

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1353 Local Government Finances
SPONSOR(S): Government Efficiency & Accountability Council and Seiler
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>6 Y, 2 N</u>	<u>Kruse</u>	<u>Kruse</u>
2) <u>Government Efficiency & Accountability Council</u>	<u>10 Y, 0 N, As CS</u>	<u>Kruse</u>	<u>Cooper</u>
3) <u>Policy & Budget Council</u>	<u>(W/D)</u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Chapter 2003-402, L.O.F., implemented the funding reforms of the state court system by increasing the percentage of state sales tax revenues transferred to the Revenue Sharing Trust Fund for Municipalities. Additionally the legislation eliminated, beginning in 2009-10 fiscal year, the program's automatic revenue growth mechanism in the guaranteed entitlement provision applicable to Miami-Dade County. This bill continues the automatic revenue growth mechanism in the guaranteed entitlement provision applicable to Miami-Dade County.

The bill also authorizes the continued collection of a \$15 surcharge assessed by certain local governments for traffic infractions which is scheduled for repeal on September 30, 2007. Further, the bill authorizes the assessment of up to \$3 in court costs to be used to operate and administer Teen Courts for persons adjudicated delinquent in circuit or county court. Additionally, the bill authorizes the assessment of up to \$65 in court costs for persons adjudicated delinquent, and authorizes a surcharge of \$85 for persons adjudicated delinquent. The bill authorizes the continued collection of the \$85 surcharge which is scheduled for repeal on September 30, 2007.

The bill will have a fiscal impact on the revenues cities would have received at the beginning of the 2009-10 fiscal year.

The bill has an effective date of July 1, 2007.

Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature. This bill could be subject to a court challenge under this provision.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes-The bill continues a surcharge on certain traffic violations that were scheduled for repeal on September 30, 2007.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Revenue Sharing

The Florida Revenue Sharing Act of 1972 was a major attempt by the Legislature to ensure a minimum level of revenue parity across units of local government.¹ Provisions in the enacting legislation created the Revenue Sharing Trust Fund for Municipalities. The Fund receives a percentage of the sales tax, motor fuel and special fuel, and the alternative fuels taxes which is distributed to the cities. An allocation formula serves as the basis for the distribution of these revenues to each municipality that meets strict eligibility requirements. Municipalities must use the funds derived from the municipal fuel tax for transportation-related expenditures. Additionally, there are statutory limitations on the use of the funds as a pledge for bond indebtedness.

Chapter 2003-402, L.O.F., implemented the funding reforms of the state court system by increasing the percentage of state sales tax revenues transferred to the Revenue Sharing Trust Fund for Municipalities from 1.0715 percent to 1.3409 percent. Additionally the legislation eliminated, beginning in 2009-10 fiscal year, the program's automatic revenue growth mechanism in the guaranteed entitlement provision applicable to Miami-Dade County.²

Below is a chart of the estimates of recent years and actual amounts of funds distributed to the cities.

Fiscal Year	To Cities	Annual Change %
2007-08*	\$379,000,000	4.94
2006-07*	361,200,000	3.66
2005-06	348,426,094	6.33
2004-05	327,684,527	3.75
2003-04	254,769,684	7.44
2002-03	237,117,256	2.80
2001-02	230,655,617	1.42

* Estimate

Section 218.21, F.S., sets out the provisions related to the guaranteed entitlement to cities as follows:

(6) "Guaranteed entitlement" means the amount of revenue which must be shared with an eligible unit of local government so that:

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(a), tax on cigarettes; the then-existing s. 323.16(3), road tax; and s. 206.605, tax on motor fuel. Any government exercising municipal powers

¹ Chapter 72-360, L.O.F.

² Information from LCIR's 2003 Local Government Financial Information Handbook, Municipal Revenue Sharing Program, p. 97.

under s. 6(f), Art. VIII of the State Constitution may not receive less than the aggregate amount it received from the Revenue Sharing Trust Fund for Municipalities in the preceding fiscal year, plus, through fiscal year 2008-2009, a percentage increase in such amount equal to the percentage increase of the Revenue Sharing Trust Fund for Municipalities for the preceding fiscal year.

In 2003, section 95 of ch. 2003-402, L.O.F., amended subsection (6), effective July 1, 2009, to remove part of the last sentence. After July 1, 2009, the new section will read:

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then-existing s. 210.20(2)(a), tax on cigarettes; the then-existing s. 323.16(3), road tax; and s. 206.605, tax on motor fuel. Any government exercising municipal powers under s. 6(f), Art. VIII of the State Constitution may not receive less than the aggregate amount it received from the Revenue Sharing Trust Fund for Municipalities in the preceding fiscal year. ~~plus, through fiscal year 2008-2009, a percentage increase in such amount equal to the percentage increase of the Revenue Sharing Trust Fund for Municipalities for the preceding fiscal year.~~

Miami-Dade County-Metro Dade is classified as a city for purposes of the Fund distributions. The Department of Revenue estimates for the fiscal year ending June 30, 2007, a guaranteed revenue sharing amount for Metro Dade of \$47,401,910.00. The next highest estimates of amounts to be received by cities outside of Miami-Dade County or Duval County-Jacksonville are Tampa, \$4,897,504.00, and Ft. Lauderdale, \$3,196,503.00.

Surcharge on Traffic Violations and Criminal Offenses

Under s. 318.18(14), F.S., certain local governments may impose by ordinance up to a \$15.00 surcharge on certain non-criminal traffic infractions and criminal violations. Revenue from the surcharge is transferred to the local government to replace fine revenue deposited into the clerk's fine and forfeiture fund. The proceeds may not be used to secure payment of the principal and interest on bonds. This subsection is schedule to be repealed September 30, 2007. The fee was permitted in the Article V funding transition to replace fine revenues to court clerks.

Teen Courts

Teen Court is a first-time offenders program for juveniles between the ages of 10 and 17. Juvenile violators must stand before a jury of their peers, plead guilty, and accept whatever sanctions their peers impose. Teens between the ages of 13 and 17 act as the defense attorney, the prosecuting attorney, the jury, and the court's bailiff and clerk. The judge is the only adult directly involved in the proceedings. Teens who accept the verdict of their peers and successfully complete the sanction imposed receive a clear record.

Section 938.19(2), F.S., authorizes the board of county commissioners in each county where a Teen Court has been created, to adopt a mandatory court cost of up to \$3 to be assessed in specific cases to operate and administer teen courts. A court case from 2005 found that the \$3 surcharge did not apply to juvenile cases and that juveniles are not deemed to be "convicted" by adjudication of delinquency.³ The Florida Supreme Court found in a case in 2006 that unless the Legislature expressly makes a cost or surcharge applicable to juvenile cases, those costs or surcharges are not applicable to juveniles.⁴

³ E.J. v. State, 912 So. 2d 382-384 (Fla. 2d DCA 2005).

⁴ V.K.E. v. State, 934 So. 2d 1276, 1282 (Fla. 2006).

Effect of Proposed Changes

Revenue Sharing

The bill removes “through fiscal year 2008-2009” in s. 218.21(6)(b), F.S. This has the effect of retaining how the minimum amount of revenue sharing is made to the cities. The bill also repeals section 95 of ch. 2003-402, L.O.F., which, as described in the Current Situation above, would remove the last sentence of s. 218.21(6)(b), F.S. If the bill becomes law, it will end the anticipated change made during the Article V transition for the distribution of funds between the cities which was scheduled to begin after July 1, 2009. The change would have increased the amount of distribution to the cities and reduced the amount of the distribution to Metro-Dade. Therefore, the overall effect of these portions of the bill is to retain the minimum revenue sharing structure found in current law.

Surcharges for Traffic Violations and Criminal Offenses

The bill removes the repeal of the \$15 surcharge on certain traffic violations in s. 318.18, F.S., scheduled for September 30, 2007. This change will allow certain local governments to continue to impose the surcharge for the purpose of replacing revenue from fines deposited into the fine and forfeiture fund established by the clerk of the circuit court in each county.

The bill adds *adjudicated delinquent for delinquent acts* to the criteria of s. 938.19, F.S., which specify who may be assessed court costs of up to \$3 to be used to operate and administer Teen Courts. The addition of the language should satisfy the Florida Supreme Court’s requirements as described in the Present Situation above that the Legislature must expressly provide for an assessment in juvenile proceedings.

The bill also amends s. 939.185(1)(a), F.S., adding *adjudicated delinquent for delinquent acts* to the criteria specifying who may be assessed an additional court cost of up to \$65. Further, the bill amends s. 939.185(1)(b), F.S., adding *adjudicated delinquent for delinquent acts* to the criteria specifying who may be assessed a surcharge of \$85. Additionally, the bill deletes the provision in s. 939.185(1)(b), F.S., that would have repealed, on September 30, 2007, the authority to impose the \$85 surcharge.

The bill has an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends subsection (6) of s. 218.21, F.S., to remove a repeal date for a part of the Revenue Sharing Trust Fund for Municipalities.

Section 2: Amends subsection (14) of s. 318.18, F.S., to remove the repeal of a surcharge that may be imposed on certain traffic violations.

Section 3: Amends subsection (2) of s. 938.19, F.S, to add language that applies a \$3 court cost to those adjudicated delinquent for a delinquent act.

Section 4: Amends subsection (1) of s. 939.185, F.S., to apply \$65 court costs to those adjudicated delinquent for delinquent acts and an \$85 surcharge to those adjudicated delinquent for delinquent acts.

Section 5: Repeals section 95 of ch. 2003-402, L.O.F.

Section 6: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill removes the anticipated date of the change in distribution from the Revenue Sharing Trust Fund for Municipalities. This means that the municipalities will not receive the anticipated increase in revenue sharing that might have otherwise occurred.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Residents of certain local governments that have instituted a surcharge, that may be up to \$15.00, may be required to continue to pay such surcharges on certain traffic violations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Because the bill includes two different areas of law, guaranteed entitlement to certain funds for distribution to cities and retaining certain charges related to traffic violations or criminal offenses, this bill could be subject to a court challenge pursuant to the constitutional single subject rule. Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature: "Every law shall embrace but one subject and matter properly connected therewith...." The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise or fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a

legislative enactment is broad and comprehensive is not fatal under the single subject rule so long as the matters included in the enactment have a natural or logical connection.⁵

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

At its meeting on March 21, 2007, the Committee on Urban & Local Affairs adopted a strike-all amendment to the bill which kept the existing provisions of the bill but added language in three sections of statute to state that the surcharge on penalties for noncriminal dispositions also applies to juvenile delinquency proceedings.

On April 11, 2007, the Government Efficiency & Accountability Council reported HB 1353 favorably with a council substitute to incorporate the strike-all amendment adopted by the Committee on Urban & Local Affairs.

⁵ Chenoweth v. Kemp, 396 So. 2d 1122 (Fla. 1981).