STORAGE NAME: h1025s1.jud
DATE: April 10, 2000

HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
JUDICIARY
ANALYSIS

BILL #: CS/HB 1025

RELATING TO: County Reimbursement for Supervision Violations Trust Fund

SPONSOR(S): Committee on Corrections and Representative Morroni

TIED BILL(S):

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

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

I. SUMMARY:

The bill creates the County Reimbursement For Supervision Violations Trust Fund within the Department of Revenue. The trust fund shall be used to reimburse counties for the cost of incarcerating a felony offender who has violated the terms and conditions of his or her release or supervision. The reimbursement shall be for the entire period of a violator's incarceration in a county jail. The trust fund will be funded from money currently collected by the Department of Corrections from offenders who are currently required to reimburse the department for a portion of their supervision costs.

The bill requires the Department of Corrections to deduct $5.00 each month from the amount collected from each offender who is required to pay the department for his or her supervision costs. The $5-per-month deduction, which is not an additional charge to the offender, will be placed into the newly created trust fund. The Department of Revenue will distribute the funds to the counties annually, on October 1, based on the documentation submitted by the counties requesting reimbursement. The bill gives the Department of Revenue rule-making authority to establish a reimbursement payment scale, and it also declares that no more than $15.00 per day per offender per county shall be distributed.

The fiscal impact of the bill is indeterminate. The Department of Corrections estimates that $2.1 million would be diverted from general revenue to the trust fund. The Department of Revenue would incur costs implementing and administering the trust fund.

Pursuant to Article III, Section 18(f) of the Florida Constitution, the bill must receive at least a three-fifths vote of the membership of each house of the legislature in order to pass.

The bill provides a July 1, 2000 effective date.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [] No [x] N/A []

   The bill creates a trust fund in the Department of Revenue and requires rulemaking by the department.

2. Lower Taxes Yes [] No [] N/A [x]

3. Individual Freedom Yes [] No [] N/A [x]

4. Personal Responsibility Yes [] No [] N/A [x]

5. Family Empowerment Yes [] No [] N/A [x]

B. PRESENT SITUATION:

Section 948.09, F.S., currently requires offenders who are placed on probation or parole, or who are placed into various release or pretrial intervention programs, to pay the Department of Corrections for the costs of their supervision. Offenders pay the department a set amount each month for supervision. This amount is set by the sentencing court and generally does not cover the entire cost of supervision services, which can vary based on the type of supervision the offender is receiving. Such funds are to be used by the department to offset the costs associated with community supervision programs.

If an offender does not pay his or her required amount each month, the trial court can revoke supervision or modify the terms of supervision. When an offender is alleged to have violated his or her release or supervision, the offender may be held in jail pending a violation hearing. In other instances, the judge may issue a summons to appear in court and the offender would not be incarcerated in the county jail. After the hearing, the court may continue or alter an offender's supervision or may revoke an offender's supervision and impose a prison sentence.

Currently, counties which house offenders who have violated their supervision or release do not receive any type of compensation or reimbursement from the state.

C. EFFECT OF PROPOSED CHANGES:

Section 1 of the bill creates a trust fund which will be used to provide a monetary reimbursement to counties for housing felony offenders who have violated their supervision or release. The trust fund will be used to reimburse counties for both pre-disposition and post-disposition incarceration. The trust fund will be funded from offender cost of supervision payments currently collected by the Department of Corrections.

The Department of Revenue will administer the trust fund. The department is required to invest the trust fund and, pursuant to s. 215.20, F.S., the trust fund will be subject to the authorized 7 percent surcharge.

The bill requires the Department of Corrections to deduct $5.00 each month from the amount it collects from each offender who is required to reimburse the department for supervision costs. The bill makes clear that the $5 deduction is not an additional charge to the offender.

The $5-per-month deduction is to be placed into the County Reimbursement for Supervision Violations Trust Fund.

Under the bill, the Department of Corrections, in conjunction with the Department of Revenue and the Comptroller, will develop a uniform affidavit and required attachments which will be used by the counties when they apply for reimbursement from the trust fund. The affidavit and its required attachments are to be developed no later than September 1, 2000. The bill requires the counties to complete such documentation on a monthly basis and submit it to the Department of Corrections for review. After reviewing the documentation, the Department of Corrections shall submit it to the Department of Revenue.

The bill requires the Department of Revenue to distribute the reimbursement payments to the counties annually on October 1 of each year. It also requires the Department of Revenue to adopt rules necessary to establish a reimbursement payment scale, with a maximum reimbursement of no more than $15.00 per day per offender per county. The bill clarifies that the reimbursement shall be for the entire period of a violator's incarceration in a county jail, including both pre-disposition and post-disposition incarceration stay.

The bill also establishes a procedure for managing the trust fund if the situation arises in which there are not sufficient funds available in the trust fund to cover each of the reimbursement requests in full. In such a situation, the Department of Revenue will distribute the funds on a pro-rata basis which will pay all the counties the same per diem for each day for each felony offender housed who has violated his or her supervision.

The bill provides that the trust fund shall be terminated on July 1, 2004, unless terminated sooner. The bill provides that the trust fund shall be reviewed prior to termination pursuant to ss. 215.3206(1) and 215.3206(2), F.S. Pursuant to Article III, Section 19 of the Florida Constitution, the bill must receive at least a three-fifths vote of the membership of each house of the legislature in order to pass.

Section 2 of the bill provides a July 1, 2000, effective date.

D. SECTION-BY-SECTION ANALYSIS:

See Section II. C. - Effect of Proposed Changes

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will reduce the funds available for the Legislature to appropriate to offset departmental costs associated with community supervision costs. The $5-per-month per supervised offender must be deducted from the whole amount the Department of Corrections collects from offenders who are required to pay and the amount must be placed into the County Reimbursement for Supervision Violations Trust Fund.

2. Expenditures:

The Department of Corrections will be required to place a certain amount of money ($5 per month per supervised offender who has been required to make cost of supervision payments) into the County Reimbursement for Supervision Violations Trust Fund. The Department estimates it will reduce funds deposited in the general revenue fund by $2.1 million.

The Department of Revenue will incur costs implementing rules and administering the trust fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will provide monies to counties which house offenders who have violated the terms and conditions of their release or supervision. The amount of money received by the counties will be dependent upon the number of offenders they housed during the year and long they held the offenders.

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

Please see comments under State and Local Government fiscal analyses.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend additional funds or take action requiring the additional expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities to raise revenue.

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

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill confers upon the Department of Revenue rule-making authority to establish a reimbursement payment scale. The reimbursement payment scale is to allow for reimbursements of no more than $15.00 per day per offender per county.

C. OTHER COMMENTS:

The bill does not provide for funds remaining in the trust fund at the end of the fiscal year which have not been expended or contracted to be expended to be certified forward for the next fiscal year.

Department of Revenue states that the provision requiring it to invest the trust fund is unique and it does not currently administer any interest-bearing accounts.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike-all amendment was adopted by the Corrections Committee on March 8, 2000 and was incorporated into a committee substitute. The strike-all amendment retained the original intent of the bill, which was to establish a trust fund which will be used to reimburse counties for incarcerating felony offenders who have violated the terms and conditions of their release or supervision.

The strike-all amendment transfers management responsibility of the trust fund from the Department of Corrections to the Department of Revenue, and requires the trust fund to be subject to the surcharge authorized by s. 215.20, F.S. The strike-all amendment requires the Department of Corrections, in conjunction with the Department of Revenue and the Comptroller, to develop a uniform affidavit and required attachments which will be used by the counties when they apply for reimbursement from the trust fund. The strike-all amendment requires that the affidavit and its required attachments be developed no later than September 1, 2000. The amendment requires the counties to complete such documentation on a monthly basis and submit it to the Department of Corrections for review. After reviewing the documentation, the Department of Corrections shall submit it to the Department of Revenue, who will refer to such documentation when distributing reimbursements.

The strike-all amendment requires the Department of Revenue to establish a reimbursement payment scale (with a maximum reimbursement of no more than $15.00 per day per offender per county) and to distribute the reimbursement payments to the counties on October 1 of each year. This form of distribution is different from the original bill, which required that the counties be reimbursed on a monthly basis.

The strike-all amendment establishes a procedure for managing the trust fund if the situation arises in which there are not sufficient funds available in the trust fund to cover each of the reimbursement requests in full. The bill in its original format did not address the situation of insufficient funds.

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:	Staff Director:
Melinda A. Smith	Jo Ann Levin

AS REVISED BY THE COMMITTEE ON JUDICIARY:

Prepared by:	Staff Director:
L. Michael Billmeier, J.D.	P.K. Jameson, J.D.