

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5201 PCB SAT 24-01 Trust Funds/Federal Law Enforcement Trust Fund/FGCC

SPONSOR(S): State Administration & Technology Appropriations Subcommittee, Busatta Cabrera

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: State Administration & Technology Appropriations Subcommittee	12 Y, 0 N	Helping	Topp
1) Appropriations Committee	28 Y, 0 N	Helping	Pridgeon

SUMMARY ANALYSIS

The bill conforms current law to the proposed House of Representatives' Fiscal Year 2024-2025 General Appropriation Act (GAA). The Florida Gaming Control Commission (Commission) may use the trust fund created in the bill to deposit funds collected through gaming enforcement activities. The use of the funds may be requested in the commission's Legislative Budget Request which must be approved by the Legislature and included in the General Appropriations Act.

Section 16.71, F.S., establishes the Commission, within the Department of Legal Affairs (DLA). The commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The commission is not subject to control, supervision, or direction by DLA.

The Division of Gaming Enforcement (DGE) is created within the commission. The DGE is considered a criminal justice agency. The DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.

The Commission does not currently have an established Federal Law Enforcement Trust Fund to deposit revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

The bill creates a Federal Law Enforcement Trust Fund within the Commission. The bill states that the Commission may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

The bill takes effect July 1, 2024.

The bill does not indirectly impact state revenues or expenditures. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Gaming Control Commission

Section 16.71, F.S., establishes the Florida Gaming Control Commission (Commission), within the Department of Legal Affairs (DLA). The Commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The Commission is not subject to control, supervision, or direction by DLA.

The Division of Gaming Enforcement (DGE) is created within the Commission, and requires the commissioners to appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE. The DGE is considered a criminal justice agency within the definition of s. 943.045, F.S.¹ The DGE director and all investigators employed by DGE are designated law enforcement officers and have the power to detect, apprehend, and arrest for any alleged violation of chapter 24, part II of chapter 285, chapter 546, chapter 550, chapter 551, or chapter 849, F.S., or any rule adopted pursuant thereto, or any law of this state.²

DGE law enforcement officers are authorized to enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment.³ In any instance in which there is reason to believe that a violation has occurred, DGE law enforcement officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring, and may, consistent with the United States and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation.

DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.⁴

Federal Law Enforcement Trust Funds

Multiple state agencies responsible for law enforcement have Federal Law Enforcement Trust Funds that have been statutorily created for various deposits related to criminal, administrative and civil forfeiture proceedings. Some of the agencies include the Department of Law Enforcement,⁵ the Department of Financial Services,⁶ the Department of Business and Professional Regulation,⁷ the

¹ Section 119.01(4), F.S., defines a “criminal justice agency” to mean any law enforcement agency, court, or prosecutor; any other agency charged by law with criminal law enforcement duties; any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or the Department of Corrections.

² S. 16.711(3), F.S.

³ *Id.*

⁴ S. 932.701(2)(a)2, F.S.

⁵ S. 943.365, F.S.

⁶ S. 17.43, F.S.

⁷ S. 561.027, F.S.

Department of Agriculture and Consumer Services,⁸ the Department of Military Affairs,⁹ and the Department of Highway Safety and Motor Vehicles.¹⁰

The Commission does not currently have an established Federal Law Enforcement Trust Fund to deposit revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

Effect of the Bill:

The bill creates a Federal Law Enforcement Trust Fund within the Commission. The bill states that the Commission may deposit into the trust fund receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs. Further, the bill states that funds deposited into the trust fund may be used for the operation of the Commission.

The bill takes effect July 1, 2024.

B. SECTION DIRECTORY:

Section 1: creates s. 16.717, F.S., creating the Federal Law Enforcement Trust Fund within the Florida Gaming Control Commission.

Section 2: provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

⁸ S. 570.205, F.S.

⁹ S. 250.175, F.S.

¹⁰ S. 932.705, F.S.

The bill does not directly impact state revenues or expenditures. However, the creation of the trust fund will allow funds that are acquired through the Commission's gaming enforcement activities to be deposited by the Commission. Once there are sufficient funds within the trust fund, the Commission may request budget authority to use the funds as part of their Legislative Budget Request.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES