

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Effect of HB 1667 – s. 215.211, F.S. (Local Option Fuel Tax Trust Fund Service Charge)

Currently, local governments may levy and collect a local option gas tax, the proceeds of which are deposited into the Local Option Fuel Tax Trust Fund. Section 215.20(1) requires a service charge collected at a rate of 7% on the proceeds of this tax to be transferred into the state’s General Revenue Fund, for administration of the trust fund.

However, as currently provided in s. 215.211(3), F.S., the 7% service charge will be reduced to 3.5% for FY 2005-2006¹; and then no service charge will be appropriated from the Local Option Fuel Tax beginning in FY 2006-2007². The amount of those deductions is to be deposited into the State Transportation Trust Fund and used to fund two grants programs. The County Incentive Grant Program is to receive 80% of those funds; and the Small County Outreach Program is to receive 20% of those funds. These funds which have been redirected from GR are now partially and then fully nonrecurring dollars beginning respectively in FY 2005/2006 and 2006/2007. According to a representative of the Florida Association of Counties, the 7% represented approximately \$53 million for FY 2003/2004.³

This bill amends s. 215.211(3)(b), F.S., to accomplish the following:

- The service charge will be reduced to 1.4%, instead of removing the service charge all together.
- The 1.4% service charge will be deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund to be used for the Emergency Distribution as provided for in s. 218.65, F.S.

The effect of this bill is to allow counties to retain practically all of their local option gas tax revenues for transportation improvements. Such revenues when bonded can generate approximately \$430 million for new transportation infrastructure.⁴ The bill provides that the 1.4% service charge will be distributed to smaller counties that qualify to receive emergency distributions (as further described below). These funds would be available to eligible small counties for any local purpose, instead of the limited purposes associated with the grant funds.

¹ Bob McKee, Governmental Liaison, Florida Association of Counties, 3/10/04.

² Section 215.211(3)(a), F.S.

³ Section 215.211(3)(b), F.S.

⁴ Bob McKee, 3/10/04.

Effect of HB 1667 – s. 218.65, F.S. (Emergency Distribution, aka Small County Kicker)

Under current law, eligible smaller counties may receive an additional distribution of the local option gas tax proceeds under a fiscal emergency as provided for in s. 218.65, F.S. The law declares that a fiscal emergency exists when a county has a population of less than 65,000 persons.

The current population limit prevents Putnam County from being eligible to receive payments. Further, the distribution formula is such that the generation of additional dollars locally can result in the loss of substantial amounts of funding from the Emergency Distribution. For example, had Hendry County generated \$53,000 more from their Ordinary Half Cent Distribution, they would have lost \$355,800 distribution from the Emergency Distribution.⁵

This bill amends ss. 218.65(2) and (5), F.S., to change the eligibility threshold to require a county to have a population of 70,000 or less, and either:

- levy ad valorem taxes at a rate of 8 mills or more; or
- receive previous year Ordinary Half Cent distribution at an amount less than the current per capita limitation (\$38 per person in FY 2003/2004).

Additionally, the bill provides for an amended emergency distribution formula. The formula provides for three emergency distributions. In the first emergency distribution, any eligible county that is below the statutory limitation will be brought up to the per capita limitation (\$38 per person in FY 2003/2004). In the second emergency distribution, all eligible counties will be brought up to the level of the highest per capita amount of the eligible counties. In the third emergency distribution, all remaining funds will be distributed equally on a per capita basis to all of the eligible counties. However, a contingency is provided in the bill if the available funds are insufficient to meet this methodology.

According to a representative of the Florida Association of Counties, the Emergency Distribution revenues, which can be used for general operating purposes, are a critical revenue source for small counties that struggle to provide basic governmental services to its citizens based upon a relatively small tax base.⁶

The bill increases the population threshold to 75,000 beginning July 1, 2006.

Local Government Half-cent Sales Tax Program – Background

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.⁷ It distributes net sales tax revenue to counties and municipalities that meet strict eligibility requirements. Allocation formulas serve as the basis for this distribution to each county and its respective municipalities. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.

The program consists of three distributions of sales tax revenues collected pursuant to ch. 212, F.S. The ordinary distribution is possible due to the transfer of 9.653% of net sales tax proceeds to the Local Government Half-cent Sales Tax Clearing Trust Fund. The emergency and supplemental distributions are possible due to the transfer of 0.065% of net sales tax proceeds to the trust fund. The emergency and supplemental distributions are available to select counties that satisfy certain eligibility requirements relating to the existence of a county fiscal emergency or a county's inmate population being greater than seven percent of the total county population, respectively.

⁵ Bob McKee, 3/10/04.

⁶ Bob McKee, 3/10/04.

⁷ Ch. 82-154, s. 10, L.O.F.

2003 General Law Amendments

Chapter 2003-33, L.O.F., authorizes the Department of Revenue, retroactive to October 1, 2000, to change county and municipal distributions by adjusting the apportionment factors used in the distribution formula in those cases where error of population figures certified pursuant to s. 186.901, F.S., have occurred. This change became effective on May 23, 2003.

Chapter 2003-402, L.O.F., implements the funding reforms of the state court system by decreasing the percentage of state sales tax revenues transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund from 9.653% to 8.814% for purposes of providing the ordinary distribution. Additionally, the amount of state sales tax revenues transferred to the trust fund for purposes of providing the emergency and supplemental distributions pursuant to s. 218.65, F.S., increases from 0.065 % to 0.095 %. The distribution of state sales tax revenues transferred to the County and Municipal Revenue Sharing Programs are changed as well. According to legislative staff analysis, the "net impact of this is to redirect projected growth of state-shared revenue so that local governments are held harmless relative to FY 2003-04. Thereafter, local revenue will grow at the rebased amount at the rate of overall tax collections."⁸ These changes become effective on July 1, 2004.

Chapter 2003-404, L.O.F., decreases the amount of state sales tax transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund for purposes of providing the ordinary distribution by 0.1%. The Department of Revenue distributes the funds attributable to the 0.1% reduction, less \$5,000 each month, to the Public Employees Relations Commission Trust Fund. The \$5,000 monthly reduction is added to the state sales tax made available in the Local Government Half-cent Sales Tax Clearing Trust Fund for the emergency and supplemental distributions pursuant to s. 218.65, F.S. These changes became effective on July 1, 2003.

C. SECTION DIRECTORY:

Section 1. Amends s. 215.211(3), F.S., relating to a service charge for the local option fuel tax.

Section 2. Amends ss. 218.65(2) and (5), F.S., relating to emergency distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund.

Section 3. Amends ss. 218(2) and (5), F.S., relating to emergency distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund, to change the population threshold to 75,000 from 70,000, effective July 1, 2006.

Section 4. Provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. The bill redirects nonrecurring revenues beginning July 1, 2006.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁸ Fla. House of Representatives Committee on Appropriations, HB 113-A (2003) Staff Analysis (May 14, 2003).

1. Revenues:

Redirects an estimated \$53 million to local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The 2006 effective date would allow the funds to be used for the grant programs in 2005.

Other Comments

The Florida Association of Counties supports this bill.⁹

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on Local Government & Veterans' Affairs adopted one strike all amendment at its meeting on March 16, 2004. The amendment corrected the effective date of the bill and remedies several issues created by the change in effective date. It clarifies provisions in the original draft to reflect the correct intent of the emergency distribution revisions. Specifically, the amendment:

- Changes the effective date of the bill to July 1, 2004.
- Phases in the increase in the population to be eligible to receive the emergency distribution
 - 70,000 or less population effective July 1, 2004.
 - 75,000 or less population effective July 1, 2006.

⁹ Bob McKee, Florida Association of Counties, 3/10/04.

- Revises the second emergency distribution to clarify that it is to be calculated as an incremental amount relative to the ordinary distribution and the first emergency distribution.

The amendment does not affect the timing of the phase-out of the service charge. No impact on state general revenue results from this amendment.