

By Senator Hutson

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1 A bill to be entitled
2 An act relating to state shared revenues; creating s.
3 16.63, F.S.; requiring the Attorney General, at the
4 request of one or more members of the Legislature, to
5 investigate whether a certain official action of the
6 governing body of a county or municipality violated
7 state law or the State Constitution; requiring the
8 Attorney General to report his or her findings and
9 conclusions to the Governor, the Legislature, and the
10 Secretary of State; providing requirements if no
11 violation is found; requiring the Attorney General to
12 initiate a civil action for specified relief in the
13 appropriate circuit court against the county or
14 municipality if it finds a violation occurred or is
15 likely to have occurred; requiring, if the circuit
16 court issues an order finding a violation, the
17 governing body of the subject county or municipality
18 timely remedy the violation as provided in the order;
19 authorizing the county or municipality to seek
20 judicial review and a stay of the order; requiring the
21 Attorney General to petition for, and the circuit
22 court to issue, an order directing the Department of
23 Revenue to withhold the share of revenues apportioned
24 to the county or municipality under the Revenue
25 Sharing Act of 1972 and from local government half-
26 cent sales tax proceeds if the county or municipality
27 fails to timely comply with the order; providing an
28 exception; authorizing the county or municipality to
29 petition the court for an order to restore amounts

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30 withheld under certain circumstances; amending s.
31 218.23, F.S.; specifying requirements for the
32 department in redistributing Revenue Sharing Act of
33 1972 moneys withheld from a county or municipality;
34 amending s. 218.26, F.S.; conforming provisions to
35 changes made by the act; amending s. 218.63, F.S.;
36 specifying requirements for the department in
37 redistributing local government half-cent sales tax
38 moneys withheld from a county or municipality;
39 providing an effective date.

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41 Be It Enacted by the Legislature of the State of Florida:

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43 Section 1. Section 16.63, Florida Statutes, is created to
44 read:

45 16.63 Investigation of certain county or municipality
46 official actions for state law or State Constitution violations;
47 process; withholding of certain shared revenues.—

48 (1) At the request of one or more members of the
49 Legislature, the Attorney General shall investigate any
50 ordinance, regulation, order, or other official action adopted
51 or taken by the governing body of a county or municipality which
52 impacts commerce and which the member or members allege violates
53 state law or the State Constitution.

54 (2) Within 30 days after receipt of the request, the
55 Attorney General shall make a written report of findings and
56 conclusions from the investigation and provide a copy of the
57 report to the Governor, the President of the Senate, the Speaker
58 of the House of Representatives, the member or members

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59 requesting the investigation, and the Secretary of State. If the
60 Attorney General finds that the official action of the county or
61 municipality did not violate state law or the State
62 Constitution, he or she must close the investigation and may not
63 take further action.

64 (3) If the Attorney General finds that a violation under
65 this section occurred or likely occurred, he or she must
66 initiate a civil action for declaratory or injunctive relief in
67 the circuit court in the circuit in which the county or
68 municipality is located.

69 (4) If the circuit court issues an order finding that a
70 violation of this section occurred, the governing body of the
71 subject county or municipality must remedy the violation within
72 30 days as directed by the order. The county or municipality may
73 seek judicial review and a stay of the order in the district
74 court of appeal having jurisdiction over the circuit court.

75 (5) (a) If the governing body fails to timely remedy the
76 violation as directed by the order or timely appeal the order,
77 the Attorney General shall petition for, and the circuit court
78 shall issue, an order directing the Department of Revenue to
79 withhold the share of revenues apportioned to the county or
80 municipality under parts II and VI of chapter 218. However, if
81 the governing body certifies to the circuit court that any
82 amount withheld is necessary to make any required deposits or
83 payments for debt service on bonds or other long-term
84 obligations of the county or municipality which were issued or
85 incurred before the violation was committed, the order must
86 exempt such amount from the withholding.

87 (b) Upon receiving an order issued under paragraph (a) to

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88 withhold a share of revenues apportioned to a county or
89 municipality, the Department of Revenue shall withhold and
90 redistribute state shared revenues as provided in ss. 218.23(5)
91 and 218.63(4).

92 (c) After complying with the order to remedy the violation,
93 the governing body of the county or municipality may petition
94 the circuit court for an order to restore the amounts withheld
95 from the county or municipality.

96 Section 2. Section 218.23, Florida Statutes, is amended to
97 read:

98 218.23 Revenue sharing with units of local government;
99 withholding.—

100 (1) To be eligible to participate in revenue sharing beyond
101 the minimum entitlement in any fiscal year, a unit of local
102 government is required to have:

103 (a) Reported its finances for its most recently completed
104 fiscal year to the Department of Financial Services, pursuant to
105 s. 218.32.

106 (b) Made provisions for annual postaudits of its financial
107 accounts in accordance with provisions of law.

108 (c) Levied, as shown on its most recent financial report
109 pursuant to s. 218.32, ad valorem taxes, exclusive of taxes
110 levied for debt service or other special millages authorized by
111 the voters, to produce the revenue equivalent to a millage rate
112 of 3 mills on the dollar based on the 1973 taxable values as
113 certified by the property appraiser pursuant to s. 193.122(2)
114 or, in order to produce revenue equivalent to that which would
115 otherwise be produced by such 3-mill ad valorem tax, to have
116 received a remittance from the county pursuant to s.

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117 125.01(6) (a), collected an occupational license tax or a utility
118 tax, levied an ad valorem tax, or received revenue from any
119 combination of these four sources. If a new municipality is
120 incorporated, the provisions of this paragraph shall apply to
121 the taxable values for the year of incorporation as certified by
122 the property appraiser. This paragraph requires only a minimum
123 amount of revenue to be raised from the ad valorem tax, the
124 occupational license tax, and the utility tax. It does not
125 require a minimum millage rate.

126 (d) Certified that persons in its employ as law enforcement
127 officers, as defined in s. 943.10(1), meet the qualifications
128 for employment as established by the Criminal Justice Standards
129 and Training Commission; that its salary structure and salary
130 plans meet the provisions of chapter 943; and that no law
131 enforcement officer is compensated for his or her services at an
132 annual salary rate of less than \$6,000. However, the department
133 may waive the minimum law enforcement officer salary requirement
134 if a city or county certifies that it is levying ad valorem
135 taxes at 10 mills.

136 (e) Certified that persons in its employ as firefighters,
137 as defined in s. 633.102, meet the qualification for employment
138 as established by the Division of State Fire Marshal pursuant to
139 ss. 633.408 and 633.412 and that s. 633.422 has been met.

140 (f) Certified that each dependent special district that is
141 budgeted separately from the general budget of the local
142 governing authority has met the provisions for annual postaudit
143 of its financial accounts in accordance with the provisions of
144 law.

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146 Additionally, to receive its share of revenue sharing funds, a
147 unit of local government shall certify to the Department of
148 Revenue that the requirements of s. 200.065, if applicable, were
149 met. The certification shall be made annually within 30 days
150 after ~~of~~ adoption of an ordinance or resolution establishing a
151 final property tax levy or, if no property tax is levied, not
152 later than November 1. The portion of revenue sharing funds
153 which, pursuant to this part, would otherwise be distributed to
154 a unit of local government which has not certified compliance or
155 has otherwise failed to meet the requirements of s. 200.065
156 shall be deposited in the General Revenue Fund for the 12 months
157 after ~~following~~ a determination of noncompliance by the
158 department.

159 (2) Any unit of local government which is consolidated as
160 provided by s. 9, Art. VIII of the State Constitution of 1885,
161 as preserved by s. 6(e), Art. VIII, 1968 revised constitution,
162 shall receive an annual distribution from the Revenue Sharing
163 Trust Fund for Counties equal to \$6.24 times its population.

164 (3) The distribution to a unit of local government under
165 this part is determined by the following formula:

166 (a) First, the entitlement of an eligible unit of local
167 government shall be computed on the basis of the apportionment
168 factor provided in s. 218.245, which shall be applied for all
169 eligible units of local government to all receipts available for
170 distribution in the respective revenue sharing trust fund.

171 (b) Second, revenue shared with eligible units of local
172 government for any fiscal year shall be adjusted so that no
173 eligible unit of local government receives less funds than its
174 guaranteed entitlement.

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175 (c) Third, revenues shared with counties for any fiscal
176 year shall be adjusted so that no county receives less funds
177 than its guaranteed entitlement plus the second guaranteed
178 entitlement for counties.

179 (d) Fourth, revenue shared with units of local government
180 for any fiscal year shall be adjusted so that no unit of local
181 government receives less funds than its minimum entitlement.

182 (e) Fifth, after the adjustments provided in paragraphs
183 (b), (c), and (d), and after deducting the amount committed to
184 all the units of local government, the funds remaining in the
185 respective trust funds shall be distributed to those eligible
186 units of local government which qualify to receive additional
187 moneys beyond the guaranteed entitlement, on the basis of the
188 additional money of each qualified unit of local government in
189 proportion to the total additional money of all qualified units
190 of local government.

191 (4) Notwithstanding the provisions of paragraph (1)(c), no
192 unit of local government which was eligible to participate in
193 revenue sharing in the 3 years before ~~prior to~~ initially
194 participating in the local government half-cent sales tax shall
195 be ineligible to participate in revenue sharing solely due to a
196 millage or utility tax reduction afforded by the local
197 government half-cent sales tax.

198 (5) Notwithstanding any provision to the contrary, a unit
199 of local government which is subject to an order withholding an
200 entitlement to shared revenues under s. 16.63(5) is ineligible
201 to participate in revenue sharing under this part, except as
202 otherwise provided in s. 16.63(5)(a), until its eligibility is
203 restored by an order issued under s. 16.63(5)(c). The department

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204 shall redistribute the moneys withheld as follows:

205 (a) If the unit of local government is a county, by
206 redistributing its entitlement among all other eligible counties
207 according to the apportionment factor under s. 218.245(1).

208 (b) If the unit of local government is a municipality, by
209 redistributing its entitlement among all other eligible
210 municipalities according to the apportionment factor under s.
211 218.245(2).

212 Section 3. Subsection (3) of section 218.26, Florida
213 Statutes, is amended to read:

214 218.26 Administration; distribution schedule.—

215 (3) (a) Except as provided under s. 218.23(5), the
216 department shall compute the apportionment factors once each
217 fiscal year for use during the fiscal year. The computation
218 shall be made before ~~prior to~~ July 25 of each fiscal year and
219 must ~~shall~~ be based upon information submitted and certified to
220 the department before ~~prior to~~ June 1 of each year.

221 (b) Except in the case of error and except as provided
222 under s. 218.23(5), the apportionment factors must ~~shall, except~~
223 ~~in the case of error,~~ remain in effect for the fiscal year.

224 Section 4. Section 218.63, Florida Statutes, is amended to
225 read:

226 218.63 Participation requirements; withholding.—

227 (1) Only those units of local government which meet the
228 eligibility requirements for revenue sharing pursuant to s.
229 218.23 shall participate in the local government half-cent sales
230 tax. However, a municipality incorporated subsequent to the
231 effective date of chapter 82-154, Laws of Florida, which does
232 not meet the applicable criteria for incorporation pursuant to

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233 s. 165.061 shall not participate in the local government half-
234 cent sales tax. In either case, distributions to eligible units
235 of local government in that county shall be made as though the
236 nonparticipating municipality had not incorporated.

237 (2) The moneys which otherwise would be distributed
238 pursuant to this part to a unit of local government failing to
239 certify compliance as required by s. 218.23(1) or having
240 otherwise failed to meet the requirements of s. 200.065 shall be
241 deposited in the General Revenue Fund for the 12 months
242 following a determination of noncompliance by the department.

243 (3) A county or municipality may not participate in the
244 distribution of local government half-cent sales tax revenues
245 during the 12 months following a determination of noncompliance
246 by the Department of Revenue as provided in s. 200.065(13)(e).

247 (4) Notwithstanding any provision to the contrary, a unit
248 of local government which is subject to an order withholding an
249 entitlement to shared revenues issued under s. 16.63(5) is
250 ineligible to participate in revenue sharing under this part,
251 except as otherwise provided in s. 16.63(5)(a), until its
252 eligibility is restored by an order issued under s. 16.63(5)(c).
253 The department shall redistribute the moneys withheld as
254 follows:

255 (a) If the unit of local government is a county, by
256 redistributing its portion among all other eligible county
257 governments according to the distribution formula under s.
258 218.62(2).

259 (b) If the unit of local government is a municipality, by
260 redistributing its portion among all other eligible municipal
261 governments according to the distribution formula under s.

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262 218.62(3).

263 Section 5. This act shall take effect July 1, 2019.