

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 301 CS

Local Option Surcharge on Rentals or Leases of Motor Vehicles

**SPONSOR(S):** Quinones

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2632

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Tourism Committee</u>	<u>6 Y, 2 N, w/CS</u>	<u>McDonald</u>	<u>McDonald</u>
2) <u>Finance &amp; Tax Committee</u>	<u></u>	<u>Rice</u>	<u>Diez-Arguelles</u>
3) <u>Transportation &amp; Economic Development Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

Currently, Florida provides for a statewide rental car surcharge of \$2 per day. Revenues for the surcharge are used for statewide transportation efforts (80% of the surcharge), for the state's tourism promotion and marketing efforts (15.75% of the surcharge), and for the state's international trade efforts (4.25% of the surcharge).

This bill amends s. 212.0606, F.S., to provide for imposition of a local option rental car surcharge of \$2 per day or any part thereof. The local option surcharge applies to motor vehicles licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state. The surcharge applies to only to the first 30 days of each lease or rental and does not apply to the lease or rental of a motor vehicle for the period of time required to have a motor vehicle owned by the renter or lessee undergo maintenance or repair.

The local option rental car surcharge must be approved by the voters in a countywide referendum.

The proceeds of the local option surcharge must be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of right-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in counties; or the reduction of bonded indebtedness incurred to build those aforementioned projects. The proceeds are to be distributed on a monthly basis and shared by the county with municipalities pursuant to an interlocal agreement. If there is no interlocal agreement, the proceeds are to be distributed based upon a statutorily established formula.

The fiscal impact of this bill cannot be determined because it depends on local referendums. If all counties that generate surcharge revenue were to approve the surcharge, approximately \$113 million would be collected statewide.

This bill takes effect July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Provide limited government* – The bill places additional responsibilities on the Department of Revenue regarding the local option rental car surcharge.

*Ensure lower taxes* – The bill provides counties with the authority to impose a local option rental car surcharge through a referendum.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Currently, Florida law authorizes the levy of a statewide rental car surcharge of \$2 per day. The revenues from the surcharge are used to fund statewide transportation efforts (80% of the surcharge), to fund the state's tourism promotion and marketing efforts (15.75% of the surcharge), and to fund the state's international trade efforts (4.25% of the surcharge). The levy of a local option rental car surcharge is not authorized.

##### History

In 1989, the Legislature created s. 212.0606, F.S., to impose a state-wide rental car surcharge. The surcharge was initially levied at 50 cents per day upon the lease or rental of for-hire motor vehicles designed to carry less than nine passengers. The surcharge was increased to \$2.00 per day in 1990.

The surcharge was used initially to fund children and adolescent substance abuse programs and law enforcement needs<sup>1</sup> but was amended in subsequent years to remove the initial funding uses and replace them with funding the state's transportation needs, the state's tourism promotion and marketing efforts, and the state's international trade and promotion efforts. The actual distribution of the \$2 per day surcharge is \$1.49 to the State Transportation Trust Fund; \$0.29 to the Tourism Promotion Trust Fund; \$0.08 to the Florida International Trade & Promotion Trust Fund; \$0.14 to the General Revenue Fund (7.3% Service Charge); and, less than \$0.005 to the Department of Revenue (Administrative Charge).

The rental car surcharge is levied per day or any part thereof on the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies only to the first 30 days of the term of any lease or rental. The surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

The Department of Revenue (DOR) is responsible for collecting and distributing monies collected under the rental car surcharge as well as enforcing its collection. According to DOR, the rental car surcharge is collected from 1800 rental car dealers, of which 130 operate in more than one county.<sup>2</sup>

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<sup>1</sup> Eighty percent of the proceeds were distributed to the Children and Adolescents Substance Abuse Trust Fund and 20% was distributed to the Law Enforcement Trust Fund.

<sup>2</sup> Conversation with JoAnn Sapolsky, General Tax Administration- Tax Compliance Coordinator, Department of Revenue

## Transportation Districts – Funding in FY 2007-08

The distribution of monies placed in the State Transportation Trust Fund was amended in 2002 to require that beginning in FY 2007-08 the proceeds deposited from the rental car surcharge would be allocated on an annual basis in the department's work program to each department district, except the Turnpike District. The amount allocated to each district must be based on the amount of proceeds collected in the counties within each respective district.<sup>3</sup>

The manner in which rental car dealers reported surcharges was amended by the 2003 Legislature to authorize DOR to require dealers to report rental car surcharge collections according to the county in which the surcharge was collected, in order to facilitate the allocation of surcharge revenues to each Department of Transportation (DOT) district. This requirement was authorized to begin January 1, 2004. The change in law was intended to help DOT meet its statutory requirement that proceeds of the rental car surcharge be allocated to each DOT district for projects, based on the amount of proceeds collected in the counties within each respective district.<sup>4</sup>

Finally, prior to January 1, 2004, the majority of the rental car surcharge collected was reported on consolidated returns by rental car companies with multiple locations and was not broken down by the amount of the surcharge collected on a county-by-county basis. In order to accommodate DOT's needs for their five-year planning cycle, DOR provided an estimate of the rental car surcharge based on sales tax returns. After January 1, 2004, the law required DOR to collect information on a county-by-county basis. Since that time, information has been collected on a form to accommodate the statutory requirement.

There are seven transportation districts ranging in size from two counties up to eighteen counties. All counties with the exception of Glades and Lafayette collect rental car surcharges which are deposited into the State Transportation Trust Fund. In FY 2005, the counties responsible for the most surcharge revenue being deposited into the Trust Fund were Orange (\$30.9 million) in District 5, Broward (\$19.7 million) in District 4, Dade (\$18.2 million) in District 6, and Hillsborough (\$12.3 million) in District 7.<sup>5</sup>

### Rental Car Surcharge Projections

The March 2006 Transportation Revenue Estimating Conference noted that the Rental Car Surcharge is showing some rebounding following the terrorist attack on September 11, 2001. The rental car surcharge forecast was increased by \$23.1 million, or 3.4% higher than in the November 2005 forecast. The complete rental car surcharge collection forecast is as follows:

<b>FY</b>	<b>State Transportation TF</b>
2004-05	\$106.7 million
2005-06	\$111.2 million
2006-07	\$113.2 million
2007-08	\$115.1 million
2008-09	\$116.8 million
2009-2010	\$118.4 million
2010-2011	\$120.1 million
2011-2012	\$121.7 million
2012-2013	\$123.4 million
2013-2014	\$125.2 million
2014-2015	\$127.0 million
2015-2016	\$128.8 million

Source: Transportation Estimating Conference, March 2006

<sup>3</sup> See ch. 2002-20, L.O.F.

<sup>4</sup> See ch. 2003-254, L.O.F.

<sup>5</sup> Information provided by the Department of Revenue.

## Changes Proposed by the Bill:

The bill amends s. 212.0606, F.S., to provide for the imposition of a local option rental car surcharge of \$2 per day or any part thereof. The local option surcharge applies to motor vehicles licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state. The surcharge applies only to the first 30 days of each lease or rental.

Unlike the state-wide law, the local option surcharge does not apply to the lease or rental of a motor vehicle by a person for the period of time required to have a motor vehicle owned by the person undergo maintenance or repair. To be eligible for this exemption the individual must provide a receipt for the cost of the maintenance or repair services and documentation that he or she owns the motor vehicle undergoing maintenance or repair.

The local option surcharge must be approved by the voters in a countywide referendum and can only take effect on January 1, following the year in which the ordinance was approved. A local option surcharge may only be terminated on December 31.

The proceeds of the local option surcharge must be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of right-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in counties; or the reduction of bonded indebtedness incurred to build those aforementioned projects.<sup>6</sup> The proceeds are to be distributed on a monthly basis and shared by the county with municipalities pursuant to an interlocal agreement or if there is no interlocal agreement, the proceeds are to be distributed based upon a statutorily established formula.<sup>7</sup>

If a dealer that collects the local option surcharge fails to report the surcharge collections by county, the surcharge proceeds will be deposited into the Solid Waste Management Trust Fund and then transferred to the Local Option Fuel Tax Trust Fund. Under these circumstances, the distribution formula is delineated in the bill.

The bill, as does the statewide rental car surcharge, requires the collection, administration, enforcement, and distribution of the local option surcharge to be done by DOR.

### C. SECTION DIRECTORY:

Section 1. Amends s. 212.0606, F.S., relating to rental car surcharges, authorizing counties to impose by ordinance a local option surcharge on the lease or rental of motor vehicles; providing for an exception; establishing timeframes for ordinance enactment and duration; providing for use of proceeds; providing for collection, distribution, administration, and enforcement of the local option surcharge by the Department of Revenue.

Section 2. Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None

#### 2. Expenditures:

None

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<sup>6</sup> See s. 206.60, F.S.

<sup>7</sup> See s. 336.025(3)(a)1. or (4)(a), F.S.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

The fiscal impact of this bill cannot be determined because it depends on local referendums. If all counties that generate surcharge revenue were to approve the surcharge, approximately \$113 million would be collected statewide.

**2. Expenditures:**

DOR has estimated there to be non-recurring cost of \$148,850 and \$363 in recurring costs for the implementation of this bill.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Individuals may be required to pay an additional \$2 per day for renting or leasing certain vehicles in counties where the local option surcharge is imposed.

**D. FISCAL COMMENTS:**

According to DOR, the inconsistency between the existing state rental car surcharge and the local option rental car surcharge relating to exemption from the surcharge that is proposed by this bill would cause bookkeeping problems for the leasing companies.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

**2. Other:**

None

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On March 28, 2006, the Tourism Committee adopted a strike-all amendment to HB 301. The strike-all amendment conformed HB 301 to SB 2632 as amended by the Senate Community Affairs Committee on March 28, 2006 with one exception. The bill retains the surcharge exemption contained in the original HB 301. Other than technical and clarifying changes, the differences between the original bill and the committee substitute are as follows:

- Amends existing rental car surcharge law to add a local option surcharge provision versus creating a new section of law.
- No longer requires that all counties in a Metropolitan Planning Organization must approve a local surcharge ordinance by each county's electorate through referendum before a local option rental car surcharge can be collected in any member county.
- Provides that any county can impose a local option rental car surcharge if the surcharge is approved by voters in a countywide referendum.
- Removes language allowing a county ordinance to conflict with and take precedence over the Department of Revenue rules relating to the local option rental car surcharge.
- Requires money to be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of rights-of-way; construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in a county; or the reduction of bonded indebtedness of such county or of special road and bridge districts within the county, incurred for road and bridge or other transportation purposes.
- Requires monthly distribution of proceeds based upon s. 336.025(3)(a)1. or (4)(a), F.S., which provides a distribution formula established by interlocal agreement or if there is no interlocal agreement, for distribution among the county government and eligible municipalities based upon the transportation expenditures of each for a specified period of time.
- Adds language for timely notification of the approval by referendum, effective date of referendum, and information that must be provided to the Department of Revenue.
- Provides for procedures for depositing of proceeds when a dealer does not report rental car collections by county.

This analysis reflects the changes contained in the amendment.