

STORAGE NAME: h1989.ca

DATE: April 16, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 1989

RELATING TO: Gilchrist County (County Law Enforcement Complex)

SPONSOR(S): Representative Mackey

COMPANION BILL(S): SB 2514 (i)

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

- (1) COMMUNITY AFFAIRS
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill authorizes funds from the Law Enforcement Trust Fund established by the Gilchrist County Commission pursuant to general law providing for drug forfeitures and seizures, to be used to build a new law enforcement complex including a new jail.

The Economic Impact Statement indicates that \$1.269 million in federal forfeiture funds has been received and \$200,000 in state forfeiture funds have also been received. Of these amounts, it is anticipated that \$400,000 will be expended the first year and \$900,000 during 1998-1999 fiscal year. A total of \$100,000 of state forfeiture funds will be used and a total of \$1,250,000 federal forfeiture funds will be used for the project.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Under the Florida Contraband Forfeiture Act, sections 932.704 and 932.7055, Florida Statutes, if the seizing agency is a county, the proceeds are deposited in a special law enforcement trust fund established by the board of county commissioners. The proceeds and interest earned must be used for:

School resource officers;
Crime prevention;
Safe neighborhoods;
Drug abuse education and prevention programs; or
Other law enforcement purposes.

Other law enforcement purposes include (a) defraying the cost of protracted or complex investigations; (b) providing additional equipment or expertise; and (c) providing matching funds to obtain federal grants.

Section 932.7055(4)(c)2., Florida Statutes, provides that the proceeds and interest **may not be used for normal operating expenses** of the law enforcement agency.

The Sheriff or chief law enforcement officer of the county may expend the funds for these purposes. The request for use of these funds must be certified as being in compliance with the law by the Sheriff or chief law enforcement officer of the county. The Sheriff or chief law enforcement officer of the county submits the request to the Board of County Commissioners for their approval. *Ultimately, it is the governing body of the county or municipality who must decide whether or not the funds are being used for a law enforcement purpose.*

B. EFFECT OF PROPOSED CHANGES:

This bill provides funds from the Law Enforcement Trust Fund may be used to fund a capital account for ultimate distribution for the construction, expansion, improvement, equipping, furnishing, and first year's operating expenses of a County Law Enforcement Complex, including a county detention/corrections facility. The funds may be supplemented by federal forfeiture funds. It appears that these provisions may not meet the criteria for proper use of the funds as provided in section 932.7055(4)(a), Florida Statutes.

The provision in the bill allowing for the first year's operating expenses to be paid from the Law Enforcement Trust Fund *is contrary* to section 932.7055(4)(c)2., Florida Statutes.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Sections 932.704 and 932.7055, F.S.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

Not applicable.

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

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

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

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

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

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

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

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

2. Lower Taxes:

Not applicable.

a. Does the bill increase anyone's taxes?

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

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

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

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

3. Personal Responsibility:

Not applicable.

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

4. Individual Freedom:

Not applicable.

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

5. Family Empowerment:

Not applicable.

- 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?

E. SECTION-BY-SECTION RESEARCH:

Section 1: Allows the Board of County Commissioners of Gilchrist County to expend the funds deposited in the special Law Enforcement Trust Fund, pursuant to section 932.7055, Florida Statutes, and supplemented by federal forfeiture funds, to fund a capital account for ultimate distribution for the construction, expansion, improvement, equipping, furnishing and first year's operating expenses of a County Law Enforcement Complex; provides that this also includes a county detention/corrections facility.

Section 2: Provides for an effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? March 6, 1997

WHERE? Gilchrist County Journal, Trenton, Gilchrist County, FL

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

IV. COMMENTS:

The legal counsel for the Gilchrist County Board of County Commissioners transmitted a copy of the Resolution of the Board of County Commissioners dated April 7, 1997, supporting the proposed bill.

The 1996 Legislature passed chapter 96-548, Laws of Florida, which provided disbursement of \$25,000 to the Gilchrist County FFA, Alumni Association, Inc., a Florida nonprofit corporation. The funds were to be used for land acquisition for the purpose of building a rodeo arena or for repaying a debt obligation incurred for this purpose. The rodeo arena is to serve area youth in furthering drug abuse education and prevention programs. The funds were to be paid upon the bill becoming law or September 30, 1996, whichever occurs sooner.

A recent Attorney General's Opinion, Fla. AGO 96-62, considers the use of funds to pay legal fees and computer upgrades (office operations expenses) and the authority of the county to appropriate funds. Following are relevant excerpts from the opinion:

1. The board of county commissioners has ultimate discretion in determining whether contraband forfeiture trust fund monies will be expended for the purposes as requested by the sheriff. However, given the board's inability to expend such funds absent the sheriff's request and written certification that the request complies with the contraband forfeiture act, deference should be given to the sheriff's request.
2. In light of the statutory authority to pay the costs of the forfeiture proceedings with monies derived from the forfeiture prior to the money being placed in the trust fund, payment of the legal fees associated with the forfeiture would appear to be appropriate, even though the funds have been deposited in the forfeiture trust fund.
3. The cost of upgrading computers that function as a part of the day-to-day operations of the sheriff's department would appear to be a normal operating expense of the department that may not be paid from the contraband forfeiture trust fund.

Florida House of Representatives Rule 92.(b) provides:

If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill.

House Bill 1989 is local in its application but appears to only provide an exemption from section 932.7055(4), and paragraph 2. of subsection 932.7055(4)(c), Florida Statutes.

It appears appropriate for this bill to be referred to or assessed by the Rules, Resolutions & Ethics Committee for an appropriate determination as to whether or not this bill should be reintroduced as a general bill.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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