

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/SB 2586

INTRODUCER: Regulated Industries Committee and Senator Constantine

SUBJECT: Fire Prevention and Public Safety Trust Fund

DATE: April 20, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Aubuchon</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Sumner</u>	<u>Maclure</u>	<u>JU</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates the Fire Prevention and Public Safety Trust Fund within the Department of Financial Services. The trust fund shall consist of all moneys recovered as penalties under s. 633.042(5), F.S., and shall be used for the purpose of supporting fire safety and prevention programs. Section 633.042(5), F.S., is proposed by Senate Bill 2640 and provides penalties for violations of requirements governing reduced ignition propensity cigarettes.

The trust fund must be terminated by July 1, 2012, in accordance with art. III, s. 19(f), Florida Constitution. Before scheduled termination, it must be reviewed as provided in s. 215.3206, F.S.

The bill provides an effective date of July 1, 2008, if SB 2640 or similar legislation is adopted in the same legislative session or extension thereof and becomes law.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Creation and Operation of Trust Funds

A trust fund consists of moneys received by the state which under law or under trust agreement are segregated for a purpose authorized by law.¹ Article III, s. 19(f), 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.²

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency.³ Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for re-appropriation.⁴ Any reversion of appropriations provided from the General Revenue Fund must be transferred to the General Revenue Fund within 15 days after the reversion, unless otherwise provided by federal or state law, including the General Appropriations Act.⁵

State trust funds terminate no more than four years after the effective date of the act that created them, unless they are re-created by the Legislature with a three-fifths vote of the House and the Senate.

III. Effect of Proposed Changes:

The bill creates the Fire Prevention and Public Safety Trust Fund within the Department of Financial Services. Funds credited to the trust fund shall consist of all moneys recovered as penalties under s. 633.042(5), F.S., for the purposes of supporting fire safety and prevention programs. The penalty language is created in a tied bill, Senate Bill (SB) 640, which requires cigarettes to meet certain cigarette ignition propensity standards. Any balance left in the trust fund at the end of any fiscal year shall remain in the fund for the purposes described, notwithstanding s. 216.301, F.S.

¹ Section 215.32(2)(b)1., F.S.

² Section 215.3207, F.S.

³ Section 17.61, F.S.

⁴ Section 216.301(1)(b), F.S.

⁵ Section 216.301(1)(c), F.S.

The trust fund must be terminated on July 1, 2012, unless terminated sooner, in accordance with the Florida Constitution.⁶ State trust funds shall terminate within four years after the effective date of the act authorizing the trust fund unless a shorter time period is set by the Legislature.

The bill provides for an effective date of July 1, 2008, provided that SB 2640 or similar Legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The bill creates the Fire Prevention and Safety Trust Fund and seems to comply with art. III, s. 19(f), Florida Constitution, relating to the creation and termination of trust funds. The bill must have a three-fifths vote of the membership of each house of the legislature to become law.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The moneys credited to the trust fund shall consist of those funds recovered as penalties under the proposed s. 633.042(5), F.S., (Senate Bill 2640) from manufacturers, wholesale dealers, agents, or any other entities that knowingly sell or offer to sell uncertified cigarettes.

C. Government Sector Impact:

The trust fund will provide a source of funds that the Legislature can appropriate to support fire safety and prevention programs.

VI. Technical Deficiencies:

None.

⁶ Section 19(f)(2), Art. III, Florida Constitution.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Regulated Industries on April 1, 2008

The committee substitute provides for an effective date of July 1, 2008, if SB 2640 or similar legislation is adopted.

- B. **Amendments:**

None.

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