

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: SB 2794

SPONSOR: Senator Pruitt

SUBJECT: Wildflower Trust Fund

DATE: April 17, 2003

REVISED: 4/22/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kelly</u>	<u>Kelly</u>	<u>ATD</u>	<u>Favorable</u>
2.	<u></u>	<u></u>	<u>AP</u>	<u>Withdrawn: Favorable</u>
3.	<u></u>	<u></u>	<u></u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

Senate Bill 2794 creates the Wildflower Trust Fund within the Department of Agriculture and Consumer Services (DACCS). The trust fund is created to receive distributions from the annual use fees from the sale of the Wildflower license plate as provided in CS/SB 666, or similar legislation. The trust fund is terminated on July 1, 2007, and must be reviewed before that date.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Florida Wildflower License Plate

Keep Florida Beautiful, Inc., is a registered not-for-profit 501(c)(3) corporation, and is a state affiliate of Keep America Beautiful, Inc. Currently, Keep Florida Beautiful, Inc. (KFB), coordinates the statewide litter campaign and operates as the grassroots arm of the state's effort and serves as an umbrella organization for volunteer-based community programs.

In 1999, the Legislature authorized the issuance of a Florida Wildflower License Plate. Section 320.08058, F.S., provides that the annual use fees shall be distributed to the Wildflower Account established by Keep Florida Beautiful, Inc. The proceeds must be used to establish native Florida wildflower research programs, wildflower educational programs, and wildflower grant programs to municipal, county, and community-based groups in the state. A maximum of 10 percent of the proceeds from the sale of Florida Wildflower License Plates may be used for administrative costs.

Section 403.4131, F.S., creates within Keep Florida Beautiful, Inc., the Wildflower Advisory Council with the power to oversee the expenditure of the Wildflower Account. The council consists of a maximum of nine members. Members of the council must include a representative from the University of Florida Institute of Food and Agricultural Sciences, the Florida Department of Transportation, the Department of Environmental Protection, the Florida League of Cities, and the Florida Association of Counties. Other members may include representatives from the Florida Federation of Garden Clubs, Inc., Think Beauty Foundation, the Florida Chapter of the American Society of Landscape Architects, Inc., and a representative of the Master Gardener's Program.

Creation and Operation of Trust Funds

A trust fund consists of monies received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law (s. 215.32(2)(b)1., F.S.). Section 19(f), Art. 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.¹ The constitution 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 (s. 215.3207, F.S.).

The Chief Financial Officer is directed to invest all the trust funds and all agency funds of each state agency (s. 18.125, F.S.). 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 reappropriation (s. 216.301, F.S.).

Termination of Trust Funds

¹ Section 19(f)(1), Art. III of the State Constitution.

Section 19(f)(2), Art. III of the State Constitution, specifies that trust funds created after November 4, 1992, with certain exceptions, shall terminate not more than 4 years after the effective date of the act authorizing the creation of the trust fund, unless the Legislature by law sets a shorter time period. Accordingly, a bill that creates a trust fund should specify the trust fund's date of termination or, if the trust fund is exempt from the automatic 4-year termination requirement, the bill should declare that the trust fund is exempt from this requirement.²

The Legislature established a schedule and process for reviewing trust funds (ss. 215.3206 and 215.3208, F.S.). Before the regular session of the Legislature immediately before the scheduled termination date of an executive branch trust fund (or an earlier date if specified by the Legislature), the agency responsible for 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 (s. 215.3206(1), F.S.). 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 (s. 215.3206(2), F.S.). The agency must pay any outstanding debts of the trust fund as soon as practicable, and the Chief Financial Officer 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:

Wildflower Trust Fund

The bill creates the Wildflower Trust Fund to be administered by the Department of Agriculture and Consumer Services. The bill provides that monies shall be credited to the fund as provided in CS/SB 666, to be used for the purposes set forth in that bill.

CS/SB 666 amends section 320.08058, F.S., to provide that the annual use fees from the sale of the Wildflower license plate be distributed to the Wildflower Trust Fund in the Department of Agriculture and Consumer Services, moves the Wildflower Advisory Council from Keep Florida Beautiful, Inc. to the Department of Agriculture and Consumer Services, creates the Wildflower Advisory Council in the Department of Agriculture and Consumer Services, and limits the uses for which the Wildflower Trust Fund may be used to:

- < Market the Wildflower license plate;
- < Establish native wildflower research programs;
- < Conduct wildflower educational programs; and
- < Provide wildflower grant programs in the state, municipal, county, and community-based groups in the state.

² See Florida Senate, *Manual for Drafting General Bills* 82 (Sept. 1999).

This bill provides an exemption from section 216.301, F.S., to ensure that any balance in the Wildflower Trust Fund at the end of any fiscal year remains in the trust fund at the end of the year and is available for carrying out the purposes of the trust fund.

The bill also provides for the trust fund to be terminated on July 1, 2007, and requires the trust fund to be reviewed before that date.

Contingent Effective Date

The bill provides that it takes effect on the effective date of CS/SB 666 (July 1, 2003) or similar legislation, contingent on the following:

- The bill (SB 2794) is enacted by a three-fifths vote of the membership of the Senate and the House of Representatives; and
- CS/SB 666 or similar legislation (providing that the annual use fees from the sale of the Wildflower license plate be distributed to the Wildflower Trust Fund in the Department of Agriculture and Consumer Services) becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The bill creates the Wildflower Trust Fund to be administered by the Department of Agriculture and Consumer Services. The bill appears to comply with s. 19(f), Art. III of the State Constitution, relating to the creation and termination of trust funds.

D. Other Constitutional Issues:

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Annual use fees from the Wildflower License Plate will be distributed to the Wildflower Trust Fund in the Department of Agriculture and Consumer Services instead of the Wildflower account that was established by Keep Florida Beautiful, Inc. The balance of the Wildflower account will be transferred to DACS after the effective date of CS/SB 666 (July 1, 2003). According to the DACS, that balance is \$210,000. The Wildflower License Plate generated \$58,385.98 in its first year of sales (FY 2000). In FY 2001, sales generated revenues of \$152,289 and last calendar year the Department of Highway and Motor Vehicles transferred to Keep Florida Beautiful, Inc. a total \$214,305 to operate the Wildflower research, educational, and grant programs. DACS anticipates a steady growth in the sale of this license plate and expected revenues for FY 2003-2004 are \$250,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is linked to CS/SB 666, which provides that the annual use fees from the sale of the Wildflower license plate be distributed to the Wildflower Trust Fund in the Department of Agriculture and Consumer Services, moves the Wildflower Advisory Council from Keep Florida Beautiful, Inc. to the Department of Agriculture and Consumer Services, creates the Wildflower Advisory Council in the Department of Agriculture and Consumer Services, and specifies the uses of the Wildflower Trust Fund.

VIII. Amendments:

None.