

**DE 87-13 - September 17, 1987**

**Local Option Sales Surtax Referendum  
Chapter 87-239, Laws of Fla.; Section 101.161(1), F.S.**

*To: Honorable Jimmy Whitehouse, Supervisor of Elections, Highlands County, Post Office Box 1568, Sebring, Florida 33870*

*Prepared by: Division of Elections*

You have requested an opinion on the following:

How should a local option sales surtax referendum be worded if placed on the ballot pursuant to Chapter 87-239, Laws of Florida?

Chapter 87-239, Laws of Florida, provides that the following language be placed on the ballot for the local option sales surtax referendum:

\_\_\_\_\_ FOR the \_\_\_\_\_ - cent sales tax

\_\_\_\_\_ AGAINST the \_\_\_\_\_ - cent sales tax

Section 101.161(1), Florida Statutes, provides that when a constitutional amendment or other public measure is submitted to the vote of the people, the question is to be printed on the ballot followed by the words "yes" and "no."

Your question, therefore, is essentially whether Chapter 87-239, Laws of Florida, prevails over Section 101.161(1), Florida Statutes.

Chapter 87-239, Laws of Florida, is a specific bill relating to sales tax; Section 101.161(1), Florida Statutes, is a general law relating to elections. It is generally accepted that if conflicting provisions of statutes cannot be harmonized, the specific law prevails over the general law. State v. Young, 357 So.2d 415 (Fla. 2d DCA 1987), aff'd 371 So.2d 1029 (Fla. 1979). It is also well-established that a later expression of the Legislature prevails over an earlier expression. Albury v. City of Jacksonville Beach, 295 So.2d 297, 300 (Fla. 1974). The "yes" and "no" language of Section 101.161(1), Florida Statutes, was added by Chapter 80-305, Laws of Florida, as compared to the 1987 enactment of Chapter 87-239, Laws of Florida.

In view of the foregoing, Chapter 87-239, Laws of Florida, prevails over Section 101.161(1), Florida Statutes, and the ballot language for a local option sales surtax enacted under Chapter 87-239, Laws of Florida, must read "for" and "against."

**SUMMARY**

Under Chapter 87-239, Laws of Florida, a local option sales surtax referendum if placed on the ballot must read as follows:

\_\_\_\_\_ FOR the \_\_\_\_\_ - cent sales tax

\_\_\_\_\_ AGAINST the \_\_\_\_\_ - cent sales tax