

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 2162

INTRODUCER: Community Affairs Committee and Senator Villalobos

SUBJECT: Local Government Funding

DATE: March 29, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Molloy	Yeatman	CA	Fav/CS
2.			JU	
3.			FT	
4.			GA	
5.				
6.				

**I. Summary:**

The committee substitute authorizes the continued collection of a \$15 surcharge assessed by certain local governments for traffic infractions and violations which is scheduled for repeal on September 30, 2007, and authorizes the assessment of up to \$3 in court costs, to be used to operate and administer Teen Courts, for persons adjudicated delinquent in circuit or county court for committing a delinquent act. The committee substitute also authorizes the assessment of up to \$65 in court costs for persons adjudicated delinquent for a delinquent act under the laws of the state. Finally, the committee substitute authorizes an assessment of up to \$85 in surcharges for persons adjudicated delinquent for a delinquent act under the laws of the state, and authorizes the continued collection of the surcharge which is scheduled for repeal on September 30, 2007.

The committee substitute substantially amends ss. 318.18, 938.19, and 939.185, F.S.

**II. Present Situation:**

**Surcharges for Traffic Infractions and Violations, and Civil and Criminal Offenses**

During the 2005 Regular Session, the Legislature enacted chapter 2005-236, Laws of Florida, to further the implementation of the Revision to Article V of the State Constitution. The City of Jacksonville-Duval County and Miami-Dade County are each authorized to impose a surcharge of up to \$15 for certain non-criminal traffic infractions and certain criminal traffic violations. The revenue is to be transferred to the unit of local government for the purpose of replacing revenue from fines being deposited into the fine and forfeiture fund established by each clerk of the circuit court. Under the provisions of s. 318.18, F.S., the authority to impose the surcharge is repealed September 30, 2007.

Section 939.185, F.S., authorizes all boards of county commissioners to adopt a local ordinance imposing additional court costs, not to exceed \$65, to be imposed on persons who plead guilty or nolo contendere to, or are found guilty of any felony, misdemeanor, or criminal traffic offense under the laws of the state. In 2005, the Legislature authorized the City of Jacksonville-Duval County and Miami-Dade County to each enact an ordinance imposing a surcharge of up to \$85 to be imposed in addition to the court costs. The authority to impose the surcharge is scheduled for repeal on September 30, 2007.

### **Teen Court**

Teen Court is a first-time offenders program for juveniles between the ages of 10 and 17. Juvenile violators must stand before a jury of their peers, plead guilty and accept whatever sanctions their peers impose. Teens between the ages of 13 and 17 act as the defense attorney, the prosecuting attorney, the jury, and the court's bailiff and clerk. Teens who accept the verdict of their peers and successfully complete the sanction imposed receive a clear record.

Section 938.19, F.S, authorizes the board of county commissioners in each county where a Teen Court has been created, to adopt a mandatory court cost to be assessed in specific cases to operate and administer teen courts. A sum of up to \$3 must be assessed as a court cost in the circuit and county court of the county in which a person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a criminal law or a municipal or county ordinance.

### **V.K.E., etc. v State of Florida, (934 So.2d 1276)**

The petitioner in the above case pleaded *nolo contendere*<sup>1</sup> to a delinquency petition asserting the commission of a simple battery, a simple misdemeanor under state law<sup>2</sup>. The trial court withheld adjudication and ordered restitution, the payment of attorneys fees, and assessed surcharges in domestic violence costs and to the rape crisis fund. The plaintiff appealed the imposition of the surcharges, the district court affirmed, and certified this question to the Florida Supreme Court:

“Does a trial judge have the power and authority to impose on juveniles in a juvenile delinquency proceeding, the mandatory surcharges set forth in ss. 938.08 and 938.085 (F.S.)?”

In July 2006, the Florida Supreme Court quashed the district court decision and concluded:

“The Legislature has demonstrated its awareness of its broad authority to provide for the taxation of costs, fees, and surcharges, in both adult and juvenile delinquency proceedings, but has not provided for the assessment of costs under sections 938.05 and 938.085 (F.S.) in juvenile delinquency proceedings.”

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<sup>1</sup> “I do not wish to contend”, Black’s Law Dictionary (8<sup>th</sup> ed. 2004)

<sup>2</sup> See s. 784.03, F.S.

### III. Effect of Proposed Changes:

**Section 1** amends s. 318.18, F.S., to provide that after September 30, 2007, certain local governments may continue to impose a \$15 surcharge on non-criminal traffic infractions and criminal traffic violations specified in s. 318.17, F.S., for the purpose of replacing revenue from fines deposited into the fine and forfeiture fund established by the clerk of the circuit court in each county.

**Section 2** amends s. 938.19, F.S., to provide that court costs of up to \$3, to be used to operate and administer Teen Courts, may be imposed upon persons who are adjudicated delinquent for a delinquent act in a circuit or county court

**Section 3** amends s. 939.185, F.S., to authorize each board of county commissioners to adopt an ordinance authorizing the assessment of up to \$65 in court costs imposed upon persons who are adjudicated delinquent for delinquent acts under state law.

Authorizes Miami-Dade County and the City of Jacksonville-Duval County to continue imposing a surcharge of up to \$85 upon persons who are adjudicated delinquent for delinquent acts under state law, and deletes the September 30, 2007 repeal of the authority to impose the surcharge.

**Section 4.** Provides that the act shall take effect July 1, 2007.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

Under the committee substitute, persons adjudicated delinquent for delinquent acts may pay up to \$3 in court costs to be used to administer and operate Teen Courts. Persons

adjudicated delinquent for delinquent acts under state law may pay up to \$65 in court costs and, in Miami-Dade County and the City of Jacksonville-Duval County, may pay up to an additional \$85 in surcharges.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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