HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5201 PCB JUAS 15-01 Juvenile Detention Costs
SPONSOR(S): Justice Appropriations Subcommittee, Metz
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee	11 Y, 0 N	Schrader	Lloyd
1) Appropriations Committee	22 Y, 5 N	Schrader	Leznoff

SUMMARY ANALYSIS

Since 2004, the Department of Juvenile Justice (DJJ) has shared the cost of detention of juveniles in detention centers with the counties. The bill conforms to the House of Representatives proposed Fiscal Year 2015-16 General Appropriations Act by establishing a new cost sharing methodology with the counties.

The bill conforms to the House proposed General Appropriations Act and:

- Defines “total shared detention costs" as the funds that DJJ expends for providing detention care annually, less any funds it expends on fiscally constrained counties and the cost of housing out-of-state detainees.
- Provides for FY 2015-16 only, the total amount of the nonfiscally constrained counties' annual contribution for the shared detention costs is $55 million.
- Provides the total shared detention costs for FY 2016-2017 and every year after. Each nonfiscally constrained county is responsible for paying a set amount based on 57 percent of the total shared detention costs. The state is responsible for paying the remaining actual costs of detention care.
- Requires DJJ to notify each county by June 5 of each year its portion of shared detention costs and each county must pay its portion by the first day of each month.
- Provides that DJJ will calculate each counties proportion of the next fiscal year’s budget based on 57 percent of detention days.
- Requires unspent county funds from each fiscal year to be used to offset the following year’s billings.
- Provides the Department of Revenue must review county detention payments to ensure they are paying their share of costs. If DOR determines they are not, they will deduct, from county revenue sharing program funds in s. 218.23, F.S., the amount owed to DJJ. Provides a mechanism to ensure fulfillment of billed obligations for nonfiscally constrained counties.
- Includes a provision that protects the bondholders regarding revenue sharing.

The House proposed General Appropriation Act includes $3,020,035 above a base of $34,311,134 for a total of $37,331,169 to adequately fund the detention center budget entity to provide for 43 percent of shared cost and 100 percent cost for the fiscally constrained counties and out of state juveniles in detention.

The bill is effective July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Under certain circumstances outlined in s. 985.215, F.S., juveniles who are arrested can be detained within a secured detention facility where they await a court hearing. Within 24 hours, a judge decides whether on-going detention is necessary. If ongoing detention is ordered, a juvenile may be held in a secure detention facility awaiting disposition of their case. Secure detention facilities are operated by the Department of Juvenile Justice (department). In 2004, section 985.686, F.S. was created[1] which established a method of cost sharing of juvenile detention between the state and counties. The statute requires non-fiscally restrained counties to pay for the cost of detention care for juveniles who reside in that county for the period of time prior to "final court disposition". The State is responsible for all costs of detention incurred in fiscally constrained counties.[2]

In June 2013, the First District Court of Appeal affirmed an administrative law judge's order invalidating rules that the department had promulgated in 2010 relating to costs of detention.[3] According to the ALJ order,[4] the rules at issue shifted a greater responsibility for costs to the counties than was required by the relevant statute and this constituted an invalid exercise of delegated legislative authority. In July 2013, the Department of Juvenile Justice changed their method of billing counties to reflect their analysis of the ruling of the court.

The current methodology for billing the counties is outlined in s. 985.686(5), F.S. Prior to the June 2013 First District Court of Appeals ruling, the billing methodology for determining the counties' share of secure detention costs was based on the prior use of secure detention and the amount appropriated by the legislature in the shared county/state juvenile detention trust fund. The department would divide the total amount of the trust fund by the prior detention utilization to produce each counties share of the appropriation. At the end of the state fiscal year, the department provided the actual expenditures for the cost of secure detention and adjusted the cost allocation between the counties. This methodology was prescribed in Case No. 07-4398, as part of the Findings of Fact outlined in the administrative law judge's recommended order[5].

It is the fiscal policy of the state that the state and counties have a joint obligation to contribute to the financial support of the detention provided for juveniles[6]. In Fiscal Year 2014-2015, thirty-five nonfiscally constrained counties were billed a portion of shared detention costs. Of the thirty-five counties, six stopped remitting payment and eleven began submitting partial payments. In February 2015 two of the six counties that had previously stopped payment submitted letters and began to make some form of payment.

During Fiscal Year 2014-15 the department experienced significant shortfalls in the Detention Centers budget entity because 17 counties remitted partial or no payment. On Thursday, February 19, 2015 the

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[1] Originally created as s. 985.2155, F.S. in chapter 2004-263, Laws of Florida. Subsequently transferred to s. 985.686, F.S. by chapter 2006-120, s. 95, Laws of Florida.

[2] The term "fiscally constrained county" is defined to mean "a county within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than $5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1. Currently, 29 counties are considered fiscally constrained.

[3] *Department of Juvenile Justice, v. Okaloosa County*, 113 So.3d 1074 (Fla. 1st DCA 2013).

[4] *Okaloosa County v. Department of Juvenile Justice*, Case No. 12-0891RX

[5] HILLSBOROUGH COUNTY, Petitioner, vs. DEPARTMENT OF JUVENILE JUSTICE, Respondent. Case No. 07-4398. Finding of Fact - 10. The general revenue funds are appropriated for costs that Respondent must pay, including amounts for fiscally constrained counties. The Legislature identified $101,628,064.00 of the total appropriation as the counties' aggregate share of detention costs. Negative entries in the appropriation reduce the total amount to $125,327,667.00. Page 5, https://www.doah.state.fl.us/ROS/2007/07004398.pdf. Last accessed 3/17/2014.

[6] Originally created as 985.686 F.S. in chapter 2004-263, Laws of Florida.

Legislative Budget Commission approved a realignment of $10,414,121 between budget entities to cover a portion of the detention center shortfall. The department has requested a $15.7 million trust fund loan. In order for the department to repay the loan the legislature will need to provide a current year appropriation in the General Appropriations Act.

The 2014 General Appropriations Act funded shared detention costs using the Governor's budget recommendation for Fiscal Year 2014-15. This resulted in a state share equal to about 43 percent of total costs. The department submitted an administrative rule clearly defining pre-disposition and post-disposition days to support this approach. The Counties challenged the proposed rule and a hearing was held in mid-November 2014. A decision on rule adoption is expected in March 2015.

Effect of the bill

The bill amends s. 985.686, F.S. relating to shared county and state responsibility for juvenile detention. The bill defines "total shared detention costs" as the funds that DJJ expends for providing detention care annually, less any funds it expends on fiscally constrained counties and the cost of housing out-of-state detainees.

The bill provides that for fiscal year 2015-16, the non-fiscally restrained counties' annual contribution for the costs of providing detention care will be $55,000,000. The state will be responsible for paying the remaining actual costs of detention care.

The bill defines the term "total shared detention costs" as "the funds that the department expends for providing detention care annually, less any funds that it expends on fiscally constrained counties and the cost of housing out-of-state detainees." The bill provides that for the 2016-2017 state fiscal year and each year thereafter, each non-fiscally constrained county is responsible for paying a set amount based on 57 percent of the total shared detention cost. The state will be responsible for paying the remaining actual costs of detention care.

The bill requires the department to notify each county by June 5 of each year its portion of shared detention costs. DJJ will calculate the county's cost share estimate based on the actual detention days from June 1 through May 31st of each year.

Beginning July 1 of the following year, each county will provide to the department its portion of total shared detention costs by the first day of each month in 12 equal payments. The department shall calculate a county's percentage share by dividing the total number of detention days for juveniles residing in that county by the total number of detention days for all juveniles statewide. DJJ will calculate each counties proportion of the next fiscal year's budget based on 57 percent of detention days. Unspent county funds from each fiscal year will be used to offset the next year's budgeted costs.

The bill provides the Department of Revenue (DOR) must review county detention payments to ensure they are paying their share of costs. If DOR determines they are not, they will deduct, from county revenue sharing program funds in s. 218.23, F.S., the amount owed to DJJ. A very small amount of the funds in the revenue sharing program are bonded, this bill includes a provision that protects the bondholders.

B. SECTION DIRECTORY:

Section 1 Amends s. 985.686, F.S. relating to juvenile detention costs.

Section 2 Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues

2. Expenditures:

   The House proposed General Appropriation Act includes $3,020,035 above a base of $34,311,134 for a total of $37,331,169 to adequately fund the detention center budget entity to provide for 43 percent of shared cost and 100 percent cost for the fiscally constrained counties and out of state juveniles in detention.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have any impact on local government revenues.

2. Expenditures:

   The bill will establish the cost of juvenile detention for local government from 2016-2017 state fiscal year and each state fiscal year thereafter. Each nonfiscally constrained county is responsible for paying a set amount based on 57 percent of the total shared detention costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES