



# The Florida Senate

*Interim Project Report 2001-039*

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Committee on Fiscal Resource

Senator Jim Horne, Chairman

## GENERAL REVENUE SERVICE CHARGE ON CERTAIN TRUST FUNDS

### SUMMARY

Subsection (3) of Section 215.20, F.S., imposes a service charge of 0.3 percent on the revenue of an income nature of certain listed trust funds. A footnote to this section provides that the service charge shall expire October 1, 2001 and is subject to legislative review. This report looks at the history of this service charge and the effect on General Revenue if it is allowed to expire.

### BACKGROUND

Chapter 20890, Laws of Florida, enacted in 1941, provided for a three percent deduction from all Special Funds and other state funds, other than the General Revenue Fund, which were deposited by or through the office of the Comptroller or the office of the State Treasurer. The law contained a Declaration of Policy, which said that special funds impose expenses on those General Revenue-supported offices, and that "the expense of services rendered on behalf of Special funds creates an additional drain against the General Revenue Fund..." The three percent deduction was said to represent the minimum cost of State aid and services given to each of these Special Funds and the activities supported thereby.

This act included a list of funds subject to the deduction, but stated specifically that funds not included in the list were not exempt from the deduction. An exemption was provided for state funds that received federal contributions which would have been cut off if subjected to the deduction. The Governor was also given discretion to reduce the deduction to not less than two percent for any fund for which, in his judgment, the three percent deduction was excessive.

During the next four decades, this law, codified in ss. 215.20 and 215.22, F.S., was amended several times. Important changes clarified that income of a revenue nature, including interest or returns on investments of

the principal of the trust funds, was subjected to the service charge, and the rate was increased to four percent and then to six percent.

In 1990, ss. 215.20 and 215.22, F.S., were significantly amended in two separate bills. Chapter 90-110, Laws of Florida, imposed an additional 0.3 percent service charge on all trust funds enumerated in s. 215.22, F.S., to fund the evaluation and justification review of state agencies through the Agency Budget Sunset Trust Fund. This provision was to expire on October 1, 2001, and the Legislature was required to review it before that date. Chapter 90-132, Laws of Florida, increased the six percent service charge to seven percent, and rewrote s. 215.22, F.S., to list trust funds that were exempt from the service charge, instead of listing those funds which were subject to the charge.

Chapter 91-112, Laws of Florida, substantially amended s. 215.20, F.S., to maintain the seven percent service charge on all trust funds not exempted by s. 215.22, F.S. The 0.3 percent service charge on specifically listed trust funds was redirected to General Revenue. This \$7.2 million transfer of trust fund revenue to General Revenue was just a small part of the \$418.7 million in recurring trust fund revenue that the 1991 Legislature transferred to General Revenue. There was no reference to an expiration date and legislative review in the ch. 91-112, Laws of Florida, but the October 1, 2001 expiration and legislative review were retained in a footnote by Statutory Revision.

Statutory changes enacted in the 2000 Legislative Session significantly affect revenue transferred to General Revenue by the 0.3 percent service charge, as well as the 7 percent service charge. Chapter 2000-257, Laws of Florida, provides that, notwithstanding the provisions of ss. 215.20(1) and (3), F.S., a service charge will not be imposed on taxes distributed under ss. 206.606(1), 207.026, 212.0501(6) and 319.32(5), beginning July 1, 2000. The first three of these sources comprise the fuel sales tax and tax on diesel fuel, the

tax on operation of commercial motor vehicles, and the tax on fuel used in self-propelled off-road equipment, and is deposited in the Fuel Tax Collection Trust Fund, which is otherwise subject to the 0.3 percent service charge. Effective July 1, 2001, taxes distributed under s. 206.608, F.S., are also exempt from the service charges imposed under ss. 215.20(1) and (3), F.S. These are the State Comprehensive Enhanced Transportation System (SCETS) Tax revenues, which are also deposited in the Fuel Tax Collection Trust Fund. This law also phases out the service charge on the Local Option Fuel Tax Trust Fund, beginning July 1, 2005. After July 1, 2006, the law provides that no service charge shall be deducted from the proceeds of the local option fuel tax, although the law does not specifically not withstand the provisions of s. 215.20(3), F.S.

**METHODOLOGY**

Information for this project was obtained from two main sources: the legislative history was developed from Laws of Florida for the years in which the relevant statutes were amended, and the history of revenue collections was obtained from the Office of Economic and Demographic Research and the Department of Banking and Finance. Additional information about particular funds came from the Department of Revenue, the Department of Labor and Employment Security, and the Department of Insurance. Forecasts of future revenue are based on consensus estimates of service charge growth and the impact of ch. 2000-257, Laws of Florida.

**FINDINGS**

According to data maintained by the Comptroller, the additional 0.3 percent service charge has transferred, on average, \$10 million to General Revenue yearly since FY 91-92. Actual collections for each year are shown in Table 1. The additional service charge accounts for 2.9 percent of all service charge transfers. Forty-four trust funds in 18 state agencies transfer funds to the General Revenue Fund through the 0.3 percent service charge. Table 2 shows total transfers by fund in each agency. Eleven funds' 0.3 percent service charges amounted to greater than \$100,000, and these are described below.

**Table 1**

**0.3 Percent Service Charge**

Fiscal Year	Amount Distributed
91-92	\$8,916,673
92-93	\$8,121,353
93-94	\$10,063,837
94-95	\$9,129,846
95-96	\$9,578,438
96-97	\$9,690,730
97-98	\$11,172,721
98-99	\$13,036,824
99-00	\$10,409,252
<b>Average</b>	<b>\$10,013,297</b>

**Table 2**

**Fiscal Year 1999-2000 0.3% Service Charge Distributions**

AGENCY	TRUST FUND NAME	Service Charge
DEP	Marine Resources Conservation TF	\$5,533.81
DEP	Marine Resources Conservation TF	\$9,866.24
DEP	Marine Resources Conservation TF	\$64.18
DEP	Nonmandatory Land Reclamation TF	\$42,565.48
Legal Affairs	Crimes Compensation TF	\$61,708.24
DACS	General Inspection TF	\$42.11
DACS	General Inspection TF	\$27,388.00
DACS	General Inspection TF	\$72,133.89
DACS	General Inspection TF	\$18,407.48
DACS	Quarter Horse Racing Promotion TF	\$79.14
DBF	Financial Institutions Regulatory TF	\$32,508.49
DOS	Division of Licensing TF	\$44,251.37
DOS	Grants & Donations-Div. Of Archives TF	\$33.56
DOS	Operating-Div. Of Archives TF	\$1,717.56
DOS	Records Management TF	\$4,449.41
DOI	Insurance Commissioner's Regulatory TF	\$324,766.31
DOI	Agents & Solicitors Co License Tax TF	\$11,556.68
DOE	Education Certification & Service TF	\$10,336.58
DOE	Phosphate Research TF	\$16,357.23
DLES	Employment Security Admin Pgm TF	\$18,993.17
DLES	Special Employment Security TF	\$20,554.29
DLES	Workers Comp Admin Pgm TF	\$285,179.81
DLES	Special Disability-Workers Comp Div TF	\$409,877.63
DOT	State Transportation TF	\$31,281.40
Citrus	Citrus Advertising TF	\$170,555.27
PSC	PSC Regulatory TF	\$88,596.25
ACHA	Health Care TF	\$30,462.49
ACHA	Health Care TF	\$55,171.14
DMS	Police & Firefighters Premium Tax TF	\$257,209.33
DOR	Fuel Tax Collection TF	\$4,367,303.46
DOR	Local Option Fuel Tax TF	\$1,523,132.98
DOR	Local Alternative Fuel Users Fee Clearing T	\$951.54
DOR	Pollutant Tax Clearing TF	\$680,701.21
DOR	State Alternative Fuel User Fees TF	\$905.62
DHSMV	Fuel Tax Collection TF	\$77,923.89
FWCC	Marine Resources Conservation TF	\$19,546.72
DBPR	Administrative TF - Mgt Div.	\$307.40
DBPR	Alcoholic Beverage & Tobacco TF	\$168,570.98
DBPR	Div. FL Land Sales, Condos, Mobile Home	\$34,413.58
DBPR	Hotel & Restaurant TF	\$57,234.82
DBPR	Pari-mutuel Wagering TF	\$55,489.84
DBPR	Professional Regulation TF	\$594.94
DBPR	Professional Regulation TF	\$115,983.49
DBPR	Cigarette Tax Collection TF	\$1,254,544.85
<b>Total Distributions</b>		<b>\$10,409,251.86</b>

**Trust Funds Which Distributed More Than \$100,000 in FY 1999-2000**

The **Insurance Commissioner's Regulatory Trust Fund** includes fees imposed upon insurance agents and activities in the state, plus various fines, penalties, and fees for services performed by the Department of Insurance. The administrative and regulatory activities of the Department of Insurance are supported by this trust fund. The 0.3 percent service charge on this fund distributed \$324,766 to General Revenue in FY 1999-2000.

Two Department of Labor and Employment Security trust funds make significant distributions to the 0.3 percent service charge. The **Special Disability Trust Fund** is used to reimburse employers and insurance carriers for claims of disabled workers who experience work-related injuries, and the **Workers Compensation Administration Trust Fund** pays for the administration of the Workers' Compensation program.

The Special Disability Trust Fund is maintained by annual assessments on insurance carriers who write workers' compensation insurance policies and on employers who self-insure against workers' compensation claims. Section 440.49(9), F.S., provides a formula for determining the assessment level, but that rate is capped at 4.52 percent. Since the capped rate is well below the rate needed to fund the program, as of June 30, 2000 the program had a backlog of unpaid claims of \$387,391,932. In FY 1999-2000 this fund's 0.3 percent service charge was \$409,878.

The Workers' Compensation Administration Trust Fund is maintained by assessments on insurance carriers who write workers' compensation insurance policies and on employers who self-insure against workers' compensation claims. The assessment level is determined by the expense of administering the Workers' Compensation program for the previous year. According to Linda Knopf of the division of Workers' Compensation, the 0.3 percent service charge is not large enough to affect the assessment level needed to fund the program.

The **Citrus Advertising Trust Fund** distributed \$170,555 to the 0.3 percent service charge. This trust fund is supported by a tax on all fresh and processed citrus fruit sold in the state, and is used to promote sales of citrus products.

The **Police and Firefighters Premium Tax Trust Fund** distributed \$257,209 to General Revenue from the 0.3 percent service charge in FY 1999-2000. This trust fund is based upon assessments on property and casualty insurance premiums on property located in municipalities having firefighters and police pension plans. These assessments are creditable against the tax on insurance premiums.

Three trust funds in the Department of Business and Professional Regulation also make significant distributions to the 0.3 percent service charge. The **Cigarette Tax Collection Trust Fund**, at \$1,254,545, made the third largest single distribution to the service charge, and the **Alcoholic Beverage and Tobacco Trust Fund** distributed \$168,571 in FY 1999-2000. The **Professional Regulation Trust Funds** distributed \$116,578 in that year.

The Cigarette Tax Collection Trust Fund, net of the service charge, is distributed to the Alcoholic Beverage and Tobacco Trust Fund (0.9 percent), the County Revenue Sharing Trust Fund (2.9 percent), the Public Medical Assistance Trust Fund (29.3 percent), and the Lee Moffitt Cancer Center (2.59 percent) with the remainder going to General Revenue. (Previously this trust fund had been distributed to the Municipal financial Assistance Trust Fund and the Municipal Revenue Sharing Trust Fund, but Ch. 2000-355, Laws of Florida, substituted sales tax as the funding source for these trust funds.)

The Alcoholic Beverage and Tobacco Trust Fund is funded by the excise tax on beverages, with very minor funding from cigarette taxes. Up to 2 percent of this fund is used to pay for the operations of the Division of Alcoholic Beverage and Tobacco, but any funds not so used revert to General Revenue.

The Professional Regulation Trust Funds comprise revenue collected from several professions, and this revenue is used to fund oversight and regulation of the professions. The Department of Business and Professional Regulation maintains separate accounts within the trust fund for each profession, and the Legislature appropriates funds from the trust fund to carry out the regulatory duties.

Future transfers from the **Fuel Tax Collection Trust Fund** in the Department of Revenue will be reduced by the effects of Ch. 2000-257, Laws of Florida. As explained above, this law removes both the 7 percent and 0.3 percent service charges from the tax revenues

deposited into the Fuel Tax Collection Trust Fund over this year and next year. The total impact of this law on Department of Revenue transfers to General Revenue is expected to be (\$60.0) million recurring in 2000-01, and (\$33.6) million recurring in 2001-02. The impact on the 0.3 percent service charge will be (\$2.9) in 2000-01 and (\$4.4) in 2001-02. The law also phases out the service charge on the **Local Option Fuel Tax Trust Fund** over FY 2005-06 and 2006-07. This trust fund added \$1,523,133 to General Revenue through the 0.3 percent service charge in FY 1999-2000.

The **Pollutant Tax Clearing Trust Fund** in the Department of Revenue added \$608,701 to General Revenue through the 0.3 percent service charge in FY 1999-2000. This trust fund transfers pollutant tax revenues to the Florida Coastal Protection Trust Fund, the Water Quality Assurance Trust Fund, and the Inland Protection Trust Fund.

#### **Forecasts of Revenue From 0.3 Percent Service Charge**

Based upon consensus estimates of growth in the General Revenue Service Charge, adjusted for impacts of Ch. 2000-257, Laws of Florida, the 0.3 percent service charge is expected to distribute \$7.8 million to

General Revenue in FY 2000-01 and \$6.7 million in FY 2001-02.

### **RECOMMENDATIONS**

The 0.3 percent service charge imposed under s. 215.20(3), F.S., along with the more generally-imposed 7 percent service charge under s. 215.20(1), F.S., provide a small but stable source of General Revenue. It is the recommendation of the Fiscal Resource Committee that the 0.3 percent service charge be reenacted for the following reasons:

It is questionable whether the 1991 Legislature intended this service charge to expire. Chapter 91-112, L.O.F., makes no mention of an expiration date for this subsection.

The General Revenue generated by this service charge gives the Legislature additional flexibility in deciding how best to meet the needs of the state. If the money remained in the trust funds it could be used only for the purposes allowed for that particular fund.

#### **COMMITTEE(S) INVOLVED IN REPORT** *(Contact first committee for more information.)*

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#### **MEMBER OVERSIGHT**

Senator Sebesta