

STORAGE NAME: H0201a.jo.doc
DATE: February 22, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 0201
RELATING TO: Moving Traffic Violation/Fees
SPONSOR(S): Representative Rubio
TIED BILL(S):

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

- (1) JUDICIAL OVERSIGHT YEAS 8 NAYS 0
 - (2) FISCAL POLICY & RESOURCES
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4) SMARTER GOVERNMENT
 - (5)
-

I. SUMMARY:

Twelve dollars and fifty cents from the civil penalty received by a county court for a moving traffic violation must be used by the county to fund that county's participation in an intergovernmental radio program, pursuant to section 318.21(10), Florida Statutes. HB 201 provides an exception to that rule and requires that the funds from citations issued in a given municipality be given to that municipality if the municipality has had a financial emergencies board established within the preceding 5 years and maintains a radio communications program independent of the county. Currently, this bill would only affect the City of Miami and Miami-Dade County.

During the 2000 legislative session, the Miami-Dade County Budget Office estimated this bill would shift \$190,000 from the county to the city. The City of Miami estimated the bill would shift approximately \$300,000 from the county to the city.

The bill would take effect July 1, 2001.

The Committee on Judicial Oversight adopted an amendment to make clear that a city or municipality must have been declared in a state of financial emergency within the five years preceding July 1, 2001, in order for the funds to be distributed to the city or municipality. The amendment is traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Under current law, \$12.50 is deducted from penalties collected for moving violations to fund that county's participation in an intergovernmental radio program approved by the Department of Management Services. See s. 318.21(10), F.S. If the county does not participate in such a program, the \$12.50 is used to fund local law enforcement automation and must be distributed to the municipality or special improvement district in which the violation occurred or the county if the violation occurred in an unincorporated area. Id.

C. EFFECT OF PROPOSED CHANGES:

This bill amends section 318.21(10), Florida Statutes, to permit a municipality that has been declared to be in a state of financial emergency within the preceding 5 years, which has had a financial emergencies board established and which maintains a radio-communication program independent of the county to keep the \$12.50. Under this bill, some money that currently goes to counties would be directed to cities.

Currently, this bill would apply only to the City of Miami. Therefore, the question arises whether this bill would create a general law. If a court interprets "preceding five years" to run from the effective date of the bill, it would mean this bill could only apply to Miami unless another city is declared to be in state of financial emergency and had a financial emergencies board established before July 1. This would be similar to what occurred in State v. City of Miami Beach, 234 So. 2d 103 (Fla. 1970). In that case, the Legislature passed a law in 1967 that permitted counties having populations between 330,000-340,000 or populations over 900,000 who enacted the appropriate ordinance by January 1, 1968 to collect a particular tax. The court held that the classification based on population was reasonable and that any similarly situated county could enact an ordinance even though the act actually only affected Broward and Dade counties. Similarly, this bill could be defended because it is only permitting cities with financial emergencies to divert the funds and would apply to any city in that situation five years prior to July 1, 2001.

The court could interpret "preceding five years" to mean 5 years from whenever a future city in a state of financial emergency attempts to collect the \$12.50. If court believes that the statute as written is not a general law, then reading the phrase that way would save the statute. A court should

interpret statutes to give a constitutional meaning if possible. It could be argued, therefore, that the Legislature must have meant 5 years from collection or the phrase would be meaningless.

During the 2000 legislative session, the budget office for Miami-Dade County estimated the bill would shift approximately \$190,000 from Miami-Dade County to the City of Miami. The amount was derived by estimating that 10% of the \$1.9 million collected from this assessment came from tickets issued within the city of Miami.

The City of Miami estimates the bill would shift approximately \$300,000 from Miami-Dade County to the City of Miami. The estimate was derived by assuming approximately 76,928 citations were issued in the city during 2000 and assuming one-third of those were moving violations. This yields a total of \$320,533.

Section 2 of the bill provides an effective date of July 1, 2001.

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:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

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 funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The 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:

The 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:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 22, 2001, the Committee on Judicial Oversight considered the bill. The sponsor offered an amendment to make clear that a city or municipality must have been declared in a state of financial emergency within the five years preceding July 1, 2001, in order for the funds to be distributed to the city or municipality. Under the bill as originally filed, the phrase "preceding 5 years" was unclear. The amendment was adopted and is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

L. Michael Billmeier

Lynne Overton