

STORAGE NAME: h4661z.cj
DATE: August 6, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4661
RELATING TO: Federal Law Enforcement Trust Fund
SPONSOR(S): Criminal Justice Appropriations
COMPANION BILL(S):

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

- (1) CRIMINAL JUSTICE APPROPRIATIONS YEAS 7 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

HB 4661 passed the House on April 23, 1998; in the Senate was substituted for SB 2408 and passed on May 1, 1998. Became law without Governor's signature on May 30, 1998. Chapter Law 98-387.

II. SUMMARY:

This bill creates the Federal Law Enforcement Trust Fund in the Department of Law Enforcement. The need for this new fund results from inquiries at the Department of Highway Safety and Motor Vehicles into that department's use of equitably shared funds. Such funds result from joint state-federal law enforcement efforts (criminal, administrative, or civil) that result in forfeitures and from other federal law enforcement asset sharing programs.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The standard Federal Equitable Sharing Program Agreement that is executed by the U.S. Department of Treasury, and the state law enforcement agency, related to that department's use of equitably shared funds, requires that:

- o shared assets be used for specified law enforcement purposes.
- o that a separate account be established.
- o that funds from state forfeitures or other sources not be deposited or otherwise commingled with the Federal Equitable Sharing funds.
- o various sanction and audit requirements apply.

As a result of the inquiries at the Department of Highway Safety and Motor Vehicles, federal officials advised the state on several specific points related to equitably shared funds:

- o Equitably shared funds may only be used to pay salaries if: 1) payment is for salaries for first year new or temporary positions, 2) overtime payments is only for operations that may result in further seizures or forfeitures, and 3) for the purposes stated in the Asset Forfeiture and Money Laundering Section Policy Statement. The rationale for this policy is to avoid any appearance that law enforcement decisions are motivated by the prospect of receiving forfeited funds.
- o Payment of non-law enforcement expenses is impermissible.
- o Funds received from the U.S. Department of Treasury equitable sharing program and from the U.S. Department of Justice equitable sharing program must be tracked separately.
- o Funds received generally should not remain unspent for more than two years.

B. EFFECT OF PROPOSED CHANGES:

This bill creates a new trust fund - the Federal Law Enforcement Trust Fund - in the Department of Law Enforcement to meet the federal requirements for maintaining a separate account and not commingling funds.

C. 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.

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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?

N/A

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

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(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

D. STATUTE(S) AFFECTED:

Sections 943.365, 932.7055, and 943.362, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

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Section 1. Creates s. 943.365, F.S. The Federal Law Enforcement Trust Fund is created in the Department of Law Enforcement. Funds resulting from federal criminal, administrative, or civil forfeiture proceedings and from federal asset-sharing programs are deposited in the fund. The fund is exempt from the General Revenue service charge imposed by s. 215.20, F.S. The fund retains any money remaining at the end of each fiscal year. The fund is subject to termination by the State Constitution on July 1, 2002, and must be reviewed prior to that date.

Section 2. Amends s. 932.7055, F.S. Allows funds that accrue to the Department of Law Enforcement under the Florida Contraband Forfeiture Act to be placed in either the Forfeiture and Investigative Support Trust Fund or the new Federal Law Enforcement Trust Fund.

Section 3. Amends s. 943.362, F.S. Allows funds that accrue to the Department of Law Enforcement under the Florida Contraband Forfeiture Act to be placed in either the Forfeiture and Investigative Support Trust Fund or the new Federal Law Enforcement Trust Fund.

Section 4. Provides an effective date of July 1, 1998.

IV. FISCAL RESEARCH & 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.

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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:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

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

This bill does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

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VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment was adopted by the Criminal Justice Appropriations Committee which removed language specifying that federal forfeiture proceedings could not be deposited into the department's Forfeiture and Investigative Support Trust (FIST) Fund. The amendment, instead, provides that any appropriate proceeds may be deposited into the FIST fund except those proceeds that are to be deposited into the new Federal Law Enforcement Trust Fund.

VIII. SIGNATURES:

COMMITTEE ON TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Jim DeBeaugrine

Jim DeBeaugrine

**FINAL RESEARCH PREPARED BY COMMITTEE ON CRIMINAL JUSTICE
APPROPRIATIONS:**

Prepared by:

Legislative Research Director:

James P. DeBeaugrine

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