HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 37 Voluntary Contributions for Public Education Facilities
SPONSOR(S): Raschein
TIED BILLS: **IDEN./SIM. BILLS:** SB 118

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Dugan	Langston
2) Appropriations Committee			

SUMMARY ANALYSIS

Current law provides funding to the Public Education Capital Outlay and Debt Service (PECO) Trust Fund from the following sources:

- funds received from the sale of public education bonds;
- certain revenues from the gross receipts tax;
- interest on investments held by the PECO Trust Fund;
- federal interest subsidies;
- amounts appropriated to the PECO Trust Fund; and
- amounts previously appropriated which revert back the PECO Trust Fund when unspent.

Current law does not authorize voluntary contributions to the PECO Trust Fund.

The bill authorizes voluntary contributions from participating businesses to be used as additional funds to the PECO Trust Fund for the construction and maintenance of public education facilities. The participating businesses will register with the Department of Revenue (DOR), and remit the contributions to the DOR on a monthly basis.

The bill authorizes the DOR to adopt emergency rules to implement the bill.

On February 20, 2015, the Revenue Estimating Conference reviewed similar language and estimated a positive indeterminate fiscal impact on the PECO Trust Fund. According to the DOR bill analysis, the bill will require the department to expend $136,065 in non-recurring and $59,421 in recurring funds to implement the provisions of the bill (see fiscal analysis section).

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Current law provides funding to the Public Education Capital Outlay and Debt Service (PECO) Trust Fund from the following sources:[1]

- funds received from the sale of public education bonds;
- certain revenues from the gross receipts tax;
- interest on investments held by the PECO Trust Fund;
- federal interest subsidies;
- amounts appropriated to the PECO Trust Fund; and
- amounts previously appropriated which revert back the PECO Trust Fund when unspent.

Although grants and donations may be made to certain state trust funds under current law,[2] voluntary contributions to the PECO Trust Fund are not authorized.

Effect of Proposed Changes

The bill creates s. 215.165, F.S., authorizing a business to solicit and collect voluntary contributions from its customers for the construction and maintenance of public education facilities. In order to participate, a business must register as a participating business with the DOR. To register, the business is required to provide certain identifying information, including the business name, physical and mailing addresses, telephone number, e-mail address, and federal employer identification number.

Once registered, participating businesses may solicit voluntary contributions by any means, including point of sale solicitation and through monthly invoices or billing statements.

A participating business that collects voluntary contributions must file a return and remit the contributions to the DOR by the 20th day of the following calendar month. If the 20th day is a Saturday, Sunday, or legal holiday, the return and contributions are due on the next business day.
Returns must include the business's identifying information, as well as the amount of voluntary contributions collected, the amount being remitted and any applicable adjustments. If no contributions are collected, no return is required. Returns may be filed and contributions may be paid by mail or electronically.

The DOR must deposit the contributions into the Public Education Capital Outlay and Debt Service Trust Fund.

The DOR must adopt rules establishing forms and procedures for remitting voluntary contributions. New forms may be created or the required information may be included on existing returns.

The bill provides that the voluntary contributions are not subject to audit by the DOR.

The bill provides an effective date of July 1, 2015.

B. SECTION DIRECTORY:

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[1] s. 1013.65(2)(a), F.S.

[2] Florida Revenue Estimating Conference, 2015 Florida Tax Handbook, Florida State Treasury Funds, at page 13, available at: http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm. For example, an applicant for a boat registration may voluntarily contribute between $2-$5 to the Save the Manatee Trust Fund on the registration form. *See* s. 328.72(11), F.S.

Section 1. Creates s. 215.615, F.S., to authorize a business that registers with the DOR to solicit and collect contributions from customers for the PECO Trust Fund; provides registration and tax return requirements for a participating business;

Section 2. Amends s. 1013.65(2)(a), F.S., to authorize deposits into the PECO Trust Fund from voluntary contributions collected pursuant to s. 215.615, F.S.

Section 3. Provides emergency rulemaking authority to the DOR to implement the provisions of this bill.

Section 4. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   On February 20, 2015, the Revenue Estimating Conference reviewed similar language and estimated a positive indeterminate fiscal impact on the PECO Trust Fund.

2. Expenditures:

   According to the DOR bill analysis, the bill will require the department to expend $81,065 in non-recurring technology costs in Fiscal Year 2014-15, $55,000 for a non-recurring cost to create a public announcement to advertise the program in Fiscal Year 2015-16, and $59,421 in recurring return and revenue processing costs.[3]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   Participation is voluntary. Businesses that participate will be required to file returns and remit collections to the DOR.

D. FISCAL COMMENTS:

   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

[3] The Department of Revenue, Agency Analysis of 2015 HB 37, pages 8-10 (January 22, 2015).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the DOR emergency rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the DOR bill analysis, the department recommends the following changes:[4]

- provide how the DOR should handle funds received from an unregistered business;
- clarify whether returns and tax documents received by the DOR pursuant to the voluntary contribution program fall under the public records exemption;
- provide the DOR the ability to recoup the cost of a return item (check or electronic funds transfer).
- clarify at line 39 that a participating business will receive a taxpayer identification number for purposes of voluntary contributions that is separate from its standard taxpayer identification number;
- change the phrase "electronic data" on line 47 to "electronic means;"
- clarify at line 48 that a return is only necessary in a reporting period when collections have been made;
- clarify at lines 54-55 what reasons a participating business may make "adjustments" to the amount of contributions collected; and
- change the effective date of the bill to January 1, 2016, to allow the DOR sufficient time to implement the provision of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[4] The Department of Revenue, Agency Analysis of 2015 HB 37, pages 5-7 (January 22, 2015).