

STORAGE NAME: h0289.ca

DATE: January 24, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 0289

RELATING TO: Local Government Infrastructure Surtax

SPONSOR(S): Representative K. Smith

COMPANION BILL(S): SB 0732 (s)

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

- (1) COMMUNITY AFFAIRS
 - (2) FINANCE AND TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

This bill extends to charter counties, the ability to use proceeds, and any interest accrued, from the Local Government Infrastructure Surtax (LGIS) to retire or service indebtedness incurred for bonds issued prior to, July 1, 1987, for infrastructure purposes.

The bill also provides that, any proceeds or interest from bonds issued subsequent to July 1, 1987 to refund bonds that were issued prior to July 1, 1987, may be utilized to retire or service indebtedness incurred for such refunding bonds. Additionally, the bill provides that all such actions that were taken by charter counties prior to July 1, 1998 are ratified.

This bill has no impact on the state general revenue fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Local Government Infrastructure Tax (LGIS) is authorized in section 212.055, Florida Statutes. The law provides that county governments, pursuant to voter approval expressed in a county wide referendum, are authorized to levy a surtax of 0.5 or 1 percent on all taxable transactions. In lieu of county government authorization, the law permits municipalities representing a majority of the county's municipal population to adopt a uniform resolution calling for a referendum on the surtax. In addition, school boards are permitted to share in the surtax proceeds, pursuant to an interlocal agreement.

Chapter 94-338, Laws of Florida, provided for the creation and establishment of multi-jurisdictional tourism, sports and entertainment special districts. The stated purpose of the district is to finance, design, develop, acquire, construct, operate, maintain, manage, and promote a tourism, sports and entertainment complex. These districts are authorized to levy a discretionary sales surtax on tangible personal property sold within the state by a dealer within the district and on admissions within the district which are subject to taxation.

The use of the proceeds from the LGIS are restricted to the financing, planning and construction of infrastructure; the acquisition of land for public recreation, conservation or the protection of natural resources; the closure of county or municipal-owned landfills; or, in the case of a multi-jurisdictional tourism, sports and entertainment independent district, the financing, design and development of infrastructure related to the special district.

Dade County may, in addition use the proceeds of the LGIS to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

Chapter 94-459, Laws of Florida, authorized the Board of County Commissioners of Clay County to use LGIS proceeds to retire or service bond indebtedness incurred prior to July 1, 1987, and subsequently refunded, for the purpose of financing infrastructure. The law provided Clay County with additional uses not available to any other county.

Chapter 94-487, Laws of Florida, authorizes the Board of County Commissioners of Alachua County and the governing bodies of the municipalities within the county to use the surtax proceeds for operation and maintenance of parks and recreation programs as well as facilities originally established with the proceeds of the surtax. The law provided Alachua County with additional uses not available to other counties. This special act was ruled unconstitutional and invalidated by the Florida Supreme Court on December 4, 1997 in Alachua County v. Adams, 702 So. 2d 1253 (Fla. 1997).

Due to the Supreme Court ruling, finding the Alachua County special act unconstitutional, Clay County is concerned that the authorization provided by chapter 94-459, Laws of Florida, may be in jeopardy. Therefore, HB 0289 serves to expand the provision in their special act, that currently only applies to Clay County, to all charter counties.

There are currently seventeen charter counties.

B. EFFECT OF PROPOSED CHANGES:

This bill extends to charter counties, the ability to use proceeds, and any interest accrued, from the Local Government Infrastructure Surtax (LGIS) to retire or service indebtedness incurred for bonds issued prior to, July 1, 1987, for infrastructure purposes.

The bill also provides that, any proceeds or interest from bonds issued subsequent to July 1, 1987 to refund bonds that were issued prior to July 1, 1987, may be utilized to retire or service indebtedness incurred for such refunding bonds. Additionally, the bill provides that all such actions that were taken by charter counties prior to July 1, 1998 are ratified.

This bill has no impact on the state general revenue fund.

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?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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:

Section 212.055, Florida Statutes is affected.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends paragraph (d) of subsection (2) of section 212.055, Florida Statutes, to revise provisions which authorize Dade County to use Local Government Infrastructure Surtax proceeds to retire or service indebtedness for bonds issued before July 1, 1987; includes charter counties within such authorization; authorizes use of interest accrued on tax proceeds for such purpose; extends such authorization to bonds subsequently issued to refund such bonds; and ratifies prior use of tax proceeds and interest for such refunding bonds.

Section 2: Provides this act shall take effect July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

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:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of local governments to raise revenues in the aggregate.

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

The bill does not reduce the percentage of state tax shared with local governments.

V. COMMENTS:

An identical bill, HB 3745 by Rep. K. Smith, died in the Senate Community Affairs Committee during the 1998 Session.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

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