

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7207 PCB SCGR 11-02 Trust Funds
SPONSOR(S): Select Committee on Government Reorganization, Aubuchon
TIED BILLS: HB 7205 **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|---------|--|
| Orig. Comm.: Select Committee on Government Reorganization | 14 Y, 5 N | Creamer | Tinker |

SUMMARY ANALYSIS

Taken together, HB 7205 and HB 7207 create and provide a dedicated source of revenue to the State Economic Enhancement and Development (SEED) Trust Fund to enable Florida to be proactive and better positioned to capitalize on opportunities that will benefit the state from an economic development perspective. The SEED Trust Fund will be used to fund strategic transportation investments, affordable housing, and economic development incentives to attract new businesses to the state and retain existing businesses.

This bill terminates the following trust funds and transfers remaining balances in each fund to the SEED Trust Fund:

- Economic Development Transportation Trust Fund
- Economic Development Trust Fund
- Tourism Promotion Trust Fund
- Florida International Trade and Promotion Trust Fund
- State Housing Trust Fund
- Local Government Housing Trust Fund

This bill also redirects existing revenues to the SEED Trust Fund as follows:

- Beginning October 1, 2011, the bill redirects the rental car surcharge fees from the Florida International Trade and Promotional Trust Fund and the Tourism and Promotion Trust Fund to the SEED Trust Fund.
- Beginning July 1, 2012, the bill redirects the documentary stamp tax proceeds from the State Transportation Trust Fund to the SEED Trust Fund.
- Beginning July 1, 2012, the bill redirects the documentary stamp tax proceeds from the State Housing Trust Fund and the Local Government Housing Trust Fund to the SEED Trust Fund, and removes the current statutory limit on the amount of documentary stamp tax proceeds that is currently deposited in the housing trust funds.

The bill has no fiscal impact to General Revenue in fiscal year 2011-12 or FY 2012-13 from the removal of the statutory limit on the amount of documentary stamp tax proceeds deposited in the State Economic Enhancement and Development Trust Fund. However, based on a four-year outlook there would be an annualized negative impact to recurring general revenue of \$33.9 million and an annualized positive recurring impact to the trust fund in the same amount.

The bill will have a revenue neutral fiscal impact to other state trust funds. See fiscal section.

The bill has an effective date of October 1, 2011, unless otherwise specified.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

State Economic Enhancement and Development Trust Fund

Infrastructure and economic development programs are generally funded from various trust funds and General Revenue annually through the General Appropriations Act. Florida does not currently have a single fund or dedicated revenue source that can be readily available to respond to economic opportunities that may arise throughout the fiscal year.

This bill, together with HB 7205, creates the State Economic Enhancement and Development (SEED) Trust Fund to serve as a dedicated recurring funding source to enable Florida to be proactive and better positioned to capitalize on opportunities that will benefit the state from an economic development perspective.

The SEED Trust Fund will be used for infrastructure and job creation opportunities in the following program areas:

- Transportation facilities that meet a strategic and essential state interest with respect to the economic development of the state;
- Affordable housing programs and projects in accordance with chapter 420, F.S.;
- Economic development incentives for job creation and capital investment;
- Workforce training associated with locating a new business or expanding an existing business; and
- Tourism promotion and marketing services, functions, and programs.

Revenue sources for the SEED Trust Fund will include documentary stamp tax proceeds, rental car surcharge fees, and local matching funds.

Current Situation and Proposed Changes:

Economic Development Transportation Trust Fund

The Economic Development Transportation Trust Fund, FLAIR number 31-2-175, commonly referred to as the 'road fund,' is used for transportation projects that serve an economic development purpose. Specifically, the road fund is an incentive tool used to alleviate transportation problems that adversely impact a business's decision to relocate or expand operations in a community. Grants are provided directly to local governments which then contract and build transportation projects. To qualify, the projects must meet job and construction requirements. The Governor, through the Office of Trade, Tourism, and Economic Development (OTTED), has wide-latitude to waive program requirements in areas of high unemployment and economic distress. Funds from the State Transportation Trust Fund (STTF) are transferred annually through the General Appropriations Act to the Economic Development Transportation Trust Fund for these projects.

This bill eliminates the Economic Development Transportation Trust Fund, effective October 1, 2011.

Economic Development Trust Fund

The Economic Development Trust Fund, FLAIR number 31-2-177, is used to fund the local matching portion of projects approved for state incentives under the qualified defense contractor and space flight business tax refund program (QDC), the tax refund program for qualified target industry businesses (QTI), and the brownfields redevelopment bonus refunds. These economic development incentive programs require local matching funds, which are deposited into the

Economic Development Incentives Account of the Economic Development Trust Fund, and appropriated by the Legislature through the annual General Appropriations Act.

This bill eliminates the Economic Development Trust Fund, effective October 1, 2011.

Tourism Promotion Trust Fund

The Tourism Promotion Trust Fund, FLAIR number 31-2-722, is used to support authorized activities and operations of the Florida Commission on Tourism as well as tourism promotion and marketing activities administered by the Florida Commission on Tourism through a contract with the Florida Tourism Industry Marketing Corporation (Visit Florida). Visit Florida's chief responsibility is to promote the state's tourism industry domestically and internationally. The entity also represents the state at domestic and international travel trade shows.

The fund's revenues come from a portion of the rental car surcharge. This surcharge is a \$2 per day fee, for the first 30 days, on leases or rentals of a motor vehicle licensed for hire. The proceeds from this surcharge are split between the Florida International Trade and Promotion Trust Fund, which receives 4.25 percent, the Tourism Promotion Trust Fund, which receives 15.75 percent, and the State Transportation Trust Fund, which receives the remaining 80 percent.

This bill eliminates the Tourism Promotion Trust Fund, effective October 1, 2011. Rental car surcharge proceeds currently deposited into the Tourism Promotion Trust Fund are redirected to the SEED Trust Fund.

Florida International Trade and Promotion Trust Fund

The Florida International Trade and Promotion Trust Fund, FLAIR number 31-2-388, is used for the operation of Enterprise Florida, Inc., and Florida's foreign offices. The fund's revenues come from a portion of the rental car surcharge (4.25 percent), as noted above.

This bill eliminates the Florida International Trade and Promotion Trust Fund, effective October 1, 2011. Rental car surcharge proceeds currently deposited into the Florida International Trade and Promotion Trust Fund are redirected to the SEED Trust Fund.

State and Local Government Housing Trust Funds

The State Housing Trust Fund, FLAIR 52-2-255, and the Local Government Housing Trust Fund, FLAIR 52-2-250, are funded by a portion of the documentary stamp tax proceeds. The documentary stamp tax is imposed on documents that transfer interest in Florida real property and current law provides for the distribution of documentary stamp tax proceeds to the General Revenue Fund and a number of trust funds.

Currently, after the distribution specified by law, the lesser of 7.53 percent of remaining documentary stamp taxes or \$107 million in each fiscal year must be paid into the State Treasury, of which half of this amount must be to the credit of the State Housing Trust Fund and the remaining half must be to the credit of the Local Government Housing Trust Fund.

Further, after the distribution specified by law, the lesser of 8.66 percent of remaining documentary stamp taxes or \$136 million in each fiscal year must be paid into the State Treasury, of which 87.5 percent must be paid to the credit of the Local Government Housing Trust Fund and the remaining 12.5 percent must be paid to the credit of the State Housing Trust Fund. In total, the distributions to the State and Local Government Housing Trust Funds are limited to a percentage of the collected documentary stamp taxes or \$243 million, whichever is less.

The State Housing Trust Fund is administered by the Florida Housing Finance Corporation (corporation). The fund is used for the purposes set forth in Ch. 420, F.S, including the Housing Pre-Development Fund Program, the State Apartment Incentive Loan Program, Florida Homeownership Assistance Program, and the HOME Investment Partnership Program. In addition, amounts on deposit in the State Housing Trust Fund may also be used to support the Florida Affordable Housing Guarantee Program.

The Local Government Housing Trust Fund is also administered by the corporation exclusively for the purpose of implementing the State Housing Initiatives Partnership (SHIP) Program. Funds are distributed to participating counties and eligible municipalities participating in the SHIP Program, pursuant to interlocal agreements between the county governing authority and the governing body of the eligible municipality or, if there is no interlocal agreement, according to population. Counties and eligible municipalities must meet a number of requirements in order to receive funding.

This bill eliminates the State Housing Trust Fund and the Local Government Housing Trust Fund, effective July 1, 2012, and provides that 16.19 percent of documentary stamp tax proceeds shall be deposited into the SEED Trust Fund.

State Transportation Trust Fund

The State Transportation Trust Fund was created within the Department of Transportation for the purpose of funding transportation infrastructure programs and projects. Funds deposited into and expended from this trust fund include the following revenue sources which average in total about \$6.2 billion annually. Revenue amounts shown are estimated for the current fiscal year (FY 2010-11).

- Fuel taxes-\$1.8 billion
- Motor vehicle registration fees-\$591 million
- Motor vehicle title fees-\$86 million
- Rental car surcharges-\$99 million
- Bond proceeds-\$50 million
- Documentary stamp tax proceeds-\$91 million
- Toll revenues-\$600 million
- Local funds-\$340 million
- Federal funds-\$2.2 billion
- Interest earnings-\$8 million

Section 339.135, F.S., authorizes and sets the guidelines for the department to develop a State Transportation Five-Year Work Program, which is a statewide project specific list of transportation activities and improvements that must meet the objectives and priorities of the Florida Transportation Plan (FTP). To develop and implement the Five-Year Work Program, the department coordinates with its seven district offices, the Turnpike Enterprise Office (Turnpike), Metropolitan Planning Organizations (MPOs), and local governments.

Funds from the State Transportation Trust Fund are appropriated annually through the General Appropriations Act to fund the first year of the Five-Year Work Program.

Documentary stamp tax proceeds deposited annually into the STTF include the lesser of 38.2 percent or \$541.75 million of the remainder after the distribution specified by law, to be used for the following programs in the specified percentages or dollar amounts:

- Ten percent for the New Starts Transit Program (NSTP);
- Five percent for the Small County Outreach Program (SCOP);

- Seventy-five percent for the Strategic Intermodal System (SIS), after allocating for the NSTP and the SCOP; and
- Twenty-five percent for the Transportation Regional Incentive Program after allocating for the NSTP and the SCOP; and effective July 1, 2014, the first \$60 million of the funds allocated for the TRIP is to be provided to the Florida Rail Enterprise.

Effective July 1, 2012, this bill redirects proceeds from the documentary stamp tax to the SEED Trust Fund.

This bill makes a number of other conforming changes to reflect the newly created trust fund and the elimination of other funds.

B. SECTION DIRECTORY:

Section 1. Terminates specified trust funds within the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor; terminates specified trust funds within the State Treasury; provides for the disposition of balances in and revenues of such trust funds; prescribes procedures for the termination of such trust funds;

Section 2. Amends s. 17.61, F.S., relating to specified trust funds within the Executive Office of the Governor which must retain moneys therein for investment, with interest appropriated to the General Revenue Fund; eliminates the Economic Development Transportation Trust Fund and the Economic Development Trust Fund from such trust;

Section 3. Amends s. 201.15, F.S.; revising the distribution of excise taxes on documents; providing for specified distributions of funds to the State Economic Enhancement and Development Trust Fund; eliminating distributions to the State Transportation Trust Fund and the State and Local Government Housing Trust Fund;

Sections 4 . Amends s. 212.0606, F.S.; revising distribution of the proceeds from the rental car surcharge to the State Economic Enhancement Trust Fund; providing for elimination of the distribution of the proceeds of the surcharge to the Tourism Promotion Trust Fund and the Florida International Trade and Promotion Trust Fund;

Sections 5 and 6. Amends ss. 288.095 and 288.120, F.S.; eliminating provisions governing the Economic Development Trust Fund within the Office of Tourism, Trade, and Economic Development of the Executive Office of the Governor;

Sections 7 through 12. Amends ss. 288.1045, 288.106, 288.107, 288.1089, 288.7771, and 288.95155, F.S.; replacing references to the Economic Development Trust Fund in the Executive Office of the Governor with references to State Economic Enhancement and Development Trust Fund, to conform;

Section 13. Amends ss. 373.461, F.S.; replacing references to the Economic Development Trust Fund in the Executive Office of the Governor with references to State Economic Enhancement and Development Trust Fund, to conform;

Section 14. Repeals s. 288.1221, F.S.;

Section 15. Directs the Division of Statutory Revision of the Office of Legislative Services to prepare a reviser's bill to conform cross-reference changes necessitated by the act; and

Section 16. Provides a conditional effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Documentary Stamp Tax Proceeds

Section 3 of the bill has a recurring negative fiscal impact to the STTF of \$171.8 million beginning in fiscal year 2012-13 related to the redirect of documentary stamp tax proceeds to the State Economic Enhancement and Development Trust Fund.

This section also eliminates the State Housing Trust Fund and the Local Government Housing Trust Fund and redirects \$68.4 million and \$160 million, respectively, from documentary stamp tax proceeds to the State Economic Enhancement and Development Trust Fund, effective fiscal year 2012-13.

In total, section 3 has a positive recurring fiscal impact to the State Economic Enhancement and Development Trust Fund of \$400.2 million in fiscal year 2012-13.

Rental Car Surcharge

Section 5 of the bill has a recurring negative fiscal impact beginning in fiscal year 2011-12 to the Florida International Trade and Promotional Trust Fund and the Tourism and Promotion Trust Fund of \$3.6 million and \$13.2 million for FY 2011-12, and \$5.6 million and \$20.7 million in FY 2012-13, respectively, related to the redirect of the rental car surcharge to the State Economic Enhancement and Development Trust Fund.

In total, section 5 has a recurring positive fiscal impact to the State Economic Enhancement and Development Trust Fund of \$16.8 million in fiscal year 2011-12 and \$26.3 million beginning in fiscal year 2012-13.

Overall, the bill has a positive fiscal impact to the State Economic Enhancement and Development Trust Fund of \$16.8 million in fiscal year 2011-12 and a recurring \$426.5 million beginning in fiscal year 2012-13.

General Revenue

The bill has no fiscal impact to General Revenue in fiscal year 2011-12 or FY 2012-13 from the removal of the statutory limit on the amount of documentary stamp tax proceeds deposited in the State Economic Enhancement and Development Trust Fund. However, based on a four-year outlook there would be an annualized negative impact to recurring general revenue of \$33.9 million. See the following chart:

| Impacts to State Trust Funds | | |
|---|-------------------|-------------------|
| Dollars in Millions | | |
| Trust Fund | FY 2011-12 | FY 2012-13 |
| | Cash | Recurring |
| State Transportation Trust Fund: | | |
| Documentary Stamp Tax Proceeds | | (\$171.8) |
| Total | | (\$171.8) |
| State and Local Government Housing Trust Funds: | | |
| Documentary Stamp Tax Proceeds | | (\$228.4) |
| LESS: | | |
| Total | | (\$228.4) |
| FL International Trade and Promotional Trust Fund: | | |
| Rental Car Surcharge | (\$3.6) | (\$5.6) |
| Total | (\$3.6) | (\$5.6) |
| Tourism Promotion Trust Fund | | |
| Rental Car Surcharge | (\$13.2) | (\$20.7) |
| Total | (\$13.2) | (\$20.7) |
| State Economic Enhancement and Development Trust Fund: | | |
| Documentary Stamp Tax Proceeds | | \$400.2 |
| Rental Car Surcharges | \$16.8 | \$26.3 |
| State Economic Enhancement and Development Trust Fund: | \$16.8 | \$426.5 |
| Net Impact to State Trust Funds | \$0.0 | \$0.0 |

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The redirection of existing revenue sources to the State Economic Enhancement and Development Trust Fund will provide funding for Florida to be proactive and in a better position to capitalize on opportunities that benefit the state's economic development needs. These opportunities may include transportation and housing infrastructure, business attraction and retention, and job creation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require the counties or municipalities to spend funds or take an 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 a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES