

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 489 Trust Funds/Destination Resort Trust Fund/Department of Gaming Control

SPONSOR(S): Fresen

TIED BILLS: HB 487 **IDEN./SIM. BILLS:** SB 712

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee		Rojas	Creamer
2) Appropriations Committee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

A trust fund consists of moneys received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law.¹

This bill creates the Destination Resort Trust Fund within the Department of Gaming Control to hold the deposits of licensing fees and the proceeds of gross receipts taxes imposed on destination resorts, which are authorized in the linked bill, HB 487.

The deposited funds may be expended only pursuant to legislative appropriation or an approved amendment to the Department of Gaming Control's operating budget, pursuant to ch. 216, F.S.

In accordance with the state constitution, the trust fund will be terminated on July 1, 2016, unless terminated sooner by the Legislature. The trust fund must be reviewed prior to its scheduled termination according to statutory requirements.

Passage of HB 489 requires a three-fifths vote of each chamber, pursuant to s. 19(f)(1), Art. III of the Florida Constitution.

The bill becomes effective on the same date that HB 487 or similar legislation takes effect, if such legislation is passed in the same legislative session or any extension of the same session and becomes law.

The bill has no fiscal impact on state funds.

¹ Section 215.32(2)(b)1., F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Constitutional and statutory requirements for trust funds

A trust fund consists of moneys received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law. Section 19(f), Art. III, of the Florida Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- the name of the trust fund;
- the agency or branch of state government responsible for administering the trust fund;
- the requirements or purposes that the trust fund is established to meet; and
- the sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.²

The Chief Financial Officer is directed to invest all trust funds and all agency funds of each state agency.³ Under current law, any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it reverts to the fund from which the Legislature appropriated it and shall be available for re-appropriation by the Legislature.⁴

State trust funds terminate no more than 4 years after the effective date of the act that created them, unless they are re-created by the Legislature with a three-fifths vote of the Senate and the House of Representatives.

Effect of Proposed Change

This bill creates the Destination Resort Trust Fund within the Department of Gaming Control to hold the deposits of licensing fees and the proceeds of gross receipts taxes imposed on destination resorts, which are authorized in the linked bill, HB 487.

The deposited funds may be expended only pursuant to legislative appropriation or an approved amendment to the State Gaming Commission's operating budget, pursuant to ch. 216, F.S. In accordance with the state constitution, the trust fund will be terminated on July 1, 2016, unless terminated sooner by the Legislature. The trust fund must be reviewed prior to its scheduled termination according to statutory requirements.

B. SECTION DIRECTORY:

Section 1 creates s. 551.317, which authorized the Destination Resort Trust Fund and specifies the trust fund's termination date.

Section 2 provides the effective date of the bill and requires a three-fifths vote for the legislation to become effective.

² Section 215.3207, F.S.

³ Section 17.61(1), F.S.

⁴ Section 216.301(1)(b), F.S.

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 an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES