

STORAGE NAME: h4275.gg

DATE: April 22, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4275

RELATING TO: Administrative Fines

SPONSOR(S): Representative Minton and others

COMPANION BILL(S): SB 532 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL RULES AND REGULATIONS YEAS 4 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Agencies levy and collect fines for violations of statutory provisions or administrative rules by a regulated party. Such fines are appropriated by the Legislature in the annual appropriations process to particular programs or activities and are based upon estimates of collected amounts submitted by the agencies. Upon collection by an agency, the fine is deposited into a specific fund as directed by law.

HB 4275 would provide that proceeds from any fine levied and collected by an executive branch agency shall, notwithstanding any other provisions of state law, be deposited into the General Revenue Fund.

There is an indeterminate fiscal impact. An included worksheet show the amounts of fines, forfeitures and judgments historically collected by agencies in the state and what these amounts represent of general revenue appropriations and total appropriations.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Agencies levy and collect fines for violations of statutory provisions or administrative rules by a regulated party. Upon collection by an agency, the fine is deposited into the General Revenue Fund or a specific fund as directed by law. Fines are appropriated by the Legislature in the annual appropriations process to particular programs or activities.

B. EFFECT OF PROPOSED CHANGES:

HB 4275 would provide that proceeds from any fine levied and collected by an executive branch agency shall, notwithstanding any other provisions of state law, be deposited into the General Revenue Fund, effective July 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Those statutes that direct the deposit, into a specific fund, of fines collected by an agency for the violation of a particular statutory requirement.

E. SECTION-BY-SECTION RESEARCH:

See II.B., Effect of Proposed Changes, for discussion.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate. While there may be an effect on levy and collection rates, there will be an effect on programs for which collected non-recurring fine monies are an identified revenue source.

2. Recurring Effects:

Indeterminate. While there may be an effect on levy and collection rates, there will be an effect on programs for which collected recurring fine monies are an identified revenue source.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

The amount of fines projected to be deposited in agency trust funds for FY 1998-99 has been included in the trust funds available projections upon which appropriations for FY 1998-99 are based. If the fines are deposited in the General Revenue Fund, depending on the specific trust fund balance and other revenue sources, there is a possibility that certain appropriations in the FY 1998-99 General Appropriations Act will exceed available funds.

Below is Sheet 1, prepared by the House Fiscal Council, which describes in aggregate terms, the amount of fines, forfeitures and judgments collected by agencies in the state, found through a search of the SAMAS database. The sheet presents information on the change in collection amounts from the prior year and the percentage the amount of fines collected represent of general revenue appropriations and total appropriations. Since the SAMAS database does not currently isolate "fines" only, the specific impact is indeterminate.

| ALL DOLLAR FIGURES IN THOUSANDS | | | | | | |
|---------------------------------|--|---|-------------------|---|----------------------|--|
| Fiscal Year | Fines, Forfeitures, & Judgments (from SAMAS) | Fines, etc. -- % Increase Over Prior Year | GR Appropriations | Fines, etc. as a % of GR Appropriations | Total Appropriations | Fines, etc. as a % of Total Appropriations |
| 96-7 | \$171,104 | 21.95% | \$15,574,073 | 1.10% | \$39,822,470 | 0.43% |
| 95-6 | \$133,553 | -3.12% | \$14,812,123 | 0.90% | \$39,123,056 | 0.34% |
| 94-5 | \$137,715 | -31.51% | \$14,303,311 | 0.96% | \$38,788,984 | 0.36% |
| 93-4 | \$181,103 | 0.68% | \$13,273,944 | 1.36% | \$35,479,616 | 0.51% |
| 92-3 | \$179,873 | 14.37% | \$11,797,730 | 1.52% | \$31,722,227 | 0.57% |
| 91-2 | \$154,029 | 15.20% | \$11,141,288 | 1.38% | \$28,862,664 | 0.53% |
| 90-1 | \$130,612 | 15.69% | \$11,261,291 | 1.16% | \$27,743,520 | 0.47% |
| 89-90 | \$110,117 | -4.33% | \$10,301,999 | 1.07% | \$23,211,525 | 0.47% |
| 88-9 | \$114,889 | 26.85% | \$9,513,139 | 1.21% | \$21,256,205 | 0.54% |
| 87-8 | \$84,036 | | \$8,629,967 | 0.97% | \$18,521,881 | 0.45% |

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require the counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The word "fine" is not defined in the bill, and it is unclear what monies collected by an executive branch agency as a result of enforcement action would constitute a fine under the provisions of this act.

STORAGE NAME: h4275.gg

DATE: April 22, 1998

PAGE 8

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Representative Wallace proposed an amendment that would require that any fine, penalty, or settlement agreement costs collected by an agency in the executive branch must be implemented from specific statutory authority and if found in rule, such rule must be adopted pursuant to the APA. Any fine, penalty, or settlement agreement costs can not be based upon program guidance or agency policy. It passed without objection and is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

Prepared by:

Legislative Research Director:

David M. Greenbaum

David M. Greenbaum

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Legislative Research Director:

Cynthia P. Kelly

Cynthia P. Kelly