

**HOUSE OF REPRESENTATIVES TRUST FUND RE-CREATION STAFF ANALYSIS**

**BILL #:** HB 7029 PCB EEIC 07-02 Creating the Federal Grants Trust Fund within the Department of Highway Safety and Motor Vehicles

**SPONSOR(S):** Economic Expansion & Infrastructure Council and Rep. Cannon

**TIED BILLS:** **IDEN./SIM. BILLS:**

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| <b>REFERENCE</b>   | <b>ACTION</b> | <b>ANALYST</b> | <b>STAFF DIRECTOR</b> |
|--|---------------|----------------|-----------------------|
| Orig. Comm.: Economic Expansion & Infrastructure Council | 14 Y, 0 N     | Fox            | Tinker                |
| 1) Policy & Budget Council                               | 29 Y, 0 N     | Martin         | Hansen                |
| 2) _____   | _____         | _____          | _____                 |
| 3) _____   | _____         | _____          | _____                 |
| 4) _____   | _____         | _____          | _____                 |
| 5) _____   | _____         | _____          | _____                 |

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**SUMMARY ANALYSIS**

This bill creates the Federal Grants Trust Fund within the Department of Highway Safety and Motor Vehicles (DHSMV). The Federal Grants Trust Fund is established as a depository for allowable grant activities funded by restricted program revenues from federal sources. The proceeds to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds. Funds shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216, Florida Statutes.

Currently, the DHSMV uses the Highway Safety Operating Trust Fund and the Grants and Donations Trust Fund as depositories for all grants and funding from the federal government.

This bill has an effective date of July 1, 2008. The Federal Grants Trust Fund shall, unless terminated sooner, be terminated on July 1, 2012.

The bill creates a new trust fund; therefore, it must pass with a three-fifths vote of the membership of each house of the Legislature.

The bill has no fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### **Trust Fund Provisions Generally**

The creation, recreation and termination of trust funds are governed by provisions in both the Florida Constitution and the Florida Statutes (F.S.).

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period. Specified trust funds are exempted from this provision.<sup>1</sup>

Section 215.3206, F.S., requires agencies to recommend to the Speaker of the House of Representatives and the President of the Senate whether the trust fund should be terminated or re-created prior to the regular session of the Legislature immediately preceding the date on which any trust fund is scheduled to be terminated.

Section 215.32(b), F. S., governs the segregation of trust funds. In order to meet accounting standards established by the Government Accounting Standards Board, this section was amended in 2004 to require that, to the extent possible, each agency shall use certain trust funds as a depository for funds to be used for day-to-day operations for uniform specified purposes. These include the following trust funds:

- Operating trust fund—for program operations funded by program revenues.
- Operations and maintenance trust fund –client services funded by third-party payors.
- Administrative trust fund –for management activities that are departmental by nature and funded by indirect cost earnings and assessments against trust funds.
- Grants and donations trust fund – for allowable grant or donor agreement activities funded by restricted contractual revenue from private and public non-federal sources.
- Agency working capital trust fund – for the operation of data processing centers.

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<sup>1</sup> Exempt are trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Governors, where such trust funds are for auxiliary enterprises and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the chief financial officer or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the Florida Constitution.

- Clearing funds trust fund – for collections pending distribution to lawful recipients.
- Federal grant trust fund – for allowable grant activities funded by restricted program revenues from federal sources.

The 2004 revision to s. 215.32, F.S., further requires any agency that does not have the trust funds specified above and cannot adjust its internal accounting to use existing trust funds, to request the creation of the necessary trust funds during the next scheduled review of the agency's trust funds, pursuant to s.215.3206, F.S.

As a result agencies have been requesting the creation of the above noted trust funds as needed at the time of their required recommendation regarding trust fund recreations or terminations.

### **Trust Funds in the Department of Highway Safety and Motor Vehicles**

Currently, the DHSMV uses the Highway Safety Operating Trust Fund and the Grants and Donations Trust Fund as depositories for all grants and funding from the Federal Government.

Projected Receipts from Federal Sources - \$4,916,840

### **Effect of Proposed Changes**

This bill creates the Federal Grants Trust Fund within the Department of Highway Safety and Motor Vehicles effective July 1, 2008. The fund is established as a depository for allowable grant activities funded by restricted program revenues from federal sources. The proceeds to be credited to the trust fund shall consist of grants and funding from the Federal Government, interest earnings, and cash advances from other trust funds. Funds shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216, Florida Statutes.

The Federal Grants Trust Fund shall, unless terminated sooner, be terminated July 1, 2012.

#### **C. SECTION DIRECTORY:**

Section1: Creates the Federal Grants Trust Fund within the DHSMV, and provides a termination date of July 1, 2012.

Section 2: Provides an effective date of July 1, 2008.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

The Department of Highway Safety and Motor Vehicles currently administers federally funded programs from its Highway Safety Operating Trust Fund and the Grants and Donations Trust Fund. By the creation of this fund, these activities would be administered from the newly created Federal Grant Trust Fund. It is not anticipated that there would be a fiscal impact in conducting these activities in the new trust fund versus the current trust funds. It is also not anticipated that there would be an operational impact on the agency in conducting these activities in the new trust fund versus the current trust funds.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Section 19(f), Art. III of the Florida Constitution requires that the creation of a trust fund pass with a three-fifths vote of the membership in each house and be contained in a separate bill for the sole purpose of creating that trust fund.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**D. STATEMENT OF THE SPONSOR**

None required because this bill is a proposed council bill.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES