

**STORAGE NAME:** h1517s1.frc.doc  
**DATE:** February 27, 2002

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** CS/HB 1517  
**RELATING TO:** Land Acquisition  
**SPONSOR(S):** Fiscal Responsibility Council and 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 YEAS 26 NAYS 0
  - (4)
  - (5)
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I. SUMMARY:

CS/HB 1517 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.

It further 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 bill will become effective on July 1, 2002.

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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.<sup>1</sup> 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.

#### **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

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

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.

**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 Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund**

This section amends s.373.59 F.S., transferring interest earned in the Water Management Lands Trust Fund in the Department of Environmental Protection to the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund in 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.

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:

See Fiscal Comments.

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. It also provides for the interest from the Water Management Lands Trust Fund to be transferred to the Florida Keys and Key West Areas of Critical State Concern Wastewater and Stormwater Trust Fund within the Department of

Community Affairs. It is estimated that this will be about \$5 million annually for the eight year period.

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.

On February 27, 2002, the Fiscal Responsibility Council made the bill a Council Substitute and passed it.

VII. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Kim Fedele

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AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

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Lynn Dixon

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AS FURTHER REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

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