

ORDINANCE NO. 2015- 076

AN ORDINANCE AMENDING AND RESTATING THE POLK COUNTY INDIGENT HEALTH CARE PLAN EXTENSION ORDINANCE (ORDINANCE NO. 2015-061); AUTHORIZING THE LEVY AND IMPOSITION OF A VOTER APPROVED INDIGENT CARE SURTAX ON SALES, USES, AND OTHER TRANSACTIONS DURING THE PERIOD FROM JANUARY 1, 2020 TO DECEMBER 31, 2044; PROVIDING FOR COLLECTION; PROVIDING FOR EXTENDED PLAN FOR PROVISION OF INDIGENT HEALTH CARE SERVICES; PROVIDING FOR AN INDIGENT HEALTH CARE TRUST FUND; PROVIDING FOR THE ADMINISTRATION, COLLECTION, ENFORCEMENT AND DISBURSEMENT OF THE TAX; PROVIDING THE AUTHORIZED USE OF PROCEEDS INCLUDING THE PAYMENT OF MANDATORY MEDICAID CONTRIBUTIONS THAT POLK COUNTY IS REQUIRED TO PAY FOR QUALIFIED RESIDENTS; PROVIDING FOR RESTRICTION UPON ADVERTISEMENT OF RELIEF FROM TAX; PROVIDING FOR REQUIREMENT OF REFERENDUM; PROVIDING FOR RESOLUTION OF CONFLICT OF LAWS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE OF ORDINANCE; PROVIDING REFERENDUM LANGUAGE AND FOR AN EFFECTIVE DATE OF LEVY OF THE SURTAX; PROVIDING FOR NOTICE OF APPROVAL AND FILING WITH THE DEPARTMENT OF REVENUE.

WHEREAS, Section 212.055(7), Florida Statutes, provides that a governing body in each county that has a population of less than 800,000 residents may levy an indigent care surtax at a rate that may not exceed 0.5 percent, pursuant to an ordinance conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum; and

WHEREAS, Polk County (the "County") meets the criteria established by Section 212.055(7), Florida Statutes, to levy an indigent care discretionary sales surtax; and

**WHEREAS**, in 2003, the County determined that the spiraling cost of health care delivery had severely strained the fiscal resources available to the County to fund care for the indigent residents of the County; that the existing revenue sources of the County were inadequate to fund the increasing demand for health care to indigent persons and to maintain County services and functions at existing levels without an inordinate increase in ad valorem taxes; and that the adoption of a discretionary sales tax pursuant to Section 212.055(7), Florida Statutes, would provide the necessary increase in funding to adequately provide indigent health care services; and

**WHEREAS**, the County adopted Ordinance 03-89 to address those needs by implementing an Indigent Health Care Surtax, which Surtax was approved by voters in a referendum held on March 9, 2004; and

**WHEREAS**, subsequent to the approval of the Indigent Health Care Surtax, Florida's Attorney General clarified the lawful expenditures from such surtax and concluded, in AGO 2004-40 and AGO 2005-54, that the surtax proceeds could be used to pay the mandatory Medicaid contributions required by Section 409.915, Florida Statutes, for qualified residents; and

**WHEREAS**, the County adopted Ordinance 2011-005, which amended Ordinance 03-89 to allow the use of proceeds from the Indigent Health Care Surtax to also fund the mandatory Medicaid

contributions required to be paid by the County for its qualified residents pursuant to Section 409.915, Florida Statutes; and

**WHEREAS**, during the County's 2013/2014 fiscal year, the surtax made it possible for more than 45,000 county residents to receive healthcare services; and

**WHEREAS**, the County's participation in Florida's Hospital Low Income Pool which leverages the sales surtax to generate additional federal and state funding wherein approximately \$47 million from the surtax generated an additional \$68 million in funding for the indigent healthcare that would not otherwise have come to the County; and

**WHEREAS**, the Indigent Health Care Surtax will expire on December 31, 2019 unless it is extended by a majority vote of the electors of the County; and

**WHEREAS**, the County now desires to extend the Indigent Health Care Surtax for an additional twenty-five (25) year period in order to continue to fund the demand for indigent health care in the County and to pay the mandatory Medicaid contributions required under Section 409.915, Florida Statutes.

**NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Polk County, Florida, that:

**SECTION 1.            Polk County Indigent Health Care Extension Ordinance.**

This Ordinance shall be known and may be cited as the "Polk County Indigent Health Care Plan Extension Ordinance."

**SECTION 2. Levy and Imposition of Voter-Approved Indigent Care Surtax on Sales, Uses, and Other Transactions**

(a) **Levy.** There shall be levied and imposed throughout the incorporated and unincorporated areas of the County, during the period January 1, 2020 through December 31, 2044, or as otherwise authorized by the County, a discretionary tax on all taxable transactions occurring in the County, which are subject to the state tax imposed on transactions by Chapter 212, Florida Statutes. This tax shall be at the rate of ½ cent for each \$1.00 of the sales price or actual value received and for each fractional part of \$1.00 of the sales price or actual value received. This tax shall be levied and imposed in accordance with Section 212.054, Florida Statutes, and the rules promulgated by the Department of Revenue.

However:

1. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax; except that charges for prepaid calling arrangements, as defined in Section 212.05(1)(e)1.a., Florida Statutes, shall be subject to the surtax. For purposes of administering the \$5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit,

such items must be considered a single item for purposes of the \$5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental.

2. In the case of utility services billed on or after the effective date of the extension of the surtax in 2020, the entire amount of the charge for utility services shall be subject to the surtax. In the case of utility services billed after the last day the surtax is in effect, the entire amount of the charge on said items shall not be subject to the surtax. "Utility service," as used in this section, does not include any communications services as defined in Chapter 202.
3. In the case of any vessel, railroad, or motor vehicle common carrier entitled to partial exemption from tax imposed under this chapter pursuant to Section 212.08(4), (8), or (9), Florida Statutes, the basis for imposition of surtax shall be the same as provided in Section 212.08, Florida Statutes and the ratio shall be applied each month to total purchases in this state of property qualified for proration which is delivered or sold in the County to establish the portion used and consumed in intracounty movement and subject to surtax.

(b) **Tax Additional.** The sales, use and transaction tax imposed herein shall be in addition to any other tax imposed pursuant to Chapter 212,

Florida Statutes and in addition to all other taxes, fees and considerations for sales, uses or transactions.

(c) **Place of Sale, Use or Transaction.** A sale, use or transaction subject to the tax imposed herein shall be deemed to have occurred in the County when, as set out in Florida Statute, §212.054(3), the following occur:

1. The sale includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service or the tangible personal property representing a service is delivered within the County. If there is no reasonable evidence of delivery of a service, the sale of a service is deemed to occur in the county in which the purchaser accepts the bill of sale. The sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property.
2. The event for which an admission is charged is located in the County.
3. The consumer of utility services is located in the County.
4. The user of any aircraft or boat of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into this

country for use, consumption, distribution, or storage to be used or consumed in the County is located in the County. However, it shall be presumed that such items used outside the County for six (6) months or longer before being imported into the County were not purchased for use in the County, except as provided in Section 212.06(8)(b), Florida Statutes. This paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the County.

5. The purchaser of any motor vehicle or mobile home of a class or type which is required to be registered in this state is a resident of the County as determined by the address appearing on or to be reflected on the registration document for such property.
6. Any motor vehicle or mobile home of a class or type which is required to be registered in this state is imported from another state into the County by a user residing therein for the purpose of use, consumption, distribution, or storage in the County. However, it shall be presumed that such items used outside the County for six (6) months or longer before being imported into the County were not purchased in the County.
7. The real property which is leased or rented is located in the County.

8. The transient rental transaction occurs in the County.
9. The delivery of any aircraft or boat of a class or type which is required to be registered, licensed, titled or documented in this state or by the United States Government is to a location in the County. However, this paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the County.
10. The dealer owing a use tax on purchases or leases is located in the County.
11. The delivery of tangible personal property other than that described in paragraph 4, 5 or 6 is made to a location outside the County, but the property is brought into the County within six (6) months after deliver, in which event, the owner must pay the surtax as a use tax.
12. The coin-operated amusement or vending machine is located in the County.
13. The florist taking the original order to sell tangible personal property is located in the County, notwithstanding any other provision of this section.

**SECTION 3.      Collection.**

- (a) The Department of Revenue shall administer, collect, and enforce the tax authorized herein pursuant to the same procedures used in the



administration, collection, and enforcement of the general state sales tax imposed under the provisions of Chapter 212, Florida Statutes.

(b) The person receiving the consideration for such sale, use or transaction shall receive, account for, and remit the tax to the Florida Department of Revenue at the time and in the manner provided for persons who collect and remit taxes pursuant to Chapter 212, Florida Statutes. The same duties and privileges imposed by Chapter 212, Florida Statutes, upon dealers in tangible property, respecting the remission of returns, the keeping of books, records and accounts and compliance with the rules of the Florida Department of Revenue in the administration of Chapter 212, Florida Statutes, shall apply to and be binding upon all persons who are subject to the provisions of this Ordinance; provided, however, the Florida Department of Revenue may authorize a quarterly return and payment.

**SECTION 4. Plan Extended for Provision of Indigent Health Care Services.**

There is hereby extended the plan under separate cover titled "Polk Health Care Plan – Polk County Florida's Safety Net Program," which was previously titled the "Polk County Health Care Plan" and is hereinafter referred to as the "Program." The Program contains the County's method for providing health care services to qualified residents. This Program, the same being hereby incorporated by this reference as a part of this Ordinance, is identified and marked by the date "December 3, 2003, As Amended 2011, 2015." Said Program, for purposes of

convenience, shall be maintained separate and apart from this Ordinance and the Program may be updated from time-to-time by amendment of this Ordinance

The Program, and subsequent amendments to it, shall continue to fund a broad range of health care services for indigent persons and the medically poor, including, without limitation, primary, preventive, and hospital care. It shall continue to emphasize a continuity of care in the most cost effective setting, taking into consideration high quality of care and geographic access. Where consistent with these objectives, it shall continue to include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. The Program shall continue to require the following: 1) that agreements negotiated between the County and providers shall include reimbursement methodologies that take into account the cost of services rendered to eligible patients, 2) the recognition of hospitals that render a disproportionate share of indigent care, 3) the provision of other incentives to promote the delivery of charity care, and 4) the requirement of cost containment, including without limitation, case management. The Program must also continue to include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding. The Program shall permit the payment of mandatory Medicaid contributions required by Section 409.915, Florida Statutes, for qualified residents, as authorized by AGO 2005-54.

**SECTION 5.            Indigent Health Care Trust Fund.**

(a) **Extension**. Pursuant to Section 212.055(7)(e), Florida Statutes, the Clerk of the Circuit Court in and for Polk County, Florida shall maintain the existing Indigent Health Care Trust Fund as required by law.

(b) **Custodian**. The Clerk of the Circuit Court in and for Polk County, Florida shall continue to be the ex officio custodian of the funds deposited in the Indigent Health Care Trust Fund. Monies collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the Clerk of the Circuit Court as ex officio custodian of the funds of the authorizing County.

The Clerk of the Circuit Court shall continue to:

1. Maintain the monies in an Indigent Health Care Trust Fund;
2. Invest any funds held on deposit in the trust fund pursuant to general law; and
3. In accordance with the Program, disburse the funds, including any interest earned, to any provider of health care services, upon directive from the County.

(c) **Purpose**. The purpose of the Indigent Health Care Trust Fund continues to be to receive, maintain and disburse monies received from the Florida Department of Revenue as a result of the tax imposed herein. Any funds deposited in such trust fund shall be invested pursuant to the general laws of the State of Florida.

**SECTION 6. Administration, Collection, Enforcement and Disbursement.**

The tax levied pursuant to this Ordinance shall be administered, collected, enforced and disbursed as provided in Chapter 212, Florida Statutes.

**SECTION 7.            Authorized Use of Proceeds.**

(a) Generally. The proceeds of the tax imposed herein and any interest thereon, shall be expended in the County to provide health care to qualified residents. For the purpose of this Ordinance, the term “qualified resident” means residents of the authorizing County who maintain their primary residence and domicile in Polk County, Florida. In evaluating the residence of an individual otherwise qualified for this program, the County shall maintain established residency criteria designed to ensure that all recipients of assistance under this program are bona fide permanent residents of and are domiciled in Polk County, Florida. For purposes of the expenditure of the tax imposed herein, a “qualified resident” must be:

1. Qualified as indigent persons as certified by the County;
2. Certified by the County as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; not being eligible for any other state or federal program or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases the County shall serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the County.

(b) The mandatory Medicaid contributions that the County is required to pay, pursuant to Florida Statutes, §409.915, for qualified residents, as authorized by AGO 2005-54, may be paid from the proceeds of the tax imposed herein.

**SECTION 8.           Restriction Upon Advertisement of Relief From Tax.**

No dealer engaged in any business taxable under Chapter 212, Florida Statutes, shall advertise or hold out to the public, in any manner, directly or indirectly, that he or she will absorb all or any part of the tax imposed herein, or that he or she will relieve the purchaser of the payment of all or any part of the tax, or that such tax will not be added to the consideration paid for the sale, use or transaction, or when added, that it or any part thereof will be refunded or refused, by any method whatsoever.

**SECTION 9.           Requirement of Referendum.**

This Ordinance and the tax levied herein, are conditioned upon, and shall take effect only after, approval by a majority vote of the electors of the county voting in a referendum.

**SECTION 10.          Resolution of Conflict of Laws.**

In all instances where Florida Law (as evidenced by the Florida Department of Revenue Rules and Regulations, Florida Statutes, applicable case law or otherwise) mandates standards or requirements that conflict with the provisions of this Ordinance (including the provisions of the Program) said law shall govern and

the same shall be incorporated by this reference as part of this Ordinance. For purposes of this Ordinance, a conflict shall exist where, upon a particular matter, Florida law addresses the matter in a manner that is stricter than the provisions of this Ordinance, or where a matter is addressed by Florida Law that is not addressed by this Ordinance. In those two (2) situations, Florida Law shall control. In situations where this Ordinance addresses a matter in a manner that is stricter than that of Florida Law, the provisions of this Ordinance shall control.

**SECTION 11. Severability and Applicability.**

If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstance, such holding shall not affect its applicability to any other person, property or circumstance.

**SECTION 12. Effective Date of Ordinance.**

This Ordinance shall become effective upon the filing of the Ordinance with the Florida Department of State.

**SECTION 13. Referendum Language and Effective Date of Indigent Care Surtax.**

This Ordinance is conditioned to take effect only upon approval by a majority vote of the electors of Polk County voting in a referendum. The ballot for such referendum shall contain the following title, statement, and questions as required by Section 101.161, Florida Statutes:

**CONTINUATION OF EXISTING COUNTYWIDE  
ONE-HALF CENT SALES  
TAX FOR  
HEALTH CARE TO  
QUALIFIED RESIDENTS**

Shall Polk County continue the existing one-half cent indigent care surtax to provide access to basic healthcare for indigent residents of Polk County? The 25-year extension will fund a broad range of health care services for low income Polk County residents, including the elderly and children.

For the one-half cent tax  
 Against the one-half cent tax

Upon approval by a majority vote of the electors of Polk County, the tax levied herein shall take effect on January 1, 2020.


**SECTION 14. Notice of Approval and Filing with the Department of Revenue.**

The County shall notify the Florida Department of Revenue, within ten (10) days after final adoption by referendum of the surtax and no later than November 30, 2016, of the imposition of the tax, the time period during which it will be in effect, and the tax rate to be imposed. Such notice shall include a certified copy of this Ordinance along with such other information as may be required by the Department of Revenue by rule.

**DULY ADOPTED** in regular session, this 3 day of November, 2015.

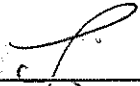
CLERK OF THE BOARD  
STACY M. BUTTERFIELD

BOARD OF COUNTY COMMISSIONERS  
OF POLK COUNTY, FLORIDA

BY:   
George Lindsey, III, Chairman

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ATTEST:

  
Deputy Clerk (SEAL)



Marcella Perkins, Deputy Clerk

STATE OF FLORIDA     )  
                                  )  
COUNTY OF POLK     )

I Stacy M. Butterfield, County Clerk and Comptroller for Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No.15-076 adopted by the Board on November 3<sup>rd</sup>, 2015.

WITNESS my hand and official seal on this 4<sup>th</sup> day of November, 2015.

STACY M. BUTTERFIELD, CLERK

By: Alison Prevatt  
Alison Prevatt  
Deputy Clerk







**FLORIDA DEPARTMENT of STATE**

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

November 4, 2015

Ms. Alison Prevatt  
Deputy Clerk  
Finance and Accounting  
Post Office Box 988  
Bartow, Florida 33831-0988

Dear Ms. Prevatt:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Polk County Ordinance No. 2015-076, which was filed in this office on November 4, 2015.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

