

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7023 PCB PIE 17-04 Trust Funds/Creation/Local Government Lobbyist
Registration Trust Fund

SPONSOR(S): Government Accountability Committee; Public Integrity & Ethics Committee, Yarborough

TIED BILLS: CS/HB 7021 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Public Integrity & Ethics Committee	18 Y, 0 N	Kiner	Rubottom
1) Appropriations Committee	27 Y, 0 N	Delaney	Leznoff
2) Government Accountability Committee	18 Y, 0 N, As CS	Moore	Williamson

SUMMARY ANALYSIS

The Florida Constitution requires a trust fund of the State of Florida or other public body to be created or re-created by law in a separate bill. The bill creating or re-creating the trust fund must pass with a three-fifths vote of the membership of each house of the Legislature. The Constitution also requires trust funds to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature specifies a shorter time period or an exception applies.

Current law requires a person who wishes to lobby the executive branch to register as a lobbyist with the Commission on Ethics (Commission) and pay a registration fee. Similarly, the Florida Legislature, by rule, requires a lobbyist who wishes to lobby either house of the Legislature to register with the Lobbyist Registration Office in the Office of Legislative Services and pay a registration fee.

CS/HB 7021, which is linked with this bill, requires a person who wishes to lobby a local governmental entity to register electronically as a lobbyist with the Commission. That bill requires the Commission to establish an annual lobbyist registration fee by rule, which may not exceed:

- \$20 for each principal represented for one county and governmental entities therein or one multi-county governmental entity; and
- \$5 for each additional county and governmental entities therein or each multi-county governmental entity.

The bill creates the Local Government Lobbyist Registration Trust Fund within the Commission. The trust fund's purpose is to administer the local government lobbyist registration system created by CS/HB 7021, including the payment of salaries and expenses. The bill requires annual lobbyist registration fees collected pursuant to the local government lobbyist registration program to be deposited into the trust fund.

In accordance with the Florida Constitution, the bill requires the trust fund to terminate on July 1, 2021, unless the trust fund is terminated sooner. Prior to its termination, the trust fund must be reviewed to determine whether it should terminate or be re-created.

This bill does not appear to have a fiscal impact on the state or local governments.

The bill becomes effective on the same date that CS/HB 7021 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

A bill proposing to create a trust fund must be passed by three-fifths of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Trust Fund Creation and Termination

Article III, s. 19(f)(1) of the Florida Constitution requires a trust fund of the State of Florida or other public body to be created or re-created by law in a separate bill. The bill creating or re-creating the trust fund must pass with a three-fifths vote of the membership of each house of the Legislature.

Article III, s. 19(f)(2) of the Florida Constitution requires trust funds to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law, the Legislature may set a shorter time period for which any trust fund is authorized. However, Article III, s. 19(f)(3) of the Florida Constitution provides various exceptions to the four-year termination requirement for certain types of trust funds.

Prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated, the agency responsible for administration of the trust fund and the Governor (for executive branch trust funds) or the Chief Justice (for judicial branch trust funds) must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created. The recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.¹

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund must be deposited into the General Revenue Fund. The agency or Chief Justice must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial Officer must close out and remove the trust fund from the various state financial systems. No appropriation or budget amendment may be construed to authorize any encumbrance of funds from a trust fund after the date on which the trust fund is terminated or is judicially determined to be invalid.²

State Lobbyist Registration Systems

Florida law requires a person who wishes to lobby the executive branch to register as a lobbyist with the Commission on Ethics (Commission).³ Similarly, the Florida Legislature, by rule, requires a lobbyist who wishes to lobby either house of the Legislature to register with the Lobbyist Registration Office in the Office of Legislative Services.⁴ In addition to these registration requirements, lobbying firms must file quarterly compensation reports for each quarter in which at least one of their lobbyists was registered to represent a principal.⁵

As of February 2017, there were over 1,300 lobbyists registered to lobby the executive branch on behalf of over 3,300 principals, representing over 8,900 total registrations.⁶ As of February 2017, there were over 1,800 lobbyists registered to lobby the Legislature on behalf of over 3,600 principals,

¹ S. 215.3206(1), F.S.

² S. 215.3206(2), F.S.

³ S. 112.3215(3), F.S.

⁴ Joint Rule 1.1(1).

⁵ SS. 11.045(3)(a)1. and 112.3215(5)(a)1., F.S.

⁶ See statistics on registered lobbyists on the Florida Lobbyist Registration & Compensation website at www.floralobbyist.gov (last viewed 2/24/2017).

representing over 10,000 total registrations.⁷ In total, there were over 150 lobbyists registered to lobby only the executive branch, over 600 registered to lobby only the Legislature, and over 1,200 registered to lobby both the executive branch and the Legislature.⁸ Currently, the executive branch has 1.5 FTEs to administer registrations, including oath authorizations, and compensation reports. The Legislature has 2 FTEs to administer registrations and compensation reports.

Each lobbyist registration program has a dedicated trust fund whereby registration fees must be used to administer the program. The executive branch lobbyist registration fee is \$25 per principal, although by statute, the fee may be up to \$40 per principal.⁹ The Legislature's annual lobbyist registration fee is \$50 for the first registration and \$20 for each additional registration. If a lobbyist is registering before only one chamber, the annual fee is \$25 for the first registration and \$10 for each additional registration. As of February 2017, the Executive Branch Lobbyist Registration Trust Fund had \$1,135,123 in cash on hand, while the Legislative Lobbyist Registration Trust Fund had \$1,379,440 in cash on hand.

Executive Branch Lobbyist Registration Trust Fund										
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY11-12	FY12-13	FY 13-14	FY 14-15	FY 15-16
Beginning Cash Balance	595,084	631,757	733,949	833,081	901,796	944,303	1,002,123	1,052,516	1,060,646	967,265
Revenues Collected	182,600	201,525	201,025	189,515	194,175	205,025	201,825	230,530	261,830	254,250
Disbursements	145,927	99,333	101,893	120,800	151,668	147,206	151,432	222,400	355,210	216,183
Excess (Deficiency) of Revenue over Disbursements	36,673	102,192	99,132	68,715	42,507	57,819	50,393	8,130	(93,380)	38,067
Ending Cash Balance	631,757	733,949	833,081	901,796	944,303	1,002,123	1,052,516	1,060,646	967,265	1,005,333
Legislative Branch Lobbyist Registration Trust Fund										
	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY11-12	FY12-13	FY 13-14	FY 14-15	FY 15-16
Beginning Cash Balance	792,074	797,934	838,507	889,603	936,720	993,658	1,117,279	1,230,248	1,270,080	1,230,775
Revenues Collected	254,137	252,435	256,746	245,680	246,545	260,580	247,845	265,830	278,600	283,355
Disbursements	248,277	211,862	205,650	198,563	189,606	136,959	134,877	225,998	317,905	223,197
Excess (Deficiency) of Revenue over Disbursements	5,860	40,573	51,096	47,117	56,938	123,621	112,968	39,832	(39,305)	60,158
Ending Cash Balance	797,934	838,507	889,603	936,720	993,658	1,117,279	1,230,248	1,270,080	1,230,775	1,290,933

CS/HB 7021 (2017)

CS/HB 7021 requires a person who wishes to lobby a local governmental entity to register electronically as a lobbyist with the Commission. The bill requires the Commission to establish an annual lobbyist registration fee by rule, which may not exceed:

- \$20 for each principal represented for one county and the governmental entities therein or one multi-governmental entity; and
- \$5 for each additional county and the governmental entities therein or each multi-county governmental entity.

Effect of Proposed Changes

The bill, which is linked to the passage of CS/HB 7021, creates the Local Government Lobbyist Registration Trust Fund (trust fund) within the Commission. The trust fund's purpose is to fund the administration of the local government lobbyist registration system created by CS/HB 7021, including the payment of salaries and other expenses. The bill requires annual lobbyist registration fees collected pursuant to the local government lobbyist registration program to be deposited into the trust fund. The

⁷ *Id.*

⁸ *Id.*

⁹ Rule 34-12.200, F.A.C., implementing s. 112.3215(4), F.S.

bill also specifies that the trust fund is not subject to any service charges under ch. 215, F.S., which requires specified service charges to be appropriated from all revenue deposited in certain trust funds.

The bill requires the trust fund to terminate on July 1, 2021, unless the trust fund is terminated sooner. Before the scheduled termination, the bill requires the trust fund to be reviewed as provided in s. 215.3206(1) and (2), F.S. These provisions of law would require the Commission on Ethics to review the trust fund and recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.

The bill specifies that it becomes effective on the same date that CS/HB 7021 or similar legislation takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. The bill also specifies that it may only take effect if it is enacted by a three-fifths vote of the membership of each house of the Legislature.

B. SECTION DIRECTORY:

Section 1 creates s. 112.3263, F.S., relating to the creation of the Local Government Lobbyist Registration Trust Fund.

Section 2 provides a contingent 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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Stand Alone Bill

Article III, s. 19(f)(1) of the Florida Constitution requires a trust fund of the State of Florida or other public body to be created or re-created by law in a separate bill. The bill creating or re-creating the trust fund must pass with a three-fifths vote of the membership of each house of the Legislature.

Trust Fund Termination

Article III, s. 19(f)(2) of the Florida Constitution requires trust funds to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. The bill requires the trust fund to terminate on July 1, 2021, unless terminated sooner.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2017, the Government Accountability Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the section number for the statute created by the bill and conformed statutory cross references in the bill to changes made in CS/HB 7021.

This analysis is drafted to the committee substitute as approved by the Government Accountability Committee.