

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 169 Trust Funds/Creation/Trust Fund for Victims of Human Trafficking and Prevention/FDLE

SPONSOR(S): Judiciary Committee, Spano & others

TIED BILLS: HB 167 **IDEN./SIM. BILLS:** SB 342, SB 1046

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	15 Y, 0 N	MacNamara	Bond
2) Justice Appropriations Subcommittee	11 Y, 0 N	Welty	Gusky
3) Judiciary Committee	13 Y, 0 N, As CS	MacNamara	Poche

SUMMARY ANALYSIS

Article III, Section 19(f), 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.

CS/HB 169 creates The Trust Fund for Victims of Human Trafficking and Prevention in the Florida Department of Law Enforcement (FDLE). The trust fund will consist of funds obtained from civil actions brought by victims of human trafficking, from penalties imposed by the courts, and funds received from any other sources including legislative appropriations.

FDLE will administer the trust fund; however, the bill authorizes FDLE to contract with entities to manage the trust fund and provide the services listed below:

- Educating the public about the recruitment, trafficking, and exploitation of persons through human trafficking;
- Assisting with preventing the recruitment of minors in Florida schools;
- Establishing a survivors' resource center to make legal services, social services, safe harbors, safe houses and language services available to survivors of human trafficking;
- Advertising the National Human Trafficking Resource Center hotline telephone number and the BeFree Textline in diverse venues;
- Assisting in the coordination between law enforcement agencies and service providers;
- Assisting in vacating the convictions of persons who were victims of human trafficking; and
- Distributing compensation to victims of human trafficking, including, but not limited to, medical and mental health examinations and treatment, living expenses, lost wages, and repatriation.

The bill has a fiscal impact on state government revenues and expenditures.

The bill is effective on the same date CS/HB 167, or similar legislation, takes effect. The effective date of CS/HB 167 is July 1, 2018. The bill also provides for a termination date of no later than July 1, 2022.

Article III, section 19(f) of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Trust Funds

The creation, recreation and termination of trust funds is governed by provisions in both the Florida Constitution and Florida Statutes. Article III, s. 19(f), of the state's 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 4 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.

Effect of Proposed Changes

CS/HB 169 creates the Trust Fund for Victims of Human Trafficking and Prevention in the Department of Law Enforcement. The Florida Department of Law Enforcement (FDLE) will administer the fund. The trust fund will consist of funds obtained from civil actions brought by victims of human trafficking, penalties imposed by the courts, and funds received from any other sources, including legislative appropriations.

The bill establishes authorized purposes for the trust fund:

- Educating the public about the recruitment, trafficking, and exploitation of persons through human trafficking;
- Assisting with preventing the recruitment of minors for exploitation in Florida schools;
- Establishing a survivors' resource center to make legal services, social services, safe harbors, safe houses and language services available to survivors of human trafficking;
- Advertising the National Human Trafficking Resource Center hotline telephone number and the BeFree Textline in diverse venues;
- Assisting in the coordination between law enforcement agencies and service providers;
- Assisting in vacating the convictions of persons who were victims of human trafficking; and
- Distributing compensation to victims of human trafficking under s. 787.061, F.S., including but not limited to, medical and mental health examinations and treatment, living expenses, lost wages, and repatriation.

The bill authorizes FDLE to contract with entities having the appropriate expertise and experience to manage and deliver the services listed above. FDLE's contract authority is subject to the availability of funds and legislative appropriation.

The bill is effective on the same date CS/HB 167, or similar legislation, takes effect. The effective date of CS/HB 167 is July 1, 2018. The bill also provides for a termination date of no later than July 1, 2022. Article III, section 19(f) of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund.

B. SECTION DIRECTORY:

Section 1: Creates s. 787.0611, F.S., relating to The Trust Fund for Victims of Human Trafficking and Prevention.

Section 2: Provides that the bill will take effect on the same day as CS/HB 167 or similar legislation, if such legislation is adopted in the same legislative session, and only if the bill is enacted by three-fifths vote of the membership of each house of the Legislature.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Pursuant to s. 215.20, F.S., a service charge of 8 percent is appropriated from income deposited into the fund. This 8 percent represents the estimated pro rata share of the cost of general government paid from the General Revenue Fund. It is unknown at this time, however, how much income will be generated by the fund.

2. Expenditures:

The bill requires FDLE to administer the trust fund and utilize the funds available for a variety of purposes. FDLE estimates that implementing the bill will require up to 9 FTE and \$778,352. Of that total, they expect to have recurring expenditures of \$744,557.¹

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:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

¹ FDLE, *2018 Legislative Bill Analysis*, December 29, 2017. (On file with Judiciary Committee).

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

FDLE's bill analysis states that post-conviction compensation to victims falls outside of the department's current defined mission and normal scope of operations. FDLE suggests that the Department of Legal Affairs may be a more appropriate entity to administer the trust fund.²

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 21, 2018, the Judiciary Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment authorized FDLE to contract with entities to manage the trust fund and provide other services, subject to the availability of funds and legislative appropriation.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.

² Supra FN. 1, at p. 4.
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