

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2512
 SPONSOR: Senator Lee
 SUBJECT: Service Charge on General Revenue
 DATE: March 14, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Wilson	GO	Favorable
2.	_____	_____	FT	Withdrawn
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill applies a uniform service charge to all state trust funds for transfer to the General Revenue Fund to fund the general government operating costs. The bill provides exceptions to the revised service charge and deletes provisions authorizing lower service charges and exemptions for specific trust funds.

This bill substantially amends the following sections of the Florida Statutes: ss. 215.211; 215.222; 215.24; 20.2553; 202.193; 250.175; 339.082; 365.173; 372.107; 464.0198; 498.019; 561.027; 570.205; 576.045, 932.705; 943.365; 1013.63; and 372.106.

II. Present Situation:

The imposition of service charges on named trust funds began in 1941 when the initial rate was set at 3 percent.¹ The succeeding rate changes that occurred in 1961, 1979, 1983, and 1990 brought the services charges to their current level of 7 percent plus an additional .3 percent assessed on selected funds. The charge paid by the trust funds is paid to the General Revenue Fund to offset the cost of general government. These general government operating costs include the Legislature, Governor, State Court System, including state attorneys and public defenders, public safety entities, including corrections, juvenile justice, and some law enforcement, and education. The service charge applies to the initial deposits into each trust fund and is not charged again if the funds are transferred.

In order to fund *Mobility 2000*, service charges imposed on collections of motor fuel and diesel fuel taxes, local option fuel taxes, auto title fees, and the \$100 “new-wheels-on-the-road” fee

¹ Florida Senate Finance and Taxation Committee, “2004 Florida Tax Handbook Including Fiscal Impact of Potential Changes, Tallahassee, FL, 2004 ed., 124.

were eliminated. Effective July 1, 2000, the 7.3 percent General Revenue Service Charge was eliminated on the Fuel Tax Collection Trust Fund for motor fuel and diesel fuel collections and on the \$24 original certificate of title fee and each duplicate copy. Effective July 1, 2001, the 7.3 percent General Revenue Service Charge was eliminated on SCETS² tax collections and on the \$100 “new-wheels-on-the-road” fee. The service charge on local option fuel tax collections is phased out over a two-year period. Effective July 1, 2005 through June 30, 2006, the general Revenue Service Charge rate is reduced from 7.3 percent to 3.5 percent and effective July 1, 2006, and thereafter, the 3.5 percent General Revenue Service Charge is eliminated.

Section 215.20, F.S., imposes a service charge of 7 percent on all trust fund income of a revenue nature except for those funds listed in s. 215.22, F.S. That latter section exempts all trust funds in the Department of Labor,³ Department of Education, and the Department of Transportation, as well as several types of receipts to any trust fund. It exempts fourteen trust funds in the Departments of: Agriculture and Consumer Services; Management Services; Veterans’ Affairs; Highway Safety and Motor Vehicles; Environmental Protection; and Health.

Additionally, s. 215.20, F.S., specifies trust funds in the Department of Agriculture and Consumer Services and the Department of Citrus that are to pay a lower service charge of 3 percent and specifies over 100 trust funds that are to pay a higher service charge of 7.3 percent.

Section 215.24, F.S., exempts those trust funds that receive federal matching contributions.

III. Effect of Proposed Changes:

The bill applies a uniform General Revenue service charge to all state trust fund income, provides exceptions to the uniform charge, and deletes provisions authorizing reduced service charges or exemptions for specific trust funds, as follows:

Section 1. Section 215.20, F.S., is amended to apply a uniform 7.3 percent General Revenue service charge for all trust funds unless one of the following exceptions applies:

- Federal programs prohibit the service charge;
- Bond covenants prohibit the service charge;
- The named trust fund is holding money in a trustee or fiduciary capacity for individuals or organizations; or
- The Governor determines that federal matching funds, contributions, or private grants to any trust fund would be lost to the state.

Amendments to this section also eliminate the lesser service charge of 3 percent and the .3 percent service charge imposed on specific trust funds.

Section 2. This section repeals ss. 215.211, 215.222, and 215.24, F.S., that collectively provide exemptions to the General Revenue service charge, and exceptions to its imposition, that no longer will be applicable based upon the revisions made to s. 215.20, F.S., above.

² State Comprehensive Expanded Transportation System Tax.

³ Since renamed the Agency for Workforce Innovation.

Sections 3, 5, 6, 9, 12, 13, 15, and 16. These sections amend ss. 20.2553, 250.175, 339.082, 372.107, 561.027, 570.205, 932.705, and 943.365, F.S., to remove the exemption from the General Revenue service charge for the Federal Law Enforcement Trust Fund in the Departments of: Environmental Protection; Military Affairs; Transportation; Fish and Wildlife Conservation Commission; Business and Professional Regulation; Agriculture and Consumer Services; Highway Safety and Motor Vehicles; and Law Enforcement.

Section 4. This section amends s. 202.193, F.S., to remove the exemption from the General Revenue service charge for the Local Communications Services Tax Clearing Trust Fund in the Department of Revenue.

Section 7. This section amends s. 365.173, F.S., to remove the exemption from the General Revenue service charge for the Wireless Emergency Telephone System Trust Fund in the State Technology Office.

Section 8. This section amends s. 372.106, F.S., to remove the exemption from the General Revenue service charge for the Dedicated License Trust Fund in the Fish and Wildlife Conservation Commission.

Section 10. This section amends ss. (1) of s. 464.0198, F.S., so that moneys deposited into the Florida Center for Nursing Trust Fund from contributions pursuant to s. 464.0195(3), F.S., are exempt from the service charge. Section 464.0195(3), F.S., includes a provision on initial and renewal applications for nurses in which they may donate money to the Florida Center for Nursing which are then routed through this named trust account.

Section 11. This section amends s. 498.019, F.S., to remove unnecessary language that requires the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to operate according to s. 215.20, F.S. With the uniform service charge imposed by that amended section, this trust fund already is included and will pay the 7.3 percent that it currently does.

Section 14. This section amends s. 576.04(2)(c), F.S., to remove the exemption from the General Revenue service charge for the General Inspection Trust Fund in the Department of Environmental Protection.

Section 17. This section amends s. 1013.63, F.S., to remove the exemption from the General Revenue service charge for the University Concurrency Trust Fund in the Department of Education. The section is further amended to provide that revenues raised by any local option motor fuel tax levied are no longer deposited into that fund and that moneys may be appropriated to it.

Section 18. The act takes effect July 1, 2005.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Section 18 of Article VII, State Constitution, provides limitations on the reach of general laws imposing revenue or spending limitations on city and county governments. Paragraph (a) of that section requires the Legislature to declare an important state interest accompanied by an extraordinary vote of the membership to effect compliance. Exceptions to this provision are listed with particularity. Paragraph (c) of that same section requires an extraordinary vote, without a declaration of important state interest, when a legislative act impairs “. . . the anticipated aggregate loss of state-shared revenues resulting from the reduction of the percentage of state tax shared with counties and municipalities” Like the above paragraph there are enumerated circumstances when this provision is deemed inapplicable.

The effect of the repeal of s. 215.22, F.S., may condition an invocation of paragraph (c) to the extent that the repeal of the offsetting provisions of s. 215.22, F.S., specifically ss. (2), (3), and (4), causes a double negative effect. In that case any funds shared with counties or municipalities that are not otherwise exempted from the criteria in s. 17.61, F.S, particularly those that are not held in a fiduciary capacity, may be deemed to have been “lost” due to operation of general law. Should this circumstance present itself, the Legislature is required to enact the legislation by a two-thirds vote of each house’s membership.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill consolidates the authorization for the imposition of service charges on named trust funds. In so doing, the cumulative effect, discussed below, is to apply the same uniform rate of 7.3 percent to funds that now have imposed either the full or fractional rates.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Applying the 7.3 percent General Revenue service charge to all state trust funds will generate additional recurring revenue for the General Revenue Fund. Preliminary

estimates of the increase in deposits to the General Revenue Fund in the 2005-2006 fiscal year range from \$120 million to \$270 million. Trust fund revenues will decrease by the same amount that general revenues increase. The Senate Finance and Taxation Committee report indicates the following history of collections:

General Revenue Service Charges, Analysis of Collections, FY 99 - FY 05⁴

Fiscal Year	Regular 7% or 7.3%	Motor and Diesel 7.3%	Agriculture and Citrus 3%	TOTAL
2004-05 ⁵				\$375,000,000
2003-04 ⁶				396,700,000
2002-03	\$386,244,734	\$13,329,648	\$4,842,555	386,416,937
2001-02	328,995,609	13,037,712	4,920,822	346,954,143
2000-01	347,299,581	12,652,766	4,771,734	364,724,081
1999-00	338,333,643	66,709,115	4,670,120	409,712,878

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Revenue Estimating Conference⁷ is expected to consider the fiscal impact of this bill during the latter part of the week beginning March 14, 2004.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

⁴ Id. at 123.

⁵ Estimated

⁶ Estimated

⁷ Created in s. 216.136(3), F.S.