

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Trust Fund Provisions Generally

The creation, recreation and termination of trust funds are governed by provisions in both the Florida Constitution and the Florida Statutes (F.S.).

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period. Specified trust funds are exempted from this provision.¹

Section 215.3206, F.S., requires agencies to recommend to the Speaker of the House of Representatives and the President of the Senate whether the trust fund should be terminated or re-created prior to the regular session of the Legislature immediately preceding the date on which any trust fund is scheduled to be terminated.

Section 215.32(b), F. S., governs the segregation of trust funds. In order to meet accounting standards established by the Government Accounting Standards Board, this section was amended in 2004 to require that, to the extent possible, each agency shall use certain trust funds as a depository for funds to be used for day-to-day operations for uniform specified purposes. These include the following trust funds:

- Operating trust fund—for program operations funded by program revenues.
- Operations and maintenance trust fund –client services funded by third-party payors.
- Administrative trust fund –for management activities that are departmental by nature and funded by indirect cost earnings and assessments against trust funds.
- Grants and donations trust fund – for allowable grant or donor agreement activities funded by restricted contractual revenue from private and public non-federal sources.
- Agency working capital trust fund – for the operation of data processing centers.
- Clearing funds trust fund – for collections pending distribution to lawful recipients.

¹ Exempt are trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Governors, where such trust funds are for auxiliary enterprises and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the chief financial officer or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the Florida Constitution.

- Federal grant trust fund – for allowable grant activities funded by restricted program revenues from federal sources.

The 2004 revision to s. 215.32, F.S., further requires any agency that does not have the trust funds specified above and cannot adjust its internal accounting to use existing trust funds, to request the creation of the necessary trust funds during the next scheduled review of the agency's trust funds, pursuant to s.215.3206, F.S.

As a result agencies have been requesting the creation of the above noted trust funds as needed at the time of their required recommendation regarding trust fund recreations or terminations.

Trust Funds in the Department of Education

The trust funds in the Department of Education are scheduled for review this year.

Chapter 99-27, Laws of Florida, re-creates the Educational Aids Trust Fund within the Department of Education to administer receipts and disbursements for federal grants. Current revenue sources for the Educational Aids Trust Fund include federal grants, indirect cost earnings and overhead assessments against federal funds pursuant to indirect cost rates negotiated by the department and approved by the federal government. This fund meets the requirements of s. 215.32(2)(c), F.S., establishing the Administrative Trust Fund as the designated fund agencies are required to use for indirect cost earnings assessed on federal funds.

Section 1010.78, F.S., creates the Projects, Contracts and Grants (P, C & G) Trust Fund within the Department of Education to administer contracts and grants for specific projects and to fund time-limited employment for personnel working on those projects. Current revenue sources for the P, C & G Trust Fund include private donations from the Milken Foundation, fee revenue generated from the administration of General Educational Development (GED) testing, and monies generated from the leasing of available transponder time from the state's satellite transponder resources.

Section 1010.72, F.S., creates the Dale Hickam Excellent Teaching (Excellent Teaching) Trust Fund within the Department of Education to be used to provide monetary incentives and bonuses for Florida teachers to obtain national board certification through the national Board of Professional Teaching Standards (NBPTS). Since the legislature has discontinued double budgeting this trust fund does not have a revenue source.

Effect of Proposed Changes

The bill terminates the Projects, Contracts and Grants Trust Fund and the Dale Hickam Excellent Teaching Trust Fund within the Department of Education. The bill also renames the Educational Aids Trust Fund as the Federal Grants Trust Fund pursuant to s. 215.32, F.S.

The Department of Education recommended termination of the P, C & G Trust Fund in the scheduled trust fund review as part of the legislative budget request. All cash will be transferred to individual components of this fund. Donations from the Milken Foundation will be transferred to the Grants and Donations Trust Fund within the Department of Education. Monies generated from the leasing of available transponder time from the state's satellite transponder resources will be transferred to a new Operating Trust Fund, pursuant to s. 215.32, F.S. If the agency's legislative budget request issue number 3001370 for Fiscal Year 2007-08 is not approved by the legislature, fees for GED testing will also be transferred to the new Operating Trust Fund.

The Department also recommended termination of the Dale Hickam Excellent Teaching Trust Fund. The fund is in the process of being closed since the legislature discontinued double-budgeting which

provided general revenue as the revenue source for the fund. The department estimates that the available cash remaining in this fund will be used in conjunction with state funds in Fiscal Year 2006-2007 for the Excellent Teaching Program. Any funds remaining in the trust fund on June 30, 2007 will be deposited in the General Revenue Fund.

The Educational Aids Trust Fund is renamed as the Federal Grants Trust Fund pursuant to s. 215.32 (2)(b), F.S. All funding sources are maintained. However, HB 1332 creates the Administrative Trust Fund within the Department of Education into which the indirect cost earnings on federal funds will be transferred from the Educational Aids Trust Fund.

C. SECTION DIRECTORY:

Section 1: Terminates the Projects, Contracts and Grants Trust Fund within the Department of Education, effective July 1, 2008.

Section 2: Renames the Educational Aids Trust Fund as the Federal Grants Trust Fund.

Section 3: Conforms statute.

Section 4: Repeals sections 1010.72 and 1010.76, F.S.

Section 5: Repeals section 1010.78, F.S., effective July 1, 2008.

Section 6: Repeals subsection (5) of section 1012.72, F.S.

Section 7: Provides an effective date.

II. 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: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. This is simply a change in operating procedures to align agency accounts with the requirements of section 215.32, Florida Statutes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None required because this bill is a proposed council bill.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES