

## 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></u>	<u></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 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 (4.25% of the surcharge). The levy of a local option rental car surcharge is not authorized.

Effective July 1, 2006, the 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 of a day. The local option surcharge, like the statewide 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. Also like the statewide surcharge, the local option surcharge may apply only to the first 30 days of each lease or rental. Unlike the statewide surcharge 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 also provides that the local option 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 local option rental car surcharge must be approved by the voters in a countywide referendum and shall be effective January 1, following the year in which the ordinance was approved by referendum. A local option rental car surcharge may not terminate on a date other than 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. 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.

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 of proceeds to a county to be used by the Department of Revenue is delineated in the bill.

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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**DATE:** 3/29/2006

## 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. 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 in counties levying the local option surcharge.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation:**

##### Rental Car Surcharge

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 (4.25% of the surcharge). The levy of a local option rental car surcharge is not authorized.

Below is a discussion of the state rental car surcharge law. Additionally, information is provided on other states and municipalities that levy a 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 needs<sup>1</sup> 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;<sup>2</sup>
- 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 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).<sup>3</sup>

<sup>1</sup> 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.

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

<sup>3</sup> 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 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>4</sup>

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 was 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.<sup>5</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 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 which are deposited into the State 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.<sup>6</sup>

### ***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

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<sup>4</sup> 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.

<sup>5</sup> See ch. 2003-254, L.O.F.

<sup>6</sup> Information provided by the Department of Revenue.

adjustments to the overall forecast. The rental car surcharge was increased by \$23.1 million, or 3.4% higher than in the November forecast. The rental car surcharge collection for FY 04-05 is \$106.7 million, FY 05-06 is \$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 each fiscal year. The projected collection in FY 2015-16 is \$128.8 million.

***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.

County Tax on Motor Fuel (s. 206.60, F.S.)

The 1-cent county fuel tax is distributed pursuant to s. 206.60, F.S., and may be used solely 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.

**Changes Proposed by the Bill:**

In addition to the current statewide \$2 per day rental car surcharge, the 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 of a day. 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 both surcharges 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 also provides that the local option 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 local option surcharge must be approved by the voters in a countywide referendum and shall be effective January 1, following the year in which the ordinance was approved by referendum. A local option surcharge may not terminate on a date other than 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>7</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>8</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

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<sup>7</sup> See s. 206.60, F.S.

<sup>8</sup> See s. 336.025(3)(a)1. or (4)(a), F.S.

transferred to the Local Option Fuel Tax Trust Fund. Under these circumstances, the distribution formula of proceeds to a county to be used by the Department of Revenue is delineated in the bill. The bill, as does current law for the statewide rental car surcharge, requires the collection, administration, enforcement, and distribution of the local option surcharge to be done by the Department of Revenue.

The bill takes effect July 1, 2006.

C. SECTION DIRECTORY:

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

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, whether Florida residents or non-residents, renting or leasing certain vehicles may be required to pay an additional \$2 per day in counties where the local option surcharge is imposed.<sup>9</sup>

According to the Department of Revenue's comments, 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 HB 301 CS 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.

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.<sup>10</sup>

<sup>9</sup> Enterprise Rent-A-Car indicates that approximately 73% of their business is Florida residents, not people from out of state.

<sup>10</sup> Conversation with Barry Pitegoff, Director of Research, VISIT FLORIDA, March 2006.

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 the county. The amount of the impact depends upon the level of rental car business in the county.

### 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:

***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
- 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.<sup>11</sup>

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<sup>11</sup> 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.

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

On March 28, 2006, the Tourism Committee adopted a strike-all amendment to HB 301. The bill was then approved by the Committee as a committee substitute. 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 exceptions to the local option to the rental car surcharged 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.