

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.

Trust Funds in the Department of Education

The trust funds in the Department of Education are scheduled for review this year. An analysis of the state university trust funds resulted in the below findings.

Trust Funds to be Terminated

There are 14 state university trust funds that are no longer necessary as a result of the state universities' transition off the state accounting system (FLAIR), as authorized in s. 1011.4105, F.S. Section 1011.4106, F.S., appropriates local revenues to each university's local accounts; such revenues were previously deposited in state trust funds. As a result, these trust funds are no longer used and should be terminated.

Effect of Proposed Changes

The bill terminates the following trust funds:

1. Contracts, Grants, and Donations Trust Fund – previously used for the deposit and disbursement of public and private funding for university research and training grants. Currently, there is no cash balance in the fund.
2. Engineering Industrial Experiment Station Trust Fund – previously used for the receipt and deposit of federal, local, and private funds for research activities. Currently, there is no cash balance in the fund.
3. Experiment Station Federal Grant Trust Fund – previously used for the deposit of federal funds received for Agricultural Research Centers. Currently, there is no cash balance in the fund.
4. Experiment Station Incidental Trust Fund – previously used for the deposit of revenue generated through the sales of goods such as livestock, dairy, and other agronomic products at Research and Education Centers throughout the state. Currently, there is no cash balance in the fund.
5. Extension Service Federal Grant Trust Fund – previously used for the deposit of federal funds received for Agricultural Extension Centers. Currently, there is no cash balance in the fund.
6. Extension Service Incidental Trust Fund – previously used for the deposit of revenue generated through sales of goods and instructional training services such as publications and seminars. Currently, there is no cash balance in the fund.
7. Auxiliary Trust Fund – previously used for the deposit of revenue from self-supporting activities such as university bookstores, food service operations, and data center operations. Currently, there is no cash balance in the fund.

8. University of Florida Health Sciences Center Incidental Trust Fund – previously used for the deposit of revenue from Shands Hospital, UF Dental Clinics, and other internal entities. Currently, there is no cash balance in the fund.
9. University of Florida Health Sciences Center Operations and Maintenance Trust Fund – previously used for the deposit of revenues generated through sales of goods and services to the public and state agencies. Currently, there is no cash balance in the fund.
10. Sponsored Research Trust Fund – previously used for the receipt and disbursement of federal, local, and private funds to support research activities. Currently, there is no cash balance in the fund.
11. Institute of Food and Agricultural Sciences Relocation and Reconstruction Trust Fund (FLAIR number 48-2-395) – previously used for the sale and acquisition of fixed assets such as land and buildings to facilitate the relocation and consolidation of IFAS Research and Education Centers. Currently, there is no cash balance in the fund.
12. Institute of Food and Agricultural Sciences Relocation and Reconstruction Trust Fund (FLAIR number 49-2-395) – previously used for the sale and acquisition of fixed assets such as land and buildings to facilitate the relocation and consolidation of IFAS Research and Education Centers. Currently, there is no cash balance in the fund.
13. State University System Construction Trust Fund – previously used to deposit Public Education Capital Outlay (PECO) funds. Currently, a cash balance of \$4.6 million remains in the fund. The bill provides that all current cash balances remaining in, and all revenues of, the fund shall be transferred to the PECO Trust Fund.
14. Developmental Research School Trust Fund – previously used to deposit Florida Education Finance Program (FEFP) and PECO funds to operate the Developmental Research Schools. Currently, there is no cash balance in the fund.

There are three trust funds that currently have duplicate department codes (i.e., “48” and “49”) in the FLAIR system. To simplify the coding structure in FLAIR, the “49” coded funds should be terminated. The bill terminates the below listed “49” coded funds; however, the trust funds are retained in FLAIR accounts in the “48” code series.

1. Capital Improvement Fee Trust Fund – used to account for the collection of the Capital Improvement Fee assessment of \$2.44 per credit hour per semester paid by students, as well as the interest earnings on investments and bond proceeds.
2. State University System Concurrency Trust Fund – used to provide funding for university offsite improvements required to meet concurrency standards. The current source of revenue is interest earnings.
3. Educational Enhancement Trust Fund – used for the deposit of lottery proceeds for appropriation to education entities.

The final trust fund that should be terminated is the Trust Fund for University Major Gifts, which historically has been used for the receipt and disbursement of General Revenue and Lottery transfers designated as state matching funds for university private donations. The private donations are held in local university accounts pursuant to s. 1011.94(5)(a), F.S. State funds are no longer transferred to the trust fund as a result of the elimination of “double budgeting.”² Currently, the fund is not used, and

² See Section 11 of Chapter 2005-06, L.O.F

there is no cash balance. The bill terminates the fund and re-designates the “Trust Fund for University Major Gifts” as the “University Major Gifts Program.” The program itself is unchanged.

The bill also makes conforming changes to sections 267.173, 1004.45, and 1009.74, F.S., which reference the “Trust Fund for University Major Gifts.”

Trust Funds to be Modified

There are nine trust funds that have a department code of “49” in FLAIR. Historically, the “49” code series was used to classify state university trust funds under the management of the Board of Regents, which was abolished July 1, 2001. All other education trust funds have a department code of “48.” Currently, the Department of Education administers trust funds for the state universities; therefore, the trust funds should be renumbered to the “48” code series for simplification and consistency among all education trust funds.

The bill renumbers the following trust funds:

1. Uniform Payroll Trust Fund – from FLAIR number 49-2-766 to 48-2-766.
2. Ancillary Facilities Construction Trust Fund – from FLAIR number 49-2-026 to 48-2-026.
3. Law Enforcement Trust Fund – from FLAIR number 49-2-434 to 48-2-434.
4. Phosphate Research Trust Fund – from FLAIR number 49-2-530 to 48-2-530.
5. Replacement Trust Fund – from FLAIR number 49-2-580 to 48-2-580.
6. Capital Facilities Matching Trust Fund – from FLAIR number 49-2-070 to 48-2-070.
7. Student and Other Fees Trust Fund – from FLAIR number 49-2-164 to 48-2-164.
8. Operations and Maintenance Trust Fund – from FLAIR number 49-2-516 to 48-2-516.
9. Building Fee Trust Fund – from FLAIR number 49-2-064 to 48-2-064.

C. SECTION DIRECTORY:

Section 1: Terminates 14 trust funds that are obsolete.

Section 2: Revises s. 1011.94, F.S., to re-designate the “Trust Fund for University Major Gifts” as the “University Major Gifts Program” and to remove references to the trust fund.

Section 3: Revises subsection (8) of s. 267.173, F.S., to replace a reference to “Trust Fund for University Major Gifts” with “University Major Gifts Program.”

Section 4: Revises paragraph (j) of subsection (2) of s. 1004.45, F.S., to replace a reference to “Trust Fund for University Major Gifts” with “University Major Gifts Program.”

Section 5: Revises subsections (1) and (2) of s. 1009.74, F.S., to replace references to the “Trust Fund for University Major Gifts” with “University Major Gifts Program.”

Section 6: Modifies nine trust funds to renumber department codes “49” to “48” in FLAIR.

Section 7: Provides an effective date.

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:

The termination or renumbering of the specific trust funds in the bill will not affect state operations and should increase management efficiency and accounting compliance. Upon termination of the State University Construction Trust Fund, the bill transfers an estimated \$4.6 million to the PECO Trust 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:

None.

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