

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Corporate Income Tax Code

The corporate income tax code is codified in ch. 220, F.S. The code imposes a tax upon all corporations, organizations, associations, and other artificial entities for the privilege of conducting business, deriving income, or existing within this state.¹ Partnerships, proprietorships, limited liability companies which are taxed as a partnership for federal income tax purposes, and private trusts are not subject to the tax. A corporation's net income for taxation purposes is its adjusted federal income plus nonbusiness income allocated to Florida less a \$5,000 exemption.² The tax rate is 5 ½ percent of the taxpayer's net income for the taxable year.³

Taxes under ch. 220, F.S., are collected by the Department of Revenue (DOR) and are paid into the General Revenue Fund.⁴

Creation, Operation, and Termination of Trust Funds

A trust fund consists of monies received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law.⁵ Section 19(f), Art. III of the State Constitution, governs the creation of trust funds. This constitutional provision 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 Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- The name of the trust fund;
The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes that the trust fund is established to meet; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.⁶

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency.⁷

Section 19(f)(2), Art. III of the State Constitution specifies that trust funds created after November 4, 1992, with certain exceptions, 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

¹ S. 220.02(1), F.S.

² S. 220.12, F.S.

³ S. 220.11, F.S.

⁴ S. 220.701, F.S.

⁵ S. 215.32(2)(b)1., F.S.

⁶ S. 215.3207, F.S.

⁷ S. 17.61., F.S.

sets a shorter time period. Accordingly, a bill that creates a trust fund should specify the trust fund's date of termination, or, if the trust fund is exempt from the automatic 4-year termination requirement, the bill should declare that the trust fund is exempt from this requirement.

The Legislature established a schedule and process for reviewing trust funds.⁸

EFFECT OF PROPOSED CHANGES

This bill creates the Corporate Income Tax Trust Fund to be comprised of funds collected by the Department of Revenue from corporate income taxes. The bill provides that the fund is established for use as a depository for funds to be appropriated by the Legislature for any purpose other than education.

The trust fund will be terminated, unless re-created, on July 1, 2011, pursuant to s. 19(f)(2), Art. III of the State Constitution.

The bill provides an effective date of July 1, 2007 contingent on unspecified legislation passing during the 2007 legislative session, or an extension thereof, that would require Corporate Income Taxes to be deposited into the Corporate Income Tax Trust Fund.

C. SECTION DIRECTORY:

Section 1. Creates s. 220.7015, F.S., creating the Corporate Income Tax Trust Fund.

Section 2. Providing 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:

None

⁸ Ss. 215.3206 and 215.3208, F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES