

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 Committee on Community Affairs

BILL: SPB 7040

INTRODUCER: For consideration by the Community Affairs Committee

SUBJECT: Florida Retirement System Cash Balance Plan Trust Fund

DATE: February 18, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. White	Yeatman		Pre-Meeting

I. Summary:

SPB 7040 creates the Florida Retirement System Cash Balance Plan Trust Fund (trust fund). As a retirement trust fund of the Florida Retirement System (FRS), the trust fund will hold assets for members of the FRS Cash Balance Plan, and be administered by the State Board of Administration (SBA). The bill establishes a forfeiture account within the trust fund, and directs the SBA to ascertain from the Internal Revenue Service whether forfeited benefits from the plan may be used to pay for expenses of the plan in order to reduce future employer contributions.

As required by the constitution, the trust fund must be enacted by a three-fifths vote of the membership of each house of the Legislature.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless recreated.

III. Effect of Proposed Changes:

Section 1 creates the FRS Cash Balance Plan Trust Fund in s. 121.603, F.S. In its trustee capacity the trust fund will hold the assets of, and serve as a fiduciary for, members of the FRS Cash Balance Plan. The bill provides direction to the SBA concerning credits for reasonable administrative expenses, creation of a forfeiture account to hold assets derived from benefits forfeited by participants, and service charges related to the funds.

Section 2 directs the SBA to ascertain from the Internal Revenue Service whether future employer contributions to the plan can be reduced by paying the expenses of the cash balance plan with funds derived from benefits forfeited by participants.

Section 3 amends s. 121.4503, F.S., to allow the FRS Contributions Clearing Trust Fund to disburse the employer and employee contributions it holds into the FRS Cash Balance Trust fund.

Section 4 provides an effective date of July 1, 2014, and makes enactment contingent upon the passage of an undesignated Senate Bill or similar legislation becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Art. 1, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

Article III, s. 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.

The constitutional restriction that trust funds terminate within four years of creation¹ does not apply to Florida retirement trust funds, as exempted by Art. III, s. 19(f)(3) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The trust fund is exempt from the service charges imposed by s. 215.20, F.S., which contribute to the General Revenue Fund.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SBA will be required to request a determination letter from the Internal Revenue Service.

VI. Technical Deficiencies:

Line 83 should contain the number 7046.

¹ FLA. CONST. art III, s.19(f)(2).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 121.4503 of the Florida Statutes.

This bill creates section 121.603 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.