

STORAGE NAME: h3749.ca

DATE: March 7, 1998

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

BILL #: HB 3749

RELATING TO: The Town of Horseshoe Beach, Dixie County

SPONSOR(S): Representative Boyd

COMPANION BILL(S):

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

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

I. SUMMARY:

House Bill 3749 retroactively authorizes the Town of Horseshoe Beach in Dixie County, to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through fiscal year 1996-1997.

Subsequent to the aforementioned fiscal years, the bill authorizes the transfer of legally restricted fuel taxes for unrestricted purposes, in the event that a deficit occurs in the town's unreserved fund balance resulting in a financial emergency. The town is authorized to transfer up to 50 percent of restricted tax moneys provided the transportation component of the town's comprehensive plan has been met.

The 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 RESEARCH:

A. PRESENT SITUATION:

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 refunds 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 206.41(1)(b), Florida Statutes, 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(5), Florida Statutes, 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 by section 206.41(1)(e), Florida Statutes, 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 6 cents per gallon pursuant to 206.87(1)(c). 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), Florida Statutes, 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), Florida Statutes, 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.

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.

Financial Emergencies

Subsection 218.503, Florida Statutes, provides that a local government entity is in a state of financial emergency when any of the following conditions occur:

1. Failure within the same fiscal year in which due, to pay short-term loans from banks or failure to make bond debt service payments when due.

2. Failure to transfer at the appropriate time, due to lack of funds:
 - a.) Taxes withheld on the income of employees;
 - b.) Employer and employee contributions for;
 - c.) Federal Social Security; or
 - d.) Any pension, retirement, or benefit plan of an employee.
3. Failure for one pay period to pay, due to lack of funds:
 - a.) Wages and salaries owed to employees; and
 - b.) Retirement benefits owed to former employees.
4. An unreserved or total fund balance or retained earnings deficit for which sufficient resources of the local government entity are not available to cover the deficit for 2 successive years.
5. Noncompliance of the local government retirement system with actuarial conditions provided by law.

B. EFFECT OF PROPOSED CHANGES:

House Bill 3749 retroactively authorizes the Town of Horseshoe Beach in Dixie County, to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through fiscal year 1996-1997. Thus authorization is given for previous actions of the Town of Horseshoe resulting the utilization of restricted fuel taxes for unrestricted purposes.

Subsequent to the aforementioned fiscal years, the bill authorizes the transfer of legally restricted fuel taxes for unrestricted purposes, in the event that a deficit occurs in the town's unreserved fund balance resulting in a financial emergency. In this event, the town is authorized to transfer up to 50 percent of restricted tax moneys provided the transportation component of the towns comprehensive plan has been met.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Sections 206.41, 206.47, 206.60, 206.87, 336.021, 336.023, 336.024, and 336.025, Florida Statutes.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

- 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:

(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?

No.

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:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

Section 1. Provides that the Town of Horseshoe Beach is authorized to transfer and use legally restricted fuel taxes for unrestricted purposes for all fiscal years prior to and through fiscal year 1996-97. Thereafter, should a deficit in unreserved fund balance occur to cause the town to experience a financial emergency pursuant to 218.503, Florida Statutes, up to 50 percent of the tax moneys may be transferred and used for unrestricted purposes provided the transportation component of the town's comprehensive plan have been met.

Section 2. This act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [] No []

IF YES, WHEN?

WHERE?

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B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

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

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

IV. COMMENTS:

The 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 the Town of Horseshoe Beach by providing an exception to general law. The law currently authorizes local governments to use fuel taxes only for transportation expenditures.

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 3749 is local in its application but appears to provide an exemption from sections 206.41, 206.47, 206.60, 206.87, 336.021 336.024, 336.024, and 336.025, Florida Statutes.

House Bill 1003 (1997), provides a similar exception for counties with populations under 30,000 for all fiscal years prior to and through fiscal year 1997-98. (This bill is currently on the Consent calendar)

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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