

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 301 Local Option Surcharge on Rentals or Leases of Motor Vehicles
SPONSOR(S): Quinones
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism Committee		McDonald	McDonald
2) Finance & Tax Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Currently, Florida law authorizes the levy of a statewide rental car surcharge of \$2 per day to be used for helping to fund statewide transportation efforts (80% of the surcharge), for funding the state’s tourism promotion and marketing efforts (15.75% of the surcharge), and for helping to fund the state’s international trade efforts (4.75% of the surcharge). The levy of a local option rental car surcharge is not authorized.

Effective July 1, 2006, the bill creates s. 212.0607, F.S., authorizing counties that are members of a Metropolitan Planning Organization (MPO) to impose, by ordinance enacted by a majority vote of the governing board of each county, a local option rental car surcharge not to exceed \$2 per day or any part of a day on the rental or lease of a motor vehicle. Before the surcharge is collected in any member county, all counties must impose an ordinance which is approved by a majority vote of the electors of the individual counties.

The local option surcharge, like the state 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 may apply only to the first 30 days of each lease or rental. Unlike the current law which 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 bill provides that the surcharge shall 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. The person, however, must provide a receipt for the cost of the maintenance or repair services and documentation that the person owns the motor vehicle undergoing maintenance or repair.

The bill, as does current law, requires the collection, administration, enforcement, and distribution of the surcharge to be done by the Department of Revenue. The collection of the surcharge shall be attributed to the county in which the rental agreement was entered into. The bill, however, states that if an ordinance contains language differing and conflicting with the provisions of the rules governing administration by the department, the ordinance shall prevail.

Surcharge proceeds received by a county can only be used to provide funding on an annual basis for transportation projects listed in the long-range transportation plan of the MPO encompassing the county. However, at the discretion of the county, a portion of the proceeds may be used on an annual basis to provide funding for designated public transportation facilities and public transportation systems within that MPO’s urbanized area.

The Revenue Estimating Conference has not met to determine the fiscal impacts of this bill. See “Fiscal Comments”.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires additional responsibilities of the Department of Revenue regarding the local option rental car surcharge proposed and, as written, provides concerns on how the department would be able to fulfill its responsibilities under the bill. See the section on “Comments.” The bill will also require additional responsibilities of counties, which by referendum of the voters, are charged with levying the additional surcharge and for using the monies as provided in the bill.

Ensure lower taxes – The bill provides for a local option rental car surcharge that could double the current \$2 per day statewide rental car surcharge.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Currently, Florida law authorizes the levy of a statewide rental car surcharge of \$2 per day to be used for helping to fund statewide transportation efforts (80% of the surcharge), for funding the state’s tourism promotion and marketing efforts (15.75% of the surcharge), and for helping to fund the state’s international trade efforts (4.75% of the surcharge). The levy of a local option rental car surcharge is not authorized.

Below are a discussion of the state rental car surcharge law and a discussion of what some other jurisdictions around the country do regarding the levy of and use of rental car surcharges.

Rental Car Surcharge

History:

In 1989, the Legislature created s. 212.0606, F.S., the 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 and 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 needs¹ but was amended in subsequent years to remove the initial funding uses and replace them with helping to fund the state’s transportation needs, to fund the state’s tourism promotion and marketing efforts, and to fund the state’s international trade and promotion efforts. After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80% of the surcharge to the State Transportation Trust Fund;²
- 15.75% of the surcharge to the Tourism Promotion Trust Fund; and,
- 4.25% of the surcharge to the Florida International Trade and Promotion Trust Fund.

The actual distribution of the \$2/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).³

¹ Eighty percent of the proceeds were distributed to the Children and Adolescents Substance Abuse Trust Fund that was managed by the Department of Health and Rehabilitative Services and 20% were distributed to the Law Enforcement Trust Fund that was managed by the Department of Highway Safety and Motor Vehicles.

² The rental car surcharge represents approximately 4% of the funds deposited into the Transportation Trust Fund.

³ Review of Rental Car Surcharge, House Tourism Committee, January 2005, p. 8.

The rental car surcharge is levied per day or any part of a day 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 is responsible for collecting and distributing monies collected under the rental car surcharge as well as enforcing the collection. According to the department, the rental car surcharge is collected from 1500 rental car dealers, of which 130 operate in more than one county.

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 fiscal year 2007-2008 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.⁴

The manner in which rental car dealers reported surcharges was amended by the 2003 Legislature to authorize the Department of Revenue to require dealers to report rental car surcharge collections according to the county in which the surcharge was attributed, in order to facilitate the allocation of surcharge revenues collected within each Department of Transportation district. This requirement was authorized to begin January 1, 2004. The change in law is to help the Department of Transportation meet its statutory requirement that proceeds of the rental car surcharge that are deposited into the State Transportation Trust Fund be allocated to each Department of Transportation district for projects, based on the amount of proceeds collected in the counties within each respective district.⁵

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 the Department of Transportation's needs for their 5-year planning cycle, the Department of Revenue was providing an estimate of the rental car surcharge based on sales tax returns. After January 1, 2004, the law required the Department of Revenue 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 some rental car surcharges that are deposited into the Transportation Trust Fund. In FY 2005, the counties responsible for the most money 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 7.⁶

Rental Car Surcharge Projections:

The Transportation Revenue Estimating Conference met on November 4, 2005 to forecast revenues that flow into the State Transportation Trust Fund. The Conference raised the revenue estimate for the work program period (2005-06 through 2010-11) by \$449.9 million, or 2.5%. The Conference stated that the Rental Car Surcharge is showing some rebounding following the terrorist attack on September 11, 2001 with a prediction of an increase of \$29.3 million, or 4.6% higher than the old forecast. On March 3, 2006, the Conference met again to revise the forecast. The Conference made minor adjustments to the overall forecast. The rental car surcharge was increased by \$23.1 million, or 3.4%

⁴ See ch. 2002-20, L.O.F. Although this requirement was placed in law, the Department of Revenue did not receive information from all dealers in a format identifying county collections.

⁵ See ch. 2003-254, L.O.F.

⁶ Information provided by the Department of Revenue.

higher than in the November forecast. The rental car surcharge collection for FY 04-05 is \$106.7 million, FY 05-06 \$111.2 million, FY 2006-07 is \$113.2 million, and FY 2007-08 is \$115.1 million. The projections go through FY 2015-16 with the rental car surcharge collections continuing to increase with the projected amount in FY 2015-16 to be \$128.8 million.

Metropolitan Planning Organizations – Role and Relationship with Transportation Districts

As established by 23 U.S.C. s. 134, Metropolitan Planning Organizations (MPOs) are directed to develop, in cooperation with state officials, transportation plans and programs for urbanized areas of more than 50,000 persons. The process for developing such plans and programs must provide for the consideration of all modes of transportation and "shall be continuing, cooperative, and comprehensive" to the degree appropriate based on the complexity of the transportation problems. The plans also must emphasize projects that serve an important national, state or regional transportation purpose.

Pursuant to s. 339.175, F.S., MPOs in cooperation with the state and public transit operators develop multi-year "transportation improvement plans," or TIPs, that are the building blocks for the Florida Department of Transportation's statewide Five-Year Work Program. Besides the TIPs, the MPOs also develop long-range transportation plans ranging over 20 years and an annual "unified planning work program" that lists all the planning tasks each MPO will undertake that fiscal year.

An MPO must be designated for each urbanized area of the state. Such designation must be accomplished by agreement between the Governor and units of general-purpose local government representing at least 75 percent of the population of the urbanized area. Each MPO must be created and operated pursuant to an interlocal agreement entered into pursuant to s. 163.01, F.S. Currently, Florida has 26 MPOs. These boards consist of local elected officials and appropriate state agencies, and may also include officials of public agencies that administer major modes of transportation within the metropolitan area. Each MPO is unique in terms of membership composition, planning boundaries and organizational structure.

In recent years, the Legislature has instituted transportation policy directives focusing on regional planning and transportation infrastructure improvements.

Other States with Statewide or Local Rental Car Surcharges

Some states, other than Florida, that have a statewide rental car surcharge are Arkansas, Connecticut, Montana, and North Carolina. Such municipalities as Mobile, Phoenix, Little Rock, Denver, Atlanta, Chicago, Indianapolis, Detroit, Kansas City, Reno, Philadelphia, Memphis, Dallas, San Antonio, Seattle, and Las Vegas also levy a rental car surcharge. The amount of the levy varies widely as do the uses of the surcharge.

Changes Proposed by the Bill:

The bill creates s. 212.0607, F.S., authorizing counties that are members of a Metropolitan Planning Organization (MPO) to impose, by ordinance enacted by a majority vote of the governing board of each county, a local option rental car surcharge not to exceed \$2 per day or any part of a day on the rental or lease of a motor vehicle. Before the surcharge is collected in any member county, all counties must impose an ordinance which is approved by a majority vote of the electors of the individual counties.

The local option surcharge, like the state 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 may apply only to the first 30 days of each lease or rental. Unlike the current law which 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 bill provides that the surcharge shall 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.

The person, however, must provide a receipt for the cost of the maintenance or repair services and documentation that the person owns the motor vehicle undergoing maintenance or repair.

The bill, as does current law, requires the collection, administration, enforcement, and distribution of the surcharge to be done by the Department of Revenue. The collection of the surcharge shall be attributed to the county in which the rental agreement was entered into. The bill, however, states that if an ordinance contains language differing and conflicting with the provisions of the rules governing administration by the department, the ordinance shall prevail.

Proceeds of the surcharge received by a county can only be used to provide funding on an annual basis for those transportation projects listed in the long-range transportation plan of the MPO encompassing the county. However, at the discretion of the county, a portion of the proceeds may be used on an annual basis to provide funding for designated public transportation facilities and public transportation systems within that MPO's urbanized area.

The bill takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Creates s. 212.0607, F.S.; providing for a local option surcharge on the lease or rental of motor vehicles; providing for an exception; authorizing counties who are members of a metropolitan planning organization to impose by ordinance the surcharge; requiring referendum; providing for use of surcharge proceeds; providing for collection, administration, and enforcement of the surcharge by the Department of Revenue; providing for application of rules of the department.

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. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals renting or leasing certain vehicles may be required to pay an additional \$2 per day in counties where the surcharge is imposed.⁷

According to the Department of Revenue's comments on the legislation, the inconsistency between the existing state rental car surcharge and the local option rental car surcharge proposed by the bill would cause bookkeeping problems for the leasing company and the repair person. This could, in turn, increase costs to the leasing company and the repair person.

⁷ Enterprise Rent-A-Car indicates that approximately 73% of their business is Florida residents, not people from out of state.
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Some rental car companies have indicated that there will be a negative impact on their specific businesses.

The impact on tourism to the state or to the county where the surcharge is imposed will not be able to be accurately measured until at least one year after the change has been in force.⁸

Others, such as METROPLAN Orlando, have stated that there will be a positive impact on businesses and tourism because of an improved transportation system in the local areas that impose the surcharge.

D. FISCAL COMMENTS:

The bill affects only those counties that collect rental car surcharges. Of those, the bill provides that the local option rental car surcharge can only become effective when the surcharge is approved by referendum in each of the member counties of a metropolitan planning organization. The amount of the impact depends upon the rental car business in the MPO area. According to METROPLAN Orlando, the MPO for Orange, Osceola, and Seminole Counties, the local option surcharge collection could be \$40 million or more. If all of the money is used to partner with the state under the Transportation Regional Incentive Program (TRIP), the total fiscal impact could be \$80 million.⁹

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:

The bill provides that all rules adopted by the Department of Revenue for the administration of the rental car surcharge imposed under s. 212.0606, F.S., apply to the administration of the local option surcharge, except the ordinance enacted by the county may contain differing and conflicting provisions, which shall prevail.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Changes Being Proposed for Increased Transportation Funding at the Local Level:

HB 7077 by the House Transportation Committee amends s. 212.055(1), F.S., to rename the "Charter County Transit System Surtax" as the "County Transportation System Surtax." It deletes the requirement that only certain charter counties can levy the surtax. It also expands the surtax revenues' uses to include:

- Funding a regional transportation project identified in regional plans by MPOs, pursuant to s. 339.155(5), F.S.;
- As the local match for the new Transportation Regional Incentive Program (TRIP), pursuant to s. 339.2819, F.S., or the New Starts transit program, pursuant to s. 341.051, F.S.;
- Certain capital improvement projects and concurrency projects identified in local comprehensive plans; and

⁸ Conversation with Barry Pitegoff, Director of Research, VISIT FLORIDA, March 2006.

⁹ "A Case for Local Option Rental Car Surcharge", METROPLAN ORLANDO, p. 1.

- Funding bicycle and pedestrian paths.

The maximum 1% surtax can be levied either after passage of a referendum or by a supermajority vote of the total membership of a county's governing body. The bill also includes a distribution formula, per interlocal agreement, to provide that counties can share the funds with municipalities.¹⁰

Department of Revenue concerns and suggestions for change:

The following concerns were raised by the Department of Revenue:

- The provision that the surcharge would not apply to the lease of a motor vehicle by a person whose own car is being repaired or undergoing maintenance would create two different tax bases. The inconsistency between the two would cause bookkeeping problems for the leasing company and the repair person.
- The requirement to document the repair services and proof of ownership of the vehicle being repaired is confusing as to who is required to provide and maintain the documentation.
- If the county ordinances conflict with the rules of the department and the county ordinances conflict with each other, then the administration of the surcharge on a county-by-county basis would be difficult for taxpayers operating in one or more counties imposing the local option rental car surcharge and for the department.
- The department would need adequate time to notify potential taxpayers of changes in law and to revise forms.
- Vendors and taxpayers would need adequate time to implement the collection of the surcharge.
- The counties would need to timely inform the department of a local option rental car surcharge and there would need to be a consequence for failure to timely notify the department.

The Department of Revenue offered the following suggestions for change to address their concerns cited above:

- If it is not the intent to create two different tax bases, similar language could be placed in the existing rental car surcharge language in s. 212.0606, F.S.
- Move the effective date of imposition of the surcharge by a county to January 1 following the year in which the last member county of the metropolitan planning organization has approved its referendum.
- Add provisions to require any county levying a local option rental car surcharge to notify the department within 10 days after final approval by referendum and no later than November 16 prior to the effective date.
- Add language providing that failure to timely provide notification to the department shall result in the delay of the effective date of the surcharge for a period of one year.
- Remove provisions that allow the county ordinance imposing the surcharge to contain differing and conflicting provisions that prevail over the department's administration of the surcharge.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹⁰ Currently, seven counties are eligible to levy the tax: Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota, and Volusia. Only Duval and Miami-Dade have levied ½% surtax. According to the Department of Revenue, in FY 2004 the surtax for those two counties generated \$194.3 million.