

STORAGE NAME: h1367.fpr.doc

DATE: April 23, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
FISCAL POLICY AND RESOURCES
ANALYSIS**

BILL #: HB 1367

RELATING TO: Local Government/Financial Emergency

SPONSOR(S): Representative Gottlieb

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
 - (2) TOURISM (CCC) YEAS 6 NAYS 0
 - (3) FISCAL POLICY AND RESOURCES
 - (4) COUNCIL FOR SMARTER GOVERNMENT
 - (5)
-

I. SUMMARY:

The bill amends s. 218.503(5), F.S., which authorizes certain municipalities declared in a state of financial emergency to impose per-vehicle surcharges on revenues from the sale or rental of space at parking facilities and sets forth the use of such proceeds, to accomplish the following:

- Remove the date specific requirement on population for a municipality in order to qualify under the subsection, thereby making the section apply to any municipality meeting the requirements of the subsection;
- Add an additional use of the proceeds which is to “facilitate economic growth by contributing to the development of public facilities”; and
- Remove the June 30, 2006 repeal date of the subsection.

The bill has no fiscal impact on state government. Municipalities declared in a state of financial emergency that meet the requirements of s. 218.503(5), F.S., may generate additional revenue.

On April 11, 2001, the Committee on Tourism adopted an amendment to HB 1367 which is explained in the “Amendments or Committee Substitute Changes” portion of this analysis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Local Government Financial Emergencies Act

General Provisions

Chapter 218, F.S., addresses financial matters relating to political subdivisions. Part V of the chapter, consisting of ss. 218.50 through 218.504, F.S., is known as the "Local Government Financial Emergencies Act."

The purposes of this act, which are delineated in s. 218.501, F.S., are to preserve and protect the fiscal solvency of local governmental entities; to aid local governmental entities in continuing necessary services, and in meeting financial responsibilities; and to aid local governmental entities by improving local financial management practices.

Section 218.503 (1), F.S., provides the criteria used to determine whether a local governmental entity is in a financial emergency. Such a state of financial emergency exists when any of the following conditions occur:

- there has been a failure, within the same fiscal year, to pay short-term loans from banks or to make bond debt service payments when due;
- there has been a failure to transfer at the appropriate time, due to lack of funds, taxes withheld on the income of employees or employer and employee contributions for Federal Social Security or any pension or retirement benefits owed to former employees;
- there has been a failure to pay for one pay period, due to lack of funds, wages and salaries owed to employees or retirement benefits owed to former employees;
- there has been an unreserved to total fund balance or retained earnings deficit for which sufficient resources of the local government are not available to cover the deficit for two successive years; or
- there has been noncompliance with the local government retirement system with actuarial conditions provided by law.

Pursuant to s. 218.503(2), F.S., when at least one of the conditions has occurred or is likely to occur without assistance, the local governmental entity is required to notify the Governor and the Joint Legislative Auditing Committee. Any state agency must also notify the Governor and the Joint Legislative Auditing Committee within 30 days of identification of the occurrence or likelihood of occurrence of such a local government financial emergency situation. This action then obligates

the Governor's Office to contact the local governmental entity to assess how the entity has addressed resolution of the emergency. Some of the ways listed in s. 218.503(3), F.S., in which the Governor is authorized to remedy the emergency are as follows:

- requiring Governor approval of the local government's budget;
- authorizing a state loan;
- prohibiting the local governmental entity from issuing bonds, notes, certificates of indebtedness, or any other form of debt;
- offering technical assistance to the entity;
- establishing an oversight board; and
- requiring and approving a recovery plan.

Surcharge on Public Parking Facilities

Chapter 99-251, L.O.F., added subsection (5) to s. 218.503, F.S., to provide the City of Miami with an additional revenue source. Specifically, the subsection provides that a municipality with a population of at least 300,000 on April 1, 1999, and that has within the two previous fiscal years been declared in a state of financial emergency may adopt, by a majority of its membership, an ordinance to impose a discretionary per-vehicle surcharge of up to 20 percent on the gross revenues of the sale, lease, or rental of space at parking facilities within the jurisdiction of the municipality. The surcharge is to be collected when the parking fee is collected.

The proceeds of this surcharge may only be used for the following purposes:

- No less than 60 percent and no more than 80 percent of the surcharge proceeds must be used by the governing authority to decrease its ad valorem tax millage rate or to reduce or eliminate non-ad valorem assessments, and
- A certain portion of the balance must be used to increase budget reserves. The governing authority, however, must not reduce the amount it allocates for budget reserves from other sources below the amount allocated for reserves in the fiscal year prior to the year in which the surcharge is initially imposed. When a 15 percent budget reserve is achieved, based on the average gross revenue for the most recent three prior fiscal years, the remaining proceeds must be used for the payment of annual debt service related to outstanding obligations backed or secured by a covenant to budget and appropriated from non-ad valorem revenues.

The provisions of this subsection are repealed on June 30, 2006.

Currently, the City of Miami is the only municipality that is eligible to levy this surcharge.

The City of Miami's Financial Emergency

The City of Miami, one of the largest municipalities in the State of Florida, faced a \$68 million deficit in the City's Fiscal Year 1997 budget, which was set to begin on October 1, 1996. The interim City Manager drafted the Strategic Financial Recovery Plan (November 15, 1996) that provided comments and recommendations on how the City's financial health could be restored and strengthened. He indicated that the deficit resulted from consuming reserves; exhausting enterprise funds; consuming unrestricted funds; depending on one-time revenue sources; and by inappropriately consuming self-insurance and pension bond revenues, all of which supported general operating requirements. The interim City Manager recommended increasing recurring revenues, such as solid waste fees, and implementing cost-containment measures. Although the City Commission met several times in November 1996, it did not adopt any significant recurring revenues.

On December 2, 1996, the newly appointed City Manager notified the Governor that the City was in a state of financial emergency. The Governor issued Executive Order 96-391, creating a Financial Emergency Oversight Board to monitor the financial affairs of the City with respect to the financial emergency.

Additionally, the Executive Order required the Board to prepare an Intergovernmental Cooperation Agreement (ICA), to be entered into by the state and the City Commission by December 23, 1996. Contained in the ICA were provisions for a Financial Recovery Plan for FY 1997; five year plans; approval of the City's budget and spending; contractual obligations; the creation of a Fiscal Sufficiency Advisory Board (a financial oversight board); and compliance with the ICA.

The ICA also specifies that the Board will continue to exist for the period of three years after the City has produced two successive years of balanced operation, and none of the conditions exist that are delineated in s. 218.503(1), F.S. According to staff of the Joint Legislative Auditing Committee, the City of Miami has satisfied these conditions for the past two years. Therefore, the Board could be abolished as soon as the financial statements for FY 2001 are released (September 30, 2001) and the Governor has determined that the conditions within s. 218.504, F.S., have been met. These conditions are that the local governmental entity has established and is operating an effective financial accounting and reporting system and has corrected or eliminated the fiscal emergency conditions and that no new fiscal emergency conditions exist.

C. EFFECT OF PROPOSED CHANGES:

The bill amends s. 218.503(5), F.S., which authorizes certain municipalities declared in a state of financial emergency to impose per-vehicle surcharges on revenues from the sale or rental of space at parking facilities and sets forth the use of such proceeds, to accomplish the following:

- Remove the date specific requirement on population for a municipality in order to qualify under the subsection, thereby making the section apply to any municipality meeting the requirements of the subsection;
- Add an additional use of the proceeds which is to "facilitate economic growth by contributing to the development of public facilities"; and
- Remove the June 30, 2006 repeal date of the subsection.

Currently, the City of Miami is the only municipality eligible to levy this surcharge.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (5) of s. 218.503, F.S., to do the following:

- Remove the date of April 1, 1999;
- Authorize a municipal governing authority to impose this surcharge for the purpose of facilitating economic growth by contributing to the development of public facilities; and
- Remove the repeal of the subsection.

Section 2. Provides that this act takes effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no fiscal impact on state revenues.

2. Expenditures:

This bill has no fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no fiscal impact on local revenues.

2. Expenditures:

The bill will allow the City of Miami more flexibility in using the proceeds from the surcharge on rental of spaces at parking facilities. In local government fiscal year 2000, the surcharge generated \$11 million. For fiscal years 2001, 2002, and 2003, the City of Miami estimates the surcharge will generate \$13 million annually.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will increase costs for those drivers assessed the surcharge.

D. FISCAL COMMENTS:

The bill has no fiscal impact on state government. Municipalities declared in a state of financial emergency that meet the requirements of s. 218.503(5), F.S., may generate additional revenue.

The bill will allow the City of Miami more flexibility in using the proceeds from the surcharge on rental of spaces at parking facilities. In local government fiscal year 2000, the surcharge generated \$11 million. For fiscal years 2001, 2002, and 2003, the City of Miami estimates the surcharge will generate \$13 million annually.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take 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 revenues in the aggregate.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

The City Manager with the City of Miami, indicates the following:

On behalf of the City of Miami, its elected officials and its residents, I thank you for sponsoring the bill that seeks to extend and expand the availability of the parking surcharge.

As you may know, almost one-third of the property within the City of Miami is not included on the tax rolls because it serves a governmental, educational or charitable purpose. This coupled with the fact that the population of the City of Miami doubles during the workday has presented a fundamental challenge to the City's finances.

Our studies estimate that 80% of those who pay the surcharge live outside of the City of Miami; however, these commuters would not ordinarily contribute to the City's general fund. The City of Miami must staff its services for the workday population that drives on its roads and seeks safety from the police and fire services. The parking surcharge compels these "free-riders" to contribute to the funding of those services.

For some time the City has referred to the 1990 Census data that documented the City of Miami as the fourth poorest City in the nation, the parking surcharge ensures that this poor resident base does not have to bear the cost of supporting commuters on its own.

The City has reduced its property tax by more than one mill with the implementation of the surcharge. Without an extension to the enabling statute, the poor residents of the City of Miami will again assume the burden of the commuter population.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 11, 2001, the Committee on Tourism passed HB 1367 with one amendment. The amendment does the following:

- Retains the repeal date of June 30, 2006 unless it is extended to June 30, 2045 by a majority vote of electors of the municipality voting for such an extension by referendum in a regularly scheduled election;
- Provides that if the repeal date is extended that a portion of the surcharge proceeds may be used for acquiring land or paying debt service for the construction of a significant new facility, or both. Requires that the portion of the surcharge to be used for this purpose be determined by the municipal governing authority;
- Defines the term "significant new facility"; and
- Requires that the ballot for the referendum provide a brief general description of the additional uses of the surcharge proceeds. Provides the question for the extension of the expiration date that is to be placed on the ballot.

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VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Cindy M. Brown

Staff Director:

Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON TOURISM:

Prepared by:

Judy C. McDonald

Staff Director:

Judy C. McDonald

AS FURTHER REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Kama Monroe

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