

STORAGE NAME: h1517.frc.doc
DATE: February 26, 2002

HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1517
RELATING TO: Land Acquisition
SPONSOR(S): Representative(s) Sorensen

TIED BILL(S):

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

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 10 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 11 NAYS 0
- (3) FISCAL RESPONSIBILITY COUNCIL
- (4)
- (5)

I. SUMMARY:

This bill amends the definition of "infrastructure" in s. 212.055, F.S., to allow Monroe County to use proceeds of the local government surtax to acquire land when the land is acquired for purposes of compliance with an approved comprehensive plan. This bill also amends s. 336.025, F.S., to allow Monroe County to use the proceeds of the local option fuel tax for this same purpose.

This bill further amends s. 259.105(3)(c), F.S., and distributes \$5 million annually from the allocation under Florida Forever to the Florida Communities Trust, to the Monroe County Comprehensive Land Authority to purchase property in lands subject to the Rate of Growth Ordinances or within boundaries of an approved Conservation and Recreation Lands Project. The trust receives \$66 million annually from Florida Forever.

This bill will become effective on July 1, 2002.

On February 22, 2002, the General Government Appropriations Committee adopted a strike everything amendment which removes section 3 which required \$5 million of the Florida Communities Trust monies to be used by Monroe County for land acquisition. It further adds a new section 3 which transfers interest from the Water Management Lands Trust Fund within the Department of Environmental Protection to the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund within the Department of Community Affairs. This transfer will occur for fiscal years 2004 through 2011 and is contingent upon HB 1653 or similar legislation becoming law.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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"/> |

This bill grants Monroe County the power to use taxes in additional ways and provides for a \$5 million allocation to acquire property meeting specified criteria.

B. PRESENT SITUATION:

Local Government Infrastructure Surtax

Section 212.055(2), F.S., provides that a county may levy a discretionary sales tax of .5% or 1.0%. This surtax must be made pursuant to ordinance enacted by a majority of the county governing authority and approved by the majority of electors voting in a referendum on the surtax. Section 212.055(2)(d)1, F.S., directs the proceeds of the surtax and any interest accrued thereon to be expended to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to be closed by order of the Department of Environmental Protection.

“Infrastructure” is defined in s. 212.055(2), F.S., to mean any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto. Infrastructure also includes a fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

Section 212.055(2)(g), F.S., further provides that a county designated as an area of critical state concern that imposed a surtax before July 1, 1992 may use the proceeds and interest of the surtax for any public purpose if:

- The debt service obligations for any year are met;
- The county’s comprehensive plan has been deemed in compliance with part II of ch. 163, F.S.; and
- The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. 125.66, F.S., authorizing additional uses of the surtax proceeds and interest. Section 125.66, F.S., outlines the procedure a county commission must follow to enact or amend an ordinance.

However, if the county meets the above criteria, only 10% of the surtax proceeds may be used for any public purpose other than for infrastructure purposes.

Monroe county adopted a local government surtax of 1% in November, 1989 which is set to expire in 2004, however an extension has been issued extending the tax to 2018.

Local option fuel tax

The local option fuel tax (formerly the local option gas tax) was created in 1983 during a special session and is described in s. 336.025, F.S. Initially, the tax was 1¢ to 4¢ per gallon on highway fuel, which could be levied at the option of a county's governing body for a maximum period of 5 years and whose proceeds were required to be shared with municipalities.¹ During regular session in 1983, the maximum period for the tax was extended to ten years to increase the suitability of the tax as a security against which to issue debt. In 1985, the maximum tax amount was raised to 5¢ per gallon and its period increased to 30 years. Also, to increase efficiency, tax collection was moved to the wholesaler and the terminal supplier beginning in July 1996. The 1990 Legislature chose to equalize the tax on diesel fuel. The minimum tax rate on diesel fuel rose to 6¢ per gallon on January 1, 1993.

Initially, proceeds of the tax could only be used for transportation expenditures. These expenditures include the following:

- Public transportation operations and maintenance;
- Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment;
- Roadway and right-of-way drainage;
- Street lighting;
- Traffic signs, traffic engineering, signalization, and pavement markings;
- Bridge maintenance and operation; and
- Debt service and current expenditures for transportation capital projects in the above areas, including construction or reconstruction of roads.

In 1992 the Legislature authorized any small county (with 50,000 or fewer people on April 1, 1992) to use the proceeds to fund infrastructure projects if these projects are consistent with the approved comprehensive plan (s. 336.025(8), F.S.).

In 1993, counties were given the option of imposing another 1¢ to 5¢ tax on each gallon of motor fuel (gasoline and gasohol but not diesel). This additional 5¢ requires an extraordinary vote of the county commission or a commission initiated countywide referendum. With this provision, counties may now impose up to an 11¢ tax on each gallon of gasoline and up to a 6¢ tax on diesel. Monroe county currently has a 6¢ local option fuel tax.

Florida Forever

The proceeds of bonds issued pursuant to the Florida Forever Act are deposited into the Florida Forever Trust Fund. These funds are distributed by the Department of Environmental Protection (DEP) as follows:

- 35% (\$105 million) to the DEP for land acquisition and capital project expenditures necessary to implement the water management district's priority lists. A minimum of 50% of this 35% is to be used for land acquisition.
- 35% (\$105 million) to the DEP for land acquisition and capital project expenditures described in the Florida Forever Act with increased priority given to acquisitions which

¹Florida's Transportation Tax Sources- A Primer, Florida Department of Transportation, Office of Management and Budget (January 2002).

achieve a combination of conservation goals. There is a 10% limit on capital project expenditures made pursuant to this section.

- 22% (\$66 million) to the Department of Community Affairs (DCA) for use by the Florida Communities Trust for the purposes of the Florida Communities Trust Act and grants to the local governments or nonprofit, tax exempt environmental organizations for the acquisition of community-based projects, urban open spaces, parks, and greenways to implement local government comprehensive plans. From funds available to the trust for land acquisition 75% is to be matched dollar-for-dollar by local governments. Local governments can use federal grants or loans, private donations, or environmental mitigation funds for any or all of the match. Funds allocated to the trust are to be distributed as follows:
 - At least 30% (\$19.8 million) shall be used in Standard Metropolitan Statistical Areas² with half of that amount (15%) to be used in localities where the project site is located in built-up commercial, industrial, or mixed-use areas
 - At least 5% (\$3.3 million) shall be used to acquire lands for recreational trail systems, but if funds aren't needed for these projects then this money is to be available for other trust projects
- 2% (\$6 million) to the DEP for grants pursuant to the Florida Recreation Development Assistance Program.
- 1.5% (\$4.5 million) to the DEP to purchase inholdings and additions to state parks and for capital expenditures, however such capital expenditures may not exceed 10%.
- 1.5% (\$4.5 million) to the Division of Forestry of the Department of Agriculture and Consumer Services to fund the acquisition of state forest inholdings and additions, the implementation of reforestation plans or sustainable forestry management practices and for capital project expenditures, although these capital project expenditures cannot exceed 10%.
- 1.5% (\$4.5 million) to the Fish and Wildlife Conservation Commission for acquiring inholdings and additions to lands managed by the commission which are important to the conservation of fish and wildlife and for capital project expenditures however such capital project expenditures are not to exceed 10%.
- 1.5% (\$4.5 million) to the DEP for the Florida Greenways and Trails Program to acquire greenways and trail systems and for capital expenditure projects however such capital project expenditures are not to exceed 10%.

C. EFFECT OF PROPOSED CHANGES:

See Section-By-Section Analysis.

D. SECTION-BY-SECTION ANALYSIS:

Section 1- Local Government Infrastructure Tax

This section amends the definition of "infrastructure" (s. 212.055(2)(d), F.S.) to allow Monroe county (which contains the area of critical state concern of the Florida Keys under s. 380.0552, F.S.) to use the local government surtax for the acquisition of land when the land is acquired for the purpose of compliance with an approved comprehensive plan. This would allow Monroe County to circumvent the current requirements for areas of critical state concern in s. 212.055(2)(g), F.S., including the current cap that only 10% of funds be used for purposes other than infrastructure.

² A Metropolitan Statistical Area as defined by the U.S. Census Bureau is "a geographic entity designated by the federal Office of Management and Budget for use by federal statistical agencies. A metropolitan statistical area (MSA) is a metropolitan area (MA) that is not closely associated with another MA. An MSA consists of one or more counties, except in New England, where MSAs are defined in terms of county subdivisions (primarily cities and towns)."

Section 2- Local Option Fuel Tax

This section amends s. 336.025(8), F.S., to allow Monroe County to use the local option fuel tax to fund infrastructure projects. "Infrastructure" has the same meaning as in s. 212.055, F.S., thus, Monroe County will be able to use the local option fuel tax to acquire land when the land is acquired for the purpose of compliance with an approved comprehensive plan.

Section 3- Florida Forever

This section amends s. 259.105(3)(c), F.S., and requires an allocation of \$5 million annually from the Florida Communities Trust to be used by the Monroe County Comprehensive Land Authority to purchase any real property interest in either of the following:

- lands subject to the Rate of Growth Ordinances adopted by local governments in Monroe County; or
- lands within the boundary of an approved Conservation and Recreation Lands project located within the Florida Keys or Key West Areas of critical state concern. This section need be completed only in the discretion of the Committee.

III. **FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

A. **FISCAL IMPACT ON STATE GOVERNMENT:**

1. **Revenues:**

N/A

2. **Expenditures:**

See Fical Comments.

B. **FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. **Revenues:**

This bill would provide Monroe County with \$5 million to acquire property in lands subject to the Rate of Growth Ordinance or within the boundary of a Conservation and Recreation Lands Project located within the Florida Keys or Key West Areas of critical state concern.

2. **Expenditures:**

See Fiscal Comments.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

N/A

D. **FISCAL COMMENTS:**

The local option fuel tax estimated distribution for Monroe county for FY 2001-2002 is \$3.4 million. In addition to using these monies for transportation expenditures, this bill will allow Monroe County to use this money for land acquisition for compliance purposes. This bill will reduce the amount of money from the Florida Communities Trust available to other local governments or non profit environmental organizations via grants for acquiring community-based projects, urban open spaces,

parks, and greenways to implement local government comprehensive plans pursuant to s. 259.105(3)(c), F.S., by \$5 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 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 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 and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 22, 2002, the General Government Appropriations Committee adopted a strike everything amendment which removes section 3 which required \$5 million of the Florida Communities Trust monies to be used by Monroe County for land acquisition. It further adds a new section 3 which amends s. 353.59, F.S., transferring interest from the Water Management Lands Trust Fund within the Department of Environmental Protection to the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund within the Department of Community Affairs. This transfer will occur for fiscal years 2004 through 2011 and is contingent upon HB 1653 or similar legislation becoming law.

VII. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Kim Fedele

Staff Director:

Wayne Kiger

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AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

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AS FURTHER REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

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