

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes -- The bill increases a mandatory fee charged against all traffic tickets and criminal convictions.

B. EFFECT OF PROPOSED CHANGES:

Background

Additional Court Cost Clearing Trust Fund

Section 938.01, F.S., creates the Additional Court Cost Clearing Trust Fund, which is administered by the Department of Revenue. Currently, the Clerks of Court collect and deposit into the fund an additional court cost of \$3.00 in every assessable case¹ for:

- Pedestrian infractions;
- Moving and nonmoving traffic infractions;
- Swimming and diving infractions;
- Moving or nonmoving boating infractions;
- Misdemeanor and felony violations; and
- Each bond estreature or forfeited bail bond related to penal statute or penal ordinance violations.²

Section 318.21, F.S., provides for distribution of monies received from civil traffic penalties. After the first \$2 is paid to two specific funds, 5.1% of the remainder is distributed by the clerk of the court to the Additional Court Cost Clearing Trust Fund.

Section 938.01, F.S., provides for distribution of the funds paid into the Additional Court Cost Clearing Trust Fund as follows:

- Ninety-two percent to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund. This is equivalent to \$2.76 of the \$3.00 additional court cost plus 92% of the 5.1% collected from traffic infractions.
- Six and three-tenths percent to the Department of Law Enforcement Operating Trust Fund for the Criminal Justice Grant Program. This is equivalent to 18.9¢ of the \$3.00 additional court cost plus 6.3% of the 5.1% collected from traffic infractions.
- One and seven-tenths percent to the Department of Children and Family Services Domestic Violence Trust Fund. This is equivalent to 5.1¢ of the \$3.00 additional court cost plus 1.7% of the 5.1% collected from traffic infractions.

Criminal Justice Standards and Training Trust Fund

The Florida Department of Law Enforcement (FDLE) Criminal Justice Standards and Training (CJST) Trust Fund was created in 1976 and funded from a court cost assessment of \$1.00. Revenue was used to fund law enforcement training programs, training facilities, and block grant funding of local

¹ No court costs are assessed where the case is dismissed or the defendant is found not guilty.

² See ss. 318.18(11)(a),(d) and 327.73(11)(a),(b), F.S.

criminal justice programs. The assessment for the CJST Trust Fund was increased in 1986 to \$3.00 for each criminal case, bond estreature or forfeited bail, and civil traffic infraction. Currently, the fund receives \$2.76 from the \$3.00 additional court cost, plus 5.1% of the monies collected from each civil traffic infraction after the deduction of \$2 payable to other funds. The CJST Trust Fund provides funding for:

- The payment of expenses incurred by the Criminal Justice Standards and Training Commission (CJSTC) and the FDLE Professionalism Program;
- Criminal justice training programs and training school enhancements;
- Establishment of basic recruit, advanced and career development training programs; and
- Development of psychological, selection and performance evaluation tests.

Sealed or Expunged Criminal Records

Sections 943.0585 and 943.059, F.S., provide that certain offenders who were found not guilty, whose case was dismissed, or whose adjudication was withheld may ask the sentencing court to seal or expunge the record of the arrest and proceedings. Sealing a criminal record is defined as the act or practice of officially preventing access to particular records. Expunging a criminal record is defined as the removal of a conviction of the criminal record.

Effect of Bill

This bill amends ss. 318.18, 327.73 and 938.01, F.S., to increase the additional court cost from \$3 to \$4. This bill also changes how this \$4 court cost is allocated between the three funds. As to the general funds received, they are split as follows:

- Ninety-four percent (\$3.76) to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.
- Four and seven-tenths percent (18.8¢) to the Department of Law Enforcement Operating Trust Fund for the Criminal Justice Grant Program.
- One and three tenths percent (5.2¢) to the Department of Children & Family Services Domestic Violence Trust Fund.

This bill also amends s. 938.01, F.S., to provide that the funds received from the 5.1% of civil traffic penalties are to be distributed according to the percentages in current law.

The net effect of the changes by the bill are that the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund will receive an additional \$1 from each of the enumerated cases, and the other funds will be slightly affected (namely, the Domestic Violence Trust Fund will receive 0.1¢ more per case and the Department of Law Enforcement Operating Trust Fund will receive 0.1¢ less).

The bill also amends s. 938.30, F.S., to provide that a person seeking an expunction or sealing of his or her criminal history from a court must first pay all outstanding fines and court costs, unless the court makes written findings about the appropriateness of expunging or sealing despite the outstanding costs and fines. The bill does not provide any criteria to define what is or is not appropriate

C. SECTION DIRECTORY:

Section 1 amends s. 938.01, F.S. relating to the Additional Court Cost Clearing Trust Fund.

Section 2 amends s. 938.30, F.S., relating to financial obligations in criminal cases.

Section 3 amends s. 318.18, F.S. relating to the amount of civil penalties imposed for traffic offenses.

Section 4 amends s. 327.73, F.S. relating to court costs imposed on noncriminal infractions of boating laws.

Section 5 provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Florida Association of Court Clerks reported that \$9.7 million was collected in FY 2006-2007 from the additional court cost as provided for in ss. 318.18, 327.73, and 938.01, F.S. At that level of collections, it is projected that the increased court costs from \$3 to \$4 will generate an additional \$3.2 million. This sum will be paid to the Criminal Justice Standards and Training Trust Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will increase court costs charged to an individual by \$1.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

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

n/a