

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Regulated Industries Committee

BILL: CS/SB 2240

INTRODUCER: Regulated Industries Committee and Senator Geller

SUBJECT: Video Lottery Administration Trust Fund

DATE: April 9, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Imhof	RI	Fav/CS
2.			FT	
3.			GA	
4.				
5.				
6.				

I. Summary:

The bill creates the Video Lottery Administrative Trust Fund to be administered by the Department of the Lottery. The balance in the trust fund remains in the trust fund at the end of any fiscal year and be available for carrying out the administration of video lottery terminals at video lottery retailers by the Department of Lottery. The trust fund shall be terminated on July 1, 2011, unless terminated sooner.

This bill creates section 242.1127 of the Florida Statutes.

II. Present Situation:

Chapter 24, F.S. requires the Department of the Lottery to be held accountable to the Legislature and the people of the State of Florida through a system of audits, reports, financial disclosure, open meetings and the public records law. The department described their accounting methods as follows:

(T)he department utilizes the accrual method of accounting to report financial activities and produces quarterly and annual financial statements in accordance with Financial Accounting Standards Boards procedures. The department currently maintains a separate commercial bank account for the collection of ticket revenues and then disburses those funds in accordance with requirements in ch. 24, F.S. Based on a daily analysis of cash requirements, funds that are not designated for prize payments are transferred to an administrative trust fund in an account maintained at the state treasury. Each month, the Department transfers the funds from the prior month's activities to the Educational Enhancement Trust Fund based on an approved

methodology. On an annual basis, a Legislative Budget Request is submitted for approval to authorize the department to use funds transferred to the Administrative Trust Fund. Any balances, other than those provided for in statute, are transferred to the Educational Enhancement Trust Fund after the annual audit has been finalized.

The Creation, Operation and Termination of Trust Funds

Section 215.32(2)(b), F.S., designates a trust fund as monies received by the state which, under law or under trust fund agreement, are segregated for a purpose authorized by law. The Florida Constitution 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 Legislature¹. The conditions further specify that such a trust fund must be created by a separate bill for that purpose only.

Furthermore, the Legislature has articulated statutory criteria governing the establishment of trust funds.² The statutory language creating a trust fund must, at a minimum, specify the following:

- The name of the trust fund;
- The agency or branch of state government responsible for the administration of the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of monies or receipts to be credited to or deposited in the trust fund.

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.³ The constitution exempts specified types of trust funds from this automatic termination.⁴ A bill that creates a trust fund should specify its date of termination.

The Legislature has provided a schedule and process for reviewing trust funds.⁵ 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.⁶ Each recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts and allowable expenditures for the trust fund. All cash balances and income in trust funds terminated and not immediately re-created are deposited into the General Revenue Fund.⁷ The agency is to pay any outstanding debts of the trust fund and remove the trust fund from the various state accounting systems.

¹ Section 19(f) of Article III of the State Constitution governs the creation of trust funds.

² See s. 215.3207, F.S.

³ See s. 19(f)(2), Art. III, State Constitution.

⁴ See s. 19(f)(3), Art. III, State Constitution.

⁵ See ss. 215.3206 and 215.3208, F.S.

⁶ See s. 215.3206(1), F.S.

⁷ See s. 215.3206(2), F.S.

III. Effect of Proposed Changes:

The bill creates the Video Lottery Administrative Trust Fund to be administered by the Department of the Lottery. The balance in the trust fund remains in the trust fund at the end of any fiscal year and be available for carrying out the administration of video lottery terminals at video lottery retailers by the Department of Lottery. The trust fund shall be terminated on July 1, 2011, unless terminated sooner.

The department states that this new trust fund would be in addition to the Administrative Trust Fund currently in place for the department. The department states further, that it could accomplish all the accountability and reporting requirements presented in the legislation by establishing a separate commercial bank account and utilizing internal accounting tools without establishing a separate administrative trust fund.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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