

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 Appropriations

BILL: HB 5011

INTRODUCER: House Appropriations Committee and Representative Trumbull

SUBJECT: Budgeting for Inflation that Drives Elevated Needs Fund

DATE: February 25, 2022

REVISED: 3/1/22

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Shettle	Sadberry	AP	Fav/1 amendment

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

HB 5011 creates the Budgeting for Inflation that Drives Elevated Needs Fund in the Executive Office of the Governor. The bill provides that unprecedented inflation driven by federal economic policies necessitates the need for a reserve to ensure there are sufficient funds available to allow for budget amendments when inflation-driven costs exceed appropriations in the General Appropriations Act.

This bill directs the Chief Financial Officer to immediately transfer \$2 billion from the General Revenue Fund to the Fund.

Article III, s. 19(f) of the Florida Constitution requires every trust fund to 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. The bill creates a trust fund; thus, it requires a three-fifths vote for final passage.

The bill takes effect July 1, 2022.

II. Present Situation:

Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.¹ Except for trust

¹ Article III, s. 19(f)(a) of the Florida Constitution.

funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least 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 that 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.²

Pursuant to art. III, s. 19(f)(2) of the Florida Constitution, state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. However, the Legislature may set a shorter period for which any trust fund is authorized.

Review of Trust Funds

Prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated, the agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the Legislature whether a trust fund should be terminated or re-created.³ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary. 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.⁴

If the trust fund is terminated, all cash balances and income of the trust fund are deposited into the General Revenue Fund.⁵ The agency or Chief Justice pays the outstanding debts of the trust fund, and the Chief Financial Officer closes out and removes the trust fund from the state financial systems.⁶

Inflation

Inflation is, essentially, an increase in prices and a corresponding fall in the purchasing value of money. The United States is currently experiencing a period of heightened inflation. Economists point to a variety of factors when inflation rises, but often cite the following as factors that cause inflation – increased money supply, increased consumer spending leading to product scarcity, and supply chain issues, including gasoline costs due to limited oil production. Florida has a consensus estimating conference process that produces economic, demographic, resource-demand and revenue forecasts specifically designed to assist in the planning and budgeting process.⁷ There are a total of ten consensus estimating conferences, including the Economic Estimating Conference.⁸ The Economic Estimating Conference last met on December 10, 2021, to update the national economic forecast which includes a forecast of the Consumer Price Index

² Section 215.3207, F.S.

³ Section 215.3206(1), F.S.

⁴ *Id.*

⁵ Section 215.3206(2), F.S.

⁶ *Id.*

⁷ Sections 216.133, 216.134, 216.135 and 216.136, F.S.

⁸ Section 216.136(1), F.S.

(CPI). The CPI is a measure of the average change in prices over time in a fixed market basket of goods and services. At that meeting, the conference made a significant upward revision to its CPI forecast from 3.46 percent to 5.38 percent for FY 2021-22.⁹

Budget Amendments

The General Appropriations Act (GAA) and any other act containing appropriations is considered the original approved operating budget for operational and fixed capital expenditures.¹⁰ To allow for some flexibility, Florida law specifies a process to allow for budget amendments to occur after the GAA becomes law. Amendments to the original operating budget can be made upon request through the Executive Office of the Governor, or through the Chief Justice of the Florida Supreme Court for amendments from the judicial branch, and the Legislative Budget Commission (LBC).¹¹

Amendments to an agency's operating budget must comply with certain guidelines in order to be approved.¹² Generally, budget amendments must be consistent with legislative policy and intent. If an amendment involves a trust fund, there must be adequate and appropriate revenues available in the trust fund and the amendment must be consistent with the laws authorizing such trust fund and the laws relating to the use of the trust fund. A budget amendment must include a written description of the purpose of the proposed change, an indication of why interim budget action is necessary, and the intended recipient of any funds for contracted services.¹³

Budget amendments are prohibited which:¹⁴

- Restore items vetoed by the Governor;
- Initiate or commence a new program or a fixed capital outlay project or eliminate an existing program;
- Restore budget reductions which were taken after a deficit was determined to have occurred and actions were taken to reduce approved operating budgets;
- Provide funding or increase funding for any issue which was requested by an agency in their budget request which were not funded by the Legislature or that were funded at a lower level than requested;
- Provide a net increase in General Revenue Fund appropriations;
- Transfer budget between state agencies without specific statutory authorization to do so;
- Provide general salary increases which the Legislature has not authorized in the GAA;
- Would allow the use of fixed capital outlay appropriations for any other purpose; or
- Conflict with any provision of law.

⁹ See National Economic Estimating Conference Long-Run Tables, December 10, 2021, at: <http://edr.state.fl.us/Content/conferences/useconomic/LongRunTables.pdf> Note that the forecast includes a number of different indices related to prices in addition to CPI, all of which had significant upward revisions for FY 2021-22. See pp. 11-12.

¹⁰ Section 216.181(1), F.S.

¹¹ Sections 216.181 and 216.292, F.S.

¹² See s. 216.181, F.S.

¹³ Section 216.181(2), F.S.

¹⁴ Sections 216.181(2), 216.221(11), and 216.292(1), F.S.

All amendments to original approved operating budgets, regardless of funding source, are subject to the notice and objection procedures in s. 216.177, F.S.¹⁵ Generally, Florida law requires the Executive Office of the Governor or the Chief Justice of the Florida Supreme Court to provide notice of a proposed budget amendment to the chair and vice chair of the LBC in writing, at least 14 days prior to the budget action, unless a shorter period is approved in writing by the chair and vice chair or a different period is specified in law.¹⁶

III. Effect of Proposed Changes:

The bill creates the Budgeting for Inflation that Drives Elevated Needs Fund within the Executive Office of the Governor. The bill provides that the legislature recognizes that federal economic policies have resulted in unprecedented inflation, and that Florida must take action to ensure there is a sufficient source of funds to provide flexibility for budget amendments necessary to offset inflation spikes. Budget amendments which are in excess of \$1 million will require approval by the LBC pursuant to s. 216.181(11)(b), F.S.

The bill directs the Chief Financial Officer to immediately transfer \$2 billion from the General Revenue Fund to the Fund.

The bill specifies that the Budgeting for Inflation that Drives Elevated Needs Fund must be terminated on July 1, 2026, unless terminated sooner. Before its scheduled termination, the bill requires the trust fund to be reviewed.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

¹⁵ Section 216.181(3), F.S.

¹⁶ Section 216.177(2)(a), F.S.

E. **Other Constitutional Issues:**

Article III, s. 19(f) of the State Constitution requires all newly created trust funds to terminate not more than four years after the initial creation of the fund. In addition, the State Constitution requires a newly created or re-created trust fund to be adopted by three-fifths vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating or re-creating the fund. This bill creates a trust fund; thus, it requires a three-fifths vote on final passage.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

None.

C. **Government Sector Impact:**

This bill directs the Chief Financial Officer to immediately transfer \$2 billion from the General Revenue Fund.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates section 216.1813 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.)

None.

B. **Amendments:**

Barcode 147946 by Appropriations on February 28, 2022:

The amendment changes the name of the trust fund from the Budgeting for Inflation that

Drives Elevated Needs Fund to the Inflation Fund. Removes the transfer of \$2 billion from the General Revenue Fund to the trust fund.
(WITH TITLE AMENDMENT)

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