

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 1394

SPONSOR: Commerce and Economic Opportunities Committee and Senator Klein

SUBJECT: Digital Divide Trust Fund

DATE: February 13, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bimholz	Maclure	CM	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute creates a Digital Divide Trust Fund to be administered by the Digital Divide Council in the State Technology Office for the purpose of receiving and disbursing funds required to pay the costs of facilitating the design and implementation of certain council programs.

This committee substitute creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Digital Divide Council

During the 2001 Regular Session, the Legislature enacted ch. 2001-175, L.O.F., creating the Digital Divide Council (council) in the State Technology Office (STO).¹ (*See s. 445.049, F.S.*) In establishing the council, the Legislature found that:

Families that are living near or below the poverty level are without adequate economic resources to have reasonable opportunities to obtain frequent access to use of information technology or the education and

¹ The council is composed of 15 members: STO's chief information officer; the director of the Governor's Office of Tourism, Trade, and Economic Development; the president of Workforce Florida, Inc.; the director of the Agency for Workforce Innovation; the chair of ITFlorida.com, Inc.; the Commissioner of Education; the executive director of the State Board of Community Colleges; the executive director of the State Board for Career Education; the chair of the Network Access Point of the Americas; two information technology industry representatives; two ex officio nonvoting members of the Florida Senate; and two ex officio nonvoting members of the Florida House of Representatives. The STO provides administrative and technical support to the council.

training necessary to acquire the knowledge and skills required to become competitively qualified for high-skill, high-wage employment....The absence of such economic resources divides such families from those who have adequate economic resources to have such opportunities, places such families at risk of never realizing their employment and income earning potential, and prevents the state's economy from prospering to the extent possible if such families realized their employment and income earning potential.²

Section 445.049, F.S., authorizes the council to facilitate the design and implementation of six pilot programs through local workforce development boards to develop exportable model programs for statewide use to educate and train economically disadvantaged families to become competitively qualified for high-skill, high-wage employment. The programs must have the following objectives and goals:

- Maximizing efficient and productive use of existing public and private facilities, equipment, personnel, programs, and funds;
- Using innovative concepts employing newly developed technologies in educating and training program enrollees;
- Developing viable public-private partnerships based on mutual commitment to responsible and dedicated participation in designing and implementing the programs;
- Graduating as many at-risk family members as feasible to ensure that they have reasonable opportunities to obtain access to frequent use of information technology (IT) and the education and training necessary to competitively qualify them for high-skill, high-wage employment;
- Reducing the number of underachieving and failing public-school students who are members of at-risk families;
- Reducing the number of underemployed and unemployed members of at-risk families;
- Using IT to facilitate achievement of the Sunshine State Standards by K-12 public-school students who are members of at-risk families;
- Training teachers in the state's K-12 school system to efficiently and effectively use IT to plan, teach, and administer all courses of instruction;
- Using IT to enable members of at-risk families who are no longer enrolled in K-12 schools to obtain the education needed to successfully complete general education development test preparation; and
- Bridging the digital divide in developing a competitive workforce to meet the employment needs of state-based IT businesses and establish this state as having the most IT-ready workforce in the western hemisphere.

The council must submit a report to the Governor and the Legislature by March 1, 2002. The report will include the results of the council's monitoring, review, and evaluation of the pilot programs and recommendations of whether these programs should be continued or expanded.

² Section 445.049(1)(c) and (d), 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)1., 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:

- 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.). Before the regular session of the Legislature immediately preceding the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for the administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created (s. 215.3206(1), F.S.). Each recommendation is based on a review of the trust fund's purpose, use, and necessity. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund are deposited into the General Revenue Fund (s. 215.3206(2), F.S.). The agency

pays any outstanding debts of the trust fund as soon as practicable, and the Comptroller closes out and removes the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

III. Effect of Proposed Changes:

This committee substitute creates a Digital Divide Trust Fund to be administered by the Digital Divide Council in the State Technology Office for the purpose of receiving and disbursing funds required to pay the costs of facilitating the design and implementation of one or more programs using information technology to educate and train members of economically disadvantaged families to compete effectively for high-skill, high-wage employment opportunities in this state. This committee substitute further provides that the Digital Divide Trust Fund may receive funding lawfully made from sources that include appropriations from the state and gifts, donations, and matching contributions from other public agencies and private persons and entities.

This committee substitute shall take effect July 1, 2002, 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, 2006, and that the trust fund is subject to review by the Legislature under s. 215.3206(1) and (2), 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 a Digital Divide Trust Fund to be administered by the Digital Divide Council in the State Technology Office. 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:

This committee substitute creates the Digital Divide Trust Fund, which may receive funding lawfully made from sources that include gifts, donations, and matching contributions from private persons and entities.

C. Government Sector Impact:

This committee substitute creates a Digital Divide Trust Fund to be administered by the Digital Divide Council in the State Technology Office for the purpose of receiving and disbursing funds required to pay the costs of facilitating the design and implementation of certain council programs. This committee substitute does not provide an appropriation for the trust fund.

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.
