

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1962

INTRODUCER: Senator Garcia

SUBJECT: Revitalizing Municipalities

DATE: March 28, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Pre-meeting
2.	_____	_____	GO	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill allows municipalities that have a population greater than 250,000 and that are located within an enterprise zone to create sales tax increment redevelopment districts by resolution. It also allows the designated redevelopment agency for the enterprise zone where the sales tax increment redevelopment district is located to share with the state any annual increase in sales tax collections.

The bill states that the sales tax increment redevelopment district shall be eligible for a percentage distribution from the Revenue Sharing Trust Fund for Municipalities of the increased collections of the state tax on sales, use, and other transactions realized during any month by the municipality over the same monthly period in the prior year.

The bill directs the Department of Revenue to determine monthly, the specific amount payable to each designated redevelopment agency and the aggregate amount of sales tax revenue that is required for distribution. The bill further directs the Department to transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities.

The bill outlines the powers of the designated redevelopment agency and provides for the use of the distribution of sales tax proceeds under this section, including the issuance of bonds to finance the redevelopment of the sales tax increment redevelopment district.

This bill substantially amends sections 212.20 and 218.23 of the Florida Statutes.

This bill creates section 290.017 of the Florida Statutes.

II. Present Situation:

Municipal Revenue Sharing Program¹

The Revenue Sharing Act of 1972, located in Part II of ch.218, F.S., was enacted to ensure a minimum level of revenue parity across units of local government. This Act also created the Revenue Sharing Trust Fund for Municipalities. Currently the trust fund receives:

- 1.3409 percent of sales and use tax collections = 70.98 percent of total Program funding.²
- The net collections from the one-cent municipal fuel tax on motor fuel = 29.01 percent of total Program funding.³
- 12.5 percent of the state alternative fuel user decal fee collections = 0.01 percent of total Program funding.⁴

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 one-cent municipal fuel tax for transportation-related expenditures. Additionally, there are statutory limitations on the use of the funds as a pledge for bonded indebtedness.

Program Administration

The Municipal Revenue Sharing Program (Program) is administered by the Department of Revenue (DOR). Monthly distributions shall be made under this program to eligible municipal governments as prescribed in ss. 218.215 and 218.23, F.S. The Program is comprised of state sales taxes, municipal fuel taxes, and state alternative fuel user decal fees that are collected and transferred to the Revenue Sharing Trust Fund (Trust Fund).

Once each fiscal year, the DOR shall compute apportionment factors for use during the fiscal year.⁵ The computation shall be made prior to July 25 of each fiscal year and shall be based upon information submitted and certified to the DOR prior to June 1 of each year. Except in the case of error, the apportionment factors shall remain in effect for the fiscal year. It is the duty of the local government to submit the certified information required for the program's administration to the DOR in a timely manner.

A local government's failure to provide timely information authorizes the DOR to utilize the best information available or, if no such information is available, to take any necessary action, including partial or entire disqualification. Additionally, the local government shall waive its right to challenge the DOR's determination as to the jurisdiction's share of program revenues.

Eligibility to Participate in Revenue Sharing Program

In order to be eligible to participate in revenue sharing beyond the minimum entitlement in any

¹ The information in the Present Situation Section of this bill analysis was obtained from the 2010 Local Government Financial Information Handbook. See Florida Legislature, Office of Economic and Demographic Research, 2010 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, at 85-91 (Oct. 2010) (on file with the Senate Committee on Community Affairs). Available online at <http://edr.state.fl.us/Content/local-government/reports/lghih10.pdf> (last visited March 28, 2011).

² *Id.* citing s. 212.20(6)(d)5., F.S.

³ *Id.* citing s. 206.605(1), F.S.

⁴ *Id.* citing s. 206.879(1), F.S.

⁵ *Id.* citing s. 218.26, F.S.

fiscal year, a municipal government must have satisfied a number of statutory requirements outlined in subsection (1) of s. 218.23, F.S.⁶ As it relates to municipal revenue sharing, s. 218.21(7), F.S., defines “minimum entitlement” as:

the amount of revenue, as certified by the municipal government and determined by the Department of Revenue (DOR), which must be shared with the municipality so that the municipality will receive the amount of revenue necessary to meet its obligations as the result of pledges, assignments, or trusts entered into which obligated funds received from revenue sources or proceeds distributed out of the Trust Fund.

Distribution of Proceeds

Subsection (3) of s. 218.23, F.S., provides a distribution formula for determining the amount of distribution to a unit of local government. The distribution formula is as follows:

- First- A municipal government’s entitlement shall be computed on the basis of the “apportionment factor” provided in s. 218.245, F.S., which shall apply to all Trust Fund receipts available for distribution.
- Second- The revenue to be shared via the formula in any fiscal year is adjusted so that no municipality receives less than its guaranteed entitlement, which is equal to the aggregate amount received from the state in fiscal year 1971-72 under then-existing statutory provisions.⁷
- Third- *The revenue to be shared via the formula in any fiscal year is adjusted so that no county receives less than its guaranteed entitlement plus the second guaranteed entitlement for counties* (this step is not applicable to municipalities).
- Fourth- The revenue to be shared via the formula in any fiscal year is adjusted so that no unit of local government receives less than its minimum entitlement, which means the amount of revenue necessary for a municipality to meet its obligations as the result of pledges, assignments, or trusts entered into that obligated Trust Fund monies.⁸
- Fifth- Any remaining Trust Fund monies shall be distributed to eligible units of local government that qualify to receive additional monies beyond the guaranteed entitlement in proportion to the total remainder.

A.) Distributions under s. 212.20(6)(d)5. F.S.⁹ — Section 212.20(6), F.S., provides for the distribution of sales and use tax proceeds and communication services tax proceeds. Under Florida law, funds are first distributed under the requirements of s. 212.20(6)(a)-(d)4., F.S., then 1.3409% of the remaining proceeds are transferred to

⁶ *Id.* citing s. 218.23(1)(a)-(f), F.S.

⁷ See definition for “guaranteed entitlement” in s. 218.21(6), F.S.

⁸ See definition for “minimum entitlement” in s. 218.21(7), F.S.

⁹ Ch.2000-355, Laws of Fla. “. . . restructured the Municipal Revenue Sharing Program by transferring the portions of cigarette tax that previously funded the former Municipal Financial Assistance Trust Fund and Revenue Sharing Trust Fund for Municipalities to the state’s General Revenue Fund and provided for a separate distribution from state and sales taxes to the Revenue Sharing Trust Fund for Municipalities.” See Florida Legislature, Office of Economic and Demographic Research, 2010 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK *supra*, note 1, at 88.

the Revenue Sharing Trust Fund for Municipalities under subparagraph 212.20(6)(d)5., F.S.,¹⁰ which provides that:

If the total revenue to be distributed is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

B.) Distributions under s. 218.245(3).F.S.— Chapter 2003-402, Laws of Florida reduced the proportion of state sales and use tax transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and Revenue Sharing Trust Fund for counties and increased the proportion of state sales and use taxes transferred to the Revenue Sharing Trust Fund for Municipalities to offset the losses from the Local Government Half-cent Sales Tax Reduction. One year later, through ch. 2004-265, Laws of Florida, the Legislature created subsection (3) in s. 218.245, F.S., to provide that increases to individual municipalities resulting from the increased share of state sales and use taxes transferred to the Revenue Sharing Trust Fund for Municipalities shall be distributed in proportion to their respective loss from the Local Government Half-cent Sales Tax Program.

Each eligible local government's allocation shall be based on the amount it received from the Local Government Half-cent Sales Tax Program under s. 218.61, F.S., in the prior state fiscal year divided by the total receipts under the same authority in the prior state fiscal year for all eligible local governments provided, however, for the purpose of calculating this distribution, the amount received in the prior state fiscal year by a consolidated unit of local government (i.e., City of Jacksonville/Duval County) shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in this allocation in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the results multiplied by 12.

¹⁰ Department of Revenue, *SB 1962 Agency Analysis*, at 2 (March 25, 2011) (on file with the Senate Committee on Community Affairs).

Apportionment Factor

An “apportionment factor” is calculated for each eligible municipality using a formula consisting of the following equally weighted factors: adjusted municipal population, the derived municipal sales tax collections, and the municipality’s ability to raise revenue.¹¹

A.) Adjusted Municipal Population.— The adjusted municipal population factor is calculated by multiplying a given municipality’s population by the appropriate adjustment factor and dividing that product by the total adjusted statewide municipal population. Depending on the municipality’s population, one of the following adjustment factors is used:

Population Class	Adjustment Factor
0- 2,000	1.0
2,001 - 5,000	1.135
5,001 - 20,000	1.425
20,001 - 50,000	1.709
Over 50,000	1.791

Inmates and residents residing in institutions operated by the federal government as well as the Florida Departments of Corrections, Health, and Children and Family Services are not considered to be residents of the county in which the institutions are located for the purpose of calculating the distribution proportions.¹²

B.) Derived Municipal Sales Tax Collections.— In order to calculate the municipal sales tax collection factor, it is first necessary to allocate a share of the sales tax collected within a county to each of its respective municipalities. This allocation is derived on the basis of population. First, the municipality’s population is divided by the total countywide population. Second, the resulting quotient is multiplied by the countywide sales tax collections to determine the sales tax collected within a given municipality. The municipal sales tax collection factor is then calculated by dividing the sales tax collected within a given municipality by the total sales tax collected within all eligible municipalities in the state.

C.) Municipality’s Relative Ability to Raise Revenue.— The municipality’s relative ability to raise revenue is determined by a three-step process involving a series of calculations. First, the per capita taxable real and personal property valuation of all eligible municipalities in the state is divided by the per capita taxable real and personal property valuation of a given municipality. Second, a given municipality’s quotient, as calculated in the first step, is multiplied by the municipality’s population. For discussion purposes, this product is referred to as the recalculated population. Third, a given municipality’s recalculated population is divided by the total recalculated population of all eligible municipalities in the state. This quotient represents the municipality’s relative ability to raise revenue factor.

¹¹ Section 218.245(2), F.S.

¹² Section 186.901, F.S.

D.) Adjustment for a Metropolitan or Consolidated Government.— For a metropolitan or consolidated government, as provided in Article VIII, sections 3, and 6(e) or (f) of the Florida Constitution (i.e., Miami-Dade County and City of Jacksonville-Duval County), the factors are further adjusted by multiplying the adjusted or recalculated population or sales tax collections, as the case may be, by a percentage that is derived by dividing the total amount of ad valorem taxes levied by the county government on real and personal property in the area of the county outside of municipal limits or urban service district limits by the total amount of ad valorem taxes levied on real and personal property by the county and municipal governments.¹³

Authorized Use of Funds

Several statutory restrictions exist regarding the authorized use of municipal revenue sharing proceeds. Funds derived from the municipal fuel tax on motor fuel shall be used only for the purchase of transportation facilities and road and street rights-of-way; construction, reconstruction, and maintenance of roads, streets, bicycle paths, and pedestrian pathways; adjustment of city-owned utilities as required by road and street construction; and construction, reconstruction, transportation related public safety activities, maintenance, and operation of transportation facilities. Municipalities are authorized to expend these funds in conjunction with other municipalities, counties, state government, or the federal government in joint projects.

According to the DOR, municipalities may assume that 29.01 percent of their estimated 2011 fiscal year distribution is derived from the municipal fuel tax. Therefore, at least that proportion of each municipality's revenue sharing distribution must be expended on those transportation-related purposes specifically mentioned in the preceding paragraph.

Municipalities are restricted as to the amount of program funds that can be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, and there shall be no other use restriction on these shared revenues.¹⁴ Municipalities may assign, pledge, or set aside as trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness an amount up to 50 percent of the funds received in the prior year.¹⁵ Consequently, it is possible that some portion of a municipality's growth monies will become available as a pledge for bonded indebtedness.

According to the Florida Department of Revenue, the following is the estimated statewide distributions to municipal governments under the Municipal Revenue Sharing Program for the 2011 Fiscal Year:¹⁶

¹³ Section 218.245(2)(d), F.S.

¹⁴ Section 218.25(1), F.S.

¹⁵ Section 218.25(4), F.S.

¹⁶ Florida Legislature, Office of Economic and Demographic Research, 2010 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, at 98 (Oct. 2010) (on file with the Senate Committee on Community Affairs). Available online at <http://edr.state.fl.us/Content/local-government/reports/lgfih10.pdf> (last visited March 28, 2011).

	Guaranteed	Distributions s. 212.20(6)(d)5., F.S	Growth Money	Distributions s. 218.245(3), F.S	Yearly Total
Statewide Totals	\$124,683,365	\$122,178,265	\$18,588,385	\$44,200,000	\$309,650,014

Florida Enterprise Zone Act

The Florida Legislature created the Florida Enterprise Zone Program in 1982 to encourage economic development in economically depressed areas of the state by providing incentives to induce private investments in such areas. Located in ss. 290.001-290.016, F.S., the Florida Enterprise Zone Act, seeks to revitalize and redevelop severely distressed areas throughout the state by providing “investments, tax incentives and local government regulatory relief to encourage businesses to invest and locate in designated zones and residents to improve their property.”¹⁷ The Legislature requires enterprise zones to meet several criteria before being created. As of January 2011, there were 59 enterprise zones through the state: 29 urban and 30 rural.

III. Effect of Proposed Changes:

Section 1 amends subparagraph 212.20(6)(d)5., F.S., to state that the amounts required under s. 290.017(3), as created in this bill, shall also be distributed monthly to the Revenue Sharing Trust Fund for Municipalities.

Section 2 creates paragraph 218.23(3)(e), F.S., relating to the distribution formula, to require distributions to municipalities that have a sales tax increment redevelopment district under s. 290.017, F.S., prior to the final adjustment. The distributions shall be made to the appropriate designated redevelopment agency eligible for distribution under s. 290.017, F.S.

Section 3 creates s. 290.017, F.S., to authorize the creation, by local resolution, of sales tax increment redevelopment districts within municipalities that have a population greater than 250,000 and that are located within a designated enterprise zone, and to allow the designated redevelopment agency for the enterprise zone where the sales tax increment redevelopment district is located to share with the state any annual increase in sales tax collections. Using the data provided by the Office of Economic and Demographic Research, as of April 2010, three municipalities had a population over 250,000 and have designated one or more enterprise zones: Jacksonville, Miami, and Tampa.¹⁸

¹⁷ Office of Program Policy Analysis and Gov’t Accountability (OPPAGA), Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, at 1, Report No. 11-01 (Jan. 2011), available online at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf> (last visited on April 1, 2011).

¹⁸ Office of Economic and Demographic Research, *Florida Population by County and Municipality* available online at <http://edr.state.fl.us/Content/population-demographics/data/Population-city-county.pdf> (last visited on April 1, 2011). **Note**, As of April 2010, St. Petersburg had a population of 246,378 and Orlando had a population of 233,160, it is unknown whether these cities will break the 250,000 population threshold in the April 2011 data.

Legislative Intent

The Legislative intent is to improve the economic conditions within the enterprise zone, particularly within the economically depressed area of a municipality that comprises a sales tax increment redevelopment district and to provide local financing for public and private improvements that will foster job growth and enhance the commercial base of local merchants.

Distribution Percentage

The designated redevelopment agency is eligible for distribution from the Revenue Sharing Trust Fund for Municipalities in the amount of the increased state sales tax collections realized during any month by the municipality over the same monthly period in the prior year as follows:

- 85% of the increase in collections of less than \$1 million.
- 75% of the increased collections of \$1 million or more, but less than \$5 million.
- 50% of the increased collections of \$5 million or more, but less than \$8 million.
- 25% of the increased collections of \$8 million or more, but less than \$12 million.
- 0% of the increased collections of \$12 million or more.

Department of Revenue Duties

The bill requires the Department of Revenue to determine monthly, the specific amount payable to each eligible designated redevelopment agency and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities, in accordance with s. 212.20(6)(d)5., F.S., created in this bill. All amounts transferred must be distributed as provided in s. 218.23(3)(e), F.S., created in this bill.

Designated Redevelopment Agency Powers

The bill outlines the powers of the designated redevelopment agency, which shall be empowered to:

- Enter into cooperative contracts and agreements with a county, municipality, governmental agency, or private entity for services and assistance.
- Acquire, own, convey, construct, maintain, improve, and manage property and facilities, and grant and acquire licenses, easements, and options with respect to such property.
- Accept grants and donations of property, labor, or other things of value from any public or private source.
- Control the expenditure of funds legally available to it, subject to limitations imposed by law or any valid agreement or contract.
- Promote and advertise the commercial advantages of the district in order to attract new businesses and encourage the expansion of existing businesses.
- Promote and advertise the district to the public and engage in cooperative advertising programs with businesses located in the district.
- Identify areas with blighted influences and develop programs for remediating such influences.
- Issue bonds subject to authorization or approval by resolution or ordinance of the governing body that created the sales tax increment redevelopment district.

Issuance of Bonds

The bill also authorizes the designated redevelopment agency, if authorized or approved by resolution or ordinance of the government body, to use the distribution of sales tax proceeds provided for under this section for the purpose of issued revenue bonds to finance redevelopment of the district, including the payment of principal and interest upon any advances for surveys and plans or preliminary loans. Such bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. The bonds are to be issued for an essential public and governmental purpose, and the interest and income from the bonds are exempt from all taxes, except the corporate income tax in ch. 220, F.S.

Bonds issued under this paragraph may:

- Be issued in one or more series and may bear such date or dates,
- Be payable upon demand or mature at such time or times,
- Bear interest at such rate or rates,
- Be in such denomination or denominations,
- Be in such form either with or without coupon or registered,
- Carry such conversion or registration privileges,
- Have such rank or priority,
- Be executed in such manner,
- Be payable in such medium of payment at such place or places,
- Be subject to such terms of redemption (with or without premium),
- Be secured in such manner, and
- Have such other characteristics as may be provided by the resolution or ordinance authorizing their issuance.

These bonds may be sold either at a public or private sale and for such price as the designated redevelopment agency may determine will effectuate the purposes of this section.

In any suit, action, or proceeding involving the validity or enforceability of these bonds, any bond that recites in substance that it has been issued by the designated redevelopment agency in connection with the sales tax increment redevelopment district for a purpose authorized under this section is conclusively presumed to have been issued for that purpose. Further, any project financed by the bond is also conclusively presumed to have been planned and carried out in accordance with the intended purposes of this section.

Expenditures that Directly Benefit Privately Sponsored Projects

The expenditure of any sales tax proceeds that directly benefit a privately sponsored project in a designated enterprise zone or in a sales tax increment redevelopment district must be contingent upon a negotiated development agreement between the private sponsor and the applicable redevelopment agency which includes a binding term requiring the creation of no fewer than 500 full-time jobs.

Section 4 provides that this act shall take effect on July 1, 2011.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Any annual increases in sales tax collections in a sales tax increment redevelopment district that are shared with the state shall be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities for distribution to eligible designated redevelopment agencies as provided in the bill.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

Any increase in sales tax collections shared by a sales tax increment redevelopment district will be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities and distributed to eligible designated redevelopment agencies in an amount determined by the Department of Revenue.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Municipalities that have a population greater than 250,000 and that are located within a designated enterprise zone will be authorized to create a sales tax increment redevelopment district by resolution. The designated redevelopment agency of such district is granted certain powers, including the power to issue bonds to finance the redevelopment of the sales tax increment redevelopment district.

The Department of Revenue will be required to determine monthly, the specific amount payable to each designated redevelopment agency and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities. (*See Related Issues section below*)

VI. Technical Deficiencies:

The semicolon on line 255 of the bill should be changed to a period in order to be consistent with the other provisions under subsection 4 of s. 290.017, F.S., in the bill.

VII. Related Issues:

The Department of Revenue has articulated that it “does not collect tax information at a boundary level lower than a county (within a city or within an enterprise zone).” The Department further emphasizes that “based on the current sales tax reporting system, the Department does not collect the tax information necessary to calculate the ‘increased sales tax collections’ within a municipality as proposed in the bill and is unable to make the proposed distribution to the sales tax increment redevelopment zone agency.”¹⁹ The Department provides that this issue cannot be resolved through rulemaking and can only be resolved by amending the bill.²⁰

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹⁹ Department of Revenue, *SB 1962 Agency Analysis*, at 4 (March 25, 2011) (on file with the Senate Committee on Community Affairs).

²⁰ *Id.*