

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Trust Fund Provisions Generally

The creation, recreation and termination of trust funds are governed by provisions in both the Florida Constitution and the Florida Statutes (F.S.).

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period. Specified trust funds are exempted from this provision.¹

Section 215.3206, F.S., requires agencies to recommend to the Speaker of the House of Representatives and the President of the Senate whether the trust fund should be terminated or re-created prior to the regular session of the Legislature immediately preceding the date on which any trust fund is scheduled to be terminated.

Section 215.32(b), F. S., governs the segregation of trust funds. In order to meet accounting standards established by the Government Accounting Standards Board, this section was amended in 2004 to require that, to the extent possible, each agency shall use certain trust funds as a depository for funds to be used for day-to-day operations for uniform specified purposes. These include the following trust funds:

- Operating trust fund—for program operations funded by program revenues.
- Operations and maintenance trust fund –client services funded by third-party payors.
- Administrative trust fund –for management activities that are departmental by nature and funded by indirect cost earnings and assessments against trust funds.
- Grants and donations trust fund – for allowable grant or donor agreement activities funded by restricted contractual revenue from private and public non-federal sources.
- Agency working capital trust fund – for the operation of data processing centers.
- Clearing funds trust fund – for collections pending distribution to lawful recipients.
- Federal grant trust fund – for allowable grant activities funded by restricted program revenues from federal sources.

¹ Exempt are trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Governors, where such trust funds are for auxiliary enterprises and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the chief financial officer or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the Florida Constitution.

The 2004 revision to s. 215.32, F.S., further requires any agency that does not have the trust funds specified above and cannot adjust its internal accounting to use existing trust funds, to request the creation of the necessary trust funds during the next scheduled review of the agency's trust funds, pursuant to s.215.3206, F.S.

As a result agencies have been requesting the creation of the above noted trust funds as needed at the time of their required recommendation regarding trust fund recreations or terminations.

University Concurrency Trust Fund

Section 1013.63, F.S., creates the University Concurrency Trust Fund, the purpose of which is to fund state university offsite improvements required to meet concurrency standards adopted under Part II of Chapter 163, F.S. Moneys in the trust fund may also be used to defray costs incurred in updating campus master plans pursuant to s. 1013.30, F.S.

Prior to July 1, 2006, the major source of revenue for the trust fund was the general revenue service charge deducted pursuant to s. 215.20, F.S., on revenues raised by any local option motor fuel tax levied pursuant to s. 336.025(1)(b), F.S. Section 215.211(3)(b), F.S., eliminates the service charge on proceeds of the local option fuel tax, effective July 1, 2006.

As a result, the current major source of revenue for the trust fund is the interest earnings on the fund balance. The earnings from July 1, 2006, to March 7, 2007, are \$2.3 million. As of March 7, 2007, there is a cash balance of approximately \$64.7 million in the trust fund. The Department of Education Legislative Budget Request includes a request for an appropriation of \$58.3 million from the trust fund to pay for concurrency requirements in FY 2007-08.

Effect of Proposed Changes

The bill re-creates the trust fund without modification.

C. SECTION DIRECTORY:

Section1: Re-creates the University Concurrency Trust Fund.

Section 2: Deletes subsection (4) of section 1013.63, F.S., which provided a termination date for the trust fund of July 1, 2007.

Section 3: Provides an effective date of July 1, 2007.

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:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Section 19(f), Art. III of the Florida Constitution requires that the creation of a trust fund pass with a three-fifths vote of the membership in each house and be contained in a separate bill for the sole purpose of creating that trust fund.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None required because this bill is a proposed council bill.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES