

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 296

SPONSOR: Comprehensive Planning, Local and Military Affairs Committee, Senator Forman and others

SUBJECT: Local Option Fuel Tax

DATE: March 1, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill authorizes certain charter counties to use 1 cent of the proceeds of the additional local option tax on motor fuel for county wide homeless assistance programs.

This bill amends section 336.025 of the Florida Statutes.

## II. Present Situation:

Counties are authorized to levy up to 12 cents of local option fuel taxes in the form of three separate levies.

### First Levy

The first levy is a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold in a county, pursuant to s. 336.025(1)(a), F.S. This tax may be authorized either by an ordinance adopted by a majority vote of the governing body or by voter approval in a county-wide referendum. Chapter 90-351, L.O.F., required all counties, by January 1, 1993, to levy 6 cents per gallon on diesel fuel. The proceeds may be used to fund "transportation expenditures," as defined in s. 336.025(7), F.S.

Chapter 92-309, Laws of Florida, authorized counties with a total population of 50,000 or less to also use the tax proceeds to fund infrastructure projects, if designated projects were consistent with the local government's comprehensive plan and all transportation needs as identified in the comprehensive plan had been met.

### Second Levy

The second levy is a 1 to 5 cent tax on every net gallon of motor fuel sold in a county. Pursuant to s. 336.025(1)(b), F.S., this tax does not apply to diesel fuel, and may be levied either by an ordinance adopted by a majority plus one vote of the membership of the governing body or by voter approval in a county-wide referendum. Unlike the first levy, authorized expenditures of this tax are limited to transportation expenditures needed to meet the requirements of the capital

improvements element of an adopted local government comprehensive plan. Distribution of the proceeds between the county and municipalities within the county may be by interlocal agreement or, absent such agreement, pursuant to the formula specified in s. 336.025(4), F.S.

This levy was enacted in response to the recommendation of the Third Environmental Land Management Study Committee (ELMS III). ELMS III was commissioned to review the operation and implementation of Florida's growth management statutes and make recommendations for improvements in the state's system for managing growth.

As of January 1, 1999, 11 counties had levied between 1 and 5 cents of this second local option tax. [Broward, Charlotte, Collier, Dade, Desoto, Hernando, Highlands, Lee, Martin, Palm Beach, & St. Lucie.]

### **The Ninth-Cent Fuel Tax**

Counties are also authorized, pursuant to s. 206.41(1)(d), F.S., and s. 206.87(1)(b), F.S., to levy an additional 1 cent tax on each net gallon of motor and diesel fuels sold within the county's jurisdiction. Levy and expenditure of the ninth-cent fuel tax is governed by s. 336.021, F.S. The ninth-cent fuel tax may be levied either by an extraordinary vote of the membership of the county's governing body or by voter approval in a county-wide referendum. Chapter 90-351, L.O.F., required all counties, beginning January 1, 1994, to levy the tax at the rate of 1 cent per gallon on diesel fuel. Counties are not required to share the revenue received from the ninth-cent fuel tax with municipalities, however, a number of counties share the revenues pursuant to negotiated interlocal agreements.

Section 336.021(1)(a), F.S., authorizes the use of these revenues for paying the costs and expenses of establishing, operating, and maintaining a transportation system and related facilities, and the cost of acquisition, construction, reconstruction, and maintenance of roads and streets. The authorized uses of the ninth-cent fuel tax appear to overlap somewhat with the authorized uses of the first 6 cents of local option fuel taxes, "transportation expenditures" as defined in s. 336.025(7), F.S. However, "transportation expenditures" include the broadest authorized use of any of the taxes discussed.

### **III. Effect of Proposed Changes:**

This bill authorizes certain charter counties to use 1 cent of the proceeds of the additional local option tax on motor fuel for county wide homeless assistance programs.

Section s. 336.025, F.S., is amended, adding a new subsection (9), which authorizes charter counties with populations over 1.25 million that have levied the second local option motor fuel tax prior to January 1, 1999, to use the proceeds from 1 cent of the 5 cents to fund any homeless assistance program within the county.

The county is authorized to establish an interlocal agreement with one or more municipalities, which represent a majority of the population of the incorporated area, which excludes the distribution of any proceeds derived from the 1 cent tax that is used for homeless assistance programs county wide.

The county is required to adopt a resolution certifying that it is “meeting its transportation needs” as identified in the 5 year transportation capital improvements program included within the capital improvements element of the charter county’s comprehensive plan. The resolution must be filed with the Department of Revenue and the Department of Community Affairs. The county is also required to annually expend the same amount of county funds it spent in the fiscal year the tax was imposed, from sources other than this tax, for homeless assistance programs. In addition, the county have a segregated account for these gas tax funds prior to implementation of the additional surtax.

“Homeless assistance programs” include, but are not limited to, the construction, renovation, rehabilitation, and operation of emergency shelters, homeless assistance centers, or other directly related facilities which provide assistance within an established continuum of care to homeless persons within the county. The authority to spend these proceeds on county-wide homeless assistance programs expires September 30, 2005.

The bill takes effect October 1, 1999.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

Under this bill, Dade and Broward counties are currently the only counties eligible to use 1 cent of the 5 cents of motor fuel tax proceeds for homeless assistance programs. Dade County currently levies 3 cents, and Broward County levies 4 cents. It is estimated that 1 cent of local option gas tax will raise \$8.1 million in Dade County, and \$6.6 million in Broward County.

##### **B. Private Sector Impact:**

Homeless persons in eligible counties choosing to use the 1 cent motor fuel tax proceeds for homeless services will benefit from this legislation.

**C. Government Sector Impact:**

Eligible counties choosing to use the 1 cent motor fuel tax proceeds for homeless services will also be able to use the funds as leverage for additional federal funds for homeless services in their county.

If an eligible county uses the proceeds from an existing 1 cent of local option motor fuel tax, then municipalities currently engaged in an interlocal agreement with the county will lose their share of the proceeds from that 1 cent of motor fuel tax.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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