STORAGE NAME: h2255z.ca ****FAILED TO PASS THE LEGISLATURE****
DATE: May 17, 2000

HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
FINAL ANALYSIS

BILL #: HB 2255 **(PCB CA 00-06)**

RELATING TO: Revenue Sharing with County Governments

SPONSOR(S): Committee on Community Affairs; Rep. Melvin; Gay and others

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS (PRC) YEAS 8 NAYS 0
(2) FINANCE & TAXATION (FRC)
(3) GENERAL GOVERNMENT APPROPRIATIONS (FRC)
(4)
(5)

I. SUMMARY:

CS/HBs 67 & 187, which passed the Legislature, includes provisions similar to those included in HB 2255.

At the recommendation of the Florida Legislative Committee on Intergovernmental Relations, HB 2255 restructures one source of state revenue sharing with counties: the County Revenue Sharing Program. The current revenue streams for the County Revenue Sharing Program, 2.9 percent of net cigarette tax collections and 37.7 percent of net intangibles tax collections, are transferred to the state's General Revenue Fund. In exchange, 2.56323 percent of the prior fiscal year's sales and use tax collections are transferred to the Revenue Sharing Trust Fund for Counties.

The bill changes the definition of guaranteed entitlement for counties to specify that beginning in state fiscal year 2000-2001, no eligible county shall receive less funds from the Revenue Sharing Trust Fund for Counties than 90 percent of the aggregate amount it received from the state in fiscal year 1999-2000 under the current law provisions of the cigarette and intangibles taxes. By increasing the guaranteed entitlement, the bill increases bonding capacity. Available revenues in excess of the guaranteed amounts are distributed to counties under the existing distribution formula. The bill also makes a current annual appropriation to a consolidated government a part of the revenue sharing distribution.

The 2.56323 percentage is set to ensure that in fiscal year 2000-2001, the County Revenue Sharing Fund will receive the amount it is projected to receive under existing revenue streams. Similarly, the percentage holds state revenues harmless in fiscal year 2000-2001.

The Revenue Estimating Conference has not yet addressed this bill. In FY 2000-01, the bill has no net impact on state or county revenues. In FY 2001-02, the bill is estimated to have a net negative fiscal impact of ($11.2 million) on the General Revenue Fund, and a net positive impact of $11.2 million on the County Revenue Sharing Trust Fund. Assuming current trends in sales and use tax collections in subsequent fiscal years, counties will share a portion of the growth of sales and use tax collections that would otherwise have been available to the state.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Background

Florida's Constitution reserves all authority to tax, except the authority to levy the ad valorem tax, for the state. In general law, the state may authorize other governmental entities to levy taxes or participate in revenue sharing programs. Historically, local governments have had to absorb many of the costs associated with a variety of state-required programs and regulations. To address the implications of those fiscal demands and fund local government operations generally, state government utilizes several mechanisms to provide financial resources to local governments. One of those mechanisms involves the sharing of funds from designated state revenues with local governments.

County Revenue Sharing Program

The Florida Revenue Sharing Act of 1972 created the Revenue Sharing Trust Fund for Counties. Currently, the trust fund receives 2.9 percent of net cigarette tax collections and 37.7 percent of net intangible tax collections. An allocation formula serves as the basis for the distribution of these revenues to each county that meets strict eligibility requirements.

There are no use restrictions on these revenues; however, there are some statutory limitations regarding funds that can be used as a pledge for indebtedness. Pursuant to s. 218.25(1), F.S., counties are allowed to bond their guaranteed entitlement. This "hold harmless" provision guarantees a minimum allotment in order to insure coverage of all bonding obligations for those eligible counties that qualified for revenue sharing dollars prior to July 1, 1972. Section 218.21(6), F.S., defines the guaranteed entitlement to mean the amount received in the aggregate from the state in fiscal year 1971-72 under the provisions of the then existing tax on cigarettes, road tax, and intangibles tax. Pursuant to s. 218.25(2), F.S., a second guaranteed entitlement may also be assigned, pledged, or set aside as a trust for the payment of principal and interest on bonds, tax anticipation certificates, or any other form of indebtedness. Section 218.21(10), F.S., defines the second guaranteed entitlement as the amount of revenue received in the aggregate by an eligible county in fiscal year 1981-1982 under the then existing tax on cigarettes and intangibles tax less the guaranteed entitlement.

As discussed in the following sections, cigarette tax collections have not kept pace with inflation and population growth, and cigarette revenues transferred to county governments have decreased substantially when compared to distributions directed to state trust funds. The intangibles tax, which represented 96 percent of total distributions under the County Revenue Sharing program in fiscal year 1996-97, has kept pace with inflation and statewide population growth. However, during the 1999 Legislative Session, the Legislature enacted chapter 99-242, L.O.F., to reduce the intangible tax rate from 2 mills to 1.5 mills. Although this reduction created a significant fiscal impact for county governments, reductions in county government contributions to the State Retirement System enacted in chapter 99-392, L.O.F., served to offset this negative fiscal impact for all counties but Duval County, which does not participate in the State Retirement System. To address Duval County's situation, chapter 99-239, L.O.F., created s. 218.251, F.S., providing that beginning in fiscal year 1999-2000, an additional distribution in the amount of $6.24 times the population shall be annually appropriated to any consolidated government, as provided by s. 3, Article VIII of the State Constitution. Duval County is the only county meeting this definition and the additional requirement that the consolidation must have occurred prior to January 1, 1999.

LCIR Review of State Revenue Sharing with Local Governments

In June 1998, the Florida League of Cities sent a request to Senate President Toni Jennings asking for a comprehensive review and reform of those revenues comprising the state's Municipal Revenue Sharing Program. The issue had been raised by the Florida Urban Partnership of Mayors to underscore the relationship between the state's initiative against the tobacco industry and the continuing decline of municipal revenue sharing monies which are in large part derived from cigarette taxes. The Legislative Committee on Intergovernmental Relations (LCIR) was requested to conduct an interim project review of the issue during the 1998-99 interim.

LCIR conducted the interim project and published its final report, State Revenue Sharing with Local Governments, in May 1999. Although the report placed a special emphasis on local government revenue derived from cigarette taxes, it discussed other shared revenue sources as well.

Summary of Findings

LCIR estimated that actual distributions from the major revenue sources shared with county governments increased 754 percent between fiscal years 1972-73 and 1996-97. When controlling for inflation and statewide population growth, total county distributions increased 23 percent or, 0.9 percent annually during the same period.

LCIR estimated that actual distributions from the County Revenue Sharing Program increased 509 percent between fiscal years 1972-73 and 1996-97. When controlling for inflation and statewide population growth, county distributions decreased 13 percent or, 0.5 percent annually during the same period. When controlling for growth in the unincorporated area rather than statewide population growth, county distributions decreased 30 percent or, on average, 1.2 percent annually between fiscal years 1972-73 and 1996-97.

The cigarette tax represents only a small portion of the program's total funding. In fiscal year 1972-73, the cigarette tax constituted 18 percent of the program's total distributions. By fiscal year 1996-97, the cigarette tax represented only 4 percent of the total distributions. Actual cigarette distributions to county governments increased 23 percent between fiscal years 1972-73 and 1996-97. However, when controlling for inflation and statewide population growth, county distributions actually decreased 82 percent or, on average, 3.4 percent annually.

The intangibles tax is the major component of County Revenue Sharing Program. In fiscal year 1972-73, the intangibles tax constituted 80 percent of the program's total distributions. By fiscal year 1996-97, the intangibles tax represented 96 percent of total distributions. Actual intangibles tax distributions to county governments increased 638 percent between fiscal years 1972-73 and 1996-97. These distributions increased only 6 percent or, on average, 0.2 percent annually when controlling for inflation as well as statewide population growth.

Sharing of Cigarette Tax Revenues:

Florida began taxing cigarettes in 1943. From the initial rate of 3 cents, the tax rate was increased to 5 cents in 1949, 8 cents in 1963, 15 cents in 1968, 17 cents in 1971, 21 cents in 1977, 24 cents in 1986, and the current rate of 33.9 cents in 1990.

Pursuant to s. 210.20(2), F.S., state cigarette tax distributions are made as follows: 5.8 percent to the Municipal Financial Assistance Trust Fund, 32.4 percent to the Revenue Sharing Trust Fund for Municipalities, 2.9 percent to the Revenue Sharing Trust Fund for Counties, and 29.3 percent to the Public Medical Assistance Trust Fund for a total of 70.4 percent.

Prior to depositing the balance of revenues into the General Revenue Fund, two additional distributions are made. First, net proceeds derived from the sale of cigarettes sold at retail on any property of the Inter-American Center Authority shall be paid to the Authority. Second, effective January 1, 1999, and continuing for ten years thereafter, 2.59 percent of net proceeds shall be paid to the H. Lee Moffitt Cancer Center and Research Institute's Board of Directors for the purpose of constructing, furnishing, and equipping a cancer research facility at the University of South Florida. Pursuant to the enacting legislation, the cigarette tax dollars pledged to this facility will be replaced annually by the Legislature from the tobacco litigation settlement proceeds.

Cigarette Tax Collections and Distributions:

According to the LCIR, actual cigarette tax collections increased 164 percent between fiscal years 1972-73 and 1996-97. However, cigarette tax distributions to municipal and county governments increased only 22 percent and 23 percent, respectively, during the same period.

In percentage terms, the state's funding of local governments via the cigarette tax has decreased significantly since 1972. In 1972, 14 cents of the 17 cents imposed by the state was allocated to local governments. In other words, 82 percent of net cigarette tax collections was shared with local governments. Currently, 41 percent of net cigarette tax collections is allocated to municipal and county governments in Florida.

Actual cigarette tax distributions to state trust funds increased 836 percent between fiscal years 1972-73 and 1996-97. During the same period, actual distributions from the Municipal Financial Assistance Trust Fund and the Municipal Revenue Sharing Program which are derived in whole or large part from cigarette taxes increased only 14 percent and 39 percent, respectively. For the County Revenue Sharing Program which derives 4 percent of its total revenues from cigarette taxes, the situation was dramatically different.

Actual distributions from the County Revenue Sharing Program increased 509 percent during that period.

Even after controlling for inflation and statewide population growth, the amounts allocated to state trust funds increased 34 percent or, on average, 1.4 percent annually between fiscal years 1972-73 and 1996-97. Conversely, the Municipal Financial Assistance Trust Fund distributions decreased 80 percent or, on average, 3.3 percent annually when controlling for inflation and population growth in the incorporated area. Likewise, Municipal Revenue Sharing Program distributions decreased 76 percent or, on average, 3.2 percent annually during that period. County Revenue Sharing Program distributions decreased 13 percent or, on average, 0.5 percent annually when controlling for inflation and statewide population growth.

<u>Historical Trends:</u>

In its interim project report, the LCIR staff documented five trends based on an examination of the data reviewed:

First, net cigarette tax collections have not kept pace with inflation and population growth. Per capita real dollar collections decreased, on average, 2.6 percent annually between fiscal years 1972-73 and 1996-97.

Second, since passage of the Revenue Sharing Act of 1972, municipal governments have been much more dependent on cigarette taxes than county governments.

Third, state revenue sharing distributions to municipal and county governments that are derived in whole or in part from cigarette taxes have not kept pace with inflation and population growth. Average annual growth rates for all three revenue sharing programs were negative between fiscal years 1972-73 and 1996-97.

Fourth, the state's funding of municipal and county governments, via the cigarette tax, decreased substantially during this period when compared to those distributions directed to state trust funds. Per capita real dollar distributions to state trust funds increased, on average, 1.4 percent annually. By comparison, the adjusted cigarette tax distributions to local governments decreased at an average annual rate exceeding 3 percent.

Fifth, revenue sharing distributions to municipal governments which are derived to a greater extent from cigarette taxes decreased at a greater rate than those distributions to county governments. When adjusted for inflation and population growth, county revenue sharing distributions decreased, on average, 0.5 percent annually while municipal revenue sharing distributions decreased, on average, 3.2 percent annually.

Although revenue sharing distributions to counties exhibited a decline in per capita real dollars, counties have fared better than municipalities due to the nature of the revenue base itself. County revenue sharing is based almost entirely on the intangibles tax - a value-based tax on stocks, bonds, and accounts receivable. Conversely, the declining trend in municipal revenue sharing distributions can be traced to the revenue base as well as the effects of inflation and population growth. Unlike the value-based tax comprising nearly all of county revenue sharing, the municipal programs are funded by unit-based taxes. Unit-based taxes only generate additional revenues when consumption increases, assuming the tax rate remains constant.

The LCIR report concluded by noting that if the Legislature wishes to continue ensuring that municipalities have at least a minimum capacity to fund local needs by providing some mechanism to offset the declining revenue sharing distributions to local governments, then the current program needs revision in light of the facts presented in the report.

1999 Legislative Actions

In addition to conducting an analysis of local government revenue sharing programs, pursuant to its legislative assignment, the LCIR staff drafted eight policy alternatives. Although the policy alternatives were written as to be applicable only to municipalities, the staff noted that the alternatives could be written to include counties as well given the fact that county governments also derive state revenue sharing monies from cigarette taxes. Legislation filed on behalf of LCIR did not address county revenue sharing, and was not approved by the Legislature.

1999 LCIR Interim Activities

Subsequent to the 1999 legislative session, the LCIR's review of the Municipal Revenue Sharing Program was continued as a Committee project for the 1999-2000 legislative interim. The Senate Committee on Fiscal Resource was also assigned the task of reviewing revenue sharing with local governments during the interim.

At the October 5, 1999 meeting, the LCIR staff provided the Committee members with a copy of the August 1999 interim project report of the Senate Committee on Fiscal Resource entitled Revenue Sharing with Local Governments: Examination of Alternatives. The Fiscal Resource Committee staff recommended that the Legislature review its policy regarding revenue sharing with local governments.

At the January 18, 2000 meeting, the LCIR staff offered a separate proposal to restructure state revenue sharing with county governments. This county-only proposal would have transferred the current revenue streams for the County Revenue Sharing Program (i.e., 2.9 percent of net cigarette tax collections and 37.7 percent of net intangibles tax collections) as well as the County Fuel Tax, the Pari-mutuel Tax, and the State Alternative Fuel Fee distributions to state trust funds. In exchange, the state would have transferred an equivalent amount of sales and use tax collections to the Revenue Sharing Trust Fund for Counties.

During the meeting, members voiced concerns regarding several aspects of the proposal. One concern was the issue of which county revenue streams should revert to the state in exchange for the percentage of state sales tax. The Florida Association of Counties stated that it wished to see the transportation-related revenues excluded from the proposal. Additionally, several Committee members suggested that the pari-mutuel tax be excluded as well given the fact that many school districts receive a portion of the counties' annual distribution.

A second concern was the level of the guaranteed entitlement to counties as originally proposed. Several members suggested that the near 100 percent level of the guaranteed entitlement should be lowered due to potential economic uncertainties in the future. Given these concerns, Senator Klein asked the LCIR staff to prepare a revised proposal prior to the next meeting.

At the February 7, 2000 meeting, the LCIR staff offered a revised proposal to restructure state revenue sharing with county governments. This county-only proposal would transfer the current revenue streams for the County Revenue Sharing Program (i.e., 2.9 percent of net cigarette tax collections and 37.7 percent of net intangibles tax collections) to the state's General Revenue Fund. In exchange, the state would transfer an equivalent amount of sales and use tax collections to the Revenue Sharing Trust Fund for Counties.

Additionally, the revised proposal would change the definition of guaranteed entitlement to specify that beginning in state fiscal year 2000-01, no eligible county would receive less funds from the Revenue Sharing Trust Fund for Counties than 90 percent of the aggregate amount it received from the state in fiscal year 1999-2000 under the current law provisions of the cigarette and intangibles taxes. After the receipt of its guaranteed entitlement, each eligible county would receive a "growth monies" distribution, computed on the basis of the apportionment factor provided in current law, which would be applied to all remaining monies available for distribution in the Revenue Sharing Trust Fund for Counties.

Several members felt that the policy debate should continue as to whether counties should share in the losses from the anticipated phase-out of the intangibles tax. Senator Klein stated that he was sure that this would be an issue deliberated by the Senate Fiscal Resource Committee and the House Finance and Taxation Committee. The Committee voted to introduce the draft legislation on county revenue sharing for consideration by the Legislature.

C. EFFECT OF PROPOSED CHANGES:

At the recommendation of the Florida Legislative Committee on Intergovernmental Relations, this proposal restructures one source of state revenue sharing with counties: the County Revenue Sharing Program. The current revenue streams for the County Revenue Sharing Program, 2.9 percent of net cigarette tax collections and 37.7 percent of net intangibles tax collections, are transferred to the state's General Revenue Fund. In exchange, 2.56323 percent of the prior fiscal year's sales and use tax collections are transferred to the Revenue Sharing Trust Fund for Counties.

The 2.56323 percentage is set to ensure that in fiscal year 2000-2001, the County Revenue Sharing Fund will receive the amount it is projected to receive under existing revenue streams. Similarly, the percentage holds state revenues harmless in fiscal year 2000-2001.

This proposal changes the definition of guaranteed entitlement for counties to specify that beginning in state fiscal year 2000-2001, no eligible county shall receive less funds from the Revenue Sharing Trust Fund for Counties than 90 percent of the aggregate amount it received from the state in fiscal year 1999-2000 under the current law provisions of the cigarette and intangibles taxes. By increasing the guaranteed entitlement, the bill increases bonding capacity. Available revenues in excess of the guaranteed amounts will be distributed to counties under the existing distribution formula. The bill also makes the annual appropriation to a consolidated government provided for in s. 218.251, F.S., a part of the revenue sharing distribution.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 199.292(3), F.S., is amended to eliminate the transfer of net intangibles tax collections to the Revenue Sharing Trust Fund for Counties. The proceeds originally directed to counties would instead be directed to the state's General Revenue Fund.

Section 2. Section 210.20(2)(a), F.S., is amended to eliminate the transfer of net cigarette tax proceeds to the Revenue Sharing Trust Fund for Counties. The proceeds originally directed to counties would instead be directed to the state's General Revenue Fund.

Section 3. Section 212.20(6)(f), F.S., is amended to provide for a transfer of 2.56323 percent of the prior fiscal year's sales and use tax collections to the Revenue Sharing Trust Fund for Counties. The section provides that the amount transferred shall never be less than the amount due counties as their guaranteed entitlement as defined in s. 218.21(6)(a), F.S., as amended in section 4 of the bill.

Section 4. Section 218.21, F.S., is amended to change the definition of guaranteed entitlement. Specifies that in state fiscal year 2000-2001 and each state fiscal year thereafter, no eligible county shall receive less funds from the Revenue Sharing Trust Fund for Counties than 90 percent of the aggregate amount it received from the state in fiscal year 1999-2000 under the provisions of the then-existing s. 210.20(2)(a), F.S., tax on cigarettes; and s. 199.292(3), F.S., tax on intangible personal property. The section deletes the definition of second guaranteed entitlement for counties.

Section 5. Section 218.23, F.S., is amended to make the annual appropriation to a consolidated government provided for in s. 218.251, F.S., a part of the revenue sharing distribution.

Section 6. Section 218.25, F.S., is amended to remove statutory language pertaining to the second guaranteed entitlement for counties.

Section 7. Section 288.1169(6), F.S., is amended to conform a cross-reference.

Section 8. Section 218.251, F.S., relating to revenue sharing with consolidated governments, is repealed. The appropriation provided for in this section is incorporated into the revenue sharing distribution by section 5 of the bill.

Section 9. An effective date of July 1, 2000, is provided.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

	2000-2001 (In $ Millions)	**2001-2002 (In $ Millions)**
General Revenue Fund		
Cigarette Tax	$11.2	$11.3
Intangibles Tax	$329.8	$336.1
Sales and Use Tax	($345.8)	($363.4)
Total	($4.8)	($4.8)

2. <u>Expenditures</u>:

General Revenue Fund		
Consolidated County Appropriation	($4.8)	($11.2)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

	2000-2001 (In $ Millions)	**2001-2002 (In $ Millions)**
County Revenue Sharing Trust Fund		
Cigarette Tax	($11.2)	($11.3)
Intangibles Tax	($329.8)	($336.1)
Sales and Use Tax	$345.8	$363.4
Total	$4.8	$16.0
Repeal of Appropriation to Duval Co.	($4.8)	$11.2

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not yet addressed this bill. The estimated impact is extracted from estimates provided by LCIR staff. The estimates assume no subsequent tax rate and/or distribution allocation changes to any of the revenue sources. Between FY 2000-01 and FY 2001-02, cigarette tax revenues are assumed to increase 0.7 percent, intangible tax revenues are assumed to increase 1.9 percent, and sales and use tax revenues are assumed to increase 5.1 percent.

Assuming current trends in sales and use tax collections in subsequent fiscal years, municipalities will share a portion of the growth of sales and use tax collections that would otherwise have been available to the state.

IV. 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 expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:	Staff Director:
Thomas L. Hamby	Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:	Staff Director:
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