

**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 Committee on Appropriations

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BILL: SPB 7056

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Trust Funds

DATE: March 3, 2021

REVISED: \_\_\_\_\_

ANALYST

Urban

STAFF DIRECTOR

Sadberry

REFERENCE

ACTION

**Pre-meeting**

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## I. Summary:

SPB 7056 terminates the following trust funds:

- Public Defenders Revenue Trust Fund within the Justice Administrative Commission.
- Revolving Trust Fund within the Department of Law Enforcement.
- Welfare Transition Trust Fund within the Department of Military Affairs.
- Welfare Transition Trust Fund within the Department of Health.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Trust Funds

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years after their initial creation, unless the trust fund is exempted by the constitution or operation of law. If a trust fund was created pursuant to law, it should be reviewed, and either re-created after its initial creation or terminated, to prevent its automatic termination by the Florida Constitution. In subsequent reviews, the trust fund should be recommended for retention, if it is still necessary, or recommended for termination if it is no longer needed. To stagger trust fund reviews, a schedule is set forth each year listing which agency's trust funds are up for legislative review.<sup>1</sup> In any year that a state agency is scheduled for a trust fund review, the agency is required to provide recommendations in their legislative budget request relating to whether trust funds within their agency should be created, re-created, retained, terminated, or modified.<sup>2</sup>

When the Legislature terminates a trust fund, the agency that administers the trust fund is required to pay all outstanding debts or obligations of the trust fund as soon as practicable, and

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<sup>1</sup> Section 215.3208, F.S.

<sup>2</sup> See Executive Office of the Governor, Office of Policy and Budget, *Legislative Budget Request Instructions* (July 2020) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=20226&DocType=PDF> (last visited Feb. 26, 2021).

the Chief Financial Officer is required to close out and remove the trust fund from the various state financial systems, using generally accepted accounting principles concerning assets, liabilities, and warrants outstanding.<sup>3</sup>

Any moneys in a trust fund at the time it is terminated may be distributed as determined by the Legislature. If no such determination is made, the funds remaining after all outstanding obligations of the fund are met are deposited into the General Revenue Fund.<sup>4</sup>

### ***Public Defenders Revenue Trust Fund – Justice Administrative Commission***

The Public Defenders Revenue Trust Fund, FLAIR number 20-2-059, was created within the Justice Administrative Commission (JAC) in 2009 as a depository for Article V funds. The funds are authorized to be used for activities of the public defender, which include activities related to the defense of any person determined to be indigent.<sup>5,6</sup> The Public Defenders Revenue Trust Fund pre-2018, was supported by revenues derived from two sources: (1) \$1.67 of a \$10 assessment paid for all noncriminal moving and nonmoving violations under chs. 316, 320, and 322, F.S., and (2) \$250 of a \$1,001 surcharge imposed when a person pleads guilty or nolo contendere to, or is found guilty of, the criminal use of personal identification information, as defined in s. 817.568, F.S.<sup>7</sup>

During the 2018 Legislative Session, \$2.6 million in budget authority was transferred from the Public Defenders Revenue Trust Fund to the Indigent Criminal Defense Trust Fund within the JAC.<sup>8</sup> The purposes of the Indigent Criminal Defense Trust Fund and the Public Defenders Revenue Trust Fund are the same. The Fiscal Year 2018-2019 Implementing Bill made conforming changes to redirect future revenues to the Indigent Criminal Defense Trust Fund.<sup>9</sup> The conforming changes were carried forward for both the 2018-2019 fiscal year and the 2020-2021 fiscal year and are set to expire July 1, 2021.<sup>10</sup>

The current balance in the trust fund is \$0 and no operating budget authority remains. Therefore, the JAC recommended the termination of the trust fund.<sup>11</sup>

### ***Revolving Trust Fund – Department of Law Enforcement***

The Revolving Trust Fund, FLAIR number 71-2-600, within the Department of Law Enforcement (DLE) was recreated without modification by ch. 2002-113, Laws of Florida. The trust fund serves as a depository for loaned cash from the General Revenue Fund, for use by the DLE in criminal justice investigations. Funds loaned are deposited back to the General Revenue Fund after completion of investigative activities. The DLE reports that it has not used funds from

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<sup>3</sup> Section 215.3208, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Section 27.61, F.S.

<sup>6</sup> Section 27.51, F.S.

<sup>7</sup> Sections 318.88 and 817.58, F.S., respectively.

<sup>8</sup> Chapter 2018-09, Laws of Fla.

<sup>9</sup> Chapter 2018-10, ss. 39 and 42, Laws of Fla.

<sup>10</sup> Chapter 2019-116, ss. 61 and 63, Laws of Fla.; ch. 2020-114, ss. 61 and 63, Laws of Fla.

<sup>11</sup> Justice Administrative Commission, Fiscal Year 2021-2022, *Schedule ID: Request for Creation, Re-creation, Retention, Termination, or Modification of a Trust Fund* available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=21079&DocType=PDF> (last visited Feb. 26, 2021).

the trust fund in 20 years and, instead, uses another trust fund held outside of the State Treasury for this purpose.<sup>12</sup>

Section 127 of the Fiscal Year 2020-2021 General Appropriations Act (ch. 2020-111, Laws of Florida) transferred the \$1,000,000 unobligated cash balances in the trust fund to the General Revenue Fund. The DLE in its legislative budget request recommended the termination of the trust fund.<sup>13</sup>

***Welfare Transition Trust Fund – Department of Military Affairs and Department of Health***

The Welfare Transition Trust Fund, FLAIR Number 62-2-401, within the Department of Military Affairs (DMA) and the Welfare Transition Trust Fund, FLAIR Number 64-2-401, within the Department of Health (DOH) were created for the purpose of receiving federal block grant funds under the Temporary Assistance for Needy Families Program (TANF).<sup>14</sup>

Trust fund dollars are required to be used exclusively for the purpose of providing services to individuals eligible under TANF pursuant to the requirements and limitations of Part A of Title IV of the Social Security Act, as amended, or any other federal requirement or limitation.

Funds credited to the trust fund consist of those funds collected from the TANF block grant.

Both the DMA and the DOH no longer provide services related to the TANF block grant. Therefore, there is no longer a need for the Welfare Transition Trust Funds within these agencies.

**III. Effect of Proposed Changes:**

This bill terminates the Public Defenders Revenue Trust Fund within the Justice Administrative Commission (JAC). The bill transfers any remaining balances and revenue to the Indigent Criminal Defense Trust Fund and requires the JAC to pay any outstanding debts or obligations against the fund. The bill repeals s. 27.61, F.S., relating to the Public Defenders Revenue Trust Fund and amends ss. 318.18 and 817.568, F.S., to redirect future revenues to the Indigent Criminal Defense Trust Fund within the JAC.

The bill terminates the Revolving Trust Fund within the Department of Law Enforcement. The bill transfers any remaining balances and revenue to the General Revenue Fund and requires the DLE to pay any outstanding debts or obligations against the fund.

The bill terminates the Welfare Transition Trust Fund within the Department of Military Affairs. The bill transfers any remaining balances and revenue to the DMA's Federal Grants Trust Fund and requires the DMA to pay any outstanding debts or obligations against the fund. The bill repeals s. 250.175(5), F.S., relating to the Welfare Transition Trust Fund.

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<sup>12</sup> Email from Cynthia Barr, Senior Budget Officer, Department of Law Enforcement (Nov. 12, 2020) (on file with the Senate Appropriations Committee).

<sup>13</sup> Department of Law Enforcement, Fiscal Year 2021-2022, *Schedule ID: Request for Creation, Re-creation, Retention, Termination, or Modification of a Trust Fund* available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=21093&DocType=PDF> (last visited Feb. 26, 2021).

<sup>14</sup> Sections 250.175 and 20.435, F.S., respectively.

The bill terminates the Welfare Transition Trust Fund within the Department of Health. The bill transfers any remaining balances and revenue to the DOH's Federal Grants Trust Fund and requires the DOH to pay any outstanding debts or obligations against the fund. The bill repeals s. 20.435(8), F.S., relating to the Welfare Transition Trust Fund.

The bill is effective July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**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. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 318.18, 817.568, 250.175, and 20.435.

This bill repeals section 27.61 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.