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HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1961 (PCB FRC 02-13)
RELATING TO: Trust Funds
SPONSOR(S): Fiscal Responsibility Council and Representative Ball
TIED BILL(S):

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

- (1) FISCAL RESPONSIBILITY COUNCIL YEAS 24 NAYS 0
 - (2)
 - (3)
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I. SUMMARY:

This bill terminates specific trust funds and transfers all remaining balances and revenues of these trust funds to the General Revenue Fund with various effective dates. The bill deletes cross-references to terminated funds, and makes other conforming changes to the Florida Statutes. The bill identifies a fund that the Legislature considers to be exempt from the sunset provisions of the Florida Constitution and corrects an error related to the transfer of certain civil penalties into the Article V Trust Fund.

This bill largely reflects the results of the Criminal Justice Appropriations Committee's review of all its trust funds for possible termination.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

TRUST FUND REVIEWS:

Trust funds receive deposits as directed by substantive law, which are generally earmarked for a specific purpose. As such, revenues in a trust fund are generally not considered to be available to the Legislature outside normally defined program areas in setting overall state priorities through the appropriations process.

In the early 1990s, the Taxation and Budget Reform Commission took note of the fact that trust fund appropriations had eclipsed General Revenue appropriations and represented a majority of the state budget. The Taxation and Budget Reform Commission identified several specific problems with this in its resolution supporting a change to the Constitution in 1992:

[T]he hundreds of trust funds currently in existence serve only to make reporting the actual revenues and finances of the state virtually impossible . . . It is the intent of the Commission to reduce the number of trust funds in order to place most of the revenue of the state in the General Revenue Fund where it is more visible. . . It is the overall intent of the Commission that most trust funds be eliminated to increase the ability of the citizens of Florida to understand where money for state expenditures comes from, how that money is appropriated, what goals are being met by that appropriation, and how that money is eventually spent.

In 1992, the voters of Florida adopted the Commission's proposed changes to the Constitution. Those amendments now make up Section 19(f), Article III of the Constitution and reflect the new way this State manages trust funds and the programs they support.

More specifically, Section 19(f), Article III of the Constitution provides that only the Legislature may create a trust fund and a 3/5 vote in each house is necessary to approve the creation or recreation of a fund. With some exceptions, each trust fund is terminated no more than four years after its creation and any income or cash balance of any fund terminated by the Constitution must be deposited into the General Revenue Fund.

In response, the Legislature has established a four-year, staggered cycle of trust fund reviews. As a result of these reviews, the Legislature has reduced the number of trust funds by over 50 percent in

the last nine years, but has not moved any of the trust fund revenues of the state into the General Revenue Fund.

During the 2001-2002 legislative interim, the fiscal committees completed a comprehensive review of all state trust funds. One purpose of the review was to identify trust funds that can be terminated, with revenues deposited into General Revenue and programs funded from General Revenue. For this part of the review, the following questions were posed:

- Does any constitutional provision, federal law, or contractual obligation (including a bond resolution) require that the trust fund be maintained as a separate account?
- Do compelling policy considerations require this trust fund to be maintained as it currently exists?
- Is there broad public sentiment or a particular public perception regarding this trust fund (e.g., lottery for education improvements) or regarding the revenues to the fund (e.g., park user fees for park maintenance)?
- Does the trust fund fully support the program it funds (not supplemented by GR)?
- Do the revenues to the trust fund provide a stable funding source from year to year?
- Are trust fund revenues predicted to grow as fast as program funding needs?
- Are trust fund revenues sufficient to fund current programs at current service levels, or are other funds or GR also appropriated for the program?
- Are trust fund revenues a reimbursement to the state for activities funded from General Revenue?

The following specific criteria were considered:

- Are trust fund revenues diverted from a revenue stream that, but for the diversion, goes to GR under current law (e.g., documentary stamps)?
- Are the trust fund revenues more like a general tax than user fees?
- What is the potential dollar impact on GR if the trust fund is terminated?

Based on this review, the following funds were identified within the Criminal Justice Appropriations sections of the budget that could be terminated, with receipts and associated budget authority transferred to general revenue.

Within Justice Administration

Capital Collateral Trust Fund

Receipts come from attorney's fees and costs awarded to the state when the Capital Collateral Regional Councils represent indigent persons under a sentence of death in the federal courts. Funds are used to support CCRC operations in this capacity. Appropriations for FY 2001-02 are \$201,131.

Consumer Frauds Trust Fund

Receipts come from attorney's fees and other costs awarded to State Attorneys in consumer fraud cases. Appropriations for FY 2001-02 are \$1,028.

Within Legal Affairs/Attorney General

Administrative Trust Fund

Receipts come from indirect earnings from Federal grants and other state trust funds. Funds are used for departmental administrative costs. Appropriations for FY 2001-02 are \$3,260,257.

Florida Motor Vehicle Theft Trust Fund

Receipts come from a surcharge on the license tax. These funds support law enforcement, correctional agencies, and federal, state and local programs to reduce motor vehicle theft. Appropriations for FY 2001-02 are \$4,938,403.

Consumer Frauds Trust Fund

Receipts come from attorney's fees and other costs awarded to the state in connection with consumer fraud cases. Funds are used to support the Office of the Attorney General. Appropriations for FY 2001-02 are \$1,472,554.

Within the Department of Law Enforcement

Forfeiture and Investigative Support Trust Fund

Receipts come from forfeitures and other recoveries in federal or state criminal proceedings. Funds are used for investigation expenditures, overtime pay and specialty equipment. Appropriations for FY 2001-02 are \$2,345,666.

Operating Trust Fund

Receipts come from various criminal court costs, civil penalties and fees for criminal history background checks and other fees and fines. Funds are used for operating the criminal history information system and other Department operations. Appropriations for FY 2001-02 are \$29,510,009.

Within the State Courts

Court Education Trust Fund

Receipts come from a surcharge on various court fees. Funds are used to pay for training and related travel for judges and support and administrative staff. Appropriations for FY 2001-02 are \$1,864,278.

Family Courts Trust Fund

Receipts come from a surcharge on marriage license fees and dissolution of marriage filing fees. Funds are used to support family court activities. Appropriations for FY 2001-02 are \$7,454,123.

Within the Department of Corrections

Florida Agricultural Exposition

Receipts come from donations from growers at the Florida Agricultural Exposition. Funds are used to support Department operations related to the exposition. Appropriations for FY 2001-02 are \$87,962.

Operating Trust Fund

Receipts come primarily from various processing fees, cost of supervision fees, and subsistence fees that the department collects from offenders under community supervision. Funds are used to support the administrative costs of collecting payments from offenders and other Department operations. Appropriations for FY 2001-02 are \$12,155,468.

COUNTY ARTICLE V TRUST FUND:

The County Article V Trust Fund was established by Chapter 97-235, Laws of Florida, to assist counties with the costs they incur in operating the courts. The law amends s. 318.21, F.S., each July 1 beginning in 1998 and lasting through 2001 to provide for an increased transfer of traffic fines assessed under the chapter into the County Article V Trust Fund. Specifically, the law provides for a 5% transfer of fines in FY 1998 – 99 which increases in 5% increments to 20% in FY 2001-02.

Since passage of Chapter 97-235, LOF, the use of County Article V Trust Fund revenues has been expanded to cover the costs of state attorneys and public defenders as well as certain trial court activities funded in the General Appropriations Act. This has required a change to the provisions of s. 318.121, F.S., to allow for the expanded use of the trust fund. These changes were accommodated in the implementing bill to the General Appropriations Act for the current fiscal year (FY 2001-02).

Due to an oversight in drafting the implementing bill language to expand the uses of the County Article V Trust Fund, the language increasing the share of traffic fines collected under s. 318.121, F.S., from 15% to 20% effective July 1, 2001 was inadvertently deleted. As a result, the trust fund is only receiving 15% of these revenues. This will result in a shortfall of revenue into the fund of approximately \$6 million unless the oversight is corrected.

FY 2001-02, appropriations from the County Article V Trust Fund support the following activities:

- Trial Courts - \$26 million
- Small County Courthouse Facilities - \$3.3 million
- Sexual Predator Conflict Counsel - \$250,000
- State Attorney and Public Defenders - \$3.5 million

There is no specific provision in law that would direct the court on how to implement funding reductions that would be required due to a cash shortfall in the fund.

In addition, current statutory provisions related to the County Article V Trust Fund, including the authority to transfer traffic fine revenue into the fund, are repealed effective June 30, 2002. The Criminal Justice Appropriations Committee has passed a bill that would extend the life of the trust fund until June 30, 2006. It was the committee's intent, however, to continue the fund until June 30, 2004. This is the date that the transition of funding responsibility for the State Courts System contained in the 1998 amendments to Article V of the State Constitution is to be fully implemented.

C. EFFECT OF PROPOSED CHANGES:

The bill would terminate several trust funds under the jurisdiction of the Criminal Justice Appropriations Committee and provides that remaining balances and future revenues are to be deposited into the General Revenue Fund as follows:

Within the Justice Administrative Commission:

Capital Collateral Trust Fund: Termination effective July 1, 2002.
Consumer Frauds Trust Fund: Termination effective July 1, 2003.

Within the Department of Legal Affairs:

Administrative Trust Fund: Termination effective July 1, 2003.
Florida Motor Vehicle Theft Trust Fund: Termination effective July 1, 2003.
Consumer Frauds Trust Fund: Termination effective July 1, 2003.

Within the Department of Law Enforcement:

Forfeiture and Investigative Support Trust Fund: Termination effective July 1, 2003.
Operating Trust Fund: Termination effective July 1, 2003.

Within the State Courts:

Court Education Trust Fund: Termination effective July 1, 2002.
Family Courts Trust Fund: Termination effective July 1, 2002.

Within the Department of Corrections:

Florida Agricultural Exposition Trust Fund: Termination effective July 1, 2002.
Operating Trust Fund: Termination effective July 1, 2003.

The bill also deletes cross-references to these trust funds in the Florida Statutes and makes other conforming changes that coincide with the effective date of the fund's termination.

The bill corrects the oversight in the FY 2001-02 implementing bill related to the County Article V Trust Fund by providing for 20% of the revenue from traffic fines collected pursuant to s. 318.121, F.S. to be transferred into the fund. It also provides for a termination date of the County Article V Trust Fund of July 1, 2004 consistent with the intent of the Criminal Justice Appropriations Committee.

The bill makes permanent changes to allow for the use of the County Article V Trust Fund to support trial court operations and State Attorney and Public Defender operations.

The bill includes a legislative finding that the Inmate Bank Trust Fund, a fund established in the Department of Corrections as a depository for inmates' personal bank deposits, is exempt from termination pursuant to the Constitution.

D. SECTION-BY-SECTION ANALYSIS:

Please see section C. Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Criminal Justice Impact Conference has determined that the impact on General Revenue receipts for trust funds terminated for FY 2002-03 will be \$13.1 million. The impact conference did not consider the impact of trust funds that are scheduled to terminate in subsequent years. There will be no overall impact to state revenue. The funds will simply be deposited into General Revenue rather than trust funds.

The correction of the oversight related to the County Article V Trust Fund will result in a transfer of traffic fines into the fund at the intended level of 20%. This will result in approximately \$6 million of revenue being transferred into the fund that would otherwise go into General Revenue.

2. Expenditures:

The proposed General Appropriations Act for the criminal justice and judicial sections of the state budget contains language specifying that trust fund appropriations for the funds to be terminated will be shifted to General Revenue upon the termination of the fund. Therefore, the overall level of appropriations for the activities supported by these trust funds will not change as a result of passage of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Termination of a trust fund does not mean ceasing to fund the program supported by the fund. Rather, it has the effect of making the program compete with other General Revenue funded programs, both in good economic times and in bad.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill would not require a county or municipality to spend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill would not reduce the authority that municipalities or counties have to raise revenues.

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

This bill would not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

FISCAL RESPONSIBILITY COUNCIL:

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