

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.)

Prepared By: Ways and Means Committee

BILL: CS/CS/SB 1612

INTRODUCER: Commerce and Consumer Services Committee, Senator Baker and others

SUBJECT: Fiscally Constrained Counties

DATE: April 24, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/2 amendments</u>
2.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<u>Favorable</u>
4.	_____	_____	<u>TA</u>	<u>Withdrawn</u>
5.	<u>Herring</u>	<u>Coburn</u>	<u>WM</u>	<u>Fav/CS</u>
6.	_____	_____	_____	_____

I. Summary:

This bill revises the definition of “fiscally constrained county” from a county in which one mill of taxation raises less than \$3 million to a county in which one mill of taxation raises less than \$4 million. The bill designates 30 percent of a portion of the tax on direct-to-home satellite services. These funds (approximately \$16.7 million) will be distributed by the Department of Revenue using a formula that includes both the revenue-raising potential of one mill measured on a per capita basis, and a local-effort factor based on the county-wide operating millage levied. Counties that cease to qualify for funds under this bill will be granted a two year phase-out period in which their distributions under will gradually cease. Finally, the bill provides these funds will be available to the counties for any purpose except bonding.

This bill will reduce distributions to counties (other than fiscally constrained counties) and municipalities from the tax on direct-to-home satellite services by \$16.7 million on a recurring basis.

This bill amends sections 202.18, 218.65, and 985.2155, F.S., and creates section 218.67, F.S.

II. Present Situation:

The communications services tax is imposed on retail sales of communications services which originate and terminate in Florida, or originate or terminate in Florida and are billed to a Florida address. Communications services include all forms of telecommunications previously taxed by the gross receipts tax plus cable television and direct-to-home satellite service. The tax imposed by chapter 203, F.S., on communications services is also administered under chapter 202, F.S.

Except for the tax on direct-to-home satellite service, the state tax collected on communications services is distributed by the same formula as the sales and use tax, as prescribed in s. 212.20(6), F.S. Sixty-three percent of the tax on direct-to-home satellite is distributed by the sales tax formula (with an adjustment to s. 212.20(6)(d), F.S.) and the remainder is transferred to the Local Government Half-cent Clearing Trust Fund. The gross receipts tax for communications services goes to the Public Education Capital Outlay and Debt Service Trust Fund.

The sale of communications services which originate and terminate in Florida, or originate or terminate in Florida and are billed to a Florida address, is taxed at 6.8 percent. The sales price of private communications systems is taxed at the same rate, and a use tax is imposed on the cost of operating a substitute communications system. Direct-to-home satellite service is taxed at 10.8 percent. A gross receipts tax is also imposed on these services at a rate of 2.37 percent.

Prior to 2001, nonresidential telecommunications services were subject to sales and use tax under chapter 212 at the rate of 7 percent. Cable television and direct satellite television were subject to sales and use tax at a rate of 6 percent. Telecommunications services were also subject to gross receipts tax under chapter 203, F.S. Chapter 2000-260, L.O.F., created the Communications Services Tax Simplification Law which provided for a new statewide tax on communications services to replace the sales and use tax on telecommunications services, cable and direct satellite television. It also provided for a different administration of the gross receipts tax on telecommunications services and extended that tax to cable and direct satellite television.

Section 202.18, F.S., provides for the allocation and disposition of communications services taxes, including the tax on direct-to-home satellite service. It provides that a portion of the direct-to-home satellite tax that is transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund will be allocated to counties and municipalities in the same proportion as the allocation of total receipts of the half-cent sales tax, distributed under s. 218.61, F.S., and the emergency distribution to small counties under certain circumstances, under s. 218.65, F.S.

Sections 218.20 through 218.26, F.S., are the Revenue Sharing Act of 1972. For purposes of the Act, section 218.21(8), F.S., defines "population" as the latest official state estimate of population certified pursuant to s. 186.901, F.S., which requires the Office of Economic and Demographic Research to certify population estimates of local governments to the Governor each year by April 1 using accepted statistical practices.

Section 218.65, F.S., authorizes the emergency distribution of funds from the Local Government Half-cent Tax Clearing Trust Fund to qualified county governments (in addition to the regular monthly distribution). This section establishes criteria for the finding of a fiscal emergency.

Section 985.2155, F.S., which provides for shared county and state responsibility for juvenile detention, currently defines "fiscally constrained county" to mean a county designated as a rural area of critical economic concern under s. 288.0656, F.S., for which the value of a mill in the county is no more than \$3 million, based on the property valuations and tax data annually

published by the Department of Revenue under s. 195.052, F.S.¹ Three rural areas of critical economic concern exist in the state.

1. Area I: Gulf, Franklin, Liberty, Calhoun, Gadsden, Jackson, Holmes, and Washington counties; and the City of Freeport in Walton County.
2. Area II: Desoto, Glades, Hardee, Highlands, Hendry, and Okeechobee counties; the cities of Belle Glade, South Bay and Pahokee in Palm Beach County; and the unincorporated area of Immokalee in Collier County.
3. Area III: Jefferson, Taylor, Madison, Hamilton, Suwannee, Lafayette, Dixie, Levy, Gilchrist, Columbia, Baker, Union, Bradford, and Putnam counties.

In order for a county to be designated a rural area of critical economic concern, the county must meet one of the following population requirements:

1. A population of 75,000 or less; or
2. A population of 100,000 or less and the county must be contiguous to a county with a population of 75,000 or less.

Section 1011.62(4)(a)1.a., F.S., requires the Department of Revenue to certify each year to the Commissioner of Education its most recent estimate of the taxable value for school purposes in each school district. Such estimates are based on the latest available data obtained from property appraisers. The certification must occur at least 2 working days prior to July 19.

III. Effect of Proposed Changes:

Section 1 amends s. 202.18(2), F.S., to redistribute the portion of the proceeds from the tax on direct-to-home satellite service, which are allocated pursuant to s. 202.12(1)(b), F.S., and are deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund. Specifically, the bill provides that 30 percent of the proceeds from the tax on direct-to-home satellite service will be distributed to fiscally constrained counties. The remaining 70 percent of the proceeds will continue to be distributed to participating county and municipal governments in the same proportion as the allocation of total receipts of the half-cent sale tax under s. 218.61, F.S., and of the emergency distribution under s. 218.65, F.S., in the prior year.

Section 2 amends s. 218.65, F.S.; to revise eligibility requirements for the emergency distribution of funds from the Local Government Half-cent Sales Tax Clearing Trust Fund. Specifically, the bill provides that (1) an eligible county must have a population of 65,000 or less; and (2) the moneys distributed to the county pursuant to s. 218.62, F.S., for the prior fiscal year were less than the current per capita limitation. The bill also removes obsolete eligibility requirements from the law.

This section also allows a county that becomes ineligible for the emergency distribution under s. 218.65, F.S., because its population has increased to more than 65,000, to receive transitional distributions for two years, if money deposited in the Local Government Half-cent Sales Tax

¹ The following 26 counties meet this definition of a “fiscally constrained county”: Liberty, Lafayette, Union, Calhoun, Holmes, Jefferson, Dixie, Gilchrist, Madison, Glades, Baker, Hamilton, Washington, Bradford, Taylor, Suwannee, Gadsden, Jackson, De Soto, Hardee, Levy, Okeechobee, Columbia, Hendry, Gulf, and Franklin.

Clearing Trust Fund exceeds the amount necessary to provide base allocations to each eligible county. In the first year the transitional distribution will equal two-thirds of the amount the county received in the prior year; in the second year it will equal one-third of the amount the county received the last year its population was less than 65,000. If the money in the trust fund is insufficient to provide a transitional distribution to every eligible county, each eligible county is to receive a share of the available moneys proportional to the amount it would have received had moneys been sufficient to provide a full transitional distribution.

Section 3 creates s. 218.67, F.S., which provides that each county for which the value of a mill will raise no more than \$4 million in revenue, based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1, will be considered a “fiscally constrained county.”² The bill authorizes each fiscally constrained county that participates in the local government half-cent sales tax to be eligible to receive an additional distribution from the Local Government Half-cent Sales Tax Clearing Trust Fund. This amount is in addition to the county's regular monthly distribution and any emergency distribution under s. 218.65, F.S.

These funds will be distributed by the Department of Revenue using a formula that includes both the revenue-raising potential of one mill measured on a per capita basis, and a local-effort factor based on the county-wide operating millage. The county population estimates to be used are those specified by s. 218.21(8), F.S., for revenue sharing purposes. Those estimates are provided to the Governor on April 1 each year by the Office of Economic and Demographic Research

Specifically, the bill provides funds will be distributed based on the following factors:

- The relative revenue-raising-capacity factor (the ability of the eligible county to generate ad valorem revenues from one mill of taxation on a per capita basis). Provides the values to be assigned to each county based on the county’s ability to raise funds on a per capita basis from one mill.
- The local-effort factor (a measure of the relative level of local effort of the eligible county as indicated by the latest available millage rate). The local-effort factor is the most recently adopted county-wide operating millage rate for each eligible county multiplied by 0.1.
- Each county’s proportional allocation of the total amount available for distribution to all eligible counties. The amount available to each eligible county is to be in the same proportion as the sum of the county’s two factors to the sum of the two factors for all eligible counties. Counties participating in the phase-out period for counties that no longer meet the eligibility requirements will not be included in the total of the factors for all eligible counties.

Counties that cease to qualify for funds under this bill will be granted a two year phase-out period in which their distributions under this bill will be reduced. In the first year after a county

² The following 29 counties meet the bill’s definition of a “fiscally constrained county”: Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, and Washington.

ceases to qualify it will receive two-thirds of the amount received in the prior year and in the second year it will receive an amount equal to one-third of the amount received during the last year in which it qualified. Finally, these funds will be available to counties for any purpose except to pay debt service on bonds.

Section 4 amends s. 985.2155, F.S., to amend the definition of a “fiscally constrained county” to remove the requirement that the county be designated as a rural area of critical economic concern under s. 288.0656, F.S. This change adds Wakulla County to the list of fiscally constrained counties.

The definition is further amended to increase the value of a mill to be no more than \$4 million, based on property valuations and tax data published by the Department of Revenue pursuant to s. 195.052, F.S. This change adds Franklin, Putnam, and Sumter counties to the list of fiscally constrained counties.

Section 5 provides an effective date of July 1, 2006.

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:

Annually, the bill will distribute to fiscally constrained counties 30 percent of the proceeds from the tax on direct-to-home satellite service, part of the communications services tax that is deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund. The amount to be distributed beginning in 2006-2007 is \$16.7 million. This will result in a commensurate reduction in the distribution to counties and municipalities from the proceeds on the tax.

The direct-to-home satellite service tax has grown faster than predicted when it was initiated in 2001.

Direct-to-Home Satellite Service Tax		
Fiscal Year	Collections s. 202.18(1)(c)	Percent Increase Over Prior Year

2001-2002	\$14.1M	
2002-2003	\$21.1M	50.2%
2003-2004	\$35.2M	66.9%
2004-2005	\$40.0M	13.4%
2005-2006 est.	\$48.6M	21.6%
2006-2007 est.	\$55.1M	13.4%

"Collections" above represents only the portion of the direct-to-home satellite service tax that is transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 202.18(1)(c), F.S. It does not include the portions of that tax that constitute gross receipts taxes, that are allocated and distributed pursuant to s. 212.06(6), F.S., to the General Revenue Fund, the Ecosystem Management and Restoration Trust Fund, the Local Government Half-cent Sale Tax Clearing Trust Fund, the Public Employees Relations Commission Trust Fund, the Revenue Sharing Trust Fund for Counties, the Revenue Sharing Trust Fund for Municipalities, counties, certain sport franchises, a professional golf hall of fame, and the International Game Fish Association World Center,

B. Private Sector Impact:

None.

C. Government Sector Impact:

See chart below.

**Estimated Distributions to Fiscally Constrained Counties
Using School Taxable Value & Revenue-Sharing Population**

County	2005 School Taxable Value	Revenue-Sharing Population (no prisoners)	2005 Value of One Mill	2005 Per Capita Value of 1 Mill	Taxable Value Factor	2005 Actual Millage Rates - County (DOR)	Millage Factor	Total Weights	Distribution of \$16,700,000
Baker	584,900,828	21,939	584,901	26.66	0.75	8.8299	0.8830	1.6330	679,742
Bradford	674,445,657	23,712	674,446	28.44	0.75	9.5000	0.9500	1.7000	707,635
Calhoun	278,370,114	12,523	278,370	22.23	1	10.0000	1.0000	2.0000	832,512
Columbia	1,887,140,862	58,915	1,887,141	32.03	0.5	8.7260	0.8726	1.3726	571,353
DeSoto	1,141,425,064	30,483	1,141,425	37.44	0.5	8.1000	0.8100	1.3100	545,296
Dixie	486,297,597	14,100	486,298	34.49	0.5	10.0000	1.0000	1.5000	624,384
Franklin	3,360,049,261	10,542	3,360,049	318.73	0	4.0504	0.4050	0.4050	168,600
Gadsden	1,076,791,142	44,776	1,076,791	24.05	1	10.0000	1.0000	2.0000	832,512
Gilchrist	463,248,682	15,382	463,249	30.12	0.5	10.0000	1.0000	1.5000	624,384
Glades	582,024,413	9,983	582,024	58.30	0	10.0000	1.0000	1.0000	416,256
Gulf	2,670,903,027	13,336	2,670,903	200.28	0	5.0952	0.5095	0.5095	212,091
Hamilton	571,032,065	11,499	571,032	49.66	0.5	10.0000	1.0000	1.5000	624,384
Hardee	1,404,977,510	25,560	1,404,978	54.97	0	8.7064	0.8706	0.8706	362,409
Hendry	1,926,386,686	37,413	1,926,387	51.49	0	8.7500	0.8750	0.8750	364,224
Holmes	351,665,124	17,763	351,665	19.80	1	10.0000	1.0000	2.0000	832,512
Jackson	1,175,247,739	43,478	1,175,248	27.03	0.75	8.3439	0.8344	1.5844	659,512
Jefferson	441,414,484	13,085	441,414	33.73	0.5	10.0000	1.0000	1.5000	624,384
Lafayette	170,646,644	6,265	170,647	27.24	0.75	10.0000	1.0000	1.7500	728,448
Levy	1,611,123,370	37,676	1,611,123	42.76	0.5	9.0000	0.9000	1.4000	582,759
Liberty	174,193,813	5,911	174,194	29.47	0.75	10.0000	1.0000	1.7500	728,448
Madison	515,574,921	18,050	515,575	28.56	0.75	10.0000	1.0000	1.7500	728,448
Okeechobee	1,847,710,931	35,761	1,847,711	51.67	0	7.1000	0.7100	0.7100	295,542
Putnam	3,120,129,073	73,309	3,120,129	42.56	0.5	9.2000	0.9200	1.4200	591,084
Sumter	3,387,814,344	66,398	3,387,814	51.02	0	7.7675	0.7768	0.7768	323,327
Suwannee	1,184,959,820	38,174	1,184,960	31.04	0.5	9.7000	0.9700	1.4700	611,897
Taylor	1,082,201,780	19,673	1,082,202	55.01	0	8.0760	0.8076	0.8076	336,168
Union	186,467,263	10,244	186,467	18.20	1	10.0000	1.0000	2.0000	832,512
Wakulla	1,167,625,479	25,485	1,167,625	45.82	0.5	8.2500	0.8250	1.3250	551,539
Washington	646,323,126	21,735	646,323	29.74	0.75	9.5000	0.9500	1.7000	707,635

VI. Technical Deficiencies:

None.

VII. Related Issues:

Not every county designated as a “fiscally constrained county” is property tax poor. Franklin County has the highest county property tax base per capita in the state, with the 5th lowest county millage rate.³ Gulf County has the fourth highest county property tax base per capita in the state, with the 14th lowest county millage rate.⁴ Franklin and Gulf counties have per capita values of one mill equaling \$318,730 and \$200,278 respectively while the other 27 fiscally constrained counties have values averaging \$36,427 (from \$18,204 to \$58,302).

³ 2005: Franklin County property tax per capita of \$1,256; millage rate of 4.0540.

⁴ 2005: Gulf County property tax per capita of \$826; millage rate of 5.0952

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

VIII. Summary of Amendments:

None.

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