

**STORAGE NAME:** h1159s1.ge.doc

**DATE:** February 14, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
GENERAL EDUCATION  
ANALYSIS**

**BILL #:** CS/HB 1159

**RELATING TO:** Florida Academic Improvement Trust Fund

**SPONSOR(S):** Committee on General Education & Representative(s) Fiorentino

**TIED BILL(S):** CS/HB 1161

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) GENERAL EDUCATION YEAS 11 NAYS 0
- (2) EDUCATION APPROPRIATIONS
- (3) COUNCIL FOR LIFELONG LEARNING
- (4)
- (5)

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I. SUMMARY:

CS/HB 1159 creates the Florida Academic Improvement Trust Fund in s. 236.12265, F.S. The trust fund is to be administered by the Department of Education.

Section 19(f) of Article III of the Florida Constitution provides that no trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the Legislature *in a separate bill for that purpose only*. This bill is the separate bill which is required in that section, and it is linked with HB 1161,<sup>1</sup> which establishes the details of how the fund will work.

The committee substitute provides that notwithstanding s. 216.301, F.S., any unused funds for any given fiscal year remaining after charging against it any lawful expenditure shall not revert to the fund (General Revenue) from which appropriated.

Pursuant to section 19 (f), Article III of the Florida Constitution, and section 215.3206, F.S., the trust fund is scheduled to terminate on July 1, 2006, and shall be reviewed prior to that date and could be reenacted prior to repeal.

Neither this committee substitute, nor CS/HB 1161, provides for an appropriation to supply the matching funds. That appropriation, if it is made, will be made in the General Appropriations Act. *This committee substitute itself, therefore, has no fiscal effect.*

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<sup>1</sup> CS/HB 1161 contains provisions setting forth the purpose and administration of the Florida Academic Improvement Trust Fund. The purpose of the fund is to provide each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships by offering private donors the incentive of state matching funds for contributions that support the improvement of academic programs. Pursuant to that goal, CS/HB 1161 directs that the state "match" funding shall be sent directly to those non-profit, direct service foundations that obtain the private donations (i.e., district-based K-12 education foundations, created pursuant to s. 237.40, F.S., and the Florida School for the Deaf and Blind Endowment Fund).

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Presently, there is no statutory provision for a trust fund for district-based, public K-12 education purposes. Such a fund (s. 236.12295, F.S.) had been established in 1995, but was repealed (along with a number of other trust funds) by SB 602, in 1999. The apparent reason for the repeal was that no money had been appropriated from General Revenue for the fund, for several years.

**Similar trust funds and matching grant programs**

There are a number of somewhat similar trust funds or matching grant programs for educational purposes currently established in law.

The "Trust Fund for Major Gifts" is established in s. 240.2605, F.S., and serves as a repository for matching funds for universities.

The "State Community College System Facility Enhancement Challenge Grant Program," established in s. 240.383, F.S., and the Community College Capital Facilities Matching Trust Fund, created in s. 240.3835, F.S., provide matching funds for educational purposes for community colleges.

The "Dr. Philip Benjamin Academic Improvement Program for Community Colleges," established in s. 240.36, F.S., also serves community colleges with a matching grant program, and many of the provisions of this bill (and HB 1161) appear to be modeled after provisions in that section.

**Requirement for review and possible termination of trust fund; method of review**

Section 19(f)(2), of Article III of the Florida Constitution provides that:

*State trust funds ... shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.*

Section 215.3206, F.S., provides that prior to the regular session of the Legislature immediately preceding the date on which any trust fund is scheduled to be terminated, pursuant to the provisions of s. 19(f), Art. III of the State Constitution, the agency responsible for the administration of the trust fund and the Governor shall recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created. Each recommendation shall be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary. A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts,

and allowable expenditures for the trust fund. Recommendations from an agency shall be made as a part of the legislative budget request to the Legislature pursuant to s. 216.023, F.S. Recommendations from the Governor shall be made as part of the recommended budget presented to the Legislature pursuant to s. 216.162, F.S.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund shall be deposited into the General Revenue Fund.

Section 215.3208, F.S., reiterates and elaborates on the constitutional requirement and method of review.

#### **Reversion of appropriated funds**

Section 216.301, F.S., provides, in part that "*any balance of any appropriation, except an appropriation for fixed capital outlay, for any given fiscal year remaining after charging against it any lawful expenditure shall revert to the fund from which appropriated and shall be available for reappropriation by the Legislature.*"

#### **Requirement that a bill creating a trust fund shall be contained in a separate bill**

Section 19(f) of Article III of the Florida Constitution provides that no trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the Legislature *in a separate bill for that purpose only*. This requirement is also contained in s. 215.3207, F.S., which also requires that except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- 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.

The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.

#### **C. EFFECT OF PROPOSED CHANGES:**

CS/HB 1159 establishes a trust fund which, when paired with CS/HB 1161 (and sufficient appropriations from the General Appropriations Act), will provide each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships by offering private donors the incentive of state matching funds for contributions that support the improvement of academic programs.

#### **D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Creates s. 236.12265, F.S., establishing the Florida Academic Improvement Trust Fund. Any funds credited to the trust fund must be annually appropriated by the Legislature. Notwithstanding s. 216.301, F.S., any remaining balance at the end of any fiscal year shall not revert to General Revenue. The fund is scheduled for sunset repeal on July 1, 2006, and must be reviewed prior to that date and may be reenacted pursuant to that review.

**Section 2:** Provides that the act must take effect July 1, 2002, if CS/HB 1161 or any similar legislation is adopted in the same legislative session, or an extension thereof, and becomes law.

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:

CS/HB 1159 is "linked" to CS/HB 1161, which creates a program to match state grants to private donations. The money is to be used for the improvement of academic programs in the K-12 public school system. The program's successful operation will be contingent upon money being appropriated by the General Appropriations Act to supply the matching funds.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

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B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 12, 2002, the Committee on General Education adopted a technical amendment to HB 1159 and reported the bill favorably as a committee substitute.

VI. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:

Staff Director:

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Elsie J. Rogers

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