

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. 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 Law Enforcement 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 Law Enforcement Trust Fund.

Moneys in the Anti-Fraud Law Enforcement Trust Fund are to be appropriated by the Legislature in accordance with Chapter 216 and no moneys can be spent from the Anti-Fraud Law Enforcement 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 Act¹ to be deposited in the Anti-Fraud Law Enforcement 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.²

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.

¹ 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.

² For example, under s. 626.9893, proceeds obtained by the Florida Department of Law Enforcement are deposited in the Forfeiture Investigative Support Trust Fund and proceeds obtained by the Department of Environmental Protection are 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:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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.

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.