



Board of County Commissioners Agenda Request

Date of Meeting: August 8, 2017
Date Submitted: July 28, 2017
To: Honorable Chairman and Members of the Board
From: Mark Lapp, County Attorney *MLL*
Agenda Location: Public Hearings
Subject: Amendment to Small County Surtax Ordinance

Statement of Issue:

The provision in the County's one-cent Small County Surtax Ordinance that restricts use of the revenues to capital projects—which has been waived for the past seven fiscal years by the Board by previous ordinance amendment—is due to be reinstated. The Board has indicated a desire to continue the waiver of the capital project restriction for at least one more year.

Background:

The County has a one-cent sales tax that it imposes under the authority of the Small County Surtax authorized by State law. State law does not restrict use of the revenues, but the Board, by ordinance, has restricted use of the revenues to capital projects. Beginning in fiscal year 2010-11, the Board amended the ordinance to waive the capital project restriction, allowing the revenues to be used for any public purpose as appropriated by the County Commission. At the June 13th meeting, the Board expressed a desire to continue the waiver for the coming fiscal year.

Analysis:

Attached is a draft ordinance continuing the waiver of the capital project restriction in the one-cent sales tax ordinance. I have left blank when the restriction expires. In 2013 and 2015, the Board continued the waiver for two fiscal years. The Board needs to direct how many years the waiver will be effective. As further information, State statute specifies that ordinances relating to the Small County Surtax must be adopted by an extraordinary vote of the County Commission (at least four Commissioners in favor).

Fiscal Impact:

No net impact on the amount of revenues. The impact is only to allow more flexibility in use of the revenues.

Options:

Option # 1: Conduct a public hearing, specify the duration of the waiver of the restriction and adopt the attached ordinance amendment.

Option # 2: Decline to adopt the attached ordinance amendment

Option # 3: Board provide direction

Recommendation:

Option # 1

Attachment: Draft ordinance amendment

COUNTY OF HENDRY, STATE OF FLORIDA

ORDINANCE NO. 2017 - _____

RECORDED IN ORDINANCE BOOK _____, PAGE _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HENDRY COUNTY, FLORIDA, AMENDING THE HENDRY COUNTY CODE OF ORDINANCES, CHAPTER 1-2, ARTICLE V, RELATING TO THE DISCRETIONARY ONE-CENT SMALL COUNTY SURTAX, SPECIFICALLY SECTION 1-2-74, USE OF PROCEEDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Subsection 212.055(3), Florida Statutes, allows counties having a population of 50,000 or less on April 1, 1992, to levy a one percent sales surtax on the portion of all sales occurring within the County not in excess of \$5,000.00; and

WHEREAS, Hendry County previously imposed this tax effective January 1, 2003, and specified that the proceeds were to be used for local government infrastructure; and

WHEREAS, the Board of County Commissioners of Hendry County previously modified the permissible uses of the proceeds for certain fiscal years to include any public purpose as appropriated by the County Commission, and the Board wishes to extend the fiscal years within which this may be done.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HENDRY COUNTY, FLORIDA:

SECTION ONE. Section 1-2-74 of the Hendry County Code of Ordinances is hereby amended to read as follows:

Sec. 1-2-74. - Use of proceeds.

Said tax proceeds and any interest accrued thereto shall be expended for the purpose of paying the cost of construction and maintenance of local government infrastructure, including roads, bridges, jails, governmental buildings, and other infrastructure projects permitted by law, except

that for fiscal years 2010-2011 through 2016-2017 _____ said tax proceeds and any interest accrued thereto may be expended for any public purpose as appropriated by the county commission.

SECTION TWO. SEVERABILITY.

The provisions of this ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that portion will be deemed a separate provision and will not affect any remaining provisions of the ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such invalid or unconstitutional provision was not included.

SECTION THREE. CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Hendry County Ordinance or Florida Statutes, the more restrictive shall apply.

SECTION FOUR. CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made part of the Hendry County Code; and that the sections of this ordinance may renumbered or re-lettered and that the word "Ordinance" may be changed to "section," "article" or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Administrator's designee, without need of a public hearing, by filing a corrected or re-codified copy of same with the Clerk of the Circuit Court.

SECTION FIVE. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its filing with the Secretary of State.

Duly passed and adopted in Regular Session of the Board of County Commissioners of Hendry County, Florida this _____ day of August, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF HENDRY COUNTY, FLORIDA

Barbara Butler, Clerk

Michael Swindle, Chairman

***Words in ~~strike through~~ type are deletions from existing text. Words in underline type are additions.**