

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1720

SPONSOR: Appropriations Subcommittee on General Government and Senator King

SUBJECT: Administrative Trust Fund

DATE: April 26, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Maclure</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
2.	<u>Hayes</u>	<u>Martin</u>	<u>AGG</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	<u>Withdrawn: Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute creates an Administrative Trust Fund to facilitate the general administrative activities of the Agency for Workforce Innovation.

This committee substitute creates an section 20.505, Florida Statutes.

II. Present Situation:

Agency for Workforce Innovation

Under Florida’s Workforce Innovation Act of 2000, the Legislature created Workforce Florida, Inc. (WFI), and the Agency for Workforce Innovation (ch. 2000-165, L.O.F.). In addition, the Workforce Innovation Act of 2000 revised the duties of the 24 regional workforce boards. Established as a not-for-profit corporation, WFI is the principal workforce policy organization for the state (s. 445.004(2), F.S.). WFI’s purpose is “to design and implement strategies that help Floridians enter, remain in, and advance in the workplace, becoming more highly skilled and successful, benefiting these Floridians, Florida businesses, and the entire state, and to assist in developing the state’s business climate.” (*id.*)

The Agency for Workforce Innovation (AWI or agency) is an independent state agency created within the Department of Management Services, and as such is not subject to control, supervision, or direction by the department. AWI is a separate budget entity. The agency’s purpose is to ensure that the state appropriately administers federal and state workforce funding by administering the plans and policies of WFI under contract with WFI (s. 20.50(1), F.S.). AWI is the designated administrative agency for the receipt of federal workforce development grants and other federal funds (s. 20.50(2), F.S.). AWI assists WFI in developing and disseminating

policies, providing technical assistance, and monitoring a variety of workforce programs, including, among others, the federal Workforce Investment Act.¹

As a result of the Workforce Innovation Act of 2000, AWI is responsible for several programs formerly administered by the Department of Labor and Employment Security, including employment services under the federal Wagner-Peyser Act, unemployment compensation services,² and other workforce programs. In addition, the agency administers certain welfare transition services that previously were part of the Work and Gain Economic Self-sufficiency (WAGES) program. Direct services are performed under agreements with WFI and the 24 regional workforce boards. AWI distributes program and fiscal instructions to the regional workforce boards in accordance with plans and policies of WFI.

AWI is led by a Director of Workforce Innovation, who is appointed by the Governor. The agency is comprised of three principal offices:

- Office of Workforce Services, which is responsible for administering the state merit system program staff within the workforce one-stop delivery system, delivering services through the one-stop system, and ensuring that welfare transition clients receive services designed to help them succeed in the workforce;
- Office of Workforce Investment and Accountability, which is responsible for procurement, contracting, financial management, accounting, audits, and verification; and
- Office of Workforce Information Systems, which is responsible for the delivery of information on labor markets, employment, occupations, and performance, and which is responsible for implementing and maintaining information systems necessary for the operation of the one-stop system (s. 20.50(2), F.S.).

Creation and Operation of Trust Funds

A trust fund consists of moneys received by the state which, under law or under trust fund agreement, are segregated for a purpose authorized by law (s. 215.32(2)(b), F.S.). Section 19(f) of Article III of the State Constitution governs the creation of trust funds. It 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. The constitution further specifies that such a trust fund must be created in a separate bill for that purpose only.

The Legislature has articulated statutory criteria governing the establishment of trust funds, as well. The statutory language creating a trust fund must, at a minimum, specify:

¹ For additional information on the Agency for Workforce Innovation, see "Profile No. 4119," *Florida Government Accountability Report*, Florida Legislature's Office of Program Policy Analysis and Government Accountability, <http://www.oppaga.state.fl.us/profiles/4119/>, January 22, 2001.

² The Workforce Innovation Act of 2000 transferred the unemployment compensation program under ch. 443, F.S., from the Department of Labor and Employment Security to the Agency for Workforce Innovation (AWI). The law required AWI to enter into an agreement with the Department of Revenue by January 1, 2001, for that department to provide unemployment tax collection services (s. 11, ch. 2000-165, L.O.F.). AWI conducts unemployment compensation claims-taking through the state's workforce one-stop delivery system, as well as providing for the claiming of benefits via the telephone.

- 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 State Treasurer is directed to invest all the trust funds and all agency funds of each state agency (s. 18.125, F.S.). Under s. 216.301, F.S., any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it shall revert to the fund from which the Legislature appropriated it and shall be available for re-appropriation.

Termination of Trust Funds

By constitutional requirement, trust funds created after November 4, 1992, shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter authorization period for the trust fund (s. 19(f)(2), Art. III, State Constitution). The constitution exempts specified types of trust funds from this automatic termination (*id.* at s. 19(f)(3)). A bill that creates a trust fund should specify its date of termination; or, if the trust fund is exempt from the automatic termination requirement, the bill should specify that the trust fund is exempt from this requirement (Florida Senate, *Manual for Drafting General Bills*, September 1999, p. 82). The Legislature has provided a schedule and process for reviewing trust funds (ss. 215.3206 and 215.3208, F.S.).

III. Effect of Proposed Changes:

This committee substitute creates an Administrative Trust Fund to be administered by the Agency for Workforce Innovation (AWI or agency). Funds credited to the trust fund shall be used for the purpose of supporting the administrative functions of the agency.

Notwithstanding the requirement in ch. 216, F.S., for the reversion of unexpended balances of appropriations, funds remaining in the trust fund at the end of the fiscal year may be retained in the trust fund in support of the fund's purposes. This committee substitute specifies that funds credited to the trust fund shall be expended only pursuant to a legislative appropriation or an approved amendment to the operating budget of AWI under ch. 216, F.S.

The act takes effect on July 1, 2001, if it is enacted by at least a three-fifths vote of the membership of each house of the Legislature. Consistent with the constitutional requirement, the committee substitute specifies that the trust fund terminates on July 1, 2005, and that the trust fund is subject to review by the Legislature under s. 215.3206, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

This committee substitute creates an Administrative Trust Fund to be administered by the Agency for Workforce Innovation. The committee substitute appears to comply with the requirements of s. 19(f), Art. III, State Constitution, relating to the creation and termination of trust funds.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The committee substitute may help facilitate the general administrative activities of the Agency for Workforce Innovation (AWI or agency) and may help increase accountability and control over the agency's administrative resources. AWI reports that it does not currently have an administrative trust fund for the purpose of accounting for executive direction and centralized administrative functions. Rather, the agency is using a revolving trust fund for this purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.