

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1443                                  Anti-Fraud Law Enforcement Trust Fund  
**SPONSOR(S):** Cannon  
**TIED BILLS:** HB 967                                  **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	_____	Callaway	Cooper
2) State Administration Appropriations Committee	_____	_____	_____
3) Commerce Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

The bill creates the Anti-Fraud Law Enforcement Trust Fund (Anti-Fraud Trust Fund) into which the Division of Insurance Fraud of the Department of Financial Services (DFS) can deposit proceeds received as a result of criminal or forfeiture proceedings. Moneys in the Anti-Fraud Trust Fund are to be appropriated by the Legislature in accordance with Chapter 216 and no moneys can be spent from the Anti-Fraud Trust Fund without legislative appropriation.

The bill requires an annual carry-forward of unused funds at the end of any fiscal year.

The bill provides for termination of the Anti-Fraud Trust Fund on or before July 1, 2009. Prior to termination, the Anti-Fraud Trust Fund must be reviewed pursuant to s. 215.3206(1) and (2), F.S.

The bill also requires the deposit of proceeds accrued under the Florida Contraband Forfeiture Act into the Anti-Fraud Trust Fund instead of the General Revenue Trust Fund.

The bill takes effect on July 1, 2005, contingent upon passage and enactment of House Bill 967 or similar legislation in the same legislative session or an extension thereof.

**The bill must be enacted by a three-fifths vote of the membership of each House.**

There is no fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any House principles.

#### B. EFFECT OF PROPOSED CHANGES:

Pursuant to Article III, Section 19(f)(1), of the State Constitution, no trust fund of the State of Florida or any public body may be created by law without a three-fifths vote of the membership of each House of the Legislature. Additionally, the bill creating the trust fund must be separate from any related substantive bill. Also, Article III, Section 19(f)(2), of the State Constitution, requires the trust fund to terminate not more than four years after its creation. Section 215.3206, F.S., provides the statutory process for legislative review of trust funds prior to their termination so that the Legislature can decide whether to re-create, re-create with amendment, or terminate any trust fund.

This bill creates the Anti-Fraud Law Enforcement Trust Fund (Anti-Fraud Trust Fund). Revenues received as a result of criminal proceedings or forfeiture proceedings by the Division of Insurance Fraud of the Department of Financial Services (DFS) are to be deposited in the Anti-Fraud Trust Fund. However, revenues derived from federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs will still be deposited in the Federal Equitable Sharing Trust Fund (Equitable Sharing Trust Fund) administered by DFS pursuant to s. 17.43, F.S., rather than the Anti-Fraud Trust Fund.

Moneys in the Anti-Fraud Trust Fund are to be appropriated by the Legislature in accordance with Chapter 216 and no moneys can be spent from the Anti-Fraud Trust Fund without legislative appropriation.

The bill requires a legislative review pursuant to s. 215.3206(1) and (2), F.S., prior to its scheduled constitutionally required termination of July 1, 2009. Any trust fund balance at the end of any fiscal year must be carried-forward.

The bill requires any proceeds accrued under the Florida Contraband Forfeiture Act<sup>1</sup> to be deposited in the Anti-Fraud Trust Fund or the Equitable Sharing Trust Fund, rather than the General Revenue Fund. Under current law, many state agencies are allowed to deposit proceeds the agency accrues under the Florida Contraband Forfeiture Act into trust funds in the agency, rather than the General Revenue Fund.<sup>2</sup>

#### C. SECTION DIRECTORY:

Section 1: Creates the Anti-Fraud Law Enforcement Trust Fund; delineates contingencies for such creation and continuation.

Section 2: Provides for the deposit of proceeds in the Anti-Fraud Law Enforcement Trust Fund and the Federal Equitable Sharing Trust Fund.

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<sup>1</sup> The Florida Contraband Forfeiture Act is found in ss. 932.701 through 932.707, F.S. and provides a process for seizure and forfeiture of real and personal property used primarily in violation of a criminal law. The seizing agency can be a law enforcement agency or any other agency.

<sup>2</sup> For example, under s. 626.9893, proceeds obtained by the Florida Department of Law Enforcement is deposited in the Forfeiture Investigative Support Trust Fund and proceeds obtained by the Department of Environmental Protection is deposited in the Internal Improvement Trust Fund.

Section 3: Provides an effective date of July 1, 2005 if HB 967 or similar legislation is enacted in the same legislative session or extension thereof.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

According to DFS, the revenue generated by this bill cannot be determined.<sup>3</sup>

#### 2. Expenditures:

According to DFS, the fiscal impact of the bill will be negligible. DFS does not anticipate needing any additional FTE's to administer the Anti-Fraud Trust Fund even though implementation of the Anti-Fraud Trust Fund may increase the workload of the Division of Insurance Fraud due to participation in seizure hearings. To avoid any additional workload on DFS, DFS could contract its increased workload to the Attorney General's office.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private parties involved in seizure and forfeiture cases with DFS may lose their property under criminal or forfeiture proceedings.

### D. FISCAL COMMENTS:

DFS will be required to submit semiannual reports required in s. 932.7055(9)(a), F.S. The bill has no fiscal impact on the Office of Insurance Regulation.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The legislation does not require expenditure of funds by local governments, does not reduce the authority to raise revenue, nor reduce the percentage of state tax shared with local governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

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<sup>3</sup> Telephone conversation with DFS representative on April 5, 2005.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill has no regulatory impact on the Office of Insurance Regulation.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.