has been determined to be in compliance with part II of ch. 163, F.S., and 3) the county has adopted an amendment to the surtax ordinance pursuant to the procedure authorizing additional uses of the proceeds and accrued interest. Those counties designated as an area of critical state concern that qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for authorized infrastructure purposes.

A county that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation, and that qualified to use the surtax for any public purpose at the time of the designation's removal, may continue to use up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes for 20 years following the designation's removal. After the 20-year period expires, a county may continue to use up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure if the county adopts an ordinance providing for such continued use of the surtax proceeds.

Likewise, a municipality located within such a county may not use the proceeds and accrued interest for any purpose other than an authorized infrastructure purpose unless the municipality's comprehensive plan has been determined to be in compliance with part II of ch. 163, F.S., and the municipality has adopted an amendment to its surtax ordinance or resolution, authorized additional uses of the proceeds and accrued interest. Such municipality may expend the proceeds and accrued interest for any public purpose.

Despite any other use restrictions to the contrary, a county having a population greater than 75,000 in which the taxable value of real property is less than 60 percent of the just value of real property for ad valorem tax purposes for the tax year in which the referendum is placed before voters, and the municipalities within such a county, may use the surtax proceeds and accrued interest for operation and maintenance of parks and recreation programs and facilities established with the proceeds throughout the duration of the levy or accrued interest earnings are available for such use, whichever period is longer.

2. Small County Surtax

A. Overview

Any county having a total population of 50,000 or less on April 1, 1992, is authorized to levy the Small County Surtax at the rate of 0.5 or 1 percent. County governments may impose the levy by either an extraordinary vote of the governing body if the proceeds are to be expended for operating purposes or by voter approval in a countywide referendum if the proceeds are to be used to service bonded indebtedness.

Only small counties defined as having a total population of 50,000 or less on April 1, 1992, are eligible to levy the surtax. This surtax is one of several surtaxes subject to a combined rate limitation. A county shall not levy this surtax and the Local Government Infrastructure Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1 percent.

Thirty-one counties had a total population of 50,000 or less on April 1, 1992, and eligible to levy the surtax. However, some eligible counties currently levy the Local Government Infrastructure Surtax at the maximum rate of 1 percent and therefore are not eligible to levy this surtax.

B. Distribution of Proceeds

The surtax proceeds shall be distributed to the county and the municipalities within the county according to one of the following procedures.

1. An interlocal agreement between the county's governing body and the governing bodies of the municipalities representing a majority of the county's municipal population. This agreement may include a school district with the consent of all governing bodies previously mentioned.

2. If there is no interlocal agreement, then the distribution will be based on the Local Government Half-cent Sales Tax formulas.

C. Authorized Use of Proceeds

If the surtax is levied as a result of voter approval in a countywide referendum, the proceeds and any accrued interest may be used by the school district, county, or municipalities within the county, or municipalities within another county in the case of a negotiated joint county agreement, for the purpose of servicing bonded indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation, conservation, or protection of natural resources. In this case, infrastructure means any fixed capital expenditure or cost associated with the construction, reconstruction, or improvement of public facilities having a life expectancy of five or more years and any related land acquisition, land improvement, design, and engineering costs. If the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the county's governing body, the proceeds and accrued interest may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance.

School districts, counties, and municipalities may pledge the surtax proceeds for the purpose of servicing new bonded indebtedness. Local governments may use the services of the Division of Bond Finance of the State Board of Administration to issue bonds. In no case may a jurisdiction issue bonds more frequently than once per year, and counties and municipalities may join together for the issuance of bonds.

3. Charter County Transit System Surtax

The Charter County Transit System Surtax may be levied at a rate of up to 1 percent by those charter counties that adopted a charter prior to January 1, 1984, as well as by those county governments that have consolidated with one or more municipalities. In the case of charter counties, the levy is subject to a charter amendment approved by a majority vote of the county's electorate. In the case of a consolidated government, the levy is subject to voter approval in a countywide referendum. Generally, the use of the proceeds is for the development, construction, operation, and maintenance of fixed guideway rapid transit systems, bus systems, and roads and bridges.

A. Authorization to Levy

Charter counties that adopted a charter prior to January 1, 1984, and county governments that have consolidated with one or more municipalities, may levy this surtax at a rate of up to 1 percent, subject to approval by a majority vote of the county's electorate or a charter amendment approved by a majority vote of the county's electorate.

The seven counties eligible to levy this surtax are Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota and Volusia.

B. Authorized Uses of Proceeds

The surtax proceeds shall be applied to as many or as few of the following uses as the county's governing body deems appropriate.

1. Deposited into the county trust fund and used for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system.

2. Remitted by the county's governing body to an expressway or transportation authority created by law to be used at the authority's discretion for the development, construction, operation or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval of the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges.
3. Used by the charter county for the development, construction, operation, and maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of bus and fixed guideway systems; for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus systems, roads or bridges; and such proceeds may be pledged by the county's governing body for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, bus systems, roads or bridges and no more than 25 percent used for nontransit uses.
4. Used by the charter county for the planning, development, construction, operation, and maintenance of roads and bridges in the county; for the planning, development, expansion, operation and maintenance of bus and fixed-guideway systems; for the payment of principal and interest on bonds issued for the construction of fixed-guideway rapid transit systems, bus systems, roads or bridges; and such proceeds may be pledged by the county's governing body for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed-guideway rapid transit systems, bus systems, roads or bridges. Pursuant to an interlocal agreement entered into pursuant to ch. 163, F.S., the charter county's governing body may distribute surtax proceeds to a municipality, or an expressway or transportation authority created by law to be expended for such purposes.

REFERENCES

LCIR Publications. "A Municipal Budget Guide." Laws of Florida: Chapter 95-25.

Section 7-5

Municipal Revenue Sharing

A. OVERVIEW

The Florida Revenue Sharing Act of 1972, codified as Part II of Chapter 218, Florida Statutes, was an attempt by the Florida Legislature to ensure a minimum level of revenue parity across municipalities and counties. Provisions in the enacting legislation created separate revenue sharing trust funds for municipalities and counties, identified appropriate revenue sources, specified formulas for redistribution and listed eligibility requirements. Subsequent changes have not resulted in major revisions to the overall program. Changes have centered on the expansion of county bonding capacity and changes in the revenue sources and tax rates.

The current Municipal Revenue Sharing Trust Fund includes three sources for municipalities: 1.3409 percent of net sales and use tax collections, the state-levied one-cent municipal gas tax collections, and 12.5 percent of the state alternative fuel user decal fee collections. (Additional gas tax revenues are discussed in following sections.)

B. ELIGIBILITY REQUIREMENTS

Pursuant to s. 218.21(3), F.S., all municipalities created pursuant to general or special law and metropolitan and consolidated governments as provided in Article VIII, Sections 6(e) and (f), Florida Constitution (i.e., Miami-Dade and Jacksonville-Duval) are eligible to participate in the municipal revenue sharing program if they fulfill the necessary eligibility requirements. Although a newly incorporated municipality cannot receive revenue-sharing funds, it does begin receiving a share when the necessary requirements are met.

Section 218.21, F.S., defines “minimum entitlement” as the amount of revenue which is necessary to meet a municipality’s obligations as “a result of pledges or assignments or trusts entered into which obligated...revenue sharing trust funds.”

Pursuant to s. 218.23, F.S., a municipality must meet the following requirements to be eligible to participate in revenue sharing **beyond** minimum entitlement in any fiscal year:

1. Report its finances for the most recently completed fiscal year to the Department of Banking and Finance (s. 218.23(1)(a), F.S.).
2. Make provisions for annual post-audits of its financial accounts in accordance with law, pursuant to Chapter 10.500, Rules of the Auditor General (s. 218.23(1)(b), F.S.).
3. a. For local governments eligible in 1972, levy ad valorem taxes (excluding debt service and other special millage) that will produce the equivalent of 3 mills per dollar of assessed valuation, based on the 1973 taxable values as certified by the property appraiser, **or** collect an equivalent amount of revenue from an occupational license tax or a utility tax (or both) in combination with the ad valorem tax; or
b. For municipalities eligible after 1972, the 3 mill equivalency requirements will be based on the per dollar of assessed valuation in the year of incorporation (s. 218.23(1), F.S.).

4. Certify that law enforcement officers, as defined in s. 943.10(1), F.S., meet the qualifications set by Criminal Justice Standards and Training Commission, and salary plans meet the provisions of Chapter 943, Florida Statutes, and that no law enforcement officer receives an annual salary of less than \$6,000; the minimum law enforcement officer salary requirement may be waived, if the municipality certifies that it is levying ad valorem taxes at 10 mills (s. 218.23(1)(d), F.S.).
5. Certify that its firefighters, as defined in s. 633.30(1), F.S., meet qualifications set by the Division of State Fire Marshal, and that the provisions of s. 633.382, F.S., have been met (s. 218.23(1)(e), F.S.).
6. Certify that each dependent special district that is budgeted separately from the general budget has met the provisions for an annual post-audit of its financial accounts in accordance with the provisions of law (s. 218.23(1)(f), F.S.).
7. Certify to the Department of Revenue that the requirements of s. 200.065, F.S., (“TRIM”) are met, if applicable; this certification is made annually within 30 days of adoption of an ordinance or resolution establishing a final property tax levy, or not later than November 1 if no property tax is levied (s. 218.23(1)(f), F.S.).
8. Notwithstanding the requirement that municipalities produce revenue equivalent to a millage rate of 3 mills per dollar of assessed value (as described in #3 above), no municipality that was eligible to participate in revenue sharing in the three years prior to initially participating in half-cent sales tax shall be ineligible to participate in revenue sharing solely due to a millage or a utility tax reduction afforded by the Local Government Half-Cent Sales Tax (s. 218.23(4), F.S.).

A number of governmental entities are ineligible to receive municipal revenue sharing funds. For example, Attorney General Opinion (AGO) 77-21 stated that municipal services taxing units (MSTUs) or municipal service benefit units (MSBUs) are not eligible to receive funds from the Municipal Revenue Sharing Trust Fund. Two additional opinions determined that both regional authorities (AGO-74-367) and other authorities, such as housing authorities (AGO 73-246), also are not eligible to receive municipal revenue sharing dollars.

C. APPORTIONMENT FACTOR

Section 218.245(2), Florida Statutes, provides that an apportionment factor for distribution of municipal revenue sharing funds is to be calculated for each eligible municipality. This factor is calculated using a three-factor additive formula consisting of three equally-weighted components:

1. population,
2. sales tax, and
3. relative ability to raise revenue.

The calculations are explained in detail below.

1. Weighted Population

The population of an eligible municipality is adjusted by multiplying the municipality’s population by the adjustment factor for that particular population class. The weighted population factor is the ratio of the adjusted municipal population to the total adjusted population of all eligible municipalities in the state.

The adjustment factors for each population class are:

Population Class	Adjustment Factor
0-2,000	1.0
2,001-5,000	1.135
5,001-20,000	1.425
20,001-50,000	1.709
Over 50,000	1.791

Stated algebraically:

$$\text{Weighted Population Factor} = \frac{(\text{Municipality's Population} \times \text{Adjustment Factor})}{\text{Total Adjusted Statewide Municipal Population}}$$

2. Sales Tax

The sales tax allocation is the ratio of the city's population to the total county population multiplied by the amount of county sales tax collections. The sales tax factor is computed by dividing this sales tax allocation by the total sales tax collections for all eligible municipalities.

Stated algebraically:

$$\text{Municipal Sales Tax} = \frac{(\text{Municipality's Population} \times \text{County Sales Tax Collections})}{\text{Total County Allocation Population}}$$

$$\text{Sales Tax} = \frac{\text{Municipal Sales Tax Allocation}}{\text{Factor Total Sales Tax Collections for All Eligible Municipalities}}$$

3. Relative Ability to Raise Revenue

The relative ability to raise revenue is determined by the following three-factor formula involving a levy ratio factor, a recalculated population factor, and a relative revenue raising ability factor.

1. Levy ratio factor: determined by dividing the per capita non-exempt assessed real and personal property valuation of all eligible municipalities by the per capita nonexempt real and personal property valuation of each municipality.

Stated algebraically:

$$\text{Municipality's Per Capita Assessed Value} = \frac{\text{Municipality's Property Valuation}}{\text{Municipality Population}}$$

$$\text{Statewide Per Capita Assessed Value} = \frac{\text{Statewide Municipalities' Property Valuation}}{\text{Total Statewide Municipal Population}}$$

$$\begin{array}{l} \text{Levy} \\ \text{Ratio} \\ \text{Factor} \end{array} = \frac{\text{Statewide Per Capita Assessed Value}}{\text{Municipality's Per Capita Assessed Value}}$$

2. Recalculated population factor: determined by multiplying an eligible municipality's population by the levy ratio as calculated above.

Stated algebraically:

$$\begin{array}{l} \text{Recalculated} \\ \text{Population Factor} \end{array} = \text{Municipality's Population} \times \text{Levy Ratio Factor}$$

3. Relative revenue raising ability factor: determined by dividing the recalculated population of each eligible municipality by the sum of all eligible municipalities' recalculated population.

Stated algebraically:

$$\begin{array}{l} \text{Relative Revenue} \\ \text{Raising Ability} \\ \text{Factor} \end{array} = \frac{\text{Municipality's Recalculated Population}}{\text{Total Statewide Municipal Recalculated Population}}$$

4. Apportionment Factor Calculation

To determine a municipality's guaranteed portion of the municipal revenue sharing program, the three factors calculated above are added together and divided by three to obtain the distribution factor.

Stated Algebraically:

$$\begin{array}{l} \text{Apportionment} \\ \text{(Distribution)} \end{array} = \frac{\text{Weighted Population Factor plus Sales Tax Allocation Factor plus Relative Revenue Raising Ability Factor}}{3}$$

5. Adjustment for a Metropolitan or Consolidated Government

For a metropolitan or consolidated government, (i.e., Miami-Dade County and City of Jacksonville-Duval County), the factors are further adjusted by multiplying the adjusted or recalculated population or sales tax collections, as the case may be, by a percentage that is derived by dividing the total amount of ad valorem taxes levied by the county government on real and personal property in the area of the county outside of municipal limits or urban service district limits by the total amount of ad valorem taxes levied on real and personal property by the county and municipal governments.

6. Hold-Harmless Adjustment

Revenues attributed to the increase in the state sales tax distribution to the Trust Fund from 1.0715 percent to 1.3409 percent shall be distributed to each eligible municipality and consolidated government in the following manner. Each eligible local government's allocation shall be based on the amount it received from the Local

Government Half-cent Sales Tax Program in the prior state fiscal year divided by the total receipts under the same authority in the prior state fiscal year for all eligible local governments provided; however, for the purpose of calculating this distribution, the amount received in the prior state fiscal year by a consolidated unit of local government (i.e., city of Jacksonville/Duval County) shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in this allocation in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the results multiplied by 12.

In summary, the distribution to an eligible municipality is determined by the following procedure. First, a municipal government's entitlement shall be computed on the basis of the apportionment factor applied to all Trust Fund receipts available for distribution. Second, the revenue to be shared via the formula in any fiscal year is adjusted so that no municipality receives fewer funds than its guaranteed entitlement, which is equal to the aggregate amount received from the state in fiscal year 1971-72 under then-existing statutory provisions. Third, the revenue to be shared via the formula in any fiscal year is adjusted so that all municipalities receive at least their minimum entitlement, which means the amount of revenue necessary for a municipality to meet its obligations as the result of pledges, assignments, or trusts entered into that obligated Trust Fund monies. Finally, after making these adjustments, any remaining Trust Fund monies shall be distributed on the basis of additional money or each qualified municipality in proportion to the total additional money for all qualified municipalities.

D. DISTRIBUTION OF PROCEEDS

The amount and type of monies shared with an eligible municipality is determined by the following procedure.

1. A municipality's entitlement shall be computed on the basis of the apportionment factor provided in s. 218.245, F.S., (described previously), and applied to the receipts in the Municipal Revenue Sharing Trust Fund that are available for distribution; the resulting amount is labeled "**entitlement money**" – i.e., amount of revenue which would be shared with a unit of local government if the distribution were allocated on the basis of the formula computations alone.
2. The revenue to be shared via the formula in any fiscal year is adjusted so that no municipality receives less funds than the aggregate amount it received from the state in FY 1971-72; the resulting amount is labeled "**guaranteed entitlement**" or "**hold harmless money**"; those municipalities incorporated after 1972 receive no guaranteed entitlement monies.
3. Revenues shared with the municipalities shall be adjusted so that no municipality receives less funds than its "minimum entitlement," the amount of revenue necessary to meet its obligations as a result of pledges, assignments, or trusts entered into which obligated funds received from revenue-sharing sources.
4. After making the adjustments described in the preceding sentences and deducting the amount committed to all eligible municipalities, the remaining monies in the trust fund are distributed to those municipalities who qualify to receive "**growth monies.**" This final distribution to those eligible municipalities that qualify to receive additional monies beyond the guaranteed entitlement is based on the ratio of the additional monies of each qualified municipality in proportion to the total additional monies of all those municipalities; this distribution accounts for annual increases or decreases in the trust fund and Miami-Dade's

guaranteed entitlement, as provided for in s. 218.21(6)(b), F.S.; as stated, the additional money distributed beyond the guaranteed entitlement is termed “growth money.”

In summary, the total annual distribution of revenue sharing funds to a municipality will yield various combinations of guaranteed entitlement and/or growth monies:

1. Guaranteed entitlement monies **PLUS** growth monies,
2. Guaranteed entitlement monies **ONLY**, or
3. Growth monies **ONLY**.

However, it must be remembered that the final distribution amount is, of course, dependent on actual collections.

E. AUTHORIZED USES

Several statutory restrictions exist regarding the authorized use of municipal revenue sharing proceeds. Funds derived from the municipal fuel tax on motor fuel shall be used only for the purchase of transportation facilities and road and street rights-of-way; construction, reconstruction, and maintenance of roads, streets, bicycle paths, and pedestrian pathways; adjustment of city-owned utilities as required by road and street construction; and construction, reconstruction, transportation-related public safety activities, maintenance, and operation of transportation facilities. Municipalities are authorized to expend these funds in conjunction with other municipalities, counties, state government, or the federal government in joint projects.

According to the DOR, municipalities may assume that 26.62 percent of their estimated 2008 fiscal year distribution is derived from the municipal fuel tax. Therefore, at least that proportion of each municipality’s revenue sharing distribution must be expended on those transportation-related purposes specifically mentioned in the preceding paragraph.

Municipalities are restricted as to the amount of program funds that can be assigned, pledge, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, and there shall be no other use restriction on these shared revenues. Municipalities may assign, pledge, or set aside as trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness an amount up to 50 percent of the funds received in the prior year. Consequently, it is possible that some portion of a municipality’s growth monies will become available as pledge for bond indebtedness.

REFERENCES

LCIR Publications.
Florida Statutes.

Section 7-6

Gas Taxes

NOTE: The 1995 Florida Legislature enacted Chapter 95-417, Laws of Florida, which became effective July 1, 1996, except as otherwise provided. This act enacts and amends various provisions relating to taxation of fuels, including changing the terminology from “gas” taxes to “fuel” taxes. This act constitutes a major rewrite of the statutes dealing with state and local fuel tax implementation and administration by the Department of Revenue. The primary purpose of this legislation is to adopt fuel taxing procedures used by the federal government with the goals of reducing the incidence of fraud and tax evasion and making tax administration more efficient.

A. STATE-LEVIED MUNICIPAL GAS TAX

The state levies a one-cent-per-gallon tax on motor fuel, the proceeds of which go into the Revenue Sharing Trust Fund for Municipalities, for ultimate distribution to municipalities. This tax is referred to as the “municipal gas tax.” Funds received from this source are to be used only for transportation facilities and road construction (s. 206.605(2), F.S.). (See the “Municipal Revenue Sharing” section in this chapter of the manual for more information.)

State gas taxes at the present are as follows:

1. four-cents-per-gallon excise tax;
2. 6.9-percent fuel sales tax which is adjusted annually based on the change in the average consumer price index;
3. four-cents-per-gallon which is adjusted annually by the percentage change in the average consumer price index;
4. two cents, set aside in the Florida Constitution for the benefit of the counties; this tax is referred to as the “constitutional gas tax”;
5. one cent, enacted by statute, which goes to the county, referred to as the “county gas tax”; and
6. one-cent municipal gas tax discussed above.

B. LOCAL OPTION GAS TAXES

County governments are authorized to levy up to 12 cents of local-option fuel taxes in the form of three separate levies. The first is a tax of one cent on every net gallon of motor and diesel fuel sold within a county. Known as the Ninth-Cent Fuel Tax, this tax may be authorized by an ordinance adopted by an extraordinary vote of the governing body or voter approval in a countywide referendum. Generally, the proceeds may be used to fund transportation expenditures.

The second is a tax of one to six cents on every net gallon of motor and diesel fuel sold within a county. This tax may be authorized by an ordinance adopted by a majority vote of the governing body or voter approval in a countywide referendum. Generally, the proceeds may be used to fund transportation expenditures.

The third tax is a one to five cents levy upon every net gallon of motor fuel sold within a county. Diesel fuel is not subject to this tax. This additional tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body or voter approval in a countywide referendum. Proceeds received from this additional tax

may be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local government comprehensive plan.

The Legislature has authorized the statewide equalization of local option tax rates on diesel fuel by requiring that the full six cents of the one to six cents fuel tax as well as the one cent Ninth-Cent Fuel Tax be levied on diesel fuel in every county even though the county government may not have imposed either tax on motor fuel or may not be levying the tax on motor fuel at the maximum rate. Consequently, seven cents worth of local option tax revenue on diesel fuel are distributed to local governments, regardless of whether or not the county government is levying these two taxes on motor fuel at any rate.

1. Distribution

The local option fuel taxes on motor fuel shall be distributed monthly by the DOR to the county reported by the terminal suppliers, wholesalers, and importers as the destination of the gallons distributed for retail sale or use. The taxes on diesel fuel shall be distributed monthly by the DOR to each county according to the procedure specified in law.

With regard to the Ninth-Cent Fuel Tax, the governing body of the county may provide, by joint agreement with one or more municipalities located within the county, for the authorized transportation purposes and the distribution of the tax proceeds within both the incorporated and unincorporated areas of the county. However, the county is not required to share the proceeds of this tax with municipalities.

The county's proceeds from the one to six cents and one to five cents fuel taxes shall be distributed by the DOR according to the distribution factors determined at the local level by interlocal agreement between the county and municipalities within the county's boundaries. If no interlocal agreement is established, then the distribution shall be based on the transportation expenditures of each local government for the immediately preceding five fiscal years, as a portion of the total of such expenditures for the county and all municipalities within the county. These proportions shall be recalculated every 10 years based on the transportation expenditures of the immediately preceding five years.

In addition, any inland county with a population greater than 500,000 as of July 1, 1996, having an interlocal agreement with one or more of the incorporated areas within the county must utilize the population estimates of local government units as of April 1st of each year for dividing the proceeds of the one to six cents fuel tax. This provision applies only to Orange County.

Any newly incorporated municipality, eligible for participation in the distribution of monies under the Local Government Half-cent Sales Tax and Municipal Revenue Sharing Programs and located in a county levying the one to six cents or one to five cents fuel tax, is entitled to receive a distribution of the tax revenues in the first full fiscal year following incorporation. The distribution shall be equal to the county's per lane mile expenditure in the previous year times the number of lane miles within the municipality's jurisdiction or scope of responsibility, in which case the county's share would be reduced proportionately; or as determined by the local act incorporating the municipality. Such a distribution shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds that are backed by these taxes. 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 redistribution.

2. Restrictions on Expenditures

Section 336.025(1)(a)2, Florida Statutes, states that county and city governments shall utilize the proceeds of the one to six cent local-option gas tax **only** for transportation expenditures.

Municipalities must use the proceeds of the one to five cent local-option gas tax only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan, pursuant to s. 336.025(1)(b)3, F.S. (See the “Growth Management” chapter of this manual for more information on the comprehensive plan.)

Section 336.025(7), Florida Statutes, defines the term “transportation expenditures” to include:

1. public transportation operations and maintenance,
2. roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment,
3. roadway and right-of-way drainage,
4. street lighting,
5. traffic signs, traffic engineering, signalization and pavement markings,
6. bridge maintenance and operation, and
7. debt service and current expenditures for capital projects in the foregoing program areas, including construction or reconstruction of roads.

REFERENCES

LCIR Publications. Laws of Florida: Chapter 95-417. Florida Statutes: Chapter 336.

Section 7-7

Optional Tourist Taxes

OVERVIEW OF STATE AUTHORIZED TOURISM-RELATED TAXES

A limited number of municipalities were granted authority in 1967 for a Tourist Development Tax (TDT). The Legislature does not appear receptive to extending such authority.

Current law authorized five separate tourist development taxes on transient rental transactions. They are:

1. Original Tourist Development Tax
2. Additional Tourist Development Tax
3. Professional Sports Franchise Facility Tax
4. Additional Professional Sports Franchise Facility Tax
5. High Tourism Impact Tax.

Depending on a county's eligibility to levy, the maximum tax rate varies from a minimum of three percent to a maximum of six percent. The levies may be authorized by vote of the county's governing body or referendum approval. Generally, the revenues may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy.

Any county may levy and impose a tourist development tax on the exercise within its boundaries of the taxable privilege except there shall be no additional levy of a tourist development tax in any municipalities presently imposing the Municipal Resort Tax.

A county may elect to levy and impose the tourist development tax in a subcounty special district. However, if a county elects to levy and impose the tax on a subcounty special district basis, the district shall embrace all or a significant contiguous portion of the county. The county shall assist the Department of Revenue (DOR) in identifying the rental units in the district that are subject to the tax.

These levies require the adoption of an authorizing ordinance by vote of the county's governing body. Additionally, some levies require referendum approval or provide the option for the tax to be approved by referendum.

It is the Legislature's intent that every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park or condominium for a term of six months or less is exercising a taxable privilege, unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of ch. 212, F.S.

REFERENCES

LCIR Publications.

Section 7-8

Other Municipal Revenue Sources

This chapter attempts to present an overview of some of those revenue sources not described in the preceding sections. These sources are found throughout the various categories of municipal revenue sources in earlier sections.

Due to recent controversy surrounding local government investment policies, the revenue source of “Investment Income” may be of particular interest to municipal officials.

A. PUBLIC SERVICE OR UTILITY TAX

1. Description

Section 166.231(1)(a), Florida Statutes, provides that a municipality may levy a tax, not to exceed 10 percent, on the purchase of electricity, metered or bottled gas (natural liquefied petroleum gas or manufactured), and water service. This tax is often referred to as a “utility tax.” The tax shall be levied only upon purchases within the municipality.

2. Reported Revenues

Utility taxes account for \$756.3 million in total municipal revenues, or approximately 4.2 percent of total revenues in FY 2005-06.

3. Limitations on the Public Service Tax

As previously mentioned, a public service tax may not exceed 10 percent of the cost of service.

Some local municipalities that tax at less than 10 percent do so on a sliding scale (e.g., 10 percent on the first \$25, 5 percent on the next \$50, and 2 percent thereafter). Although this method is employed by some local governments, municipal officials should be aware that several Attorney General Opinions over the last 14 years have said that any type of sliding scale or cap on public service taxes is illegal (AG’s opinions 89-11 and 94-76, etc.). (Municipal officials may contact the Florida League of Cities for more information.)

Section 166.231(1)(b), Florida Statutes, states that the public service tax “shall not be applied against any fuel adjustment charge,” where such charges are defined as “all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.” This limitation was imposed to prevent municipalities from experiencing a windfall in revenues due to the rapid increase in the price of oil as a result of the 1973 Arab Oil Embargo; some local officials point out that this restriction may have been necessary at the time, but should now be removed.

B. COMMUNICATIONS SERVICES TAX

In 2000, the Florida Legislature created the Communications Services Tax. This legislation created a new simplified tax structure for communications services which is codified in Chapter 202, Florida Statutes. The new tax structure took effect October 1, 2001.

Municipalities and charter counties are authorized to levy a tax up to 5.1 percent on the transmission of voice, data, audio, video or other information services, including cable services. In addition, municipalities are authorized to levy an additional surcharge up to 0.12 percent to cover the costs of permitting activity within public rights of way. Please note that some cities' rates are higher due to a revenue-neutral conversion rate enacted by the Legislature for this law.

C. FRANCHISE FEES

A "franchise fee" is often confused with a public service or utility tax. There is, however, a very clear distinction. A franchise fee is a negotiated **fixed** fee to a **company or utility** for the use of municipal rights of way (for their poles, lines, pipes, etc.), and could include the value of the right for the utility to be the exclusive provider of its services within a specified area. It is charged **directly to the utility** and payable to the municipal governing body by the utility as a cost of doing business. It cannot be a direct charge to the customers of the utility, but it appears to be done so due to a Florida Public Service Commission rule.

On the other hand, the utility tax discussed previously is a tax imposed **directly on the customer** by the municipality, much like a sales tax. It is collected by the utility, but the utility has no part in the determination of the terms, equity or amount of the tax. The amount of the tax is a variable based on the amount of service used by the customer. Franchise fees amounted to \$621.7 million in municipal revenues in FY 2005-06, or 3.5 percent of total revenues.

D. LOCAL BUSINESS TAX

1. Description

Pursuant to Chapter 205, Florida Statutes, counties and municipalities are authorized to levy a local business tax. As part of the levy, each local government establishes categories of professions, occupations, and businesses, and then imposes a tax on each designated category. Tax rates were capped at a 1971 level, with rate structure increases allowed in 1980, 1982 and 1993. Revenues collected remain with local governments as general revenue. As of 1993, the local business tax, established under the new rate structure and collected by counties in incorporated areas, is to be apportioned between the county and its component cities by a statutorily enumerated ratio. In FY 2005-06, the local business tax resulted in over \$128.7 million in total municipal revenues.

2. History

Formerly called occupational license taxes, they were first authorized in Florida in 1869. The state prescribed rates, and counties could receive 50 percent of the state taxes collected. Additionally, cities and towns were authorized to impose their own tax not to exceed 50 percent of the state license tax. In 1967, Chapter 205, Florida Statutes, "Occupational License Taxes," was amended to require that two-thirds of the occupational license taxes collected by the county would be distributed to the state, with the other one-third remaining in the county where collected. Municipalities could enact a similar tax, but only at a rate equal to 50 percent of that allowed for counties to assess. Rates for individual business and occupational types were specified and certain exemptions were allowed.

In 1972, Chapter 205, Florida Statutes, was amended to make the occupational license tax a **local tax** and eliminate the requirement that county collected taxes be

transferred to the state. In 1980 and 1982, the Florida Legislature amended Chapter 205 again to allow percentage increases in the occupational license tax rates charged by counties and municipalities. In 1984, 50 percent exemptions were authorized for business located in designated Florida enterprise zones.

In 2006, the Florida Legislature formally changed the name to the Local Business Tax.

E. SPECIAL ASSESSMENTS

Special assessments are a form of revenue levied by all types of local governments for a variety of public purposes. A “special assessment” has been defined as a levy “imposed on property owners within a limited area to help pay the cost of a local improvement which especially benefits property within that area.” It has also been defined as a “method of financing” for a levy “imposed on properties specially benefited by an improvement to defray some or all of the cost of the improvement.” The types of improvements typically financed through special assessments are street paving, sidewalk and gutter construction, and street lighting. Currently, a clear definition of special assessments does not appear in Florida statutory law. An understanding of special assessments must be based on general descriptions of local sources of financing and revenues, the laws or legal powers that authorize their levy in Florida, and the interpretations that have been articulated in Florida case law.

General descriptions of special assessments often attempt to distinguish them from taxes and service charges. A key distinction in a comparison of taxes and special assessments is the reliance of special assessments on the “benefit principle” or the benefit to property. When applied, this principle does not redistribute private wealth to the entire community, but apportions the cost of a particular public improvement according to the benefit that the property receives from it. As provided by one source, special assessments are distinguished as follows:

A “special assessment” is like a tax in that it is an enforced contribution from the property owner; it may possess other points of similarity to a tax, but it is inherently different and governed by entirely different principles. It is imposed upon the theory that the portion of the community, which is required to bear it, receives some special or peculiar benefit in the enhancement of value of the property against which it is imposed as a result of the improvement made with the proceeds of the special assessment. It is limited to the property benefited, is not governed by uniformity, and may be determined legislatively or judicially...

An important distinction between special assessments and user or service charges is the description. Assessments and service charges are similar in many respects, but a significant difference is that special assessments are an enforceable levy and a service charge is voluntary, depending upon whether the service is used. Special assessments and impact fees accounted for over \$55.2 million in total municipal revenue in FY 2005-06.

F. MOBILE HOME LICENSE TAX

Sections 320.08(10) and (11), Florida Statutes, provide that an annual license tax can be levied on park trailers and mobile homes in lieu of ad valorem taxes. The license tax fees, ranging from \$25 to \$80, are collected by the county tax collectors and remitted to the Florida Department of Highway Safety and Motor Vehicles. The proceeds, deposited into the License Tax Collection Trust Fund, are remitted back to the respective

counties and municipalities where such units governed by s. 320.081(4) and (5), F.S., are located. There are no specific state restrictions on the uses of this revenue.

The proceeds shall be distributed as follows:

1. 50 percent of the proceeds to the District School Board,
2. the remainder either to the local Board of County Commissioners for units within the unincorporated areas, or to any municipality within the county for units located within its corporate limits.

G. INSURANCE PREMIUM TAX

Each qualified municipality having a lawfully established fund providing pension benefits to firefighters, may impose an excise tax of 1.85 percent of the gross amount of receipts from policyholders on all premiums collected on property insurance policies covering property within the legally defined limits of the municipality or special fire control district. The tax revenues shall be distributed to the municipality according to the insured property's location. The net proceeds of this excise tax shall be paid into the firefighters' pension trust fund established by municipalities.

Each qualified municipality, having a lawfully established fund providing retirement benefits to police officers, may impose an excise tax amounting to 0.85 percent of the gross amount of receipts from policyholders on all premiums collected on casualty insurance policies covering property within the municipality's legally defined limits. The net proceeds of this excise tax shall be paid into the municipal police officers' retirement trust fund established by the municipalities.

Any municipality having a lawfully established firefighters' pension trust fund, may impose the tax upon every insurance company, corporation or other insurer engaged in the business of property insurance. Any municipality having a lawfully established municipal police officers' retirement trust fund, may impose the tax upon every insurance company, corporation or other insurer engaged in the business of casualty insurance.

Both excise taxes are payable annually on March 1st of each year after the passage of an ordinance assessing and imposing the taxes.

The net proceeds of the 1.85-percent tax are used to supplement firefighters' pension trust funds. Net proceeds of the 0.85-percent tax are used to supplement police officers' retirement trust funds.

(For more information on the Firefighters' Pension Trust Fund and Police Officer's Retirement Trust Fund, refer to Chapter 5, Sections 5-1 and 5-2, of this manual.)

H. BEVERAGE LICENSE TAX

Various alcoholic beverage license taxes are levied on manufacturers, distributors, vendors, and sales agents of alcoholic beverages in Florida. The tax is administered, collected, enforced, and distributed back to the local governments by the Division of Alcoholic Beverages and Tobacco within the Florida Department of Business and Professional Regulation. Proceeds from the license tax fees are deposited into the Alcoholic Beverage and Tobacco Trust Fund, which is subject to the 7.3-percent General Revenue Service Charge.

From the alcoholic beverage license tax proceeds collected within an incorporated municipality, 38 percent is returned to the appropriate municipal officer. An authorized use of the proceeds is not specified in the statutes.

I. FINES AND FORFEITURES

This revenue source includes receipts from fines and penalties imposed for the commission of statutory offenses, violation of legal administrative rules and regulations, and for neglect of official duty.

Fines include, but are not limited to, court fines, violations of municipal ordinances, pollution control violations, animal control fines and library fines. (Many of these violations and fines have been discussed throughout other parts of this manual.) Forfeitures include revenues resulting from confiscation of deposits or bonds held as performance guarantees, and proceeds from the sale of contraband property seized by law enforcement agencies.

Revenues from fines and forfeitures are usually much lower than many people expect. For FY 2005-06, this source represented only 0.8 percent of total revenues.

J. INVESTMENT INCOME

Revenues derived from the investment of cash receipts and idle funds are an important source of revenue. Many local governments in Florida are recognizing the importance of establishing effective investment policies and cash management programs.

The 1995 Florida Legislature, also recognizing this critical need of state and local governments, enacted Chapter 95-194, Laws of Florida. This act creates the state investment policy for public funds and provides its applicability to the state, local governments, and public officers. This act also creates the "State Investment Policy Committee" and provides for its duties in recommending changes to the state investment policy and its duties in reviewing investments and vendors of investments eligible for receiving public funds.

Section 166.261, Florida Statutes, is amended by this legislation to prescribe the duties of municipalities with respect to investment funds: "The governing body of each municipality shall invest and reinvest any surplus funds in its control or possession in accordance with the state investment policy for public funds." The term "surplus funds" is redefined as "funds in any general or special account or fund of the municipality, held or controlled by the governing body of the municipality, which funds are not reasonably contemplated to be needed to meet current expenses" (Chapter 95-194, Laws).

This new law further requires that all municipalities shall adopt **written** investment policies by October 1, 1995 **or** a municipality's investments must be limited to certain categories of investments authorized by statute. (See Chapter 95-194, Laws, for more detailed information.)

REFERENCES

LCIR Publications. LCIR Web site: <http://fcn.state.fl.us/lcir>. "A Municipal Budget Guide." Laws of Florida: Chapter 95-194. Attorney General's Opinions 89-11 and 94-76.

Section 7-9

Municipal Expenditures

A. OVERVIEW OF EXPENDITURES

Florida's municipalities reported total expenditures of \$10.488 billion for FY 1997-98. Monies expended by municipal governments normally cover a wide variety of areas. The specific areas, though, are largely dependent upon the perceived needs of the municipality's citizens. The Florida Department of Banking and Finance lists the following categories of municipal government expenditures:

1. Physical Environment
2. Public Safety
3. General Government Services
4. Transportation
5. Recreation and Culture
6. Economic Development
7. Debt Service
8. Human Services

B. EXPENDITURE CATEGORIES

This section briefly discusses the eight categories of municipal expenditures shown in Chart 7-2. The services provided by municipalities are discussed in detail in other chapters of this manual, and these chapters should be referred to for a more complete and comprehensive picture of required and optional municipal expenditures.

1. Physical Environment

The category of "physical environment" represents municipal expenditures for costs of services, the primary purpose of which is to achieve a satisfactory living environment. These services may include: garbage collection, solid waste, electricity, water and sewer, gas, flood control, etc. These expenditures amounted to more than \$5.4 billion or 31.3 percent of all municipal expenditures in FY 2005-06.

2. Public Safety

Public safety is the second largest source of expenditures for municipalities, constituting \$4.8 billion, or 27.5 percent, of total reported expenditures in FY 2005-06. This category accounts for the costs of providing services for the security of persons and property within the municipality's jurisdiction. Such services include: law enforcement, fire control, detention and/or correction, ambulance and rescue, inspections, etc.

3. General Government Services

The third largest expenditure category is general government services. These are services that benefit the public and municipal governing body as a whole, and may include: finance and administration, judiciary, planning, legal, etc. The costs of such services constituted approximately \$2.4 billion, or 13.9 percent, of total municipal expenditures in FY 2005-06.

4. Transportation

Transportation is the fourth largest source of expenditures for municipal governments in Florida, amounting to approximately \$1.7 billion, or 9.7 percent, of total reported expenditures in FY 2005-06. This category includes the costs for services providing for the safe and adequate flow of vehicles, travelers and pedestrians. Services may include: road and street facilities, airports, transit systems, parking, water transportation, etc.

5. Recreation and Culture

Recreation and culture includes the costs of providing libraries, parks and recreational facilities, cultural services, special events, and special recreational facilities. These expenditures amounted to \$1.65 billion, or 9.5 percent, of total municipal expenditures in FY 2005-06.

6. Economic Environment

Expenditures for the costs of providing services which develop and improve the economic condition of the community are included in economic environment expenditures. Services may include: housing/urban development, downtown improvement, employment opportunity, etc. These costs were \$550 million in FY 2005-06, or 3.2 percent, of total expenditures.

7. Debt Service

Debt service is shown as a separate category due to state reporting requirements. This category reflects those funds expended toward principal, interest and various handling fees associated with municipal bond issues. Costs of debt service in FY 2005-06 amounted to \$64.7 million, accounting for 3.7 percent of total municipal expenditures.

8. Human Services

Human services expenditures amounted to \$193 million in FY 2005-06, representing 1.1 percent of total municipal expenditures. This category includes those costs of providing services for the care, treatment, and control of human illness, injury, disability and welfare of the community as a whole and its individuals. Services include those associated with hospitals, health, welfare and mental health.

REFERENCES

LCIR Publications. "A Municipal Budget Guide."