

CHAPTER 2010-16

Committee Substitute for Senate Bill No. 1636

An act relating to trust funds; creating the Clearing Funds Trust Fund within the Department of State; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; amending ss. 99.092 and 99.093, F.S.; clarifying provisions requiring that election assessments be transferred to the Elections Commission Trust Fund within the Department of Legal Affairs; amending s. 105.031, F.S.; requiring 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; amending s. 106.24, F.S.; deleting an obsolete reference to the Division of Elections with respect to the use of funds in the Elections Commission Trust Fund; amending s. 610.104, F.S.; requiring that certain funds paid to the Department of State by cable or video providers be deposited into the Clearing Funds Trust Fund rather than the Operating Trust Fund; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Clearing Funds Trust Fund.—

(1) The Clearing Funds Trust Fund is created within the Department of State.

(2) The trust fund is established for use as a depository for funds to account for collections pending distribution to lawful recipients. Funds shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216, Florida Statutes.

(3) In accordance with s. 19(f)(2), Article III of the State Constitution, the Clearing Funds Trust Fund shall, unless terminated sooner, be terminated on July 1, 2014. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), Florida Statutes.

Section 2. Subsection (1) of section 99.092, Florida Statutes, is amended to read:

99.092 Qualifying fee of candidate; notification of Department of State.

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the petition process pursuant to s. 99.095 and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with

the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be deposited into the Clearing Funds Trust Fund and transferred to the Elections Commission Trust Fund within the Department of Legal Affairs. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his or her candidacy before the last date to qualify, the candidate's qualifying fee shall be returned to his or her designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

Section 3. Subsection (1) of section 99.093, Florida Statutes, is amended to read:

99.093 Municipal candidates; election assessment.—

(1) Each person seeking to qualify for nomination or election to a municipal office shall pay, at the time of qualifying for office, an election assessment. The election assessment shall be an amount equal to 1 percent of the annual salary of the office sought. Within 30 days after the close of qualifying, the qualifying officer shall forward all assessments collected pursuant to this section to the Department of State for transfer to deposit in the Elections Commission Trust Fund within the Department of Legal Affairs.

Section 4. Subsection (3) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(3) **QUALIFYING FEE.**—Each candidate qualifying for election to a judicial office or the office of school board member, except write-in judicial or school board candidates, shall, during the time for qualifying, pay to the officer with whom he or she qualifies a qualifying fee, which shall consist of a filing fee and an election assessment, or qualify by the petition process. The amount of the filing fee is 3 percent of the annual salary of the office sought. The amount of the election assessment is 1 percent of the annual salary of the office sought. The Department of State shall transfer forward all filing fees to the Department of Legal Affairs Revenue for deposit in the Elections Commission Trust Fund. The supervisor of elections shall forward all filing

fees to the Elections Commission Trust Fund. The election assessment shall be deposited into the Elections Commission Trust Fund. The annual salary of the office for purposes of computing the qualifying fee shall be computed by multiplying 12 times the monthly salary authorized for such office as of July 1 immediately preceding the first day of qualifying. This subsection does shall not apply to candidates qualifying for retention to judicial office.

Section 5. Subsection (6) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(6) There is hereby established in the State Treasury an Elections Commission Trust Fund to be used utilized by ~~the Division of Elections and~~ the Florida Elections Commission in order to carry out its ~~their~~ duties pursuant to ss. 106.24-106.28. The trust fund may also be used by the Secretary of State, pursuant to his or her authority under s. 97.012(14), to provide rewards for information leading to criminal convictions related to voter registration fraud, voter fraud, and vote scams.

Section 6. Subsection (12) of section 610.104, Florida Statutes, is amended to read:

610.104 State authorization to provide cable or video service.—

(12) Beginning 5 years after approval of the certificateholder's initial certificate of franchise issued by the department, and every 5 years thereafter, the certificateholder shall update the information contained in the original application for a certificate of franchise. At the time of filing the information update, the certificateholder shall pay a processing fee of \$1,000. Any certificateholder that fails to file the updated information and pay the processing fee on the 5-year anniversary dates shall be subject to cancellation of its state-issued certificate of franchise authority if, upon notice given to the certificateholder at its last address on file with the department, the certificateholder fails to file the updated information and pay the processing fee within 30 days after the date notice was mailed. The application and processing fees imposed in this section shall be paid to the Department of State for deposit into the Clearing Funds Operating Trust Fund for immediate transfer by the Chief Financial Officer to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services. The Department of Agriculture and Consumer Services shall maintain a separate account within the General Inspection Trust Fund to distinguish cable franchise revenues from all other funds. The application, any amendments to the certificate, or information updates must be accompanied by a fee to the Department of State equal to that for filing articles of incorporation pursuant to s. 607.0122(1).

Section 7. This act shall take effect July 1, 2010, but this act shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.

Approved by the Governor April 15, 2010.

Filed in Office Secretary of State April 15, 2010.