

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB APC 24-05 Indian Gaming Revenue Trust Fund

SPONSOR(S): Appropriations Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Willson	Pridgeon

SUMMARY ANALYSIS

Article III, section 19(f) of the Florida Constitution governs the creation of trust funds and 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.

In 2021, the State of Florida entered into a gaming compact (the 2021 Compact) with the Seminole Tribe of Florida, which was approved by the United States Department of the Interior. The 2021 Compact establishes a guaranteed minimum payment period for the first five years of the compact, during which the Seminole Tribe is required to make specified revenue share payments to the state.

HB 1417 (2024) creates s. 380.095, F.S., requiring the Department of Revenue to deposit 96 percent of any revenue share payment received under the 2021 Compact into the Indian Gaming Revenue Trust Fund within the Department of Financial Services. Such funds would be distributed as follows:

- \$100 million to support the Florida Wildlife Corridor.
- \$100 million for the management of uplands and removal of invasive species, divided between the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection (DEP), and the Department of Agriculture and Consumer Services.
- \$100 million to DEP for the Statewide Flooding and Sea Level Rise Resilience Plan; and
- The remainder to DEP for the Water Quality Improvement Grant Program.

The bill creates s. 17.71, F.S., establishing the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services to serve as a depository for certain revenue-sharing payments received by the state under the 2021 Compact. Additionally, the bill provides that:

- Funds will be credited to and disbursed from the Trust Fund as provided in HB 1417.
- Such funds are exempt from the 8 percent service charges imposed pursuant to s. 215.20, F.S.
- The Trust Fund is exempt from certain termination provisions of the Florida Constitution.

The bill will take effect on the same date that HB 1417 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

The bill does not have a fiscal impact on the state or local governments.

Article III, section 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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The state administers various programs such as the Florida Forever Program and Rural and Family Lands Protection program to conserve and protect Florida's natural resources. The state also invests in improving water quality throughout the state through programs such as the water quality improvement grant program, which is administered by the Department of Environmental Protection (DEP). In 2021, the State of Florida entered into a gaming compact (the 2021 Compact) with the Seminole Tribe of Florida (Seminole Tribe), which was approved by the United States Department of the Interior. The 2021 Compact establishes a guaranteed minimum payment period for the first five years of the compact, during which the Seminole Tribe is required to make specified revenue share payments to the state.

2024 Legislative Session

HB 1417 (2024) creates s. 380.095, F.S., requiring the Department of Revenue to deposit 96 percent of any revenue share payment received under the 2021 Compact into the Indian Gaming Revenue Trust Fund within the Department of Financial Services. HB 1417 also provides that such funds will be distributed as follows:

- \$100 million to support the Florida Wildlife Corridor.
- \$100 million for the management of uplands and removal of invasive species, divided between the Florida Fish and Wildlife Conservation Commission, the Department of Environmental Protection (DEP), and the Department of Agriculture and Consumer Services.
- \$100 million to DEP for the Statewide Flooding and Sea Level Rise Resilience Plan; and
- The remainder to DEP for the Water Quality Improvement Grant Program.

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 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 article III, section 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 and exceptions to the termination provision apply. For example, trust funds created as clearing funds are exempt from the termination provisions in article III, section 19(f)(2) of the Florida Constitution.³

If a trust fund is terminated, all cash balances and income of the trust fund are deposited into the General Revenue Fund.⁴ 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.⁵

Effect of the Bill

¹ Art, III, s. 19(f)(1), Fla. Const.

² Section 215.3207, F.S.

³ Art, III, s. 19(f)(3), Fla. Const.

⁴ Section 215.3206(2), F.S.

⁵ *Id.*

The bill creates s. 17.71, F.S., establishing the Indian Gaming Revenue Clearing Trust Fund within the Department of Financial Services (DFS) to serve as a depository for certain revenue-sharing payments received by the state under the 2021 Compact. Additionally, the bill provides that:

- Funds will be credited to and disbursed from the Trust Fund as provided in s. 380.095, F.S., as created by HB 1417 (2024).
- Funds are exempt from the 8 percent service charges imposed pursuant to s. 215.20, F.S.
- The Trust Fund is exempt from certain termination provisions of the Florida Constitution.

The bill will take effect on the same date that HB 1417 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

B. SECTION DIRECTORY:

Section 1: Creates s. 17.71, F.S., relating to the Indian Gaming Revenue Clearing Trust Fund.
Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Creation and administration of a new trust fund may have an insignificant administrative cost on DFS that can be absorbed within existing resources.

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:

Not applicable. The bill does not appear to affect county of municipal governments.

2. Other:

Article III, section 19(f) of the Florida Constitution requires all newly created trust funds to terminate not more than four years after the initial creation of the fund. Article III, section 19(f)(3) of the Florida Constitution, however, provides an exception for trust funds that serve as clearing funds or accounts

for the CFO or state agencies. Because the bill creates a clearing fund, it is exempt from the termination provisions.

In addition, the Florida 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.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES