SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1956

SPONSOR: Senators Smith and Lynn

SUBJECT: Local Government Funding

DATE: March 10, 2004 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CP	Favorable
2.			TR	
3.			FT	
4.			AGG	
5.			AP	
6.				

I. Summary:

This bill changes the scheduled phase-out of the General Revenue service charge on local gas option taxes; requires that proceeds of service charge be deposited into Local Government Half-cent Trust Fund and distributed through the Half-cent Sales Tax Emergency Distribution; revises criteria for county to be eligible to receive emergency distributions; and establishes two new emergency distributions of tax proceeds.

This bill substantially amends the following sections of the Florida Statutes: 215.211 and 218.65.

II. Present Situation:

Local Option and County Local Option Fuel Taxes

Section 336.025(1)(a), F.S., created in 1983, authorizes counties to levy the Local Option Fuel Tax (formerly the local option gas tax).[1] Initially, the tax was 1¢ to 4¢ per gallon on highway fuel, which could be levied at the option of a county's governing body for a maximum period of 5 years and whose proceeds were required to be shared with municipalities. During the regular session in 1983, the maximum period for the tax was extended to ten years to increase the suitability of the tax as a security against which to issue debt. In 1985, the maximum tax amount was raised to 5¢ per gallon and its period increased to 30 years. Also, to increase efficiency, tax collection was moved to the wholesaler and the terminal supplier beginning in July 1996. The 1990 Legislature chose to equalize the tax on diesel fuel, imposing throughout all counties in the state a minimum tax rate of 6¢ per gallon on January 1, 1993.[2]

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[1] Also referenced in s. 206.41(1)(f), F.S.
[2] s. 206.87(1)(c), F.S.

Initially, proceeds of the tax could only be used for transportation expenditures. In 1992 the Legislature authorized any small county (with 50,000 or fewer people on April 1, 1992) to use the proceeds to fund infrastructure projects if these projects are consistent with the approved comprehensive plan.[3]

Section 336.025(1)(b), F.S., authorizes counties to levy the County Local Option Motor Fuel Tax**,** a gas tax of one to five cents on every gallon of motor fuel (excluding diesel fuel) sold in the county.[4] The ordinance imposing the tax must be approved by a majority plus one of the membership of the governing body of the county or by referendum.

In FY 2003-4, counties will receive an estimated $672.1 million in revenues from both the Local Option Fuel and Local Option Motor Fuel taxes.[5]

General Revenue Service Charge
Section 215.20, F.S., imposes a service charge of 7 percent or 7.3 percent on all income of a revenue nature deposited in all trust funds of the state, except those specifically exempted.

Section 5 of ch. 2000-257, L.O.F., created s. 215.211, F.S., to reduce and eventually eliminate the 7 percent service charge on the local option fuel tax distributed under section 336.025, F.S. For the period July 1, 2005, through June 30, 2006, the rate of the service charge is 3.5 percent. Beginning July 1, 2006, there will be no service charge deducted from this tax.

Furthermore, the resulting increase in revenues to the counties are to be deposited in the State Transportation Trust Fund to be used to fund the County Incentive Grant Program[6] and the Small County Outreach Program.[7] Up to 20 percent of such funds must be used to implement the Small County Outreach Program.

The Local Government "Half-Cent" Sales Tax
The Local Government "Half-Cent" Sales Tax program is governed by part VI of ch. 218, F.S.[8] Created in 1982, the program generates the largest amount of revenue for counties and municipalities among the state-shared revenue sources currently authorized by the Legislature.[9] It distributes net sales tax revenue to counties and municipalities that meet strict eligibility requirements. Allocation formulas serve as the basis for this distribution to each county and its respective municipalities. The program's primary purpose was to provide relief from ad valorem

[3] s. 336.025(8), F.S.
[4] Also referenced in s. 206.41(1)(e), F.S.
[5] LCIR's *Local Government Financial Information Handbook*, 2003 Edition, p. 241. Also see DOR tables @ http://www.myflorida.com/dor/tables/f3fy0102b.html
[6] Section 20 of ch. 2000-257, L.O.F., created s. 339.2817, F.S., establishing the County Incentive Grant Program, to improve a transportation facility which is located on the State Highway System or which relieves traffic congestion on the State Highway System.
[7] Section 19 of ch. 2000-257, L.O.F., created s. 339.2818, F.S., establishing the Small County Outreach Program, to assist small county governments in resurfacing or reconstructing county roads or in constructing capacity or safety improvements to county roads. Small county means a county with a population of 150,000 or less.
[8] Much of this background information is taken from Legislative Committee on Intergovernmental Relations *Local Government Financial Information Handbook, 2002 Edition*, pp. 47-53.
[9] $1.429 billion in FY 2002-03. See 2004 *Florida Tax Handbook*, p. 175.

and utility taxes in addition to provide counties and municipalities with revenues for local programs.

The program consists of three distributions of state sales tax revenues: the first or ordinary distribution, the second or emergency distribution, and the third or supplemental distribution.

“Emergency” & “Supplemental” Distributions
Section 218.65(1) F.S., provides for an additional “emergency” distribution of sales tax proceeds to qualified counties under fiscal stress. This program is also known as the “Small County Kicker.”

Subsection (2) specifies the eligibility requirement for this distribution. Paragraph (2)(a) provides eligibility criteria for certain counties with a population 65,000 or above. (However, this provision is now obsolete.) Paragraph (2)(b) provides that a county is eligible for the emergency distribution if the moneys distributed to the county in Half-Cent Sales Tax proceeds for the prior fiscal year were less that the current per capita limitation, as specified in subsection (4). In FY 2003, $8.76 million in “emergency” distributions was given to 26 counties.[10] All of these recipient counties have a population of less than 62,000 persons.

Subsection (5) provides the Department of Revenue with distribution guidelines for the emergency distribution. If the amount of funds in the Half-Cent Sales Tax Clearing Trust Fund exceed the sum of the base allocations, the excess is to be distributed equally on a per capita basis among the eligible counties.

Section 218.65(7) F.S., provides for an additional “supplemental” distribution of state sales tax proceeds to “any county the inmate population of which in any year is greater than 7 percent of the total population of the county…” In FY 2003, $592,957 in “supplemental” distributions was given to 12 counties. [11] All of these recipient counties have a population of less than 62,000 persons.

III. Effect of Proposed Changes:

Section 1 amends s. 215.211(3)(b), F.S., to change the phase-out of service charge on local option gas taxes. While the 7 percent service charge is scheduled to be eliminated in 2006, this section deletes this scheduled elimination and instead, imposes a service charge of 1.4 percent. The reduction of the current service charge from 7 to 1.4 percent will result in counties retaining more of the revenues collected from local option gas taxes.

The proceeds from the 1.4 percent service charge are to be deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund to be distributed under the current and expanded “emergency” distributions proposed in section 2 of this bill. Current law requires the revenues realized from the reduction (in 2005) and elimination (in 2006) of the 7 percent service charge to be deposited in the State Transportation Trust Fund to fund the County Incentive Grant Program and the Small County Outreach Program.

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[10] See DOR’s Validated Tax Receipts Data for 2003, @ http://sun6.dms.state.fl.us/for/tables/f5fy2003.html
[11] See DOR’s Validated Tax Receipts Data for 2003, @ http://sun6.dms.state.fl.us/for/tables/f5fy2003.html

Section 2 amends s. 218.65(2), F.S., to revise the criteria for county eligibility for state sales tax proceeds through the emergency distribution. The initial criteria for counties with a population of 65,000 or more is deleted, as this provision is obsolete. Qualification criteria for the "Small County Kicker" is amended as follows:

- counties with a population of 75,000 or fewer and levies ad valorem millage at a rate of 8 mills or more would become eligible; and
- the current "per capita" distribution criteria is amended to limit it only to those counties with a population of 75,000 or fewer.

Subsection (5)(b) is created to establish the "second" and "third" emergency distribution to those counties qualified under paragraph (2)(a), which are those counties that have populations of 75,000 or fewer and that levied millage at a rate of 8 mills or more for the prior year. The distribution formulas for the second and third distribution are per capita based.

Section 3 provides for an effective date of July 1, 2005.

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:

Instead of receiving funding for transportation projects through the County Incentive Grant Program and the Small County Outreach Program (in 2005 and beyond), counties will retain 80 percent of the general revenue service charge imposed on local option gas taxes.

Preliminary estimates indicate that the net effect of the new eligibility for counties that levy ad valorem millage at a rate of 8 mills or more could potentially qualify Columbia, Okeechobee, and Putnam counties for some form of emergency distribution.

The Legislative Impact Conference has not yet reviewed this bill.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Revenue will be required to implement the new distributions created under this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.