

# 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 1758

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senator Saunders

SUBJECT: Trust Funds

DATE: April 2, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gillespie	Maclure	CM	Favorable/CS
2.	_____	_____	JU	_____
3.	_____	_____	ATD	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 1758 creates the Entertainment Industry Financial Incentive Trust Fund within the Governor's Office of Tourism, Trade, and Economic Development. The trust fund is created to facilitate the payment of incentives under SB 1756, or similar legislation, creating an entertainment industry financial incentive program. The trust fund is terminated on July 1, 2007, and must be reviewed before that date.

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

## II. Present Situation:

### Entertainment Industry Financial Incentive Program (CS/SB 1756)

Committee Substitute for Senate Bill 1756 creates an entertainment industry financial incentive program, subject to appropriation, which provides for the payment of financial incentives to qualified productions of filmed entertainment and digital-media-effects companies for expenditures made in Florida and to filmed entertainment projects that relocate to Florida from other states. The committee substitute (CS/SB 1756) provides an appropriation to fund the financial incentives and provides for an application process to be administered by the Governor's Office of Film and Entertainment, with oversight by the Office of Tourism, Trade, and Economic Development.

### **Governor's Office of Film and Entertainment**

In 1999, the Legislature created an Office of Film and Entertainment within the Governor's Office of Tourism, Trade, and Economic Development (OTTED).<sup>1</sup> The purpose of the Office of Film and Entertainment is to develop and promote the state's entertainment industry and to serve as a liaison between the entertainment industry and other state and local governmental agencies, local film commissions, and labor organizations (s. 288.1251(2)(a), F.S.). The office gathers statistical information related to the state's entertainment industry, provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities, and administers field offices outside the state<sup>2</sup> and coordinates with regional offices maintained by counties and regions of the state. The Office of Film and Entertainment affirms that its mission is to build, support, and market the film and entertainment industry in Florida.<sup>3</sup> The office has a budget of approximately \$799,000 and 4 full-time-equivalent positions, including its Los Angeles field office.

### **Governor's Office of Tourism, Trade, and Economic Development**

In 1996, the Legislature created the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor.<sup>4</sup> The purpose of OTTED is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement policies and strategies designed to provide economic opportunities for all Floridians. The director of OTTED is appointed by and serves at the pleasure of the Governor. As part of its responsibilities, OTTED is also required to provide administrative oversight for the Office of Film and Entertainment (s. 14.2015(2)(h), F.S.).

### **Creation and Operation of Trust Funds**

A trust fund consists of monies received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law (s. 215.32(2)(b)1., F.S.). Section 19(f), Art. 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.<sup>5</sup> The constitution further specifies that a trust fund must be created in a separate bill for that purpose only.

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<sup>1</sup> Chapter 99-251, L.O.F.; s. 288.1251(1), F.S.

<sup>2</sup> The Office of Film and Entertainment administers a field office in Los Angeles, California. *See* Office of Film & Entertainment, *Florida Film Offices*, at <http://www.filminflorida.com/incentives/offer-is.htm> (last visited Mar. 30, 2003).

<sup>3</sup> Office of Film & Entertainment, *OFE Vision & Mission*, at <http://www.filminflorida.com/about/about-vm.htm> (last visited Mar. 30, 2003).

<sup>4</sup> Chapter 96-320, L.O.F.; s. 14.2015, F.S.

<sup>5</sup> Section 19(f)(1), Art. III of the State Constitution.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law 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 Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency (s. 18.125, F.S.). Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for reappropriation (s. 216.301, F.S.).

### **Termination of Trust Funds**

Section 19(f)(2), Art. III of the State Constitution, specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. Accordingly, a bill that creates a trust fund should specify the trust fund's date of termination or, if the trust fund is exempt from the automatic 4-year termination requirement, the bill should declare that the trust fund is exempt from this requirement.<sup>6</sup>

The Legislature established a schedule and process for reviewing trust funds (ss. 215.3206 and 215.3208, F.S.). Before the regular session of the Legislature immediately before the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for 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 must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial Officer 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:**

#### **Entertainment Industry Financial Incentive Trust Fund**

The committee substitute creates the Entertainment Industry Financial Incentive Trust Fund to be administered by the Office of Tourism, Trade, and Economic Development. The committee

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<sup>6</sup> See Florida Senate, *Manual for Drafting General Bills* 82 (Sept. 1999).

substitute provides that monies credited to the fund shall be from the General Revenue Fund or other sources to make incentive payments under an entertainment industry financial incentive program created by SB 1756 or similar legislation. The purpose of the trust fund is to facilitate the payment of incentives under the program.

The committee substitute also provides for the trust fund to be terminated on July 1, 2007, and requires the trust fund to be reviewed before that date.

#### **Contingent Effective Date**

The committee substitute provides that it takes effect on the effective date of SB 1756 (July 1, 2003) or similar legislation, contingent on the following:

- The committee substitute (CS/SB 1758) is enacted by a three-fifths vote of the membership of the Senate and the House of Representatives; and
- Senate Bill 1756 or similar legislation (creating an entertainment industry financial incentive program) becomes a law.

#### **IV. Constitutional Issues:**

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

The committee substitute creates the Entertainment Industry Financial Incentive Trust Fund to be administered by the Governor's Office of Tourism, Trade, and Economic Development. The committee substitute appears to comply with s. 19(f), Art. III of the 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:**

The committee substitute creates the Entertainment Industry Financial Incentive Trust Fund to facilitate the payment of financial incentives from the state under an entertainment industry financial incentive program to qualified productions of filmed entertainment and digital-media-effects companies for expenditures made in Florida and to filmed entertainment projects that relocate to Florida from other states.

**C. Government Sector Impact:**

The committee substitute authorizes the Governor's Office of Tourism, Trade, and Economic Development to administer the Entertainment Industry Financial Incentive Trust Fund to facilitate the payment of financial incentives under an entertainment industry financial incentive program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The committee substitute is linked to CS/SB 1756, which creates an economic development financial incentive program.

**VIII. Amendments:**

None.

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

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