



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

House Bill 1235 creates the Cancer Research and Treatment Trust Fund within the Department of Health. Funds credited to the trust fund must consist of moneys provided by law or otherwise appropriated by the Legislature for the purposes prescribed in s. 381.921, F.S. In accordance with s.19(f) (2), Art.III, State Constitution, the trust fund will terminate on July 1, 2009, unless terminated sooner. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206, F.S.

### BACKGROUND

#### Creation and Operations of Trust Funds

A trust fund consists of monies received by the state which, under law or under trust agreement, are segregated for a purpose authorized by law (s. 215.32(2) (b) 1., F.S.). Section 19(f), Art. III of the State Constitution, governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature.<sup>1</sup> This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund (s. 215.3207, F.S.).

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency (s. 17.61, F.S.). Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for reappropriation (s. 216.301(1) (b), F.S.). Any reversion of appropriations provided from the General Revenue Fund must be transferred to the General Revenue Fund within 15 days after the reversion, unless otherwise provided by federal or state law, including the General Appropriations Act (s. 216.301(1)(c), F.S.).

#### Termination of Trust Funds

Section 19(f) (2), Art. III of the State Constitution, specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. Accordingly, a bill that creates a trust fund should specify the trust fund's date of termination, or, if the

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<sup>1</sup> Section 19(f) (1), Art. III of the State Constitution.

trust fund is exempt from the automatic 4-year termination requirement, the bill should declare that the trust fund is exempt from this requirement.

The Legislature established a schedule and process for reviewing trust funds (ss. 215.3206 and 215.3208, F.S.). Before the regular session of the Legislature immediately before the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created (s. 215.3206(1), F.S.). Each recommendation is based on a review of the trust fund's purpose, use, and necessity. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund are deposited into the General Revenue Fund (s. 215.3206(2), F.S.). The agency must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial Officer closes out and removes the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

#### C. SECTION DIRECTORY:

**Section 1.** Creates s. 381.926, F.S., to create the Cancer Research and Treatment Trust Fund within the Department of Health. Funds credited to the trust fund must consist of moneys provided by law or otherwise appropriated by the Legislature for the purposes prescribed in s. 381.921, F.S. In accordance with s. 19(f) (2), Art. III, State Constitution, the trust fund will terminate on July 1, 2009, unless terminated sooner. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206, F.S.

**Section 2.** Provides an effective date of July 1, 2005, if House Bill 1233 or similar legislation is enacted in the same legislative session or an extension thereof and becomes law or if the General Appropriations Act for fiscal year 2005-2006 includes funding for the purposes prescribed in s. 381.921, F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The newly created Cancer Research and Treatment Trust Fund will be a repository for funds dedicated to cancer research.

##### 2. Expenditures:

The Florida Cancer Council is authorized to fund research grants via the Cancer Research and Treatment Fund. The amount of grant awards is undetermined.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None

##### 2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

A similarly named trust fund, the Cancer Council and Research Fund, created in s. 1004.435, F.S., funds the Florida Cancer Control and Research Advisory Council which is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc. The board-based advisory council includes representatives from academic institutions, health care facilities and practitioner professional organizations, and the general public. The council must approve the Florida Cancer Plan each year. The plan for the care and treatment of persons suffering from cancer is to include recommendations concerning cancer research.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill will have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient rule making authority to implement this act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**