

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1572  
 SPONSOR: Senator Villalobos  
 SUBJECT: Department of Education; Funding  
 DATE: February 7, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	O'Farrell	ED	Favorable
2.	Rhea	Wilson	GO	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This legislation amends provisions related to the “Projects, Contracts, and Grants Trust Fund” in s. 229.085, F.S., effective January 7, 2003. The Trust Fund (FLAIR # 48202552001) is administered by the Department of Education. It was created by ch. 75-302, L.O.F. The bill eliminates the following:

- the exception from the requirements for deposit and disbursement of funds held in trust for certain student organizations and the authority to deposit these funds outside of the State Treasury;
- the specific provisions related to personnel employed to administer and plan specific projects funded through the Projects, Contracts, and Grants Trust Fund in the Department of Education.

This bill amends s. 229.085, F.S.

## II. Present Situation:

**Trust Fund** - Section 229.085, F.S., creates the “Projects, Contracts, and Grants Trust Fund.” Section 215.22(1)(k), F.S., provides that this trust fund is not subject to a General Revenue surcharge as described in s. 215.20, F.S. There is no stated purpose for the trust fund.

According to the Department of Education, there are currently 386 positions established in the Projects, Contracts, and Grants Trust Fund in s. 229.085, F.S. The positions are funded from the following sources:

Type of Funds	FTE	Source
Private Funds	3.00	Milken Foundation and Bill Gates Grant
Federal Earnings	103.00	Student financial aid
State Trust	13.00	Teacher Certification Trust Fund, Institutional Assessment Trust Fund, and Solid Waste Management Trust Fund
Federal Funds	210.05	(See below)
Indirect Cost	55.95	
Other	1.00	Sale of transponder time
<b>TOTAL</b>	<b>386</b>	

Federal grants received by the Department of Education that contribute to the expenditures incurred by the agency include:

- Bilingual Education Support Services;
- Partnerships in Character Education;
- Class Size Reduction Program;
- Comprehensive School Reform Demonstration Program;
- Education of Homeless Children and Youth;
- Emergency Immigrant Education;
- Public Charter Schools;
- Safe and Drug Free Schools and Communities Program;
- Technology Literacy Challenge Fund Grant Program;
- Title I Accountability Grant, Grants for Neglected Youth, Local Grants for Delinquent Youth (part A), Basic Grants to School Districts (part A), Migrant Education (part C), State Agency Delinquent Grant (part D, subpart I);
- Title II, Dwight D. Eisenhower Professional Development;
- Title VI, Innovative Education Program Strategies;
- Individuals with Disabilities Act (IDEA), Part B and Part B Preschool;
- Florida’s State Improvement Grant;
- Adult Education State Grant Program;
- Adult and Migrant and Seasonal Farmworkers Youth Program;
- Migrant Seasonal Farmworker Program, Farmworker Jobs and Education Program;
- Occupational and Employment Information State Grant, Career Resource Network State Grant;
- Tech Prep Education Program;
- Vocational Education Basic Grants to the States;
- Coordinated School Health Education Infrastructure;
- Florida Learn and Serve;
- Florida’s Learning Opportunities and Upgrades for Refugees in Schools and At Home; and
- School Renovations, IDEA, and Technology Grants.

**Personnel** - The Projects, Contracts, and Grants Trust Fund was created in 1975 to include an exception to the career service exemptions in s. 110.051(1), F.S. If personnel are required to execute the specific terms of contracts and grants for specific projects, they may be omitted from

the personnel limits imposed on the department by the General Appropriations Act (GAA), provided that the personnel are paid from this trust fund.

This provision was amended in 1979 to provide that the personnel employed to plan and administer these projects are in a time-limited employment status not to exceed the duration of the grant or until completion of the project, whichever occurs first. These employees were not to acquire retention rights under the Career Service System. On the other hand, an employee holding permanent career service status in a Department of Education position who is appointed to a position under the trust fund retains this permanent status. The provision was effective July 1, 1979. The 2001 Legislature provided that all employees working in the department and who are paid by this trust fund will count toward the limits imposed by the GAA.

**Student Funds** - All funds received by the Department of Education must be deposited into the State Treasury subject to the disbursement and purposes required by law. However, funds held in trust for student organizations established and operated in conjunction with public school or community college programs are exempt from this section and may, with State Board of Education approval, deposit these funds outside of the State Treasury. This provision was created in 1972.

**Career Service** - Chapter 110, F.S., relates to state employment, and s. 110.217(1), F.S., provides that the Department of Management Services must develop uniform rules for the appointment, promotion, demotion, reassignment, separation, and status of persons in career service positions. The department must consult with agencies subject to the rules and the rules must be approved by the Administration Commission. Employing agencies may seek exceptions to the rules. The commission must approve an exception under certain circumstances, including the following: when it is needed to conform to any requirement imposed as a condition of receiving federal funds; when needed to permit persons in Florida to receive tax benefits under federal law; or when required for the most efficient operation of the agency, as determined by the commission.

Section 110.207, F.S., requires the employing agency to maintain, on a current basis, a position description for each authorized and established position assigned to the agency. Also, the employing agency is responsible for classifying positions authorized by the Legislature or authorized under s. 216.262, F.S. Classification and reclassification actions taken by an employing agency must be within the classes of positions established by the Department of Management Services and must be funded within the limits of currently authorized appropriations, in accordance with uniform procedures adopted by the department.

Chapter 60L-33, F.A.C., the department's administrative rules, provide that every employee who is not permanent in the Career Service System serves at the pleasure of the agency. An employee appointed to fill a position not in the Career Service System must be given exempt status. The rules also provide that every employee appointed to fill a career service position must be given: overlap status, temporary status, trainee status, probationary status, or permanent status.

### III. Effect of Proposed Changes:

**Section 1.** The bill amends s. 229.085, F.S., related to custody of educational funds. The bill eliminates the exception from the requirements for deposit and disbursement for funds held in trust for student organizations that are established and operated in conjunction with public school or community college programs. The bill eliminates the authority to deposit these funds outside of the State Treasury. Also, the bill eliminates the provisions related to personnel employed through the Projects, Contracts, and Grants Trust Fund in the Department of Education. These provisions include:

- the time limitation for employment;
- the prohibition against acquiring retention rights under the Career Service System; and
- the assurance that permanent career service employees appointed to these positions retain permanent status in the career service positions.

**Section 2.** The bill provides an effective date of January 7, 2003.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 19(3)(f), Article III, of the State Constitution establishes the requirements for creating trust funds and provides exceptions from these requirements. The proposed bill does not create a trust fund. It modifies the current provisions related to the "Projects, Contracts, and Grants Trust Fund" in s. 229.085, F.S.

### V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

**C. Government Sector Impact:**

According to the Department of Education, there are currently 386 positions established in the Projects, Contracts, and Grants Trust Fund in s. 229.085, F.S. Of these, 270 are career service employees. It is unknown as to how many of these positions are permanent career service employees. The department is requesting 24 new positions for FY 2002-2003 to be funded from this trust fund.

The number of permanent career service employees who were employed in a position paid for by the trust fund as of the effective date of the original provision in law (July 1, 1979) is unknown. Also, the original effective date was removed by ch. 97-190, L.O.F., and may have resulted in additional permanent career service employees who were paid from the trust fund. The impact of removing the provisions in law for permanent career service employees is unclear.

According to the Department of Education, there is no reason to retain the provision related to the funds held in trust for student organizations established and operated in conjunction with public school programs or community college programs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.