

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 5009 PCB APC 21-05 Trust Funds

SPONSOR(S): Appropriations Committee, Trumbull

TIED BILLS: **IDEN./SIM. BILLS:** SB 7056

FINAL HOUSE FLOOR ACTION: 117 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 5009 passed the House on April 8, 2021, as SB 7056.

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years after their initial creation, unless the trust fund is exempted by the constitution or operation of law. If a trust fund was created pursuant to law, it should be reviewed, and either re-created after its initial creation or terminated, to prevent its automatic termination by the Florida Constitution. In subsequent reviews, the trust fund should be recommended for retention, if it is still necessary, or recommended for termination if it is no longer needed.

The bill terminates the following trust funds:

- The Public Defenders Revenue Trust Fund within the Justice Administrative Commission;
- The Revolving Trust Fund within the Department of Law Enforcement;
- The Welfare Transition Trust Fund within the Department of Military Affairs; and
- The Welfare Transition Trust Fund within the Department of Health.

The bill does not have a fiscal impact on the state or on local governments.

The bill was approved by the Governor on April 19, 2021, ch. 2021-5, L.O.F., and will become effective on July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Trust Funds

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years after their initial creation, unless the trust fund is exempted by the constitution or operation of law. If a trust fund was created pursuant to law, it should be reviewed, and either re-created after its initial creation or terminated, to prevent its automatic termination by the Florida Constitution. In subsequent reviews, the trust fund should be recommended for retention, if it is still necessary, or recommended for termination if it is no longer needed. To stagger trust fund reviews, a schedule is set forth each year listing which agency's trust funds are up for legislative review.¹ In any year that a state agency is scheduled for a trust fund review, the agency is required to provide recommendations in their legislative budget request relating to whether trust funds within their agency should be created, re-created, retained, terminated, or modified.²

When the Legislature terminates a trust fund, the agency that administers the trust fund is required to pay all outstanding debts or obligations of the trust fund as soon as practicable, and the Chief Financial Officer is required to close out and remove the trust fund from the various state financial systems, using generally accepted accounting principles concerning assets, liabilities, and warrants outstanding.³

Any moneys in a trust fund at the time it is terminated may be distributed as determined by the Legislature. If no such determination is made, the funds remaining after all outstanding obligations of the fund are met are deposited into the General Revenue Fund.⁴

Public Defenders Revenue Trust Fund – Justice Administrative Commission

The Public Defenders Revenue Trust Fund, FLAIR number 20-2-059, was created within the Justice Administrative Commission (JAC) in 2009 as a depository for Article V funds. The funds are authorized to be used for activities of the public defender, which include activities related to the defense of any person determined to be indigent.⁵ The Public Defenders Revenue Trust Fund pre-2018, was supported by revenues derived from two sources: (1) \$1.67 of a \$10 assessment paid for all noncriminal moving and nonmoving violations under chs. 316, 320, and 322, F.S., and (2) \$250 of a \$1,001 surcharge imposed when a person pleads guilty or nolo contendere to, or is found guilty of, the criminal use of personal identification information, as defined in s. 817.568, F.S.⁶

During the 2018 Legislative Session, \$2.6 million in budget authority was transferred from the Public Defenders Revenue Trust Fund to the Indigent Criminal Defense Trust Fund within JAC.⁷ The purposes of the Indigent Criminal Defense Trust Fund and the Public Defenders Revenue Trust Fund are the same. The Fiscal Year 2018-2019 Implementing Bill made conforming changes to redirect future revenues to the Indigent Criminal Defense Trust Fund.⁸ The conforming changes were carried forward for both the 2019-2020 fiscal year and the 2020-2021 fiscal year and are set to expire July 1, 2021.⁹

¹ Section 215.3208, F.S.

² See Executive Office of the Governor, Office of Policy and Budget, *Legislative Budget Request Instructions* (July 2020) available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=20226&DocType=PDF> (last visited March 15, 2021).

³ Section 215.3208, F.S.

⁴ *Id.*

⁵ Sections 27.61 and 27.51, F.S.

⁶ Sections 318.88 and 817.58, F.S., respectively.

⁷ Chapter 2018-09, Laws of Fla.

⁸ Chapter 2018-10, ss. 39 and 42, Laws of Fla.

⁹ Chapter 2019-116, ss. 61 and 63, Laws of Fla.; ch. 2020-114, ss. 61 and 63, Laws of Fla.

The current balance in the trust fund is \$0 and no operating budget authority remains. Therefore, the JAC recommended the termination of the trust fund.¹⁰

Revolving Trust Fund – Department of Law Enforcement

The Revolving Trust Fund, FLAIR number 71-2-600, within the Department of Law Enforcement (DLE) was recreated without modification by ch. 2002-113, Laws of Florida. The trust fund serves as a depository for loaned cash from the General Revenue Fund, for use by DLE in criminal justice investigations. Funds loaned are deposited back to the General Revenue Fund after completion of investigative activities.

The Fiscal Year 2020-2021 General Appropriations Act¹¹ transferred the \$1,000,000 unobligated cash balances in the trust fund to the General Revenue Fund. DLE in its legislative budget request recommended the termination of the trust fund.¹²

Welfare Transition Trust Fund – Department of Military Affairs and Department of Health

The Welfare Transition Trust Fund, FLAIR Number 62-2-401, within the Department of Military Affairs (DMA) and the Welfare Transition Trust Fund, FLAIR Number 64-2-401, within the Department of Health (DOH) were created for the purpose of receiving federal block grant funds under the Temporary Assistance for Needy Families Program (TANF).¹³

Trust fund dollars are required to be used exclusively for the purpose of providing services to individuals eligible under TANF pursuant to the requirements and limitations of Part A of Title IV of the Social Security Act, as amended, or any other federal requirement or limitation. Funds credited to the trust fund consist of those funds collected from the TANF block grant.

Both DMA and DOH no longer provide services related to the TANF block grant. Therefore, there is no longer a need for the Welfare Transition Trust Funds within these agencies.

Effect of the Bill

This bill terminates the Public Defenders Revenue Trust Fund within JAC. The bill transfers any remaining balances and revenue to the Indigent Criminal Defense Trust Fund and requires JAC to pay any outstanding debts or obligations against the fund. The bill redirects future revenues to the Indigent Criminal Defense Trust Fund within JAC.

The bill terminates the Revolving Trust Fund within DLE. The bill transfers any remaining balances and revenue to the General Revenue Fund and requires DLE to pay any outstanding debts or obligations against the fund.

The bill terminates the Welfare Transition Trust Fund within DMA. The bill transfers any remaining balances and revenue to the DMA's Federal Grants Trust Fund and requires DMA to pay any outstanding debts or obligations against the fund.

The bill terminates the Welfare Transition Trust Fund within DOH. The bill transfers any remaining balances and revenue to the DOH's Federal Grants Trust Fund and requires DOH to pay any outstanding debts or obligations against the fund.

¹⁰ JAC, Fiscal Year 2021-2022, *Schedule ID: Request for Creation, Re-creation, Retention, Termination, or Modification of a Trust Fund* available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=21079&DocType=PDF> (last visited Feb. 26, 2021).

¹¹ Chapter 2020-111, s. 127, Laws of Fla.

¹² DLE, Fiscal Year 2021-2022, *Schedule ID: Request for Creation, Re-creation, Retention, Termination, or Modification of a Trust Fund* available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=21093&DocType=PDF> (last visited Feb. 26, 2021).

¹³ Sections 250.175 and 20.435, F.S.

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:

None.