

STORAGE NAME: h0571a.jo.doc
DATE: February 7, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 571
RELATING TO: Civil Penalties
SPONSOR(S): Representative Ross
TIED BILL(S): None

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

- (1) JUDICIAL OVERSIGHT YEAS 8 NAYS 2
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3) COUNCIL FOR SMARTER GOVERNMENT
 - (4)
 - (5)
-

I. SUMMARY:

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.

Chapter 318, F.S., provides for the disposition of civil penalties collected by the county court due to traffic infractions. Twelve dollars and fifty cents is deducted from penalties collected from each moving violation to fund that county's participation in an intergovernmental radio program. If the county does not participate in such a program, the \$12.50 must be distributed to the municipality in which the violation occurred or to the county if the violation occurred in an unincorporated area.

This bill provides that if a municipality within a county maintains a radio communication program independent of the county, funds collected within the territorial jurisdiction of the municipality must be distributed to the municipality in which the violation occurred.

This bill appears to have no fiscal impact on state government. This bill does not appear to have any overall fiscal impact on local governments but it does shift funding from counties to municipalities.

The Committee on Judicial Oversight adopted an amendment to this bill. The amendment is discussed in "Amendments or Committee Substitute Changes".

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:

Chapter 318, F.S., governs the disposition of traffic infractions. Section 318.21, F.S., provides for the disposition of civil penalties collected by the county court due to traffic infractions. Section 321.21(10), F.S., provides that \$12.50 of the penalties collected for a moving violation is paid to fund that county's participation in an intergovernmental radio program approved by the Department of Management Services. If the county does not participate in such a program, the \$12.50 is used to fund local law enforcement automation, and must be distributed to the municipality or special improvement district in which the violation occurred or the county if the violation occurred in an unincorporated area. See s. 321.21(10), F.S.

In 1988, the Legislature implemented a pilot project to initiate a joint radio communications system to serve law enforcement in the southeast portion of the state and permit radio communications between different law enforcement agencies.¹ In 1992, legislation was passed allowing a \$12.50 charge to fund intergovernmental radio programs in all counties. According to information provided by the Department of Management Services, 64 of Florida's counties participate in the program.

In 2001, ch. 2001-122, L.O.F., amended s. 318.21, F.S. Effective March 2, 2002, s. 321.21(10), F.S., is renumbered as s. 318.21(9), F.S.

During the 2001 legislative session, the Legislature passed CS/SB 800. The bill amended s. 318.21(10), F.S., to provide that if a municipality has been in a state of financial emergency during the preceding five years, has had a financial emergencies board established, and maintains a radio communications program independent of the county, then \$12.50 from each moving violation could be distributed to the municipality where the violation occurred rather than going to the county. At the time CS/SB 800 was passed, it applied only to the City of Miami and Miami-Dade County. The Governor vetoed CS/SB 800, noting that "[p]iecemeal and ad hoc changes to the delivery of services by county and city government without a broader statewide view could lead to inequities among communities and fragmented delivery of services. It may well be time for the Legislature to revisit such policies, however, it should be done through a deliberative statewide process."²

¹ Final Report on the Joint Task Force Statewide Law Enforcement Radio System Pilot Project, submitted 12/1/1994.

² Governor's Veto Message, dated June 15, 2001.

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 318.21(9), F.S., as amended by ch. 2001-122, L.O.F.³, to provide that if a municipality within a county maintains a radio communication program independent of the county, funds collected within the territorial jurisdiction of the municipality must be distributed to the municipality in which the violation occurred. The funds may be used to fund local law enforcement automation but this bill removes the restriction that funds must be used to fund local law enforcement automation.

This bill takes effect on July 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

See "Present Situation" and "Effect of Proposed Changes".

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments"

2. Expenditures:

See "Fiscal Comments"

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill's fiscal impact on counties and municipalities is indeterminate. If a municipality maintains a radio communication program independent of the county, funds collected within the territorial jurisdiction of the municipality will be distributed to the municipality rather than the county. This could result in a shift of funds to municipalities that currently go to the counties. During 2000, approximately 2.2 million traffic citations for moving violations were issued in Florida. If \$12.50 were collected from each citation, there would be approximately \$27.5 million generated under s.

³ Chapter 2001-122, L.O.F., is effective March 1, 2002. When it becomes effective, the current s. 318.21(10), F.S., will be renumbered as s. 318.21(9), F.S.

318.21(10), F.S. However, the amount collected is not known and the amount that would be shifted from counties to municipalities is not known.

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 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 counties or municipalities 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 a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

This bill is arguably unclear on what happens to \$12.50 if (1) a county has a municipality that maintains a radio communication program independent of the county; and (2) the violation occurs in a municipality that does not maintain such a program. Under current law, the county would collect the \$12.50. It can be argued that this bill permits the municipality that does not maintain an independent radio program to collect the \$12.50 by virtue of the fact that another municipality within the county maintains such a program. The amendment adopted by the Committee on Judicial Oversight addresses this concern. See "Amendments or Committee Substitute Changes".

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 7, 2002, the Committee on Judicial Oversight adopted an amendment to this bill. The amendment restores language in current law to provide that the \$12.50 collected by counties must be used to fund the intergovernmental radio program; and provides that if the \$12.50 is collected by municipalities, it must be used to fund law enforcement automation. The amendment clarifies that funds collected within the territorial jurisdiction of a municipality that does not have a radio communication system independent of the county will continue to go to the county. Funds collected in the territorial jurisdiction of municipalities that have independent radio communication systems will go to those municipalities. This bill was then reported favorably, as amended.

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VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

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