

STORAGE NAME: h1003.ca

DATE: March 22, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1003

RELATING TO: The Use of Fuel Taxes

SPONSOR(S): Representative Crady

STATUTE(S) AFFECTED: Sections 206.41, 206.47, 206.60, 206.87, 336.021, 336.023, 336.024,
and 336.25, Florida Statutes

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
- (2) FINANCE & TAXATION
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

This bill provides that any county that has a population of 30,000 or less on February 1, 1997, is authorized to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through 1997-1998.

This bill does not increase or decrease the amount of motor fuel taxes appropriated by the Legislature and has no fiscal impact on state agencies.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:¹

Constitutional Fuel Tax

In 1941, the Florida Legislature proposed a constitutional amendment to levy a 2 cents per gallon tax on motor fuel, and this tax was approved by the voters in 1943. The original intent of the tax was to cover the costs of state road construction. With the adoption of the amendment, the State Board of Administration (SBA) comprised of the Governor, State Treasurer, and the State Comptroller was created and given the authority to manage, control, and supervise the proceeds.

In its current form, the tax is a state-shared revenue source for counties only. Applying the distribution formula in section 9(c)(4), article XII, of the Florida Constitution, the proceeds are allocated to counties to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates, and tax anticipation certificates or any refundings secured by any portion of the tax proceeds. After complying with the necessary debt service obligations, a county's surplus funds are distributed to its governing body. The tax is collected by the Department of Revenue and is transferred monthly to the SBA for distribution to counties. The funds must be used for the acquisition, construction, and maintenance of roads.

County Fuel Taxes

Section 206.60, F.S., authorizes the levy of a motor fuel tax at the rate of 1 cent per net gallon. The legislative intent of this tax, as stated in subsection 206.60(6), F.S., is to reduce a county's reliance on ad valorem taxes. The funds received from this tax can be used by counties for transportation-related expenses, including the reduction of bond indebtedness incurred for transportation purposes.

On a monthly basis, the Department of Revenue determines the amount of the allocation based on the same distribution factor used to distribute constitutional fuel tax proceeds.

Local Option Fuel Taxes

Currently counties are authorized to levy up to 11 cents per gallon of local option gas tax. For special fuels (diesel), the rate has been statutorily equalized statewide at

¹ The information in this Section is taken from *The Local Government Financial Information Handbook, July 1996*, published by the Florida Advisory Council on Intergovernmental Relations (as of November 1996, renamed the Legislative Committee on Intergovernmental Relations) in conjunction with the Florida Department of Revenue and the Division of Economic and Demographic Research of the Florida Legislature. Specific distribution amounts to each county for each of the fuel taxes described can be found in the *Handbook*.

6 cents per gallon. The proceeds of the tax are distributed by the Department of Revenue back to the counties and eligible municipalities based on interlocal agreement or statutory formula. The 11 cents of gas tax may be levied and used as follows:

1. Pursuant to paragraph 336.025(1)(a), F.S., counties are authorized to levy up to 6 cents per gallon of local option gas taxes by adoption of a county ordinance with a simple majority vote for the following transportation expenditures:

- Public transportation operations and maintenance;
- Roadway and right-of-way maintenance and equipment, and related structures;
- Roadway and right-of-way drainage;
- Street lighting;
- Traffic signs, engineering, signalization, and pavement markings;
- Bridge maintenance and operation, and;
- Debt service and expenditures for transportation capital projects including road construction and reconstruction.

In counties with a population of 50,000 or less on April 1, 1992, the proceeds from this 6 cents of local option gas tax may be used for a local government's non-transportation infrastructure projects if: (a) the non-transportation project is consistent with the local government's comprehensive plan; and (b) the local government certifies that all transportation needs identified in its comprehensive plan have been met. These revenues may be pledged for bonded indebtedness to finance non-transportation infrastructure projects so long as the revenues are not pledged for a period exceeding 10 years.

2. Pursuant to paragraph 336.025(1)(b), F.S., counties are authorized to levy up to 5 additional cents per gallon of local option gas taxes by adoption of a county ordinance with a majority plus one vote or by referendum for the transportation expenditures needed to meet comprehensive plan capital improvement element requirements.

Ninth-Cent Fuel Tax

In addition to both local option fuel taxes, any county may levy a 1 cent tax on each net gallon of motor and diesel fuels sold within the county's jurisdiction. The ninth-cent fuel tax may be levied by either an extraordinary vote of the membership of the county's governing body or subject to voter approval in a county-wide referendum. The proceeds must be used to pay the costs and expenses of establishing, operating, and maintaining a transportation system and related facilities as well as the cost of acquisition, construction, reconstruction, and maintenance of roads and streets.

Counties are not required to share the revenue received with municipalities, however, a number of counties share the revenues with their respective

municipalities pursuant to negotiated interlocal agreements. As of June 1996, 34 counties levy the ninth-cent fuel tax of motor fuel.

The Department of Revenue administers the tax and has the authority to promulgate rules as may be necessary for proper enforcement. The tax collected by the Department is transferred to the Ninth-Cent Fuel Tax Trust Fund.

B. EFFECT OF PROPOSED CHANGES:

This bill provides that any county that has a population of 30,000 or less on February 1, 1997, is authorized to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through 1997-1998.

According to population estimates for January 1, 1997, prepared by the Bureau of Economic and Business Research, University of Florida, this provision would allow the following 20 counties to use constitutional, county, and local option fuel taxes for general fund or other purposes:

Baker
Bradford
Calhoun
De Soto
Dixie
Franklin
Gilchrist
Glades
Gulf
Hamilton
Hardee
Holmes
Jefferson
Lafayette
Liberty
Madison
Taylor
Union
Wakulla
Washington

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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- a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

Not Applicable (N/A)

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

N/A

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that any county that has a population of 30,000 or less on February 1, 1997, is authorized to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through 1997-1998.

Section 2: Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

This bill does not increase or decrease the amount of motor fuel taxes appropriated by the Legislature and has no fiscal impact on state agencies. However, the bill has an impact on the use of motor fuel taxes by local governments by providing an exception to general law provisions which authorize local governments to use fuel taxes only for transportation expenditures. Such exception may set a precedent for other local government exemptions to general law for the use of fuel taxes.

In addition, to the extent that the affected counties pledge restricted tax revenues to meet general fund expenditures, those revenues will not be available to meet local transportation needs.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require the expenditure of funds by counties and municipalities.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

The sponsor has indicated that this bill is to allow Bradford County to support necessary expenditures for the County's Criminal Justice Program. The two major factors leading to the necessity of transferring funds out of the fuel tax fund are costs associated with a consent order to construct a new jail and the rising costs of Criminal Justice activities. Bradford County has borrowed approximately \$1,000,000 from its fuel tax fund for these purposes.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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Jenny Underwood Dietzel

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