

HOUSE OF REPRESENTATIVES TRUST FUND RE-CREATION STAFF ANALYSIS

BILL #: HB 5037 PCB ENRC 08-04 Administrative Trust Fund-FWCC

SPONSOR(S): Environment & Natural Resources Council

TIED BILLS: **IDEN./SIM. BILLS:** SB 2128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Environment & Natural Resources Council	13 Y, 0 N	Bellflower	Dixon / Hamby
1) Policy & Budget Council	27 Y, 0 N	Davila	Hansen
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

I. SUMMARY

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 must terminate not more than four 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.

HB 5037 re-creates the Administrative Trust Fund within the Fish and Wildlife Conservation Commission.

This bill has no fiscal impact.

The bill takes effect July 1, 2009.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

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 four 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 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 and 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.

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.

1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

Section 372.101(1) of the Florida Statutes, created the trust fund within the Fish and Wildlife Conservation Commission.

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.

2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

The trust fund is used for management activities that are commission-wide in nature.

3. MAJOR SOURCES OF REVENUE FOR THE FUND:

The revenue sources for this trust fund are indirect cost reimbursements from grantors, administrative assessments against trust funds, interest earnings, and other appropriate administrative fees.

4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATIONS FROM THE FUND:

Revenues- \$13,514,770
Appropriations- \$14,089,504

B. EFFECT OF PROPOSED CHANGES:

The bill re-creates the trust fund without modification.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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.

IV. COMMENTS

None.

V. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.