

**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.)

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Prepared By: The Professional Staff of the Commerce and Tourism Committee

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BILL: SB 1710

INTRODUCER: Senators Jones and Sachs

SUBJECT: Trust Funds/Destination Resort Trust Fund

DATE: March 18, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	<b>Pre-meeting</b>
2.	_____	_____	RI	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

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.<sup>1</sup>

SB 1710 creates the Destination Resort Trust Fund within the Department of Revenue (DOR) to hold the deposits of licensing fees and the proceeds of gross receipts taxes imposed on destination resorts, to be created in the linked bill, SB 1708.

The deposited funds may be expended only pursuant to legislation appropriation or an approved amendment to the Destination Resort Commission’s operating budget, pursuant to ch. 216, F.S.

In accordance with the state constitution, the trust fund will be terminated on July 1, 2015, unless terminated sooner by the Legislature. The trust fund must be reviewed prior to its scheduled termination according to statutory requirements.

Passage of SB 1710 requires a three-fifths vote of each chamber, pursuant to s. 19(f)(1), Art. III of the Florida Constitution.

SB 1710 creates an unnumbered section of law in the Florida Statutes.

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<sup>1</sup> Section 215.32(2)(b)1., F.S.

## II. Present Situation:

### Constitutional and statutory requirements for 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. Section 19(f), Art. III, of the Florida 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.<sup>2</sup>

The Chief Financial Officer is directed to invest all trust funds and all agency funds of each state agency.<sup>3</sup> 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 by the Legislature.<sup>4</sup> 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.<sup>5</sup>

State trust funds terminate no more than 4 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 Senate and the House of Representatives.

### 2011 legislation related to destination resorts

SB 1708, the linked companion bill to SB 1710, creates five so-called “destination resorts” throughout the state and establishes a “Destination Resort Commission” to license and otherwise regulate these facilities.

A destination resort is defined in the companion bill as a multi-use, free-standing, land-based structure in which limited gaming may be conducted, and may include a combination of tourism amenities, such as hotels, restaurants, attractions, shopping centers, and convention centers. The types of gaming that may be offered at destination resorts include baccarat, roulette, poker and other card games, craps, slot machines, and video gaming.

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<sup>2</sup> Section 215.3207, F.S.

<sup>3</sup> Section 17.61, F.S.

<sup>4</sup> Section 216.301(1)(b), F.S.

<sup>5</sup> Section 216.301(1)(d), F.S.

The seven-member Destination Resort Commission (commission) will be housed within the state Department of Revenue for administrative purposes only, and otherwise operate as specified in law. Among its powers and duties, the commission will have the authority to accept and review applications for destination resorts; license a total of five destination resorts; inspect the resorts' premises and gaming machines; and conduct investigations and issue subpoenas, as necessary, to gather information essential to licensing and regulating the destination resorts.

The initial application fee is \$50 million, and licensed destination resorts must pay an annual \$5 million renewal fee.

Licensed destination resorts must pay the state gross receipts taxes on a tiered percentage of their gross receipts, based on their total infrastructure investment. For example, a destination resort that invests \$2 billion or more in infrastructure must pay the state a 10-percent tax on its gross receipts. For a destination resort that invested less than \$1 billion in its infrastructure, the tax rate is 20 percent of gross receipts.

### **III. Effect of Proposed Changes:**

Section 1 creates in an undesignated section of Florida Statutes the Destination Resort Trust Fund. Deposited in the trust fund will be the license fees for the resorts and gross receipts taxes collected from the licensed resorts.

The deposited funds may be expended only pursuant to legislation appropriation or an approved amendment to the Destination Resort Commission's operating budget, pursuant to ch. 216, F.S.

In accordance with the state constitution, the trust fund will be terminated on July 1, 2015, unless terminated sooner by the Legislature. The trust fund must be reviewed prior to its scheduled termination according to statutory requirements in s. 215.3206(1) and (2), F.S.

Section 2 provides a contingent effective date of July 1, 2011, if SB \_\_\_\_, or similar legislation creating the Destination Resort Commission and a process for licensing, regulating, and taxing destination resorts in Florida, 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:**

In accordance with s. 19(f)(2), Art. III of the Florida Constitution, the Destination Resort Trust Fund shall be terminated on July 1, 2015. Before its scheduled termination, the fund shall be reviewed in accordance with s. 215.3206(1) and (2), F.S.

In addition, s. 19(f)(1), Art. III of the Florida Constitution provides that “[n]o trust fund of the State of Florida or other public body may be created or re-created by law without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.”

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**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.)

None.

**B. Amendments:**

None.