

PROPOSED

ORDINANCE NO.

1 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
2 COUNTY, FLORIDA, CREATING THE BROWARD COUNTY HEALTH CARE PLAN
3 ORDINANCE; CREATING ARTICLE VII OF CHAPTER 31½ OF THE BROWARD
4 COUNTY CODE OF ORDINANCES ("CODE") FOR THE PURPOSE OF LEVYING,
5 SUBJECT TO APPROVAL BY REFERENDUM, A QUARTER-PERCENT (0.25%)
6 HEALTH CARE SURTAX FOR A PERIOD OF TEN YEARS; CREATING A
7 SEGREGATED TRUST FUND INTO WHICH ALL HEALTH CARE SURTAX FUNDS
8 WILL BE DEPOSITED; ESTABLISHING AN OVERSIGHT ADVISORY BOARD;
9 PROVIDING FOR THE USE OF THE HEALTH CARE SURTAX FUNDS IN
10 ACCORDANCE WITH THE BROWARD COUNTY HEALTH CARE PLAN; AND
11 PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE
12 DATE.

13 (Sponsored by Commissioner Mark D. Bogen)
14

15 WHEREAS, heart disease is the leading cause of death in the United States
16 according to the Centers for Disease Control and Prevention ("CDC");

17 WHEREAS, a 2023 report from the American Heart Association found that 52.4%
18 of men and 44.8% of women have cardiovascular disease, which includes coronary heart
19 disease, heart failure, stroke, and hypertension;

20 WHEREAS, the CDC calculates that one person dies every 33 seconds in the
21 United States from cardiovascular disease and that about 695,000 people in the United
22 States die from heart disease every year;

23 WHEREAS, the Florida Department of Health indicates that in 2022, the most
24 recent year for which statistics are available, heart disease was the leading cause of death
25 in Florida and in Broward County, accounting for approximately two out of ten deaths in
26 Florida and for 3,735 deaths in Broward County;

27 WHEREAS, a recent study published in the American Journal of Managed Care,
28 “Heart Health Outcomes Linked to Low Socioeconomic Status,” indicates that the rate of
29 heart disease among persons living in areas of low socioeconomic status is more than
30 twice the rate for persons living in areas of high socioeconomic status;

31 WHEREAS, heart disease and cardiovascular disease are treatable diseases,
32 particularly when detected early, and the CDC estimates that 80% of cardiovascular
33 disease is preventable;

34 WHEREAS, the Florida Department of Health indicates that in 2022, cancer was
35 the second leading cause of death in Florida, accounting for just under two out of ten
36 deaths in Florida and for 3,481 deaths in Broward County;

37 WHEREAS, Broward County already funds certain primary health care services
38 provided by the North Broward Hospital District and the South Broward Hospital District
39 and also funds a number of other significant programs such as mental health services,
40 programs to reduce infant mortality in high-risk areas, reimbursement for emergency
41 hospital services provided to indigent residents, and HIV/AIDS medical and support
42 services;

WHEREAS, it is in the public interest of Broward County to provide programs for qualified Broward County residents, including residents who are indigent or medically poor, to receive primary care, preventive care, and hospital care services to prevent and treat these leading causes of death;

WHEREAS, public and private insurance plans are required to cover certain preventive cancer screenings, such as mammograms, pap smears, and colonoscopies, without imposing cost-sharing on the patient; but those same insurance plans typically do not cover preventive cardiac screening tests (e.g., calcium scoring ("CAC") or a coronary CT angiography ("CCTA")) at no additional cost to the patient;

WHEREAS, as a result, many Broward County residents with public or private insurance have medical needs that are not covered by their insurance programs, or have insufficient third-party insurance coverage to address these serious health risks;

WHEREAS, with the assistance of medical and other experts, Broward County has developed a proposed Broward County Health Care Plan ("Health Care Plan") that would enable qualified Broward County residents, including those who qualify as indigent or medically poor, to receive primary care, preventive care, and hospital care services, with an emphasis on preventing and treating heart disease and cancer, the two leading causes of death in Broward County;

WHEREAS, Section 212.055(4), Florida Statutes, authorizes the levy of an Indigent Care and Trauma Center Surtax ("Health Care Surtax") by enactment of an ordinance by a majority of the members of the Broward County Board of County Commissioners ("County Commission"), subject to approval by a majority of the electors of Broward County voting in a referendum election on the levy of the Health Care Surtax;

WHEREAS, if the levy of the Health Care Surtax is approved by referendum at the General Election on November 5, 2024, the Health Care Surtax in the amount of 0.25% will be levied for a period of ten (10) years, and the proceeds of the Health Care Surtax will be expended as authorized in Section 212.055(4), Florida Statutes, and in accordance with the Health Care Plan, as approved by the County Commission and as amended from time to time; and

WHEREAS, the public interest will be served by having the Health Care Plan, including the allocation of revenue generated by the Health Care Surtax, reevaluated and adjusted from time to time to ensure the Health Care Plan is meeting its objectives and to ensure the best and most efficient use of the Health Care Surtax proceeds,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Article VII of Chapter 31½ of the Broward County Code of Ordinances is hereby created to read as follows:

[Underlining omitted]

ARTICLE VII. BROWARD COUNTY HEALTH CARE PLAN ORDINANCE

Sec. 31½-120. Short Title.

This article shall be known and may be cited as the “Broward County Health Care Plan Ordinance.”

Sec. 31½-121. Levy of Health Care Surtax.

Pursuant to Section 212.055(4), Florida Statutes, and subject to approval by a majority of the qualified electors of Broward County voting in a referendum at the General Election on November 5, 2024, there is hereby levied, commencing on January 1, 2025,

and continuing through December 31, 2034, a one-quarter of one percent (0.25%) Indigent Care and Trauma Center Surtax ("Health Care Surtax") on all transactions taxable pursuant to Section 212.054(2), Florida Statutes. The Health Care Surtax shall be collected, enforced, administered, and disbursed as provided in Chapter 212, Florida Statutes, as amended, and the Broward County Health Care Plan (including as amended, the "Health Care Plan"). The Health Care Plan as initially approved by the Broward County Board of County Commissioners ("County Commission") at its meeting of May 7, 2024, is attached as Exhibit A to the record copy of this Ordinance and is incorporated into this Ordinance.

Sec. 31½-122. Health Care Trust Fund.

There is hereby created the Broward County Health Care Trust Fund ("Trust Fund") into which all Health Care Surtax proceeds shall be deposited. The County Administrator is authorized to establish accounts and subaccounts within the Trust Fund as may be necessary or useful for administering the Health Care Surtax proceeds in compliance with all legal requirements. The County Administrator is authorized and directed to take such additional steps as necessary or useful under generally accepted governmental accounting principles to invest the funds consistent with applicable law, ensure that balances in the accounts and subaccounts at the end of each fiscal year carry forward to the subsequent fiscal year, and disburse the funds in accordance with the Health Care Plan. Cash and investments required to be accounted for in the Trust Fund may not be commingled with any other funds.

Sec. 31½-123. Use of Health Care Surtax proceeds.

(a) Health Care Surtax proceeds shall be collected, allocated, disbursed, and expended to fund legally permissible services for qualified residents in accordance with both applicable law and the Health Care Plan, as approved and updated by the County Commission from time to time, including the following:

(1) a broad range of health care services, including primary care, preventive care, and hospital care services, for Broward County residents qualified as indigent or certified as medically poor;

(2) a Level I trauma center; and

(3) innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding for qualified Broward County residents.

(b) From time to time, the County Commission may amend the Health Care Plan. Any such amendment shall be effective as of the date of approval by the County Commission unless the amendment expressly provides otherwise.

(c) As part of the annual budget process for Broward County, the County Administrator shall submit a proposed budget to the County Commission setting forth the proposed utilization of Health Care Surtax proceeds for the next fiscal year.

(d) No later than ninety (90) days prior to the start of each fiscal year during which the Health Care Surtax is levied, the County Administrator shall submit the proposed utilization of Health Care Surtax proceeds for the upcoming fiscal year to the Health Care Surtax Oversight Advisory Board, as established in Section 31½-126, for its review and comment. No later than ninety (90) days after the end of each fiscal year

during which the Health Care Surtax is levied, the County Administrator shall submit the actual utilization of Health Care Surtax proceeds during the preceding fiscal year to the Health Care Surtax Oversight Advisory Board for its review and comment.

(e) On at least an annual basis during years in which the Health Care Surtax is levied, Broward County shall obtain a review of the Health Care Plan by one or more industry experts who shall provide nonbinding recommendations for modifications to the Health Care Plan for consideration by the County Commission.

Sec. 31½-124. Biennial Audit of Health Care Surtax Fund.

Broward County shall retain an independent certified public accountant to perform and complete a biennial audit of all programs funded by the Health Care Surtax and of all Health Care Surtax proceeds received, maintained, and expended. The report shall be provided to the County Commission, to the Health Care Surtax Oversight Advisory Board, to the chair of the Legislative Delegation of Broward County, and to such other persons or entities as may be provided under applicable law.

Sec. 31½-125. Health Care Surtax Administration.

(a) The County Administrator shall establish a department, division, or office for administration of the Health Care Surtax and implementation of the Health Care Plan. The County Administrator shall ensure the personnel assigned include persons with appropriate experience and expertise including without limitation in the fields of medicine, diagnostic testing, and public health administration.

(b) The County Administrator and assigned personnel shall implement the Health Care Plan in accordance with the annual budget for Health Care Surtax proceeds

approved by the County Commission as part of the annual budget process for Broward County.

(c) Goods and services procured by Broward County as part of the Health Care Plan are exempt from the Broward County Procurement Code, pursuant to Section 21.5(b)(6), provided that any procurement or contract in excess of \$1,000,000 must be approved by the County Commission. Subject to the foregoing, the County Administrator may direct that, to the full extent permissible under applicable law, any goods and services procured as part of the Health Care Plan be purchased competitively or noncompetitively, as the County Administrator determines is in the best interest of the County, and the County Administrator is authorized to negotiate and execute contracts necessary to effectuate the Health Care Plan, subject to review and approval as to legal sufficiency by the Office of the County Attorney.

Sec. 31½-126. Health Care Surtax Oversight Advisory Board.

There is hereby established a Health Care Surtax Oversight Advisory Board ("Advisory Board"). The Advisory Board shall be responsible for making nonbinding recommendations to the County Administrator and to the County Commission regarding the administration and operation of the Health Care Plan. To provide review and accountability regarding the allocation and utilization of Health Care Surtax proceeds, the Advisory Board shall also review the proposed and actual expenditures of Health Care Surtax proceeds as submitted by the County Administrator pursuant to Section 31½-123(d) and provide nonbinding recommendations to the County Administrator and to the County Commission. Unless expressly stated otherwise herein or as otherwise required

by applicable law, the Advisory Board shall be subject to Section 1-233, Broward County Code of Ordinances ("Code").

(a) *Composition.* The Advisory Board shall be composed of the following members appointed by the County Commission after nomination:

(1) Up to nine (9) members who have significant experience or expertise in the field(s) of medicine, public health, finance, accounting, or public administration, with each Broward County Commissioner nominating one (1) member in this category;

(2) One (1) member with significant experience or expertise in identifying the medical needs and gaps in the provision of medical care to qualified residents of Broward County and assessing the community health of Broward County, nominated by the Broward Regional Health Planning Council, Inc.; and

(3) One (1) Broward County Commissioner nominated by the County Commission.

(b) *Conflict of Interests.* No member of the Advisory Board may have an ownership or financial interest in any entity that is a recipient of Health Care Surtax proceeds, except that a member nominated under Section 31½-126(a)(1) may be employed by an entity that is a recipient of Health Care Surtax proceeds, subject to the process for waiving conflicts for advisory board members in Section 112.313(12), Florida Statutes.

(c) *Method of Appointment.* Nominations shall be made to the County Commission as vacancies arise.

(d) *Term of Members.* Advisory Board members shall serve nonfixed terms as provided in Section 1-233(a)(2) of the Code.

(e) *Compensation.* Members of the Advisory Board shall not receive any compensation for their service on the Advisory Board. Reimbursement for travel and other reasonable expenses directly related to service on the Advisory Board is permissible and does not constitute compensation.

(f) *Advisory Board Meetings.* The Advisory Board shall meet at least quarterly. The members shall elect a Chair to preside over Advisory Board meetings. The Advisory Board shall establish its own rules of procedure for conducting its meetings.

(g) *Staffing.* The Director responsible for the operation of the department, division, or office created pursuant to Section 31½-125 for the administration of the Health Care Surtax shall serve as the Executive Administrator for the Advisory Board. The County Administrator shall provide sufficient additional staff to enable the Advisory Board to efficiently perform its functions. The Office of the County Attorney shall provide legal services to the Advisory Board.

(h) *Sunset.* The Advisory Board shall automatically sunset one (1) year after the earlier of the expiration or the repeal of the Health Care Surtax.

Sec. 31½-127. Automatic Repeal.

If a one percent (1%) Local Government Infrastructure Surtax ("Infrastructure Surtax") under Section 212.055(2), Florida Statutes, as amended, is approved by referendum, this article shall be automatically repealed, effective the December 31 that immediately precedes the commencement date of the Infrastructure Surtax levy.

222 Section 2. The County Commission may amend, revise, or repeal this Health
223 Care Plan Ordinance in the manner provided by law. However, no amendment, revision,
224 or repeal of the Health Care Plan Ordinance, or reduction in the rate of the Health Care
225 Surtax, may take effect if it would materially impair the contract rights of the owners of
226 any bonds, notes, or other instruments of indebtedness payable in whole or in part,
227 directly or indirectly, from the proceeds of the Health Care Surtax.

228 Section 3. Severability.

229 If any portion of this Ordinance is determined by any court to be invalid, the invalid
230 portion will be stricken, and such striking will not affect the validity of the remainder of this
231 Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
232 legally applied to any individual, group, entity, property, or circumstance, such
233 determination will not affect the applicability of this Ordinance to any other individual,
234 group, entity, property, or circumstance.

235 Section 4. Inclusion in the Broward County Code of Ordinances.

236 It is the intention of the Board of County Commissioners that the provisions of this
237 Ordinance become part of the Broward County Code of Ordinances as of the effective
238 date. The sections of this Ordinance may be renumbered or relettered and the word
239 “ordinance” may be changed to “section,” “article,” or such other appropriate word or
240 phrase to the extent necessary to accomplish such intention.

241 Section 5. Effective Date.

242 This Ordinance is effective as of the date provided by law.

ENACTED

PROPOSED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Brandon R. Butterworth 04/03/2024
Brandon R. Butterworth (date)
Assistant County Attorney

By: /s/ René D. Harrod 04/03/2024
René D. Harrod (date)
Chief Deputy County Attorney

RDH
Health Care Plan Ord
04/03/2024
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Coding: Words ~~stricken~~ are deletions from existing text. Words underlined are additions to existing text.