



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - County Attorney

J.5.

10/28/2025

Subject:

School Board Request to Call a Referendum Election for Renewal of One-Half Cent Sales Surtax for School Capital Outlay

Fiscal Impact:

None

Dept/Office:

County Attorney's Office on behalf of Brevard County School Board Attorney Paul Gibbs

Requested Action:

The School Board requests that the Board of County Commissioners adopt a resolution calling a referendum election for the electors of the Brevard County to vote whether to renew the half-cent sales surtax approved by the voters in 2014 and 2020 for a period of ten years.

Summary Explanation and Background:

Section 212.055(6), Florida Statutes, provides that the school board in each county may levy a discretionary sales surtax for school capital outlay at a rate that may not exceed 0.5 percent, pursuant to resolution conditioned to take effect only upon approval by majority vote of the electors of the county voting in a referendum.

Brevard County voters approved the one-half cent school capital outlay surtax in 2014 with 57.99% of the vote and approved a six-year renewal of the surtax in 2020 with 68.56% of the vote. The surtax expires on December 31, 2026.

At a regular meeting on September 23, 2025, the School Board adopted its Resolution 2026-01. That resolution calls for a renewal of the half-cent school capital outlay surtax and requests that the Board of County Commissioners place the required referendum election on the ballot of the general election to be held on November 3, 2026. A copy of the School Board's Resolution 2026-01 is attached.

In considering this item, the Board of County Commissioners is not voting on the wisdom of the proposed one-half cent surtax renewal. Rather, if the School Board satisfied the applicable statutory requirements, the Board of County Commissioners has a ministerial duty to place the referendum election on a general election ballot as requested. (Note, however, that unlike the referendum election for additional millage for school operations provided in section 1011.73, Florida Statutes, persuasive - but not binding - authorities have reasoned that boards of county commissioners, not school boards, have the authority to determine the date for school capital outlay surtax referendum elections. Thus, arguably, while the Board of County Commissioners is required to place the surtax on a general election ballot, it need not be the general election requested by the

School Board. See Fla. AGO 98-29; Hernando County School Dist. v. Hernando County, 2024 WL 4437324 (Fla. 5th Cir. 2024); School Bd. of Clay County v. Clay County, 2014 WL 13126662 (Fla. 4th Cir. 2014)).

All referenda to adopt, amend, or reenact a local government discretionary sales surtax under Section 212.055, Florida Statutes, must be held at a general election.

Clerk to the Board Instructions:

Return a copy of the Clerk's Memorandum and executed Resolution to the County Attorney and School Board Attorney Paul Gibbs.



FLORIDA'S SPACE COAST

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October 29, 2025

M E M O R A N D U M

TO: Morris Richardson, County Attorney

RE: Item J.5., School Board Request to Call a Referendum Election for Renewal of One-Half Cent Sales Surtax for School Capital Outlay

The Board of County Commissioners, in regular session on October 28, 2025, adopted Resolution No. 2025-137, calling for a referendum election for Brevard County to vote whether to renew the half-cent sales surtax approved by the voters in 2014 and 2020 for a period of 10 years. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

Encl. (1)

cc: School Board Attorney

RESOLUTION 2025- 137

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A REFERENDUM ELECTION ON NOVEMBER 3, 2026, FOR THE PURPOSE OF DETERMINING WHETHER THE ELECTORS OF THE COUNTY AUTHORIZE THE RENEWAL OF THE ONE-HALF CENT SCHOOL CAPITAL OUTLAY SURTAX ON SALES IN BREVARD COUNTY, FLORIDA FOR AN ADDITIONAL PERIOD OF TEN (10) YEARS, BEGINNING JANUARY 1, 2027.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

SECTION 1: AUTHORITY FOR RESOLUTION. This Resolution is adopted pursuant to the authority of the Board under Chapter 125, Florida Statutes and to the School Board of Brevard County, Florida's authority to request the Board to call a referendum election under section 212.055(6), Florida Statutes.

SECTION 2. FINDINGS. It is hereby found and determined that:

A. Pursuant to its authority under section 212.055, Florida Statutes, the School Board of Brevard County, Florida, in the attached Resolution 2026-01 dated September 23, 2025, has requested that the Board of County Commissioners place a referendum election on the ballot of the general election to be held on November 3, 2026, to determine whether the qualified electors of the County authorize renewal of the School Board's one-half cent school capital outlay surtax on sales in Brevard County Florida for a period of ten (10) years, to be used to fund School District capital projects and fixed capital costs as described in School Board Resolution 2026-01.

B. All requirements of the School Board for calling of the referendum election have been satisfied.

C. The general election to be held on November 3, 2026, is an appropriate and desirable date for the conduct of the referendum election requested by the School Board.

SECTION 3. REFERENDUM ELECTION. A referendum election is hereby called and ordered to be held concurrently with the general election to be held on November 3, 2026, to determine whether the ballot issue set forth in the attached Resolution 2026-01 adopted by the School Board of Brevard County, Florida on September 23, 2025, shall be approved.

SECTION 4. NOTICE OF REFERENDUM ELECTION. This Resolution shall be published by the School District in the manner prescribed in Section 6 of the attached

Resolution 2026-01 adopted by the School Board of Brevard County, Florida on September 23, 2025.

SECTION 5. PLACES OF VOTING, INSPECTORS, CLERKS. The polls will be open at the voting placed on the date of such referendum election during the hours prescribed by law. All qualified electors shall be entitled and permitted to vote at such referendum election on the proposition provided below. The places of voting and the inspectors and clerk for the referendum election shall be those designated by the Supervisor of Elections of Brevard County.

SECTION 6. OFFICIAL BALLOT. The ballot language shall be that set forth in Section 8 of the attached District School Board Resolution 2026-01 adopted by the School Board of Brevard County on September 23, 2025.

SECTION 7. PAYMENT OF REFERENDUM ELECTION EXPENSES. The County Manager is hereby authorized and directed to approve and seek reimbursement from the School Board of Brevard County, Florida, for the payment of lawful expenses associated with conducting the referendum election and the Clerk of the Board of County Commissioners is hereby authorized and directed to disburse funds necessary to pay such expenses.

SECTION 8. VOTER REGISTRATION BOOKS. The Supervisor of Elections for Brevard County is hereby authorized and requested to furnish to the inspectors and clerks at each place where the votes are to be cast in such referendum election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

SECTION 9. ELECTION ADMINISTRATION. The referendum election shall be held and conducted in the manner prescribed by law and shall, as soon as practicable, be returned and canvassed in the manner prescribed by law. The result shall show the number of qualified electors who voted at such referendum election and the number of votes cast respectively for and against approval of the millage renewal. Upon certification in the manner prescribed by law, the results shall be recorded in the minutes of the Board of County Commissioners.

SECTION 10. ELECTION RESULTS. If the majority of the votes cast at such a referendum election shall be "Yes," the school capital outlay surtax renewal shall pass.

SECTION 11. SEVERABILITY. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause sentence or paragraph hereof.

SECTION 12. REPEALING CLAUSE. All resolutions or other actions of the County which are in conflict herewith are hereby repealed to the extent of such conflict or inconsistency.

SECTION 13. EFFECTIVE DATE. This Resolution shall take effect upon adoption by the Board.

DONE AND ADOPTED in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 28th day of October, 2025.

ATTEST:

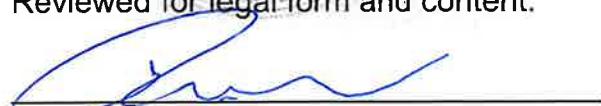

Rachel M. Sadoff, Clerk

Brevard County Board of County Commissioners

BY:


Rob Feltner, Chairman
(As approved by the Board on October 28, 2025)

Reviewed for legal form and content:


Morris Richardson, County Attorney

RESOLUTION 2026-01

A RESOLUTION OF THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA, CALLING FOR A REFERENDUM ELECTION TO DETERMINE IF THE ELECTORS OF THE SCHOOL DISTRICT OF BREVARD COUNTY, FLORIDA, AUTHORIZE RENEWAL OF THE SCHOOL BOARD'S ONE-HALF CENT SCHOOL CAPITAL OUTLAY SURTAX ON SALES IN BREVARD COUNTY, FLORIDA FOR CRITICAL SCHOOL FACILITY RENEWAL, FACILITY REPLACEMENT, NEW FACILITIES, AND ANCILLARY SUPPORT FACILITIES, SCHOOL SECURITY, AND TECHNOLOGY UPGRADES, PROVIDING FOR NOTICE OF THE REFERENDUM ELECTION; PROVIDING FOR PLACES OF VOTING, INSPECTORS, AND CLERKS; PROVIDING FOR AN OFFICIAL BALLOT; PROVIDING FOR ABSENTEE VOTING; PROVIDNG FOR EARLY VOTING; PROVIDING FOR PRINTING OF BALLOTS; PROVIDING FOR REFERENDUM ELECTION PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED by the School Board of Brevard County, Florida ("Board"), acting as the governing body of the School District of Brevard County, Florida ("District"), as follows:

SECTION 1 – AUTHORITY FOR RESOLUTION: This resolution is adopted pursuant to Section 212.055(6), Florida Statutes (2025), and other applicable provisions of law.

SECTION 2 – FINDINGS: The Board, as the governing board of the District, pursuant to Article IX, Section 4(b), Florida Constitution and Sections 1001.32(2) and 1001.40, Florida Statutes (2025), hereby finds and determines the following:

- A. That the sales surtax program is necessary to fund capital projects and fixed capital costs associated with the new construction, renovation, replacement and renewal of School Board facilities and campuses, school security, and technology needs, including infrastructure, refreshment, acquisition, and implementation of hardware and software. The renewal of the sales surtax is necessary to continue to invest in maintaining and improving school facilities, school security, and educational technology needs identified through comprehensive assessments and plans.
- B. That Section 212.055(6) of the Florida Statutes (2025), authorizes the levy of a one-half cent school capital outlay surtax for the purposes of funding school projects in capital outlay, school security, and technology needs, upon approval by a majority vote of the electors of Brevard County, Florida. Proceeds will be used for critical improvements to school facilities, school security, and technology needs.

- C That the renewal of the one-half cent school capital outlay sales surtax as authorized by Section 212.055(6), Florida Statutes (2025), for a period of ten (10) years, commencing on January 1, 2027, and terminating on December 31, 2036, is necessary for the Board to provide sufficient funds to sustain and improve roughly 12.8 million square feet of facility assets. The sales surtax capital outlay program is defined in the Plan for Use of Sales Surtax Proceeds which is attached hereto and incorporated herein as Exhibit A.
- D. That the renewal of the one-half cent school capital outlay sales surtax is subject to approval by the electors of the District at a referendum held as provided in Section 212.055(6), Florida Statutes (2025), and if approved is hereby levied and will be collected as authorized in the manner required by law. Also, pursuant to Section 212.055(6), Florida Statutes, revenues collected must be shared with charter schools based on their proportionate share of total school district capital outlay full-time equivalent enrollment as adopted by the education estimating conference established in Section 216.136 and expended by the charter school in a manner consistent with the allowable uses set forth in Section 1013.62(4) Florida Statutes (2025).
- E That to ensure proper fiscal stewardship of the Sales Surtax proceeds, an independent citizens oversight committee has been appointed by the School Board. Annual reporting of the status of projects funded by the Sales Surtax will be presented to the School Board and School Board Audit Committee on an annual basis and shall be available for public review.

SECTION 3 – PLAN FOR USE OF SALES SURTAX PROCEEDS: The proceeds of the School Capital Outlay sales surtax, as authorized by Section 212.055(6), Florida Statutes (2025), must be used to provide critical improvements to school facilities, school security, and technology needs. These school capital outlay projects are identified in the Plan for Use of Sales Surtax Proceeds; which is attached hereto and incorporated herein as Exhibit A.

SECTION 4 – CONTINUING LEVY OF SCHOOL CAPITAL OUTLAY SALES SURTAX: Subject to approval by the electors of the District at a referendum held as provided in Section 212.055(6), Florida Statutes (2025), a one-half cent school capital outlay surtax will be levied by the District and the same is hereby levied for the period commencing January 1, 2027, and ending December 31, 2036, and shall be collected as authorized in the manner required by law.

SECTION 5 – REFERENDUM ELECTION ORDERED: The Board of County Commissioners in and for Brevard County, Florida, is hereby requested to place the required referendum election on the ballot of the general election to be held on November 3, 2026.

SECTION 6 – NOTICE OF REFERENDUM ELECTION: The Superintendent is hereby authorized and directed to place a notice of the referendum election in a newspaper of general circulation published in the District. The publication will be made at least thirty (30) days prior to the referendum and must be made at least twice, once in the fifth week and once in the third week prior to the week in which the referendum is deemed to be held. The notice of referendum must be in substantially the form provided in the attached Exhibit B. This Resolution shall be published as a part of such notice.

SECTION 7 – PLACES OF VOTING, INSPECTORS, AND CLERKS: The Brevard County, Florida polls will be open at the voting places on the date of the referendum election from 7:00 a.m. until 7:00 p.m. All qualified electors residing within the District shall be entitled and permitted to vote at the referendum election on the proposition provided in this Resolution. The places of voting and the inspectors and clerks of the referendum election shall be those designated by the Supervisor of Elections of Brevard County, Florida, in accordance with law.

SECTION 8 – OFFICIAL BALLOT: The ballots to be used in the referendum election shall contain a statement relating to the authority of the School Board of Brevard County, Florida, to continue to levy a half-cent capital outlay surtax for the period of January 1, 2027 to December 31, 2036, and shall be in substantially the following form:

OFFICIAL BALLOT

RENEWAL OF HALF-CENT SALES SURTAX FOR CRITICAL SCHOOL FACILITY, SECURITY, AND TECHNOLOGY UPGRADES

Shall the half-cent sales surtax approved by the voters in 2014 and 2020 be renewed for ten years to continue critical school facility projects, school security improvements and technology upgrades that keep schools safe and conducive to learning, revenue will be shared with charter schools as per statute based on proportionate share of district enrollment, with all expenditures reviewed by an independent citizens' oversight committee.

FOR THE RENEWAL OF THE HALF-CENT SALES TAX

AGAINST THE RENEWAL OF THE HALF-CENT SALES TAX

SECTION 9 – ABSENTEE VOTING: Adequate provision shall be made for absentee voters. The form of ballots to be used in the referendum for absentee voters shall be the same as used in the polling places for the election.

SECTION 10 – EARLY VOTING: Adequate provision shall be made for early voting, to run continuously from October 19, 2026 through October 31, 2026, including Sunday. Monday through Friday hours are 8:00 a.m. to 6:00 p.m. Weekend hours are from 8:00 a.m. to 4:00 p.m. The form of ballots to be used in the referendum for early voting shall be the same as used in the polling places for the election.

SECTION 11 – PRINTING OF BALLOTS: The Supervisor of Elections of Brevard County, Florida is authorized and directed to have printed on plain white paper a sufficient number of the ballots for use of absentee electors and early voters entitled to cast ballots in the referendum election; to have printed sample ballots and deliver the sample ballots to the inspectors and clerks on or before the date and time for opening of the polls for the referendum election; and to make appropriate arrangements for the conduct of the election at the polling places specified.

SECTION 12 – GENERAL ELECTION PROCEDURE: The Supervisor of Elections of Brevard County, Florida shall hold, administer, and conduct the referendum election in the manner prescribed by law for holding elections in the District. Returns shall show the number of qualified electors who voted at the referendum election on the proposition and the number of votes cast respectively for and against approval of the proposition. The returns shall be canvassed in accordance with the law.

SECTION 13 – SEVERABILITY: In the event that any word, phrase, clause, sentence, or paragraph of this Resolution shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence, or paragraph.

SECTION 14 – REPEALING CLAUSE: All Resolutions in conflict or inconsistent with this Resolution are repealed insofar as there is conflict or inconsistency.

SECTION 15 – EFFECTIVE DATE: This Resolution shall take effect immediately upon its adoption.

ADOPTED at a Meeting of the School Board of Brevard County, Florida the 23rd day of September, 2025, with a quorum present and voting.

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

By: Gene Trent
Gene Trent, Board Chair

EXHIBIT A

PLAN FOR USE OF SALES SURTAX PROCEEDS

1. Pursuant to Section 212.055(6), Florida Statutes, capital improvements to be funded by proceeds of the Sales Surtax shall include:
 - a. capital expenditures or fixed capital costs associated with the new construction, renovation, replacement or renewal of School Board facilities and campuses which have a useful life expectancy of five (5) or more years, including land improvement, design, and engineering costs related thereto;
 - b. school security systems; and
 - c. technology upgrades, including technology infrastructure, hardware and software, for various sites within the District.
2. Scope of the projects will be based on detailed assessments of facilities, security and technology necessary to provide a safe and appropriate learning environment.
3. Prioritization of the projects will be determined by application of objective criteria, including facility condition assessment, system criticality, grouping of projects for efficiency, and legislative requirements.
4. To ensure proper fiscal stewardship of the Sales Surtax proceeds, an independent citizens oversight committee has been appointed by the School Board. Annual reporting of the status of projects funded by the Sales Surtax will be presented to the School Board and School Board Audit Committee on an annual basis and shall be available for public review.

EXHIBIT B

**NOTICE OF REFERENDUM ELECTION IN THE SCHOOL DISTRICT OF BREVARD COUNTY, FLORIDA
ON NOVEMBER 3, 2026**

NOTICE IS HEREBY GIVEN THAT A REFERENDUM ELECTION will be held on November 3, 2026, in Brevard County, Florida, for the purpose of determining whether or not the Brevard County, Florida electorate approve renewing the one-half cent school capital outlay surtax on sales in Brevard County, Florida, for a period of ten years, as specifically described and provided in a Resolution of the School Board of Brevard County, Florida, adopted September 23, 2025, and published below.

The polls will be open at the voting place on the date of the referendum election from 7:00 a.m. until 7:00 p.m., absentee voting will be available for the referendum election, and early voting will run continuously from Monday, October 19, 2026 through Saturday, October 31, 2026, including Sunday, with Monday through Friday hours from 8:00 a.m. to 6:00 p.m., and weekend hours from 8:00 a.m. to 4:00 p.m., all as provided in the Resolution published below.

All qualified electors residing within the School District shall be entitled, qualified, and permitted to vote at the referendum election.

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

By: Gene Trent
Gene Trent, Board Chair

Board Meeting Date

Item Number: J.5.

Motion By: KA

Second By: KD

Nay By: _____

Commissioner	DISTRICT	AYE	NAY
Commissioner Delaney	1	✓	
Vice Chair Goodson	2	✓	
Commissioner Adkinson	3	✓	
Commissioner Altman	5	✓	
Chairman Feltner	4	✓	