

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1802

INTRODUCER: Commerce and Tourism Committee and Senator Boyd

SUBJECT: Broadband Pole Replacement Trust Fund

DATE: January 25, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Harmsen | McKay | CM | Fav/CS |
| 2. | | | ATD | |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1802 creates the Broadband Pole Replacement Trust Fund within the Department of Economic Opportunity (Department) and provides that the trust fund is established as a depository for funds appropriated by the Legislature, federal funds received from the Coronavirus Capital Projects Fund, funds transferred by the Department, interest earnings, and grants, gifts, and other contributions made directly to the fund.

The bill is linked to CS/SB 1800, which creates the Broadband Pole Replacement Program within the Department's Office of Broadband.

This bill takes effect on the same date that SB 1800 takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

II. Present Situation:

Article III, s. 19(f), of the Florida Constitution requires that state trust funds may only be created by the Legislature if passed by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. Each trust fund must be created by general law that specifies at a minimum all of the following:

- The name of the trust fund;
- The agency or branch of state government responsible for administering the trust fund;
- The requirements or purposes the trust fund is established to meet;

- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

State trust funds terminate no more than four years after the effective date of the act authorizing the initial creation of the trust fund.² The Legislature is required to review all state trust funds at least once every four years.³ If the Legislature does not re-create a trust fund, it will be abolished four years after its initial creation pursuant to the Florida Constitution.⁴

III. Effect of Proposed Changes:

Section 1 creates the Broadband Pole Replacement Trust Fund within the Department of Economic Opportunity (Department) for the deposit of funds appropriated by the Legislature; federal funds received from the Coronavirus Capital Projects Fund for the Broadband Pole Replacement Program; funds transferred by the Department; interest earnings; and grants, gifts, and other contributions made directly to the fund.

The bill provides that funds from the trust fund will be used to provide reimbursements to qualified applicants from the Broadband Pole Replacement Program, created by linked bill, SB 1800, and for use by the Office of Broadband to administer the Program.

The bill further provides that any balance that is in the trust fund at the end of any fiscal year shall be carried forward in the trust fund for the purposes of continued administration of the Broadband Pole Replacement Program.

Pursuant to the requirements of the Florida Constitution, the trust fund will terminate 4 years after its effective date, but must first be reviewed as provided in s. 215.3206(1) and (2), F.S.

Section 2 directs the Division of Law Revision to replace the phrase “4 years after the effective date of this act” with the date that the trust fund will terminate.

Section 3 states that the act takes effect on the same date that SB 1800, relating to the Broadband Pole Replacement Program, takes effect if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹ Section 215.3207, F.S.

² FLA. CONST. art III, s. 19.

³ Section 215.3208, F.S.

⁴ FLA. CONST. art III, s. 19.

C. Trust Funds Restrictions:

Article III, s. 19(f), of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. State trust funds terminate no more than 4 years after the initial creation, unless they are re-created.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 288.9965 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on January 24, 2022:

Inserts the bill number assigned to linked bill, CS/SB 1800, which creates the Broadband Pole Replacement Trust Fund, in the contingent effective date.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
