



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.40.

7/7/2020

Subject:

Acknowledge request of School Board to call special election and, pursuant to statute, place it on the ballot. Adopt attached Resolution providing direction to the Supervisor of Elections.

Fiscal Impact:

Dept/Office:

County Attorney per request of Brevard County School Board attorney Paul Gibbs.

Requested Action:

Approve the request of the School Board, per Resolution 2020-02, to place the extension of the one-half cent sales surtax for school capital outlay on the November 2020 ballot.

Summary Explanation and Background:

Florida Statute Section 212.055(6)(b) requires the county to place the item on the ballot.

Florida Statutes 212.055(6) also authorizes the school board in each county to "levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent" for school capital outlay. Voters approved the one-half cent sales surtax for school capital outlay in November 2014. On June 16, 2020, the School Board unanimously (5 - 0, in favor) approved the submission of School Board Resolution 2020-02 for submittal to the County Commission for placement on the November 2020 ballot. The terms of the extension of the sales surtax are materially the same as the 2014 referendum, except for the new provision in Florida Statute (2020) requiring a proportional share go to charter schools.

Clerk to the Board Instructions:

Attachment: Resolution 2020-02 approved (Unanimously by the School Board on April 28, 2020



July 8, 2020

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item F.40., Resolution Acknowledging Request of School Board to Call Special Election and Pursuant to Statute, Place it on the Ballot

The Board of County Commissioners, in regular session on July 7, 2020, adopted Resolution No. 20-070, approving the request of the School Board, per Resolution No. 20-002, to place the extension of the one-half cent sales surtax for school capital outlay on the November 2020 ballot. Enclosed is a certified copy of the Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell
Kimberly Powell, Deputy Clerk

Encl. (1)

RESOLUTION 2020- 070

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, CALLING A SPECIAL REFERENDUM ELECTION ON NOVEMBER 3, 2020, FOR THE PURPOSE OF DETERMINING WHETHER OR NOT THE ELECTORS IN THE SCHOOL DISTRICT AUTHORIZE EXTENSION OF THE ONE-HALF CENT SCHOOL CAPITAL OUTLAY SURTAX ON SALES IN BREVARD COUNTY, FLORIDA, FOR SIX YEARS; BEGINNING JANUARY 1, 2021.

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 pursuant to the School Board request to call a referendum in behalf of the District School Board.

SECTION 2. FINDINGS. It is hereby found and determined as follows:

- A. See findings in the attached Resolution of the School Board of Brevard County, Florida;
- B. The general election to be held on November 3, 2020, is an appropriate and desirable date for the conduct of a concurrent special referendum election directed by the District School Board;
- C. All things required to be done prior to the calling of a special referendum election within the County for the purpose of determining whether or not the electors in the School District authorize extension of the one-half cent school capital outlay surtax on sales in Brevard County, Florida, for six (6) years.

SECTION 3. SPECIAL REFERENDUM ELECTION. A special referendum election is hereby called and ordered to be held concurrently with the general election to be held on November 3, 2020, to determine whether or not the ballot issue set forth in the attached April 28, 2020, "Resolution Adopted by the School Board of Brevard County, Florida" shall be approved.

SECTION 4. NOTICE OF SPECIAL REFERENDUM ELECTION. This resolution shall be published by the School Board in the manner prescribed in the attached April 28, 2020, Resolution Adopted by the School Board of Brevard County, Florida.

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

the special 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 for in the attached Exhibit A, which language was adopted by the District School Board in an April 28, 2020, Resolution of the School Board of Brevard County.

SECTION 7. PAYMENT OF SPECIAL REFERENDUM ELECTION ELECTIONS. 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 special 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 special referendum election, applicable portions of the registration books or certified copies thereof showing the names of the qualified electors.

SECTION 9. ELECTION ADMINISTRATION. The special referendum election shall be held and conducted in the manner prescribed by law and shall be 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 special referendum election and the number of votes cast respectively for and against approval of the amendments. 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 special referendum election shall be "Yes," the amendment 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 on the first day following its passage by the voters.

DONE AND ADOPTED in Regular Session of the Board of County Commissioners of Brevard County, Florida, this 7th day of July, 2020.

ATTEST



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: 

Bryan Lober, Chair

As approved by the Board on July 7, 2020

EXHIBIT "A"

NOTICE OF SPECIAL REFERENDUM ELECTION

Pursuant to the provisions of Resolution 2020-_____ adopted by the Brevard County Board of County Commissioners, at the direction of the School Board of Brevard County, Florida, as authorized by law, notice is hereby given that a special referendum election shall be held for the purpose of determining whether or not the electors in the School District approve extending the one-half cent school capital outlay surtax on sales in Brevard County, Florida, for six (6) years.

The special referendum election shall be held on November 3, 2020, at which the questions described in the April 28, 2020, Resolution Adopted by the School Board of Brevard County, Florida, set forth below as part of Resolution number 2020-____ adopted at the direction of the School Board by the County Commission on the 7th day of July, 2020, shall be submitted to the electors.

[RECITE BOARD OF COUNTY COMMISSIONERS RESOLUTION AND SCHOOL BOARD RESOLUTION ATTACHED TO THE COUNTY COMMISSION RESOLUTION]

RESOLUTION 2020-02

A RESOLUTION FOR 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 EXTENSION OF THE SCHOOL BOARD'S ONE-HALF CENT SCHOOL CAPITAL OUTLAY SURTAX ON SALES IN BREVARD COUNTY, FLORIDA FOR CRITICAL SCHOOL FACILITIES RENEWAL, 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; PROVIDING 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 (2019), 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 (2019), hereby finds and determines the following:

- A. That the initial sales surtax program was not sufficient to fund the backlog of deferred capital expenditures and fixed capital costs associated with the construction, renovation, and renewal of school facilities and school sites, school security access control and funding for technology needs, including infrastructure, refreshment, acquisition, and implementation of hardware and software. The extension of the sales surtax is necessary to continue to address the backlog and to invest in school facility renewal, school security, and educational technology needs identified through comprehensive assessments and plans.
- B. That Section 212.055(6) of the Florida Statutes (2019), 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 (2019), for a period of six (6) years, commencing on January 1, 2021, and terminating on December 31, 2026, is necessary for the Board to provide sufficient funds to sustain \$1.8 Billion worth of facility assets with an average age of forty-six (46) years. 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

- 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 (2019), and if approved is hereby levied and will be collected as authorized in the manner required by law. Also, pursuant to Section 212.055, Florida Statutes, revenues collected must be shared with charter schools based on their proportionate share of total school district enrollment.
- E. That to ensure proper fiscal stewardship of the Sales Surtax proceeds, an oversight committee comprised of independent citizens will be appointed by the School Board. Annual reporting of the status of projects funded utilizing these funds will be presented to the School Board and School Board Audit Committee and must 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 (2019), 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 (2019), 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, 2021, and ending December 31, 2026, 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, 2020.

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 levy a half-cent capital outlay surtax for the period of January 1, 2021 to December 31, 2026, and shall be in substantially the following form:

OFFICIAL BALLOT

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

To extend the existing half-cent surtax approved by voters in 2014, to upgrade aging schools in Brevard County with critical school facility renewal projects, school security and technology modernizations that keep schools safe and conducive to learning and as per statute, shared with charter schools based on proportionate share of district enrollment, shall a half-cent sales surtax be reauthorized for six years, with all expenditures monitored by an independent citizen oversight committee.

_____ FOR THE HALF-CENT TAX

_____ AGAINST THE HALF-CENT 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, 2020 through October 31, 2020, 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 – REFERENDUM 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 Resolution 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 [Special] Meeting of the School Board of Brevard County, Florida the 28th of April, 2020, with a quorum present and voting.

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

By: Misty Belford
Misty Belford, 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 be for:
 - a. fixed capital expenditures or fixed capital costs associated with the renovation or renewal of school 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. additional access control systems for school security; and
 - c. providing for technology needs, including hardware and software, for various sites within the District.
2. Scope of the projects will be based on a detailed assessment of the facility condition and providing for 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 oversight committee comprised of independent citizens will be appointed by the School Board. Annual reporting of the status of projects funded utilizing these funds 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, 2020**

NOTICE IS HEREBY GIVEN THAT A REFERENDUM ELECTION will be held on November 3, 2020, in Brevard County, Florida, for the purpose of determining whether or not the Brevard County, Florida electorate approve extending the one-half cent school capital outlay surtax on sales in Brevard County, Florida, for a period of six years, as specifically described and provided in a Resolution of the School Board of Brevard County, Florida, adopted 4-28-20, 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, 2020 through Saturday, October 31, 2020, 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.

[Insert form of Resolution]

SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

By: Misty Belford
Misty Belford
Chair