

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: SPB 7074

INTRODUCER: For consideration by the Budget Committee

SUBJECT: Core Court System Clearing Trust Fund

DATE: February 8, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkness	Rhodes	BC	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

A trust fund consists of moneys received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law.¹

This bill creates the Core Court System Clearing Trust Fund within the Department of Financial Services to hold the deposits of court-related revenues, such as court fines, fees, service charges, which are authorized in the linked bill, SPB 7066.

In accordance with the state constitution, the Core Court System Clearing Trust Fund is a clearing trust fund of the Chief Financial Officer and is not subject to termination.

Passage of SPB 7074 requires a three-fifths vote of each chamber, pursuant to s. 19(f)(1), Art. III of the Florida Constitution.

This bill creates section 29.332, Florida Statutes.

II. Present Situation:

Constitutional and statutory requirements for trust funds

A trust fund consists of moneys received by the state, which under law or under trust agreement, are segregated for a purpose authorized by law. Section 19(f), Art. III, of the Florida Constitution governs the creation of trust funds. This constitutional provision prohibits the creation by law of a trust fund of the state or other public body without a three-fifths vote of the membership of

¹ Section 215.32(2)(b)1., F.S.

each house of the Legislature. This provision further specifies that a trust fund must be created in a separate bill for that purpose only.

In addition, the Legislature has established criteria governing the establishment of trust funds. Under these criteria, a law creating a trust fund must, at a minimum, specify:

- 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; and
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.²

SPB 7066, the linked companion to SPB 7074, directs into Core Court System Clearing Trust Fund all court-related revenues collected by the clerks of court, including filing fees, service charges, costs, and fines. The CFO shall transfer cash from the Core Court System Clearing Trust Fund into the State Court Revenue Trust Fund, the Clerks of the Court Trust Fund, and the Court Education Trust Fund to support the core court system, as defined in s. 29.31 of the bill.

The bill also provides that the CFO must deposit revenues into the State Court Revenue Trust Fund, the Clerks of the Court Trust Fund, and the Court Education Trust Fund prior to depositing cash into the General Revenue Fund and the 30 distinct trust funds in approximately 18 state agencies that receive these revenues as directed in law (e.g., the Child Welfare Trust Fund). This funding structure will give the clerks and the courts priority in the distribution of court-related revenues to ensure that revenue streams are sufficient to support their appropriations.

III. Effect of Proposed Changes:

Section 1 creates s. 29.32, F.S., and establishes the Core Court System Clearing Trust Fund. Deposited in the trust fund will be the 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. The fund will be administered by the Chief Financial Officer.

Moneys credited to the Core Court System Clearing Trust Fund shall be used for the purpose of funding the activities of the core court system, as defined in s. 29.31. Any transfers of distributions from the trust fund shall be in accordance with the priority provisions of s. 29.31(4).

In accordance with s. 19(f)(3), Art. III of the State Constitution, the Core Court System Clearing Trust Fund is a clearing trust fund of the Chief Financial Officer and is not subject to termination.

Section 2 provides that the act shall take effect on the same date that SPB 7066 or similar legislation takes effect, if such legislation is enacted in the same legislative session, or an extension thereof, and becomes law, and only if this act is enacted by a three-fifths vote of the membership of each house of the Legislature.

² Section 215.3207, F.S.

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:

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.)

None.

B. Amendments:

None.