

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 Budget Committee

BILL: SB 1962 (SPB 7066)

INTRODUCER: Budget Committee

SUBJECT: Stabilizing Revenues for the State Courts System and Clerks of Court

DATE: February 10, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkness	Rhodes	BC	SPB 7066 Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill makes conforming changes to the Florida Statutes necessary to implement the Senate’s proposed budget for Fiscal Year 2012-13. The bill requires that the Chief Financial Officer transfer court-related revenues from the Core Court System Cleaning Trust Fund, created in SB 1970, into the existing court and clerk trust funds to support the court and clerk appropriations. The bill also directs selected appellate court fees and services charges and mediator certification licensure fees to the State Court Revenue Trust Fund. The bill repeals provisions directing the Justice Administrative Commission to transfer revenues from the Clerk of the Court Trust Fund to the General Revenue Fund.

II. Present Situation:

Under the present funding structure, the clerks collect revenues from fines, fees, and other revenue streams and place them into 1,626 different collection accounts. These collection accounts are sent by the clerks to the Department of Revenue (DOR) where they are rolled into 151 remittance accounts that are distributed by the DOR to various funds, including the Clerks of the Court Trust Fund, the State Court Revenue Trust Fund, General Revenue Fund, and other revenue funds. In Fiscal Year 2010-11, one billion dollars collected in court-related revenue was remitted to five general categories: over \$432 million was directed to the Clerks, almost \$228 million to the Courts, \$196 million to General Revenue, close to \$116 million to other agencies’

trust funds, and \$38 million to non-court related purposes. There are over 30 distinct state trust funds in approximately 18 state agencies that receive court-related revenues.¹

Both the clerks and the courts rely heavily on these trust fund revenues for their operations. For Fiscal Year 2011-12, the clerks' entire budget of \$445 million is dependent upon trust fund revenues. Similarly, trust funds account for \$412 million (90%) of the State Court System's Fiscal Year 2011-12 budget of \$459 million.

However, court-related revenues to support the clerks and courts trust funds have been insufficient to support their appropriations during Fiscal Year 2011-12. The December 5, 2011 Article V Revenue Estimating Conference reported a projected \$57.7 million dollar trust fund deficit for the clerks and a \$121.7 million trust fund deficit for the courts for Fiscal Year 2011-12. Trust fund deficits are expected to continue for at least the next three fiscal years. These deficits can be attributed to the significant decline in foreclosure filings and other court fine and fee revenues.

The Clerks of Court have experienced additional revenue challenges. For example, the clerks must make a required payment to the state of an 8 percent general revenue service charge for the Clerk of the Court Trust Fund, contributing to the deficit problem. In addition, the Legislature sweeps the clerk's trust fund at the end of the fiscal year, which leaves no start-up funds for the next fiscal year. The cash flow into the clerk's fund also fluctuates monthly, leaving an operating deficit for the clerks in some months.

III. Effect of Proposed Changes:

The bill creates an alternative budget structure designed to provide an adequate level of revenue to support the appropriated clerks' and the courts' budgets.

Section 1 creates s. 29.31, F. S., which requires court-related revenues be deposited into the Core Court System Clearing Trust Fund, administered by the Chief Financial Officer (CFO).² The section defines the "core court system" and directs into this trust fund all court-related revenues listed in the manual of court-related filing fees, service charges, costs, and fines prepared pursuant to s. 28.42, F.S.

This section of the bill also directs the CFO to deposit into the State Court Revenue Trust Fund, the Clerks of the Court Trust Fund, and the Court Education Trust Fund cash for continuing operations equal to 1/12 of the legislative appropriation for these trust funds from general revenue by July 1, 2012. This ensures that cash will be available at the beginning of each fiscal year to fund these entities. In addition, the CFO will deposit cash from the clearing trust fund equal to 1/12 of each agency's appropriation monthly into the clerk and courts trust funds plus the corresponding allowance for the 8 percent general revenue service charge. The CFO shall transfer cash from the clearing trust fund into the clerks and courts trust funds prior to depositing

¹ Stabilizing Revenues for the State Court System and Clerks of Court: Recommendations of the Revenue Stabilization Workgroup. November 1, 2011.

² SB 1970 creates s. 29.32, F.S., which establishes the Core Court System Clearing Trust Fund, a trust fund for disbursing court-related revenues to the Clerks of Court and the State Court System.

cash into the other trust funds and the General Revenue Fund, as directed in law. In other words, the clerks and courts will be given priority in terms of the distribution of court-related revenues.

In the event the revenues in the Core Court System Clearing Trust Fund are insufficient to support other agency trust funds and the General Revenue Fund, the portion of fees, service charges, court costs, and fines required by law to be paid to the state trust funds and general revenue shall be allocated on a pro rata basis among the authorized funds and the General Revenue Fund based on the portion of fees, service charges, court costs, and fines designated for those funds by statute.

Section 2 amends s. 25.241, F.S., to provide technical fixes to existing language. Most appeals to the Florida Supreme Court are those seeking to invoke the Court's discretionary jurisdiction and, at present, this section of law does not capture that jurisdictional nuance. In addition, this section of the bill requires fees collected by the Clerk of the Supreme Court be deposited into the State Court Revenue Trust Fund rather than the General Revenue Fund.

Section 3 repeals s. 28.2455, F.S., which transfers excess funds from the Clerk of the Court Trust Fund to the General Revenue Fund. If this bill becomes law, s. 28.2455, F.S., is unnecessary; the clerk's trust fund will only contain revenues equal to what is appropriated by the Legislature.

Section 4 amends s. 35.22, F.S., directing fees collected by the clerk of each district court of appeal to be deposited into the State Court Revenue Trust Fund rather than the General Revenue Fund.

Section 5 amends s. 44.106, F.S., directing applicant and renewal fees for mediators and arbitrators be remitted to the Department of Revenue for deposit into the State Court Revenue Trust Fund.

Section 6 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill directs that court-related revenues be deposited into the State Courts Revenue Trust Fund, the Clerks of Court Trust Fund, and the Court Education Trust Fund before other state agency trust funds and the General Revenue Fund. The bill does not directly affect state revenues but it would shift deficits to other state agency trust fund and general revenue if revenues are insufficient to support all of the trust funds authorized by law.

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.)

None.

B. Amendments:

None.