

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB TED 10-03 Trust Funds/Clearing Funds Trust Fund/DOS  
**SPONSOR(S):** Transportation & Economic Development Appropriations Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
Orig. Comm.:	Transportation & Economic Development Appropriations Committee	14 Y, 0 N	Lolley	Creamer
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

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**SUMMARY ANALYSIS**

Proposed Committee Bill TED 10-03 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.

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

The trust fund is scheduled to terminate on July 1, 2014.

The bill has an effective date of July 1, 2010, provided that the act is enacted by a three-fifths vote of the membership of each house of the Legislature.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current 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.

##### **Effect of Proposed Changes**

Proposed Committee Bill TED 10-03 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. Funds shall be expended pursuant to the applicable provisions of Florida Statutes. It terminates the trust fund on July 1, 2014, if not terminated sooner.

PCB TED 10-03 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.

The bill amends s. 99.093, F.S., to clarify that municipal candidate election assessments shall be collected by the Department of State for transfer to the Department of Legal Affairs.

The bill also 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.

The bill 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.

PCB TED 10-03 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.

**B. SECTION DIRECTORY:**

- Section 1      Creates the Clearing Funds Trust Fund within the Department of State; provides for sources of funds and purposes; provides for future review and termination or re-creation of the trust fund.
  
- Section 2      Amends s. 99.092, F.S.; clarifies provisions requiring that election assessments be deposited in the Clearing Funds Trust Fund to be transferred to the Elections Commission Trust Fund within the Department of Legal Affairs.
  
- Section 3      Amends s. 99.093, F.S.; clarifies provisions requiring that election assessments be transferred to the Elections Commission Trust Fund within the Department of Legal Affairs.
  
- Section 4      Amends s. 105.031, F.S.; requires that the filing fees for certain offices be transferred to the Department of Legal Affairs rather than the Department of Revenue for deposit into the Elections Commission Trust Fund.
  
- Section 5      Amends s. 106.24, F.S.; clarifies that the Elections Commission Trust Fund 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.; requires that certain funds paid to the Department of State by cable and video providers be deposited into the Clearing Funds Trust Fund rather than the Operating Trust Fund.
  
- Section 7      Provides an effective date with required vote by the membership.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

- 1. Revenues:  
None.
  
- 2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

- 1. Revenues:  
None.
  
- 2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

None.

##### 2. Other:

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.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES