

**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 Transportation and Economic Development Appropriations Committee

**BILL:** CS/SB 1636

**INTRODUCER:** Transportation and Economic Development Appropriations Committee and Senator Fasano

**SUBJECT:** Clearing Funds Trust Fund within the Department of State

**DATE:** March 3, 2010      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Belcher	Noble	TA	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The bill creates the Clearing Funds Trust Fund within the Department of State. The Clearing Funds Trust Fund is established as a depository for funds to account for collections pending distribution to lawful recipients. Funds shall be distributed pursuant to the applicable provisions of Florida Statutes.

The bill has an effective date of July 1, 2010. The trust fund is scheduled to terminate on July 1, 2014.

This bill amends the following sections of the Florida Statutes: 99.092, 99.093, 105.031, 106.24, and 610.104.

**II. Present Situation:**

Article III, Section 19(f) of the Florida Constitution requires the termination of all state trust funds within 4 years of their initial creation, unless exempt by the Constitution. During a review of trust funds, it was found that the Department of State uses the Operating Trust Fund as a

depository for funds that must be distributed to authorized recipients. These funds include candidate filing fees, notary surcharges, campaign finance contributions, elections assessments, and cable franchise fees. According to s. 215.32, F.S., a Clearing Funds Trust Fund serves as a depository for funds to account for collections pending distribution to lawful recipients.

### **III. Effect of Proposed Changes:**

Section 1 creates the Clearing Funds Trust Fund within the Department of State. The fund is established as a depository for funds to account for collections pending distribution to lawful recipients. Section 1 requires that funds be distributed pursuant to the applicable provisions of Florida Statutes. It terminates the trust fund on July 1, 2014, if not terminated sooner.

Section 2 amends s. 99.092, F.S., to require election assessments to be deposited into the Clearing Funds Trust Fund for transfer to the Department of Legal Affairs.

Section 3 amends s. 99.093, F.S., to clarify that municipal candidate election assessments shall be collected by the Department of State and transferred to the Department of Legal Affairs.

Section 4 amends s. 105.031, F.S., to clarify that candidate filing fees are collected by the Department of State and transferred to the Department of Legal Affairs.

Section 5 amends s. 106.24, F.S., to clarify that the Elections Commission Trust Fund is not utilized by the Division of Elections. This is a trust fund within the Department of Legal Affairs to be used by the Florida Elections Commission.

Section 6 amends s. 601.104, F.S., to redirect the deposit of cable and video application filing fees to the Clearing Funds Trust Fund, rather than the Operating Trust Fund.

Section 7 provides an effective date of July 1, 2010.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

Article III, section 19(f)(1), of the Florida Constitution, provides no trust fund of the state or other public body may be created without three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Transportation and Economic Development Appropriations Committee on March 3, 2010:**

The CS differs from the bill as filed in the following way:

- Provides that the act shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.

## B. Amendments:

None.