

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: SB 656

SPONSOR: Fiscal Policy Committee

SUBJECT: Trust Funds/Exemptions

DATE: January 13, 1999

REVISED: 01/21/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cohen</u>	<u>Hadi</u>	<u>FP</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This legislation exempts the following trust funds from termination pursuant to Section 19(f), Article III of the State Constitution.

Within the Department of Agriculture and Consumer Services:

- Those trust funds within the Department of Agriculture and Consumer Services declared to be exempt by Chapter 95-227, Laws of Florida.

Within the Department of Banking and Finance:

- Those trust funds within the Department of Banking and Finance declared to be exempt by Chapter 95-227, Laws of Florida;

Within the Department of Education:

- Those trust funds within the Department of Education declared to be exempt by Chapter 95-227, Laws of Florida.
- The Construction Trust Fund, School for the Deaf and Blind
- The Ancillary Facilities Construction Trust Fund
- The Building Fee Trust Fund
- The Contracts, Grants, and Donations Trust Fund

Within the Department of Environmental Protection:

- Those trust funds within the Department of Environmental Protection declared to be exempt by Chapter 95-374, Laws of Florida.

Within the Department of Insurance:

- The Treasurer Investment Trust Fund
- The State Treasurer Escrow Trust Fund
- The Treasury Cash Deposit Trust Fund
- The Agents and Solicitors County Tax Trust Fund

Within the Department of Revenue:

- Those trust funds within the Department of Revenue declared to be exempt by Chapter 95-227, Laws of Florida.
- Revenue Fuel Tax Refund Payments Trust Fund
- Sales Tax Security Deposit Trust Fund
- Secondhand Dealer & Metals Recycler Trust Fund
- Highway Safety Admin. Div. Security Deposits Trust Fund
- Special Fuel Security Deposit Trust Fund

II. Present Situation:

The following trust funds are not subject to the requirements of Section 19(f), Article III of the State Constitution:

- 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 Regents, 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 this Constitution, are not subject to the requirements set forth in paragraph (2) of this subsection.

Section 11.2422, F.S., repeals “every statute of a general and permanent nature enacted at or prior to the regular 1995 legislative session ...not included in Florida Statutes, 1997, as adopted by s. 11.2421, as amended, or recognized or continued in force by reference therein or in ss.11.2323 and 11.2424, as amended.” Because Chapter 95-227, Laws of Florida, which found specified trust funds to meet the constitutional criteria for exemption from termination under Section 19(f), Article III of the State Constitution was not codified, questions have arisen on whether s. 11.2422, F.S., has acted to repeal the legislative finding and abrogate the exemption. This bill clarifies the intent of the legislation that the exemptions meet the criteria of Section 19(f) of Article III and should be continued.

Department of Education:

- ***The Construction Trust Fund, School Deaf and Blind School***
Created to expend funds for the PECO fund for the School for the Deaf and Blind.

- ***The Ancillary Facilities Construction***
Created to support the construction, maintenance, and repair of ancillary facilities in the State University System.
- ***Educ.-Univ Div. The Building Fee Trust Fund***
Created to account for the collection of per credit hour building fee assessed on students.
- ***The Contracts, Grants, and Donations Trust Fund***
Created to facilitate the deposit and disbursement of funding for research and training grants (both public and private).

Department of Insurance:

- ***The Treasurer Investment Trust Fund***
Serves as a holding/clearing account for the invested portion of other trust funds. It is needed for necessary for accounting purposes.
- ***The Treasure Escrow Trust Fund***
Holds for the State Treasury, escrow money related to transactions of state agencies. Accounts for asset held by the state in a trustee capacity as an agent or fiduciary and replaces expensive private escrow accounts.
- ***The Treasury Cash Deposit Trust Fund***
Authorizes the Treasure to accept for safekeeping deposits of cash, securities and other articles of value form any state agencies or other public authority. Funds are held in a trustee capacity.
- ***The Agents and Solicitors County Tax Trust Fund -***
The Treasure collects a county tax that is required with each new insurance license appointment and renewal paid by the appointing entity. Moneys are deposited into the trust fund after a service charge to general revenue is deducted and the remainder is remitted to the counties.

Department of Revenue:

- ***Revenue-Fuel Tax Refund Payments Trust Fund -***
Established to control and account for fuel tax monies earmarked for refund to taxpayers.
- ***Sales Tax Security Deposit Trust Fund -***
Established to control and account for deposits held by the Department of Revenue.
- ***Secondhand Dealer & Metals Recycler Trust Fund***
Established to account for application fees and background screening fees for secondhand dealers and metal recyclers, most of which are distributed to other agencies.

- ***Highway Safety Admin. Div. Security Deposits***
Established to control and account for security deposits held by the Department of Revenue.
- ***Special fuel Security Deposit Trust Fund***
Established to control and account for security deposits held by the Department of Revenue.

III. Effect of Proposed Changes:

This legislation exempts the following trust funds from termination pursuant to Section 19(f), Article III of the State Constitution:

Within the Department of Agriculture and Consumer Services:

- Those trust funds within the Department of Agriculture and Consumer Services declared to be exempt by Chapter 95-227, Laws of Florida.

Within the Department of Banking and Finance:

- Those trust funds within the Department of Banking and Finance declared to be exempt by Chapter 95-227, Laws of Florida.

Within the Department of Education:

- Those trust funds within the Department of Education declared to be exempt by Chapter 95-227, Laws of Florida
- The Construction Trust Fund, School for the Deaf and Blind
- The Ancillary Facilities Construction Trust Fund
- The Building Fee Trust Fund
- The Contracts, Grants, and Donations Trust Fund

Within the Department of Environmental Protection:

- Those trust funds within the Department of Environmental Protection declared to be exempt by Chapter 95-227, Laws of Florida.

Within the Department of Insurance:

- The Treasurer Investment Trust Fund
- The State Treasurer Escrow Trust Fund
- The Treasury Cash Deposit Trust Fund
- The Agents and Solicitors County Tax Trust Fund

Within the Department of Revenue

- Those trust funds within the Department of Revenue declared to be exempt by Chapter 95-227, Laws of Florida
- Revenue Fuel Tax Refund Payments Trust Fund
- Sales Tax Security Deposit Trust Fund
- Secondhand Dealer & Metals Recycler Trust Fund
- Highway Safety Admin. Div. Security Deposits Trust Fund
- Special Fuel Security Deposit Trust Fund

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:

#1 by Fiscal Policy:

- Adds the Federal Use of State Lands Trust Fund within the Department of Banking and Finance and the Child Support Clearing Trust Fund within the Department of Revenue to the list of those trust funds meeting the criteria for exemption.
- Deletes the Sales Tax Security Trust Fund and the Special Fuel Security Deposit Trust Fund.
- Modifies the Flair number for the Security Deposits Trust within the Department of Revenue.

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