

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

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 in the year prior to the scheduled termination date of any existing trust fund.

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.

The 2004 revision to s. 215.32, F.S., further required any agencies that did not have the trust funds specified above, but used other trust funds for the specified purposes of the above referenced trust fund, to request the creation of the trust fund during the next scheduled review of the agency's trust funds, pursuant to s.215.3206, F.S.

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.

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.

A trust fund analysis by staff under the jurisdiction of the Government Efficiency & Accountability Council resulted in the following findings.

Department of Revenue

Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028

The Apalachicola Bay Oyster Surcharge Clearing Trust Fund was used for recording and accounting of the \$.50 surcharge collection on each 60 pound bag of oysters, paid by wholesale dealers. Chapter 2006-185, L.O.F., abolished the surcharge. The Department of Revenue has requested termination of this fund, as it is no longer needed.

Effective July 1, 2008, the bill terminates the Apalachicola Bay Oyster Surcharge Clearing Trust Fund. The fund is no longer used, all current balances remaining in the trust fund are transferred to the General Inspection Trust Fund within the Department of Agriculture and Consumer Services.

Effective July 1, 2008, the bill amends s. 215.20(4)(p), F.S., to remove the trust fund from the list of trust funds required to contribute a service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund.

Secondhand Dealers and Secondary Metals Recycler Clearing Trust Fund, FLAIR number 73-2-617

The Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund is used for controlling and accounting of fingerprinting and registration fees of secondhand dealer and metals recyclers pending transfer to the Florida Department of Law Enforcement (FDLE). Currently, these fees are deposited into the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund, then transferred to the Administrative Trust Fund, and finally transferred to FDLE. The Department of Revenue has requested to transfer these fees directly to the Operations Trust Fund. Termination of the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund will streamline the process and deposit fees directly into the Operations Trust Fund for transfer. The fees pay for the processing of fingerprints by FDLE.

Effective July 1, 2008, the bill terminates the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund. All current balances remaining in the trust fund are transferred to the Operations Trust Fund within the Department of Revenue.

Effective July 1, 2008, the bill amends s. 215.20(4)(p), F.S., to remove the trust fund from the list of trust funds required to contribute a service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund. The bill also adds the Operations Trust fund to the list of trust funds required to contribute the service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund. Therefore, there is no fiscal impact to the General Revenue Fund.

Effective July 1, 2008, the bill amends s. 538.09(1), F.S., to redirect future deposits from the Secondhand Dealers and Metals Recycler Clearing Trust Fund to the Operations Trust Fund of the Department of Revenue.

Effective July 1, 2008, the bill amends s. 538.25(1)(a), F.S., to remove references to the Secondhand Dealers and Metals Recycler Clearing Trust Fund and to redirect fees into the Operations Trust Fund of the Department of Revenue.

Fuel Tax Refund Payments Clearing Trust Fund, FLAIR number 73-2-317

The Fuel Tax Refund Payments Trust Fund was historically used for the controlling and accounting of fuel tax refunds earmarked to taxpayers and has been inactive in recent years. Currently, fuel tax refunds are processed directly from the Gas Tax Collection Trust Fund.

The bill terminates the Fuel Tax Refund Payments Trust Fund. No current balances or obligations remain in the trust fund.

Land Reclamation Trust Fund, FLAIR number 73-2-426

In review of the Land Reclamation Trust Fund it was found that the trust fund was previously terminated and found to be obsolete.

Effective July 1, 2008, the bill amends s. 215.20(4)(p), F.S., to remove the Land Reclamation Trust Fund from the list of trust funds required to contribute a service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund. Since the trust fund is no longer used, there is no fiscal impact on the General Revenue Fund.

Department of Military Affairs

Cooperative Agreement Trust Fund, FLAIR number 62-2-039

Section 215.32(2)(b), F.S. defines the purposes and uses of various trust funds to be used in day to day operations and directs agencies, to the extent possible, to use existing trust funds consistent with the statutory guidelines. Department of Military Affairs has recommended that the Cooperative Grants Trust Fund be renamed the Federal Grants Trust Fund as directed by s. 215.3208, F.S. Currently, the Cooperative Agreement Trust Fund is used for the receipt of federal funds received by the department under cooperative agreements between federal and state governments to perform tasks specified in the agreements.

The bill renames the Cooperative Agreement Trust Fund within the Department of Military Affairs to the Federal Grants Trust Fund to be consistent with s. 215.32(2)(b), F.S.

This bill amends section 250.175(4)(a) F. S., to change the reference of the Cooperative Agreement Trust Fund to the Federal Grants Trust Fund within the Department of Military Affairs.

C. SECTION DIRECTORY:

Section 1. Terminates the Apalachicola Bay Oyster Surcharge Clearing Trust Fund, Secondhand Dealers and Secondary Metals Recycler Clearing Trust Fund, and Fuel Tax Refund Payments Clearing Trust Fund within the Department of Revenue; provides for disposition of debts, obligations, and cash balances in funds; provides an effective date.

Section 2. Amends s. 215.20(4)(p), F.S., effective July 1, 2008, to remove references to the Apalachicola Bay Oyster Surcharge Clearing Trust Fund, the Land Reclamation Trust Fund, and the Secondhand Dealers and Secondary Metals Recycler Clearing Trust Fund and adds reference to the Operations Trust Fund, within the Department of Revenue.

Section 3. Renames the Cooperative Agreement Trust Fund within the Department of Military Affairs to the Federal Grants Trust Fund.

Section 4. Amends section 250.175(4)(a) F. S., to change the reference of the Cooperative Agreement Trust Fund to the Federal Grants Trust Fund within the Department of Military Affairs.

Section 5. Amends s. 538.09(1), F.S., effective July 1, 2008, to redirect future deposits from the Secondhand Dealers and Metals Recycler Clearing Trust Fund to the Operations Trust Fund within the Department of Revenue.

Section 6. Amends s. 538.25(1)(a), F.S., effective July 1, 2008, to remove references to the Secondhand Dealers and Metals Recycler Clearing Trust Fund and to redirect fees into the Operations Trust Fund of the Department of Revenue.

Section 7. Provides that the bill shall take effect July 1, 2007, except as otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill makes changes to certain trust funds pursuant to section 215.3206, Florida Statutes, which requires a legislative review of each of the trust funds in an agency subject to the four year review cycle. The bill provides for termination or modification of specified trust funds within the Department of Revenue and the Department of Military Affairs. There is no impact on total state revenue or expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

No impact of municipal or county governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.