

Senate Bill No. 16-A

An act relating to trust funds; terminating specified trust funds within the Department of State and the Department of Transportation; providing for disposition of balances in and revenues of such trust funds; amending s. 15.09, F.S.; providing for deposit of all funds collected by the Division of Corporations of the Department of State into the General Revenue Fund; deleting a provision that created and provided uses of the Public Access Data Systems Trust Fund, to conform; amending s. 215.22, F.S.; deleting a reference to the Coconut Grove Playhouse Trust Fund, to conform; updating references to the Treasurer; amending s. 265.284, F.S.; revising sources of funding for the Florida Fine Arts Trust Fund; amending s. 265.2861, F.S.; deleting provisions transferring funds from the Cultural Institutions Trust Fund to certain grant programs and entities; eliminating a funding source of the trust fund; removing a restriction on grant recipients under the Cultural Institutions Program against receiving funds from certain other arts grants programs; repealing s. 265.2901, F.S., relating to the Coconut Grove Playhouse Trust Fund, to conform; providing for conveyance of certain property to the Coconut Grove Playhouse, Inc.; amending s. 267.0617, F.S.; removing a provision specifying funding sources for the Historic Preservation Grant Program; amending s. 267.17, F.S.; providing for use of administrative services of the Division of Historical Resources of the Department of State by citizen support organizations; amending s. 320.08058, F.S.; changing the distribution of proceeds of the Florida arts license plate annual use fees; directing maintenance of priority rankings for certain Department of State grant programs for fiscal year 2004-2005 grant cycles; repealing ss. 607.1901, 607.19011, 617.1901, and 620.183, F.S., relating to the Corporations Trust Fund, to conform; amending ss. 607.193 and 865.09, F.S.; deleting cross-references and references to the Corporations Trust Fund, to conform; providing for deposit of certain moneys into the General Revenue Fund; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session of the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The following trust funds within the following departments are terminated:

(a) Within the Department of State:

1. The Corporations Trust Fund, FLAIR number 45-2-130.
2. The Coconut Grove Playhouse Trust Fund, FLAIR number 45-2-097.
3. The Public Access Data Systems Trust Fund, FLAIR number 45-2-542.

(b) Within the Department of Transportation, the Turnpike Controlled Access Trust Fund, FLAIR number 55-2-334.

(2) Unless otherwise provided, all current balances remaining in, and all revenues of, each trust fund terminated by this act shall be transferred to the General Revenue Fund.

(3) For each trust fund terminated by this act, the agency that administers the trust fund shall pay any outstanding debts and obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated fund from the various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 2. Section 15.09, Florida Statutes, is amended to read:

15.09 Fees.—

(1) The fees, except as provided by law, to be collected by the Department of State, are:

(a) For searching of papers or records, \$3.50, except that there shall be no charge for telephone requests for general corporate information, including the corporation's status, names of officers and directors, address of principal place of business, and name and address of resident agent.

(b) For providing a certificate with seal, \$8.75; however, no fee shall be charged for providing a certificate with seal to any officer appointed to an office requiring Senate confirmation.

(c) For furnishing statistical information and for copying any document not mentioned, \$1 per page or fraction thereof.

(2) The department may in its discretion establish a reasonable fee for filing or copying any document or instrument not mentioned herein or provided for in other laws.

(3) All fees arising from certificates of election or appointment to office and from commissions to officers shall be paid to the Treasurer for deposit in the General Revenue Fund.

(4) All funds collected by the Division of Corporations of the department shall be deposited in the General Revenue Corporations Trust Fund.

~~(5)(a) There is created within the Department of State a Public Access Data Systems Trust Fund, which shall be used by the department to purchase information systems and equipment that provide greater public accessibility to the information and records maintained by it. Notwithstanding any other provision of law, the Divisions of Licensing, Elections, and Corporations of the department shall transfer each fiscal year to the Public Access Data Systems Trust Fund from their respective trust funds:~~

~~1. An amount equal to 2 percent of all revenues received for the processing of documents, filings, or information requests.~~

~~2. All public access network revenues collected pursuant to s. 15.16 or s. 119.085.~~

~~(b) Funds from the Public Access Data Systems Trust Fund may be appropriated for the operations of the department.~~

Section 3. Subsection (1) of section 215.22, Florida Statutes, as amended by section 63 of chapter 2002-402, Laws of Florida, is amended to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the deduction required by s. 215.20(1):

- (a) Student financial aid or prepaid tuition receipts.
- (b) Trust funds administered by the Department of the Lottery.
- (c) Departmental administrative assessments for administrative divisions.
- (d) Funds charged by a state agency for services provided to another state agency, by a state agency for services provided to the judicial branch, or by the judicial branch for services provided to a state agency.
- (e) State, agency, or political subdivision investments by the Chief Financial Officer Treasurer.
- (f) Retirement or employee benefit funds.
- (g) Self-insurance programs administered by the Chief Financial Officer Treasurer.
- (h) Funds held for the payment of citrus canker eradication and compensation.
- (i) Medicaid, Medicare, or third-party receipts for client custodial care.
- (j) Bond proceeds or revenues dedicated for bond repayment, except for the Documentary Stamp Clearing Trust Fund administered by the Department of Revenue.
- (k) Trust funds administered by the Department of Education.
- (l) Trust funds administered by the Department of Transportation.
- (m) Trust funds administered by the Department of Agriculture and Consumer Services.
- (n) The Motor Vehicle License Clearing Trust Fund.
- (o) The Solid Waste Management Trust Fund.
- ~~(p) The Coconut Grove Playhouse Trust Fund.~~

~~(p)(q)~~ The Communications Working Capital Trust Fund of the Department of Management Services.

~~(q)(r)~~ The Camp Blanding Management Trust Fund.

~~(r)(s)~~ The Indigent Criminal Defense Trust Fund.

~~(s)(t)~~ That portion of the Highway Safety Operating Trust Fund funded by the motorcycle safety education fee collected pursuant to s. 320.08(1)(c).

~~(t)(u)~~ The Save the Manatee Trust Fund.

~~(u)(v)~~ Tobacco Settlement Trust Funds administered by any agency.

~~(v)(w)~~ The Save Our Everglades Trust Fund.

~~(w)(x)~~ The Florida Center for Nursing Trust Fund.

Section 4. Subsection (4) of section 265.284, Florida Statutes, is amended to read:

265.284 Chief cultural officer; director of division; powers and duties.—

(4) There is created the Florida Fine Arts Trust Fund to be administered by the Department of State for the purposes set forth by law. The Florida Fine Arts Trust Fund shall consist of moneys appropriated by the Legislature and moneys contributed to the fund from any other source receive distributions as provided in s. 320.08058.

Section 5. Section 265.2861, Florida Statutes, is amended to read:

265.2861 Cultural Institutions Program; trust fund.—

(1) CULTURAL INSTITUTIONS TRUST FUND.—There is created a Cultural Institutions Trust Fund to be administered by the Department of State for the purposes set forth in this section and to support the following programs as follows:

(a) ~~For~~ Statewide arts grants, ~~\$2.7 million.~~

(b) ~~For~~ Arts in education and visiting arts programs, ~~\$250,000.~~

(c) ~~For~~ The State Touring Program, ~~\$200,000.~~ First priority for the issuance of State Touring Program grants shall be given to applicants that reside in counties with a population of 75,000 or less.

(d) ~~For~~ Local arts agencies or state service organizations, ~~\$400,000.~~

~~(e)1. For the officially designated Art Museum of the State of Florida described in s. 1004.45, \$2.2 million, and for state-owned cultural facilities assigned to the Department of State, which receive a portion of any operating funds from the Department of State and one of the primary purposes of which is the presentation of fine arts or performing arts, \$500,000.~~

~~2. For fiscal year 2001-2002 only, the provisions of subparagraph 1. relating to state-owned cultural facilities shall not be applicable. This subparagraph expires July 1, 2002.~~

The trust fund shall consist of moneys appropriated by the Legislature, moneys deposited pursuant to ~~s. 607.1901(2)~~, and moneys contributed to the fund from any other source.

(2) CULTURAL INSTITUTIONS PROGRAM.—

(a) There is created within the Department of State a Cultural Institutions Program.

(b) The Department of State shall establish, by rule, criteria for the award of grants to cultural organizations, including criteria relating to program quality, potential public exposure and benefit, fiscal stability, ability to properly administer grant funds, procedures for peer evaluation, and other matters deemed necessary and appropriate to further the purposes of this section. The Division of Cultural Affairs shall award grants to supplement the financial support of cultural organizations that have displayed a sustained commitment to cultural excellence and to recognize organizations for superior cultural contributions that have regional or statewide impact.

(c) Cultural organizations shall receive funding by the Division of Cultural Affairs from the Cultural Institutions Trust Fund.

~~(d) Except for programs that receive funds for challenge grants, grants promoting arts education, grants for touring programs, and grants for international cultural exchange programs, an organization that receives a grant under the Cultural Institutions Program is precluded from receiving funds from other art grants programs administered under s. 265.286, s. 265.608, or s. 265.609, by the Division of Cultural Affairs.~~

~~(d)~~^(e)1. Upon appropriation by the Legislature of funds for the Cultural Institutions Program, the Department of State shall execute a contract with each organization, which must contain information relative to the program, the projected operating income and expenses, and other provisions deemed necessary by the department for the administration of the program.

2. Each recipient organization must submit an annual report to the Division of Cultural Affairs detailing the expenditure of funds and is subject to the auditing provisions and rules of the division.

~~(e)~~^(f) Each organization shall cause an annual postaudit or independent attestation of its financial accounts, to be conducted by an independent certified public accountant. The annual audit report must be submitted to the Department of State for review. The department may require and receive from the recipient institution, or from its independent auditor, any detail or supplemental data relative to the operation of such institution.

~~(f)~~^(g) The Department of State shall adopt rules necessary to administer this section.

Section 6. Section 265.2901, Florida Statutes, is repealed.

Section 7. Notwithstanding the provisions of chapters 253 and 270, Florida Statutes, the Board of Trustees of the Internal Improvement Trust Fund shall convey, by quitclaim deed, all property described in B. O. T. Lease No. 3185, as amended, directly to the Coconut Grove Playhouse, Inc., in accordance with the March 21, 2003, Memorandum of Understanding between the Department of State and the Coconut Grove Playhouse, Inc.

Section 8. Subsection (1) of section 267.0617, Florida Statutes, is amended to read:

267.0617 Historic Preservation Grant Program.—

(1) There is hereby created within the division the Historic Preservation Grant Program, which shall make grants of moneys appropriated by the Legislature, moneys deposited pursuant to s. ss. 550.0351(2) and 607.1901(2)(g), and moneys contributed for that purpose from any other source. The program funds shall be used by the division for the purpose of financing grants in furtherance of the purposes of this section.

Section 9. Section 267.17, Florida Statutes, is amended to read:

267.17 Citizen support organizations; use of state administrative services and property; audit.—

(1) CITIZEN SUPPORT ORGANIZATIONS.—The division may support the establishment of citizen support organizations to provide assistance, funding, and promotional support for the archaeology, museum, folklife, and historic preservation programs of the division. For the purposes of this section, a “citizen support organization” shall mean an organization which is:

(a) A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State;

(b) Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division;

(c) Determined by the division to be consistent with the goals of the division and in the best interests of the state; and

(d) Approved in writing by the division to operate for the direct or indirect benefit of the division; such approval shall be given in a letter of agreement from the division.

(2) USE OF ADMINISTRATIVE SERVICES AND PROPERTY.—

(a) The division may fix and collect charges for the rental of facilities and properties managed by the division and may permit, without charge, appro-

priate use of administrative services, property, and facilities of the division by a citizen support organization, subject to the provisions of this section. Such use must be directly in keeping with the approved purposes of the citizen support organization and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the division may be held in the operating trust fund of the division or in a separate depository account in the name of the citizen support organization and subject to the provisions of the letter of agreement with the division.

(b) The division may prescribe by rule any condition with which a citizen support organization shall comply in order to use division administrative services, property, or facilities.

(c) The division shall not permit the use of any administrative services, property, or facilities of the state by a citizen support organization which does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) ANNUAL AUDIT.—Each citizen support organization shall provide for an annual financial audit in accordance with s. 215.981. The identity of donors who desire to remain anonymous shall be confidential and exempt from the provisions of s. 119.07(1), and that anonymity shall be maintained in the auditor's report.

Section 10. Subsection (12) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(12) FLORIDA ARTS LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida arts license plate as provided in this section. In small letters, the word "Florida" must appear at the top of the plate, and the word "Art" or "Arts" or a combination of words including the word "Art" or "Arts" may appear at the bottom of the plate.

(b) The license plate annual use fees are to be ~~annually~~ distributed as follows:

1.—~~All fees collected must be forwarded quarterly to the single arts council officially designated by the county in direct proportion to the amounts of fees collected in each county. If there is no county arts council, fees collected must be forwarded to such other agency in the county as the highest ranking county administrative official designates, to be applied by the arts council or agency to support arts organizations, arts programs, and arts activities within the county Division of Cultural Affairs of the Department of State, together with a report setting forth the amount of such fees collected in each county, and must be deposited into the Florida Fine Arts Trust Fund.~~

2.—~~The Division of Cultural Affairs shall distribute the fees forwarded to it by the department to the counties in the amounts set forth in the report~~

required under subparagraph 1., in each case to the county arts council for such county or, if there is none, to such other agency in the county as the division designates, to be applied by the council or agency to support art organizations, programs, and activities within the county.

(e) ~~The Division of Cultural Affairs shall have the authority to administer this subsection under rules established by the Division of Cultural Affairs. The agency may adopt only rules that implement, interpret, or make specific the particular powers and duties granted by this subsection.~~

Section 11. A project that is ranked but not funded for the fiscal year 2003-2004 grant cycle under the Department of State's Historical Facilities Special Category Fixed Capital Outlay Grants Program, Cultural Facilities Fixed Capital Outlay Grants Program, Regional Cultural Facilities Grants Program, or Library Construction Fixed Capital Outlay Grants Program shall, if it continues to meet applicable criteria for the grant program for which it is ranked, maintain its relative ranking for the fiscal year 2004-2005 grant cycle and shall receive priority ranking over new projects applying for the fiscal year 2004-2005 grant cycle.

Section 12. Sections 607.1901, 607.19011, 617.1901, and 620.183, Florida Statutes, are repealed.

Section 13. Subsection (3) of section 607.193, Florida Statutes, is amended to read:

607.193 Supplemental corporate fee.—

(3) The Department of State shall adopt rules and prescribe forms necessary to carry out the purposes of this section. ~~Notwithstanding s. 607.1901, proceeds from the supplemental corporate fee, including any late charges, shall be deposited into the General Revenue Fund.~~

Section 14. Subsection (13) of section 865.09, Florida Statutes, is amended to read:

865.09 Fictitious name registration.—

(13) DEPOSIT OF FUNDS.—All funds required to be paid to the Department of State pursuant to this section shall be collected and deposited into the General Revenue Corporations Trust Fund.

Section 15. If any law amended by this act was also amended by a law enacted at the 2003 Regular Session of the Legislature, such laws shall be construed as if they had been enacted during the same session of the Legislature, and full effect shall be given to each if possible.

Section 16. This act shall take effect July 1, 2003.

Approved by the Governor June 25, 2003.

Filed in Office Secretary of State June 25, 2003.