

1 Introduced by the Council President at the Request of the Mayor:
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4 **ORDINANCE 2017-257**

5 AN ORDINANCE LEVYING A 1/2-CENT DISCRETIONARY
6 SALES SURTAX AUTHORIZED BY SECTION 212.055(9),
7 FLORIDA STATUTES, ON ALL TAXABLE TRANSACTIONS
8 DESCRIBED IN CHAPTER 212, FLORIDA STATUTES,
9 OCCURRING IN DUVAL COUNTY, FLORIDA; CREATING A
10 NEW CHAPTER 776 ENTITLED PENSION LIABILITY
11 SURTAX; PROVIDING FOR COLLECTION,
12 ADMINISTRATION, REMITTANCE, DISTRIBUTION AND
13 FUTURE APPROPRIATION OF REVENUES AND USE OF
14 PROCEEDS OF THE SURTAX, PURSUANT TO THE
15 FORMULA SET FORTH HEREIN, INTO THE THREE
16 PENSION PLANS TO BE CLOSED AS OF SEPTEMBER 30,
17 2017; ESTABLISHING START DATE FOR COLLECTION
18 AND THE DURATION OF THE SURTAX; DIRECTING THE
19 GENERAL COUNSEL TO PROVIDE NOTICES TO STATE
20 GOVERNMENT; PROVIDING FOR EXERCISE OF COUNTY
21 POWERS; AMENDING SECTION 16.01 (RETIREMENT AND
22 PENSION SYSTEM AUTHORIZED), *CITY CHARTER*,
23 CLOSING ALL CONSOLIDATED GOVERNMENT PENSION
24 PLANS CONSISTENT WITH THE REQUIREMENTS OF THE
25 PENSION LIABILITY SURTAX; PROVIDING AN
26 EFFECTIVE DATE.

27
28 **WHEREAS**, each of Jacksonville's three defined benefit pension
29 funds are underfunded; and

30 **WHEREAS**, the Police and Fire Pension Fund is currently funded
31 at a rate of approximately 46%, the Corrections Officers Pension

1 Fund is currently funded at a rate of approximately 48%, and the
2 General Employee Pension Fund is currently funded at an approximate
3 66% rate; and

4 **WHEREAS**, the City may impose a pension liability surtax only
5 if the City uses the tax proceeds to fund a defined benefit
6 retirement plan or system that is below 80 percent of actuarial
7 funding at the time the ordinance or referendum is passed. The most
8 recent actuarial report submitted to the Department of Management
9 Services pursuant to Section 112.63, Florida Statutes, must be used
10 to establish the level of actuarial funding for purposes of
11 determining eligibility to impose the surtax; and

12 **WHEREAS**, the City of Jacksonville seeks a pension funding
13 solution that keeps the current sales tax at the existing 7% rate
14 and that does not require raising ad valorem taxes; and

15 **WHEREAS**, Section 212.055(9), Florida Statutes, permits local
16 governments to adopt a sales surtax to be dedicated to paying the
17 cost of pension liability (hereinafter "Pension Liability Surtax");
18 and

19 **WHEREAS**, pursuant to Ordinance 2016-300-E, the City Council
20 called a referendum of qualified voters residing in Duval County to
21 determine whether or not to adopt a Pension Liability Surtax; and

22 **WHEREAS**, the voters approved the tax with about two-thirds of
23 the voters supporting the tax; and

24 **WHEREAS**, the City will close each of its defined benefit
25 retirement plans that will receive surtax proceeds to any employee
26 who enters employment after September 30, 2017; and

27 **WHEREAS**, the City and the collective bargaining representative
28 for the members of each of the City's defined benefit retirement
29 plans, have mutually consented to requiring each member to make an
30 employee retirement contribution of at least 10 percent of each
31 member's salary for each pay period beginning with the first pay

1 period after the plan or system is closed; and

2 **WHEREAS**, the pension board of trustees for each of the City's
3 defined benefit retirement plans entitled to receive Pension
4 Liability Surtax proceeds is prohibited from participating in the
5 collective bargaining process and engaging in the determination of
6 pension benefits; and

7 **WHEREAS**, Section 212.055(9), Florida Statutes, authorizes the
8 governing body of a county to impose a 1/2-cent discretionary
9 pension liability surtax ("Pension Liability Surtax") to fund
10 underfunded defined benefit retirement plans subject to conditions
11 set for in Section 212.055(9), Florida Statutes; now, therefore

12 **BE IT ORDAINED** by the Council of the City of Jacksonville:

13 **Section 1. Creating a new Chapter 776 (Pension Liability**
14 **Surtax), Ordinance Code.** A new Chapter 776 (Pension Liability
15 Surtax), Ordinance Code, is hereby created to read as follows:

16 **Chapter 776. Pension Liability Surtax.**

17 **Sec. 776.101. Pension Liability Surtax.**

18 There is hereby levied and imposed a pension liability surtax
19 created pursuant to and as authorized by Section 212.055(9),
20 Florida Statutes.

21 **Sec. 776.102. Definitions.**

22 (a) "Police and Fire Pension Plan" means that defined benefit
23 retirement plan created by Chapter 121, Ordinance Code, and its
24 predecessor ordinances and state laws.

25 (b) "General Employees' Retirement Plan" means that defined
26 benefit retirement plan created by Part II, Chapter 120, Ordinance
27 Code and its predecessor ordinances and state laws.

28 (c) "Correction Officers' Retirement Plan" means that defined
29 benefit retirement plan created by Part III, Chapter 120, Ordinance
30 Code and its predecessor ordinances and state laws.

31 (d) "Eligible defined benefit plans" means and includes the

1 Police and Fire Pension Plan, the General Employees' Retirement
2 Plan, and the Correction Officers' Retirement Plan.

3 (e) "City's total unfunded liability" means the sum total of
4 the unfunded actuarial liabilities of the eligible defined benefit
5 plans.

6 **Sec. 776.103. Pension Liability Surtax Levy.**

7 There is hereby levied and imposed throughout Duval County,
8 with collection commencing as set forth in Section 776.106, a
9 discretionary sales surtax at the rate of 0.5 percent per dollar on
10 all transactions within Duval County subject to the State sales and
11 use tax imposed by Chapter 212, Florida Statutes, subject to the
12 limitations imposed thereon by Section 212.054, Florida Statutes.

13 **Sec. 776.104. Manner of Collection and Administration.**

14 The Pension Liability Surtax shall be collected and
15 administered as set forth in Section 212.054, Florida Statutes.

16 **Sec. 776.105. Recognition of Net Present Value of Surtax
17 and Actuarial Defined Employer Contribution.**

18 (a) At the commencement of the fiscal year beginning October
19 1, 2017, the proceeds of the pension liability surtax imposed by
20 the City pursuant to this Chapter shall be actuarially recognized
21 to impact the Actuarial Determined Employer Contribution ("ADEC")
22 for the fiscal beginning October 1, 2017 and each fiscal year
23 thereafter.

24 (b) In each fiscal year beginning with the 2017-18 fiscal year
25 the ADEC shall be determined using the following approaches:

26 (1) The proceeds of the Pension Liability Surtax shall be
27 actuarially recognized, and each fiscal year the City shall apply
28 the present value of the total projected proceeds of the surtax to
29 reduce the unfunded liability of the eligible defined benefit
30 plans. The present value shall be calculated assuming ____ percent
31 growth per annum in the proceeds of the surtax, unless the Council

1 modifies such percentage by October 31, 2017 and by each October 31
2 of any subsequent fiscal year thereafter.

3 (2) The unfunded liability amortization schedule of all
4 unfunded liabilities existing as of October 1, 2016, must be
5 adjusted beginning with the 2017-18 fiscal year and amortized over
6 a period of 30 years.

7 (3) The payroll of all employees in classifications
8 covered by a closed retirement plan or system that receives funds
9 from the pension liability surtax must be included in determining
10 the unfunded liability amortization schedule for the closed plan,
11 regardless of the plan in which the employees currently
12 participate, and the payroll growth assumption must be adjusted to
13 reflect the payroll of those employees when calculating.

14 (4) The eligible defined benefit plans shall apply the
15 present value of the total projected proceeds of the surtax, as
16 determined by the City, in accordance with the pro rata share of
17 each plans respective proportion of the City's total unfunded
18 liability as determined by the October 1, 2015 actuarial valuation
19 and each subsequent year's actuarial valuation.

20 **Sec. 776.106. Manner of Collection and Administration.**

21 (a) Collection of the Pension Liability Sales Tax shall begin
22 on January 1 immediately following expiration of The Better
23 Jacksonville 1/2-Cent Sales Surtax (implemented pursuant to Chapter
24 775, Ordinance Code), but in no event shall collection begin later
25 than January 1, 2031.

26 (b) From and after the first fiscal year in which collection
27 of the Pension Liability Surtax begins, the proceeds shall be
28 remitted to the City, in its capacity as a county, as provided by
29 law, and shall be distributed annually, pursuant to Section
30 212.055(9), Florida Statutes, this chapter, and other applicable
31 provisions of law. All of the Pension Liability Surtax revenues and

1 any interest accrued thereon received shall be appropriated
2 annually, by separate legislative action by the City Council, only
3 for distribution of the proceeds to each of the eligible defined
4 benefit plans as a pro rata share of each plans respective
5 proportion of the City's total unfunded liability as determined by
6 each previous year's actuarial valuation.

7 (c) Payments to an eligible defined benefit plan shall
8 terminate prior to the end of the 30 years if the actuarial funding
9 level for such eligible defined benefit retirement plan levied is
10 expected to reach or exceed 100 percent. The most recent actuarial
11 report submitted to the Department of Management Services pursuant
12 to Section 112.63, Florida Statutes, must be used to establish the
13 level of actuarial funding for the determination of the date that
14 the actuarial funding level for each of the eligible defined
15 benefit plans is expected to reach or exceed 100 percent.

16 (d) In the event that one or more of the eligible defined
17 benefit plans becomes ineligible for future funding pursuant to
18 subsection(c), the formula in subsection (b) shall be modified, and
19 each remaining plan shall receive a percentage of the annual
20 collection of the pension liability surtax equivalent to the
21 percentage of the total of the unfunded actuarial liability of the
22 remaining eligible defined benefit plans.

23 **Sec. 776.107. Termination of the Pension Liability Surtax.**

24 (a) The Pension Liability Surtax shall remain in effect no
25 longer than 30 years. The Pension Liability Surtax shall terminate
26 prior to the end of the 30 years if the actuarial funding level for
27 each of the eligible defined benefit plans is expected to reach or
28 exceed 100 percent. The early termination date shall be on December
29 31 of the year in which the actuarial funding level for all of the
30 eligible defined benefit plans is expected to reach or exceed 100
31 percent.

1 (b) In no event shall collection of the Pension Liability
2 Surtax continue past December 31, 2060.

3 (c) The most recent actuarial report submitted to the
4 Department of Management Services pursuant to Section 112.63,
5 Florida Statutes, must be used to establish the level of actuarial
6 funding for the determination of the date that the actuarial
7 funding level for each of the eligible defined benefit plans is
8 expected to reach or exceed 100 percent.

9 **Section 2. Amending Section 16.01 (Retirement and pension**
10 **system authorized), City Charter.** Section 16.01 (Retirement and
11 pension system authorized), *City Charter*, is hereby amended to read
12 as follows:

13 **ARTICLE 16. RETIREMENT AND PENSION BENEFITS.**

14 **Sec. 16.01. Retirement and pension system authorized.**

15 All officers and employees of the consolidated government
16 employed after the effective date of this charter shall be members
17 of the consolidated government pension and retirement system, which
18 system shall include the 1937 police and fire department pension
19 fund of the City of Jacksonville, under the provisions of chapter
20 18615, Acts of 1937, as amended, ~~or~~ and the 1937 pension fund for
21 employees of the City of Jacksonville, under the provisions of
22 chapter 18610, Acts of 1937, as amended, and such system shall be
23 the retirement and pension system for the consolidated government
24 and shall also include any other retirement plan adopted by the
25 council. Pursuant to collective bargaining as authorized in
26 Article I, Section 6, Florida Constitution, Chapter 447, Florida
27 Statutes, and Section 212.055(9), from and after October 1, 2017,
28 no new employee of the consolidated government shall become a
29 member of any of the consolidated government pension funds under
30 the provisions of chapter 18615, Acts of 1937, as amended, or
31 chapter 18610, Acts of 1937, as amended. The council shall have

1 the authority to amend said retirement and pension system to
2 provide a separate classification or classifications, including
3 provisions relating to eligibility, contributions, required
4 services, retirement age and benefits thereunder, for officers and
5 employees becoming members of said retirement and pension system
6 after the effective date of this charter. Nothing in this Section
7 shall impair or diminish the rights and privileges, including
8 rights and privileges of social security coverage, to which
9 employees of former governments may be entitled under retirement
10 and pension plans of or under former governments on the effective
11 date of this charter. Employees of the Jacksonville Police and Fire
12 Pension Board of Trustees shall be members of the 1937 pension fund
13 for employees of the City of Jacksonville, under the provisions of
14 chapter 18610, Acts of 1937.

15 **Section 3. Notice of Tax to State.** The General Counsel
16 or his authorized representative shall provide, on behalf of the
17 City Council, the notices to the Florida Department of Revenue
18 required in Section 212.054(7) (a) and (b), Florida Statutes.

19 **Section 4. Exercise of County Powers.** This ordinance is
20 enacted by the Council exercising its county powers pursuant to the
21 Florida Constitution, the statutes and laws of Florida, and the
22 Charter of the City of Jacksonville.

23 **Section 5. Effective Date.** This Ordinance shall become
24 effective upon signature by the Mayor or upon becoming effective
25 without his signature.

26 Form Approved:

27
28 /s/ Stephen M. Durden

29 Office of General Counsel

30 Legislation prepared by: Stephen M. Durden

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