

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1856

SPONSOR: Governmental Oversight and Productivity Committee and Senator Silver

SUBJECT: Preservation Plan Trust Fund

DATE: March 23, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lombardi</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The bill creates a separate trust fund referred to as the "Preservation of Benefit Plan" to serve as an excess benefit plan. This plan allows the Division of Retirement to pay any future retirement benefits that exceed Federal limits through a second qualified benefit plan pursuant to s. 415.(m), Internal Revenue Code.

This bill will take effect July 1, 1999.

This bill creates a trust fund established under section 121.095, Florida Statutes.

## II. Present Situation:

Section 415.(m), Internal Revenue Code, prescribes that in establishing a "qualified governmental excess benefit arrangement" a trust be maintained solely for providing benefits under the arrangement and to ensure a tax exempt status under section 115., Internal Revenue Code.

Article III, s. 19, State Constitution, requires that no trust fund be created by law without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Section 215.3207, F.S., provides that in addition to the required separate bill and three-fifths passage vote of the membership of each house, the bill must include statutory language specifying:

- \* The name of the trust fund.
- \* The agency or branch of state government responsible for administering the fund.
- \* The requirements or purposes that the trust is established to meet.
- \* The sources of moneys to be credited to the trust or specific sources of receipts to be deposited in the trust.

### III. Effect of Proposed Changes:

The bill creates a separate trust fund referred to as the "Preservation of Benefit Plan" to serve as an excess benefit plan. This plan allows the Division of Retirement to pay any future retirement benefits that exceed Federal limits through a second qualified benefit plan pursuant to s. 415.(m), Internal Revenue Code.

The bill meets the requirements of s. 215.3207, F.S., based on the following statutory provisions of the bill:

- \* The name of the trust fund is referenced as the Preservation of Benefits Plan.
- \* The agency or branch of state government responsible for administering the fund is the Division of Retirement.
- \* A trust is required pursuant to s. 115., Internal Revenue Code, to provide retirement benefits in excess of federal limitations to members under a secondary plan.
- \* The sources of moneys to be deposited in the trust are specifically prefunded retirement benefits which otherwise would have been paid to the member had the federal limitations not yet been met.

This bill will take effect July 1, 1999, if Senate Bill 1858 or similar legislation is adopted in the same legislative session or an extension thereof and attainment of three-fifths vote of the membership of each house of the Legislature.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

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

---