

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20040763

1. REQUESTED MOTION:

ACTION REQUESTED: Conduct a Public Hearing to enact an Ordinance pertaining to the imposition of (1) an additional \$15.00 surcharge on non-criminal moving traffic infractions, (2) an additional court cost of \$65.00 against any defendant who pleads guilty or nolo contendere to or is found guilty of any felony, misdemeanor or criminal traffic offense, and (3) an additional court cost of \$2.50 on conviction or nolo contendere plea for pedestrian, moving or non-moving civil infractions.

WHY ACTION IS NECESSARY: Board must formally adopt an Ordinance to impose the fees at a scheduled, advertised Public Hearing.

WHAT ACTION ACCOMPLISHES: This Ordinance implements the Article V revisions made by the Legislature in 2004 affecting funding of the State court system.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

5:00 #8

3. MEETING DATE:

06-22-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION General Services
- BY: Kristie L. Kroslack
Assistant County Attorney

7. BACKGROUND: On May 11, 2004, the Board of County Commissioners directed the County Attorney's Office to present a new ordinance consistent with 2003 legislation, as amended by Senate Bill 2962 (2004). In accordance with that direction, this ordinance imposes the following court costs and surcharges, effective July 1, 2004:

A. Florida Statute § 318.13(13) authorizes the Board of County Commissioners to impose an additional \$15.00 surcharge on non-criminal or criminal traffic violations for funding State Court Facilities.

-CONTINUED ON PAGE 2 -

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i> 6/8/04	OA	OM	RISK	GC	<i>[Signature]</i>
					<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY COUNTY ADMIN: <i>[Signature]</i>
<i>6/8/04</i>
<i>4:10 PM SLT</i>
COUNTY ADMIN FORWARDED TO: <i>[Signature]</i>
<i>6-10-04 1:35</i>

B. The sum of \$65.00 for court costs for defined uses, to include in equal proportions: a.) Legal Aid, b.) Law Library, c.) Teen Court and d.) Juvenile Alternative Programs and Assessments Centers which is imposed on any person who pleads guilty or nolo contendere or is found guilty of any felony, misdemeanor or criminal traffic offense.

C. The sum of \$2.50 for Court Costs to be imposed on any person who pleads guilty or nolo contendere or is convicted of a moving or non-moving or pedestrian infraction, to be disbursed to help pay for Criminal Justice Education and Training Program. The Ordinance authorizes and directs the Clerk to provide the funds to the County for the funding of these centers or programs.

The Ordinance vests the Board of County Commissioners with the authority to also provide for the awards of grants and other funding appropriations in support of ancillary court services desired by the Board.

ATTACHMENTS: Proposed Ordinance
 Financial & Administrative Impact Statement
 Notice of Intent to Enact a County Ordinance

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE PERTAINING TO THE IMPOSITION AND COLLECTION OF AN ADDITIONAL SURCHARGE OF \$15.00 FOR NON-CRIMINAL TRAFFIC INFRACTIONS AND CRIMINAL VIOLATIONS TO BE IMPOSED BY THE COURT AND DISTRIBUTED TO THE COUNTY AND USED TO FUND STATE COURT FACILITIES; PERTAINING TO THE IMPOSITIONS OF AN ADDITIONAL COURT COST OF \$65.00 TO BE IMPOSED BY THE COURT UPON CONVICTION IN FELONY, MISDEMEANOR OR CRIMINAL TRAFFIC CASES AND USED BY THE COUNTY TO FUND (1) SUPPLEMENTAL STATE COURT SYSTEM FUNDING AND LOCAL REQUIREMENTS (2) LEGAL AID PROGRAMS (3) LAW LIBRARY AND (4) TEEN COURT PROGRAMS OR JUVENILE ASSESSMENT PROGRAMS; PERTAINING TO CRIMINAL JUSTICE EDUCATION AND TRAINING; AUTHORIZING THE CLERK OF THE COURT TO ASSESS AND RECEIVE A \$2.50 COURT COST FOR PEDESTRIAN, NON-MOVING TRAFFIC AND MOVING TRAFFIC INFRACTIONS AND DISTRIBUTE TO THE COUNTY TO PAY FOR SUCH EDUCATION AND TRAINING PROGRAMS; PROVIDING FOR THE ESTABLISHMENT OF FUNDING ACCOUNTS INTO WHICH COSTS COLLECTED SHALL BE DEPOSITED; VESTING THE BOARD OF COUNTY COMMISSIONERS WITH CERTAIN AUTHORITY CONCERNING SUCH FUNDS; PROVIDING FOR THE AWARD OF GRANTS AND APPROPRIATIONS FROM SUCH FUNDS AND APPROVAL THEREOF BY THE BOARD OF COUNTY COMMISSIONERS THROUGH THE COUNTY BUDGET PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE OF JULY 1, 2004.

WHEREAS, in November, 1998 voters approved Revision 7 to Article V of the Florida Constitution. Revision 7 allocates "state court system funding among the state, counties and users of the courts." This Ordinance implements the revisions made by the Legislature in 2004 and the changes to the laws affecting funding of the state courts system;

WHEREAS, Florida Statutes § 318.18(13) authorizes the County to impose an additional surcharge of \$15.00 on non-criminal traffic infractions pursuant to Chapter 318 or criminal violations listed in Chapter 318.17. Such surcharge shall be collected by the

Clerk of Court and distributed to the County monthly to fund state court facilities;

WHEREAS, Florida Statutes § 939.185 (created in 2004) authorizes the County to impose, as an additional court cost, \$65.00 against any defendant who pleads guilty or nolo contendere to or is found guilty of any felony, misdemeanor or criminal traffic offense under the laws of this state. The proceeds of the \$65.00 court cost shall be deposited or allocated in equal increments to: (1) County funding of state courts and local requirements as determined by appropriate law (2) legal aid programs (3) County law library (4) teen court programs, juvenile assessment and alternative programs.

WHEREAS, subsection (11) of Section § 318.18, Florida Statutes was amended (in 2004) to authorize the County to impose an additional court cost of \$2.50 against any person who pleads guilty or nolo contendere or is found guilty of any pedestrian infraction, non-moving traffic infraction or moving traffic infraction. The proceeds of the \$2.50 court cost shall be deposited by the Clerk into Lee County's criminal justice education and training fund.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AUTHORITY FOR ORDINANCE

This Ordinance is authorized by Sections § 318.18 and § 939.185, Florida Statutes, as amended and other applicable law.

SECTION TWO: COLLECTION OF ADDITIONAL SURCHARGE AND COURT COSTS:

(A) TRAFFIC INFRACTION SURCHARGE \$15.00:

Florida Statutes § 318.18(13) authorizes the Board of County Commissioners to impose an additional surcharge of \$15.00 on non-criminal traffic infractions, pursuant to Chapter 318 or criminal violations listed in Chapter 318.17. Said surcharge of \$15.00 is hereby adopted and imposed. Such surcharge shall be collected by the Clerk of Court upon disposition of the offenses and distributed to the County monthly to fund state court facilities. The Court shall not waive this surcharge.

(B) COURT COSTS \$65.00 ON CRIMINAL CASES:

Each Circuit Court and County Court which sits within Lee County, Florida shall impose, as an additional court cost, the sum of \$65.00 upon a defendant who pleads guilty or nolo contendere or is found guilty of any felony, misdemeanor or criminal traffic offense under the laws of this state. Said court cost of \$65.00 is hereby adopted and imposed. The court shall not waive this charge upon either plea or conviction. Such additional assessment shall be accounted for separately by the County and be used only as follows:

- (1) Twenty-five percent of the amount collected shall be allocated to fund innovations to supplement state funding for the elements of the state courts system identified in Fla. Stat. §29.004 and county funding for local requirements under Fla. Stat. §29.008(2)(a)2.
- (2) Twenty-five percent of the amount collected shall be allocated to fund legal aid programs, as required under Fla. Stat. §29.008(3)(a).
- (3) Twenty-five percent of the amount collected shall be allocated to fund personnel and legal materials for the public as part of Lee County's law library; and
- (4) Twenty-five percent of the amount collected shall be used as determined by the Board of County Commissioners to support teen court programs, juvenile assessment centers and other juvenile alternative programs.

(C) COURT COST FOR TRAFFIC INFRACTIONS:

Each Court which sits within Lee County, Florida shall impose upon a defendant who pleads guilty or nolo contendere to, or is convicted of a violation or any person who pleads guilty or nolo contendere or is found guilty of any pedestrian infraction, non-moving traffic infraction or moving traffic infraction the sum of \$2.50. The proceeds of the \$2.50 court cost shall be

deposited by the Clerk into Lee County's Criminal Justice Education and Training Fund.

SECTION THREE: ESTABLISHMENT OF FUNDING ACCOUNTS

The Board of County Commissioners hereby establishes accounts for the following: (1) Funding of State Courts and local requirements as determined by law, (2) Legal Aid Programs for Indigent Residents of Lee County, (3) Lee County Law Library, (4) Teen Court Programs, Juvenile Assessment and Juvenile Alternative Programs (5) Criminal Justice Education and Training fund.

The Clerk of Court shall collect the respective court costs and surcharges established below and shall remit same to the County to be deposited into the accounts for such purposes.

SECTION FOUR: VESTING THE BOARD OF COUNTY COMMISSIONERS WITH AUTHORITY TO PROVIDE FOR AWARDS OF GRANTS AND APPROPRIATIONS

- (A) The Board of County Commissioners, may, by resolution and/or administrative regulations, establish and set forth such rules and orders and make such delegations of authority as are necessary for the implementation and administration of assistance grants and appropriations for the funding of state courts and local requirements, legal aid programs, law library, teen court programs, juvenile assessments and alternative programs and Criminal Justice Education and Training in Lee County herein authorized and the supervision and evaluation of all programs to be funded by disbursements from the Funding Accounts.
- (B) A request for an assistance grant to be disbursed to any entity, public or private, from the Funding Accounts shall be made by application of the entity to the Board of County Commissioners, or its designee. Such application shall include detailed financial information and a request for an assistance grant.

- (C) All assistance grants awarded by the Board of County Commissioners pursuant hereto shall be made through the County budget procedure directing an assistance grant disbursement be made from the Funding Accounts to each successful assistance grant recipient named therein. Assistance grants or appropriations may only be expended by the recipients for the purposes set forth above. The Board of County Commissioners, or its designee, shall make a finding prior to the award of any such assistance grant that the program operated by a recipient entity meets such standards for recipient qualifications as may be further established by the Resolution of the Board of County Commissioners. An entity awarded an assistance grant shall enter into an agreement as appropriate with the County prior to receiving any funds disbursed from the Funding Accounts. The agreement shall at a minimum require the recipient to provide an accounting of how the grant was used.
- (D) Funding Account disbursements may be made through the County budget procedure to fund programs administered by the various County divisions upon satisfaction of such standards for recipient qualification as may be established by the Board of County Commissioners. The Board of County Commissioners may designate, by resolution, the County Department responsible for recommending disbursements to approved eligible agencies.

SECTION FIVE: **CONFLICTS**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or statute, the most restrictive requirements shall apply.

SECTION SIX: **SEVERABILITY**

The provisions of this Ordinance are severable, and it is the intention of the Board of County Commissioners of Lee County, Florida to confer the whole or any part of the powers herein provided. If any of the provisions of this Ordinance shall be held

unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this Ordinance would have been adopted had such unconstitutional provision not been included herein.

SECTION SEVEN: EFFECTIVE DATE

This Ordinance shall become effective on July 1, 2004, and upon receipt of official acknowledgment from the office of the Secretary of State of Florida that the Ordinance has been filed.

THE FOREGOING Ordinance was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

BOB JANES	_____
DOUGLAS ST. CERNY	_____
RAY JUDAH	_____
ANDREW W. COY	_____
JOHN E. ALBION	_____

DULY PASSED AND ADOPTED this 8th day of June, 2004, and becoming effective on **July 1, 2004**.

ATTEST:

CHARLIE GREEN
CLERK OF THE COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

LEE COUNTY ATTORNEY'S OFFICE
APPROVED AS TO FORM:

By: _____
County Attorney

LEE COUNTY
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 22nd day of June, 2004, at 5:00 o'clock p.m., in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution and Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

AN ORDINANCE PERTAINING TO THE IMPOSITION AND COLLECTION OF AN ADDITIONAL SURCHARGE OF \$15.00 FOR NON-CRIMINAL TRAFFIC INFRACTIONS AND CRIMINAL VIOLATIONS TO BE IMPOSED BY THE COURT AND DISTRIBUTED TO THE COUNTY AND USED TO FUND STATE COURT FACILITIES; PERTAINING TO THE IMPOSITIONS OF AN ADDITIONAL COURT COST OF \$65.00 TO BE IMPOSED BY THE COURT UPON CONVICTION IN FELONY, MISDEMEANOR OR CRIMINAL TRAFFIC CASES AND USED BY THE COUNTY TO FUND (1) SUPPLEMENTAL STATE COURT SYSTEM FUNDING AND LOCAL REQUIREMENTS (2) LEGAL AID PROGRAMS (3) LAW LIBRARY AND (4) TEEN COURT PROGRAMS OR JUVENILE ASSESSMENT PROGRAMS; PERTAINING TO CRIMINAL JUSTICE EDUCATION AND TRAINING; AUTHORIZING THE CLERK OF THE COURT TO ASSESS AND RECEIVE A \$2.50 COURT COST FOR PEDESTRIAN, NON-MOVING TRAFFIC AND MOVING TRAFFIC INFRACTIONS AND DISTRIBUTE TO THE COUNTY TO PAY FOR SUCH EDUCATION AND TRAINING PROGRAMS; PROVIDING FOR THE ESTABLISHMENT OF FUNDING ACCOUNTS INTO WHICH COSTS COLLECTED SHALL BE DEPOSITED; VESTING THE BOARD OF COUNTY COMMISSIONERS WITH CERTAIN AUTHORITY CONCERNING SUCH FUNDS; PROVIDING FOR THE AWARD OF GRANTS AND APPROPRIATIONS FROM SUCH

FUNDS AND APPROVAL THEREOF BY THE BOARD OF COUNTY COMMISSIONERS THROUGH THE COUNTY BUDGET PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE OF JULY 1, 2004.

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.

2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.

3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2003), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

Ad Size: 2 x 5

Publishing Dates: **JUNE 11, 2004**