

**HOUSE OF REPRESENTATIVES TRUST FUND RE-CREATION STAFF ANALYSIS**

**BILL #:** HB 7039 PCB GEAC 07-18 Emergency Response Trust Fund  
**SPONSOR(S):** Government Efficiency & Accountability Council and Jordan  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1310

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
Orig. Comm.: Government Efficiency & Accountability Council	13 Y, 0 N	Rayman	Cooper
1) Policy & Budget Council		Leznoff	Hansen
2)			
3)			
4)			
5)			

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**I. SUMMARY**

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period.

This bill terminates and recreates the Emergency Response Trust Fund within the Department of Military Affairs.

The bill has no fiscal impact.

The bill takes effect July 1, 2007.

## II. SUBSTANTIVE ANALYSIS

### A. PRESENT SITUATION:

The creation, recreation and termination of trust funds are governed by provisions in both the Florida Constitution and the Florida Statutes (F.S.).

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period. Specified trust funds are exempted from this provision.<sup>1</sup>

Section 215.3206, F.S., requires agencies to recommend to the Speaker of the House of Representatives and the President of the Senate whether the trust fund should be terminated or re-created in the year prior to the scheduled termination date of any existing trust fund.

Section 215.32(b), F. S., governs the segregation of trust funds. In order to meet accounting standards established by the Government Accounting Standards Board, this section was amended in 2004 to require that, to the extent possible, each agency shall use certain trust funds as a depository for funds to be used for day-to-day operations for uniform specified purposes. These include the following trust funds:

- Operating trust fund—for program operations funded by program revenues.
- Operations and maintenance trust fund –client services funded by third-party payors.
- Administrative trust fund –for management activities that are departmental by nature and funded by indirect cost earnings and assessments against trust funds.
- Grants and donations trust fund – for allowable grant or donor agreement activities funded by restricted contractual revenue from private and public non-federal sources.
- Agency working capital trust fund – for the operation of data processing centers.
- Clearing funds trust fund – for collections pending distribution to lawful recipients.
- Federal grant trust fund – for allowable grant activities funded by restricted program revenues from federal sources.

The 2004 revision to s. 215.32, F.S., further required any agencies that did not have the trust funds specified above, but used other trust funds for the specified purposes of the above referenced trust fund, to request the creation of the trust fund during the next scheduled review of the agency's trust funds, pursuant to s.215.3206, F.S.

As a result agencies have been requesting the creation of the above noted trust funds as needed at the time of their required recommendation regarding trust fund recreations or terminations.

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<sup>1</sup> Exempt are trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or public body to meet debt service or other financial requirements of any debt obligations of the state or any public body; the state transportation trust fund; the trust fund containing the net annual proceeds from the Florida Education Lotteries; the Florida retirement trust fund; trust funds for institutions under the management of the Board of Governors, where such trust funds are for auxiliary enterprises and contracts, grants, and donations, as those terms are defined by general law; trust funds that serve as clearing funds or accounts for the chief financial officer or state agencies; trust funds that account for assets held by the state in a trustee capacity as an agent or fiduciary for individuals, private organizations, or other governmental units; and other trust funds authorized by the Florida Constitution.

1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

Section 250.175(2)(a) of the Florida Statutes, created the trust fund within the Department of Military Affairs.

2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

The trust fund is used to pay all operational costs incurred by the Florida National Guard when called to active duty. The Emergency Response Trust Fund is used by the Department of Military Affairs.

3. MAJOR SOURCES OF REVENUE FOR THE FUND:

The revenue sources for this trust fund are Federal Emergency Management Agency (FEMA) reimbursements and transfers of state funds when approved by budget amendments processed pursuant to chapter 216, Florida Statutes.

4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATIONS FROM THE FUND:

Reimbursements from FEMA for the costs of activating the Florida National Guard and transfers of state funds approved by budget amendments processed under chapter 216, Florida Statutes, shall be deposited into the trust fund. Costs associated with Tropical Storm Ernesto during the 2006 hurricane season have been deposited into the trust fund.

B. EFFECT OF PROPOSED CHANGES:

The bill re-creates the trust fund without modification.

### III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

N/A

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

None.