

STORAGE NAME: h4813z.gg
DATE: August 14, 1998

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

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4813
RELATING TO: Comptroller's Federal Equitable Sharing Trust Fund
SPONSOR(S): Committee on General Government Appropriations
COMPANION BILL(S): None

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

- (1) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

HB 4813 passed the House on April 23, 1998 and passed the Senate on May 1, 1998. Became law without Governor's signature on May 28, 1998. Chapter 98-278.

II. SUMMARY:

This bill creates the Comptroller's Federal Equitable Sharing Trust Fund in the Department of Banking and Finance. The need for this new fund results from inquiries by the federal government into the Department of Highway Safety and Motor Vehicles' 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:

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

- 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 of 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.
- Payment of non-law enforcement expenses is impermissible.
- 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.
- 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 Comptroller's Federal Equitable Sharing Trust Fund in the Department of Banking and Finance to meet the federal requirements for maintaining a separate account and not commingling funds.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

STORAGE NAME: h4813z.gg

DATE: August 14, 1998

PAGE 3

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.

STORAGE NAME: h4813z.gg

DATE: August 14, 1998

PAGE 4

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

(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:

Section 17.43, Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

Section 1. Creates 17.43, F.S. to establish the Comptroller's Federal Equitable Sharing Trust Fund in the Department of Banking and Finance. Funds resulting from federal criminal, administrative, or civil forfeiture proceedings and from federal asset-sharing programs are to be deposited into the fund. The fund is exempt from the General Revenue service charge imposed by section 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. Provides that the act shall take effect on July 1 of the year in which enacted.

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

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

STORAGE NAME: h4813z.gg

DATE: August 14, 1998

PAGE 7

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.

VI. COMMENTS:

None

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Juliette Noble

Cynthia P. Kelly

STORAGE NAME: h4813z.gg

DATE: August 14, 1998

PAGE 8

**FINAL RESEARCH PREPARED BY COMMITTEE ON GENERAL GOVERNMENT
APPROPRIATIONS:**

Prepared by:

Legislative Research Director:

Juliette Noble

Cynthia P. Kelly