

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: HJR 1921

SPONSOR: Committee on General Appropriations and Representative Pruitt

SUBJECT: Section 19, Article III, Florida Constitution

DATE: April 10, 2000 REVISED: 04/13/00 _____

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

I. Summary:

The bill provides an exception to the constitutional requirement that “no trust fund of the State of Florida. . . be created without a three-fifths (3/5) vote of each house of the Legislature. The Governor and Cabinet would be authorized to create trust funds in emergency situations declared pursuant to general law and would terminate July 1 after the next regular legislative session following creation.

The resolution provides that each trust fund created by law be terminated no more than four years after the effective date of the act authorizing the initial creation of the trust fund. Furthermore, the resolution would authorize the legislature to re-create trust funds upon their termination, and allow for the periodic review of re-created trust funds.

This resolution would be on the ballot and submitted to the electors at the next general election. If approved, the amendment would take effect November 4, 2000.

II. Present Situation:

Article III, Section 19(f)(1) of the Florida Constitution establishes that “no trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature.” In addition, s. 217.3207, F.S., also requires a three-fifths vote of each house for the creation of a trust fund.

Art. III, Section 19(f)(2) of the State Constitution requires that each trust fund created by the Legislature, with the exception of exempt funds, is terminated not more than four years after the effective date of the act creating the trust fund. Furthermore, if a trust fund is necessary to fund a recurring governmental program, s. 215.3208, F.S., requires that any trust fund not exempt from automatic termination must be reviewed and subsequently re-created in order to continue funding. Currently, the Legislature requires a review of about one-fourth of the state’s trust funds each year as part of the budget review process. In the current review cycle, from 1997-2000, over 460

funds were reviewed, with 316 being re-created, 90 determined exempt, 45 terminated, and 39 created.

III. Effect of Proposed Changes:

The bill authorizes the Governor and Cabinet to create temporary trust funds in emergency situations without the approval of the Legislature. This allows the State to take advantage of any unexpected revenue source that may arise from an emergency situation and to maintain accountability for those funds. For example, Federal matching funds are often required to be placed in separate trust funds that may not exist at the time the emergency takes place. This would prove especially advantageous in situations where the Legislature is out of session and an emergency arises that requires State funding with separate and accurate accounting for Federal matching funds.

Furthermore, this resolution would allow for each new trust fund created by the legislature to be reviewed once, four years after its creation, at which point the Legislature would choose to either re-create, terminate, or modify the fund. If a trust fund is re-created further review of that fund would be based upon whatever statutory schedule the Legislature adopts.

This joint resolution will improve the State's ability to receive and to track moneys received as the result of major emergencies.

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:

During the first four-year review cycle, over one-half of the state's trust funds were terminated. During the last review cycle, only forty-five funds were terminated, while at the same time thirty-nine new ones were created. If the trend continues, future Legislatures might actually increase the number of trust funds while conducting a review that was supposed to reduce that number.

VIII. Amendments:

#1 by Fiscal Policy:

The amendment repeals language pertaining to an obsolete effective date. This allows the resolution to take effect on the first Tuesday after the first Monday in January after the election pursuant to Section 5, Article XI, Florida Constitution.