

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 Appropriations Committee

BILL: SPB 2506

INTRODUCER: For consideration by Appropriation Committee

SUBJECT: Trust Funds/Federal Law Enforcement Trust Fund/Florida Gaming Control Commission

DATE: January 30, 2024

REVISED: _____

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Davis

Sadberry

Pre-meeting

I. Summary:

SPB 2506 creates a Federal Law Enforcement Trust Fund within the Florida Gaming Control Commission (Commission). The trust fund serves as a depository for funds to be used by the Commission. Moneys to be credited to the trust fund consist of revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

The bill takes effect July 1, 2024.

II. Present Situation:

Florida Gaming Control Commission

Section 16.71, F.S., establishes the Commission, within the Department of Legal Affairs (DLA). The Commission is a separate budget entity and the commissioners serve as the agency head for all purposes. The Commission is not subject to control, supervision, or direction by the DLA.

The Division of Gaming Enforcement (DGE) is created within the Commission, and requires the commissioners to appoint a director of the DGE who is qualified by training and experience in law enforcement or security to supervise, direct, coordinate, and administer all activities of the DGE.¹ The DGE is considered a criminal justice agency within the definition of s. 943.045, F.S.² The DGE director and all investigators employed by DGE are designated law enforcement officers and have the power to detect, apprehend, and arrest for any alleged violation of

¹ Section 16.711, F.S.

² Section 119.011(4), F.S., defines a "criminal justice agency" to mean any law enforcement agency, court, or prosecutor; any other agency charged by law with criminal law enforcement duties; any agency having custody of criminal intelligence information or criminal investigative information for the purpose of assisting such law enforcement agencies in the conduct of active criminal investigation or prosecution or for the purpose of litigating civil actions under the Racketeer Influenced and Corrupt Organization Act, during the time that such agencies are in possession of criminal intelligence information or criminal investigative information pursuant to their criminal law enforcement duties; or the Department of Corrections.

ch. 24, part II of ch. 285, ch. 546, ch. 550, ch. 551, or ch. 849, F.S., or any rule adopted pursuant thereto, or any law of this state.³

The DGE law enforcement officers are authorized to enter upon any premises at which gaming activities are taking place in the state for the performance of their lawful duties and may take with them any necessary equipment.⁴ In any instance in which there is reason to believe that a violation has occurred, the DGE law enforcement officers have the authority, without warrant, to search and inspect any premises where the violation is alleged to have occurred or is occurring, and may, consistent with the U.S. and Florida Constitutions, seize or take possession of any papers, records, tickets, currency, or other items related to any alleged violation.⁵

The DGE and its investigators are authorized to seize any contraband in accordance with the Florida Contraband Forfeiture Act. Contraband includes any equipment, gambling device, apparatus, material of gaming, proceeds, substituted proceeds, real or personal property, Internet domain name, gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was obtained, received, used, attempted to be used, or intended to be used in violation of the gambling laws of the state.⁶

Trust Funds

Establishment of 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. Except for trust 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.⁷

Florida Constitutional Requirement for Trust Funds

The Florida Constitution requires that 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.⁸ By law the Legislature may set a shorter time period for which any trust fund is authorized.⁹

³ Section 16.711(3), F.S.

⁴ *Id.*

⁵ *Id.*

⁶ Section 932.701(2)(a)2., F.S.

⁷ Section 215.3207, F.S.

⁸ Art. III, s. 19(f)(2), Fla. Const.

⁹ *Id.*

Review of Trust Funds

The Legislature must review all state trust funds at least once every four years,¹⁰ 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,¹¹ or such earlier date as the Legislature may specify.¹²

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 President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.¹³ 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.¹⁴ 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.¹⁵

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹⁶ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹⁷

Federal Law Enforcement Trust Funds

Multiple state agencies responsible for law enforcement have Federal Law Enforcement Trust Funds that have been statutorily created for various deposits related to criminal, administrative and civil forfeiture proceedings. Some of the agencies include the Department of Law Enforcement,¹⁸ the Department of Financial Services,¹⁹ the Department of Business and Professional Regulation,²⁰ the Department of Agriculture and Consumer Services,²¹ the Department of Military Affairs,²² and the Department of Highway Safety and Motor Vehicles.²³

The Commission does not currently have an established Federal Law Enforcement Trust Fund to deposit revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs.

¹⁰ Section 215.3208(1), F.S.

¹¹ Pursuant to Art. III, s. 19(f), Fla. Const.

¹² Section 215.3206(1), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 215.3208(2)(a), F.S.

¹⁷ Section 215.3208(2)(b), F.S.

¹⁸ Section 943.365, F.S.

¹⁹ Section 17.43, F.S.

²⁰ Section 561.027, F.S.

²¹ Section 570.205, F.S.

²² Section 250.175, F.S.

²³ Section 932.705, F.S.

III. Effect of Proposed Changes:

The bill creates a Federal Law Enforcement Trust Fund within the Commission. The trust fund serves as a depository for funds to be used by the Commission. Moneys to be credited to the trust fund consist of revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and receipts and revenues received from federal asset-sharing programs. The trust fund is exempt from the eight percent service charge imposed by s. 215.20, F.S.

Any unencumbered balance remaining at the end of the fiscal year and any encumbered balance remaining undisbursed on September 30 of the same calendar year remains in the Federal Law Enforcement Trust Fund available for carrying out the purpose of the trust fund.

As required by the Florida Constitution, the Federal Law Enforcement Trust Fund terminates on July 1, 2028, unless terminated sooner or recreated by the Legislature. Additionally, the trust fund is required to be reviewed as provided in s. 215.3206, F.S., before its schedule termination.

The bill is effective July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that 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. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not directly impact state revenues or expenditures. However, the creation of the trust fund will allow funds that are acquired through the Commission's gaming enforcement activities to be deposited by the Commission. Once there are sufficient funds within the trust fund, the Commission may request budget authority to use the funds as part of its Legislative Budget Request.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 16.717 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:

None.