

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2244

SPONSOR: Commerce and Economic Opportunities Committee and Senator Saunders

SUBJECT: Trust Funds

DATE: March 8, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Maclure	CM	Favorable/CS
2.	Rhea	Wilson	GO	Favorable
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

The committee substitute creates the Entertainment Industry Financial Incentive Trust Fund to be administered by the Office of Tourism, Trade, and Economic Development (OTTED) for the purpose of disbursing funds for an entertainment industry financial incentive program created by Committee Substitute for Senate Bill 2242 or similar legislation.

This committee substitute creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Office of Tourism, Trade, and Economic Development

The Office of Tourism, Trade, and Economic Development (OTTED) was created within the Executive Office of the Governor by s. 14.2015, F.S., to administer economic development programs. OTTED is also responsible for providing administrative oversight for the Office of Film and Entertainment.¹

Office of Film and Entertainment

The Office of Film and Entertainment is responsible for promoting and providing services to the state's entertainment industry.² As part of that responsibility, the Office of Film and Entertainment is required to review and approve applications for entertainment industry sales and

¹ Section 14.2015(2)(h), F.S.

² Section 288.1251, F.S.

use tax exemptions, an incentive to encourage the growth of Florida's entertainment industry.³ The entertainment industry specifically includes:

those persons or entities engaged in the operation of motion picture or television studios or recording studios; those persons or entities engaged in the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings; and those persons or entities providing products or services directly related to the preproduction, production, or postproduction of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings, including, but not limited to, the broadcast industry.⁴

Creation and Operation of Trust Funds

A trust fund consists of moneys received by the state which, under law or under trust fund agreement, are segregated for a purpose authorized by law.⁵ Section 19(f) of Article III of the State Constitution governs the creation of trust funds. It 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. The constitution further specifies that such a trust fund must be created in a separate bill for that purpose only.

The Legislature has articulated statutory criteria governing the establishment of trust funds, as well. The statutory language 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.⁶

The State Treasurer is directed to invest all the trust funds and all agency funds of each state agency.⁷ Under s. 216.301, F.S., any balance of an appropriation for any given fiscal year that is remaining after lawful expenditures have been charged against it shall revert to the fund from which the Legislature appropriated it and shall be available for re-appropriation.

Termination of Trust Funds

By constitutional requirement, trust funds created after November 4, 1992, shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter authorization period for the trust fund.⁸ The constitution exempts specified types of trust funds from this automatic termination (*id.* at

³ Section 288.1258, F.S.

⁴ Section 288.125, F.S.

⁵ Section 215.32(2)(b)1., F.S.

⁶ Section 215.3207, F.S.

⁷ Section 18.125, F.S.

⁸ Section 19(f)(s), Art. III of the State Constitution.

s. 19(f)(3)). A bill that creates a trust fund should specify its date of termination; or, if the trust fund is exempt from the automatic termination requirement, the bill should specify that the trust fund is exempt from this requirement.⁹

The Legislature has provided a schedule and process for reviewing trust funds.¹⁰ Before the regular session of the Legislature immediately preceding the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for the administration of the trust fund and the Governor must recommend to the Legislature whether the trust fund should be allowed to terminate or should be re-created.¹¹ Each recommendation is based on a review of the trust fund's purpose, use, and necessity. 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.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund are deposited into the General Revenue Fund.¹² The agency pays any outstanding debts of the trust fund as soon as practicable, and the Comptroller closes out and removes the trust fund from the various state accounting systems, using generally accepted accounting practices concerning warrants outstanding, assets, and liabilities.

III. Effect of Proposed Changes:

The committee substitute creates the Entertainment Industry Financial Incentive Trust Fund for administration by the Office of Tourism, Trade, and Economic Development using appropriations from the General Revenue Fund or other sources. The purpose of the trust fund is to facilitate the disbursing of funds for an entertainment industry financial incentive program created by Committee Substitute for Senate Bill 2242 or similar legislation.

The committee substitute is intended to take effect on the same date as Committee Substitute for Senate Bill 2242, which is July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The committee substitute creates the Entertainment Industry Financial Incentive Trust Fund for administration by the Office of Tourism, Trade, and Economic Development.

⁹ Florida Senate, *Manual for Drafting General Bills*, September 1999, p. 82.

¹⁰ Sections 215.3206 and 215.3208, F.S.

¹¹ Section 215.3210(1), F.S.

¹² Section 215.3206(2), F.S.

The committee substitute appears to comply with the requirements of s. 19(f), Art. III, State Constitution, relating to the creation and termination of trust funds.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Funding for the Entertainment Industry Financial Incentives Trust Fund may be used to provide incentives to businesses in the film and entertainment industry. See Committee Substitute for SB 2242 for details on the proposed incentive program.

C. Government Sector Impact:

This committee substitute authorizes the Office of Tourism, Trade, and Economic Development to use funds in the Entertainment Industry Financial Incentives Trust Fund to provide incentives to the film and entertainment industry.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.