

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 7080

INTRODUCER: Appropriations Committee

SUBJECT: Trust Funds/Indian Gaming Revenue Clearing Trust Fund

DATE: February 21, 2024

REVISED: _____

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Sanders

Sadberry

Pre-Meeting

I. Summary:

SPB 7080 creates the Indian Gaming Revenue Clearing Trust Fund within the Florida Department of Financial Services (DFS). The bill:

- Creates the Indian Gaming Revenue Clearing Trust Fund (trust fund) as a depository for the portion of the revenue-sharing payments received by the state under the gaming compact, as defined in s. 285.710(1), F.S.;
- Requires the funds to be credited to the trust fund as provided in s. 380.095, F.S.;
- Provides the funds received from such revenue-sharing payments and deposited into the trust fund are exempt from the service charges imposed pursuant to s. 215.20, F.S.;
- Requires the DFS to disburse funds, by nonoperating transfer, from the trust fund as provided in s. 380.095, F.S.; and
- Provides the trust fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

The bill takes effect on the same date as CS/SB 1638, or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Indian Gaming Compact

2021 Gaming Compact

Gaming compacts are regulated by the Federal Indian Gaming Regulatory Act, s. 25 U.S.C. 2701, et seq., and ch. 285, part II, F.S. The State of Florida (state) entered into a gaming compact with the Seminole Tribe of Florida (Seminole Tribe) on April 7, 2010 (the 2010 Compact). In ch. 2021-268, Laws of Florida (CS/SB 2A), the Legislature ratified a new Gaming Compact between the Seminole Tribe and the state, which was executed by Governor Ron DeSantis and the Seminole Tribe on April 23, 2021, as amended on May 17, 2021 (the 2021 Compact). The 2021 Compact was approved by the United States Department of the

Interior on August 6, 2021, and became effective upon the publication of notice in the Federal Register. The 2021 Compact supersedes the 2010 Compact.

Revenue Sharing under the 2021 Gaming Compact

The 2021 Compact establishes a guarantee minimum payment period for the first five years of the compact. During the five year period, the Seminole Tribe is to make guaranteed minimum revenue share payments as specified, totaling \$2.5 billion.

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.¹

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.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³

However, under the Florida Constitution state trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies are not subject to the termination requirements.⁴

Review of Trust Funds

The Legislature must review all state trust funds at least once every four years,⁵ 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,⁶ or such earlier date as the Legislature may specify.⁷

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

¹ Section 215.3207, F.S.

² FLA. CONST., art. III, s. 19(f)(2).

³ *Id.*

⁴ FLA. CONST., art. III, s. 19(f)(3).

⁵ Section 215.3208(1), F.S.

⁶ FLA. CONST., art. III, s. 19(f).

⁷ Section 215.3206(1), F.S.

should be allowed to terminate or should be re-created.⁸ 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.⁹ 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.¹⁰

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.¹¹ 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.¹²

III. Effect of Proposed Changes:

The bill creates s. 17.71, F.S., to establish the Indian Gaming Revenue Clearing Trust Fund (trust fund) within the DFS. The trust fund serves as a depository for a portion of the revenue-sharing payments received under the gaming compact.¹³ Funds shall be credited to the trust fund as provided in s. 380.095, F.S. Funds received from the revenue-sharing payments and deposited into the trust fund are exempt from the eight percent service charge imposed by s. 215.20, F.S.

The DFS shall disburse funds, by nonoperating transfer, from the trust fund as provided in s. 380.095(2), F.S.

The bill specifies the trust fund is exempt from the termination provisions of s. 19(f)(2), Art. III of the State Constitution.

The bill is effective on the same date CS/SB 1638 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and become a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 215.3208(2)(a), F.S.

¹² Section 215.3208(2)(b), F.S.

¹³ Section 285.710(1), F.S., defines the term "compact".

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)(3) of the Florida Constitution specifies that state trust funds that serve as clearing funds or accounts for the Chief Financial Officer or state agencies are not subject to the termination requirements set forth in Article III, s. 19(f)(2) of the Florida Constitution.

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 revenue-sharing payments acquired through the Gaming Compact to be credited to the Indian Gaming Revenue Clearing Trust Fund and deposited by the DFS and disbursed by nonoperating transfer as provided in s. 380.095, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 17.71 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.

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