

**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.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 748

INTRODUCER: Senator Steube

SUBJECT: Florida Court Educational Council

DATE: March 27, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	<b>Pre-meeting</b>
2.			ACJ	
3.			AP	

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**I. Summary:**

SB 748 establishes the composition and duties of the Florida Court Educational Council in statute. The Council was originally established in 1978 by an administrative order of the Florida Supreme Court and has operated at the discretion of the Court.

The Council, as established by the bill, will be composed of the chief judges of each of the five district courts of appeal and the chief judges of the state's 20 judicial circuits. The Council will adopt a comprehensive plan for operating the Court Education Trust Fund and the expenditure of moneys deposited into the trust fund for education and training programs for judges and other court personnel.

The bill requires the Council to adopt guidelines for administrative expenses but limits the administrative expenses to 15 percent of the funds deposited into the previous year's trust fund. The Council may not employ more than three full-time employees and must be headquartered in the ninth judicial circuit, which is composed of Osceola and Orange counties, as opposed to Tallahassee where it currently exists.

The Council must submit an annual report to the Legislature detailing the number of judges and court personnel who attend training or education programs and provide specifics about the programs. The report must also detail the amount of moneys deposited into the trust fund and the balance at the end of the fiscal year.

If any provisions of the bill are declared invalid, the bill provides that the current fees that support the trust fund may not be assessed and that the remaining unencumbered funds will revert to the General Revenue Fund and the trust fund will be terminated.

## II. Present Situation:

### **The Florida Court Educational Council**

The Florida Supreme Court established the Florida Court Educational Council by administrative order in 1978. It has operated under the direction of the Supreme Court since its inception. The Council was given the responsibility to develop and maintain a comprehensive educational program for judges and court personnel. It was also tasked with making budget, program, and policy recommendations to the Supreme Court for continuing education for judges and some court professionals.<sup>1</sup>

### *Education and Training*

Today, the Council and the Office of State Courts Administrator provide training to judges and court staff through a variety of courses on legal issues, ethics, and administrative skills.<sup>2</sup> The Court's judicial education program has grown substantially over the years to meet the needs of the states almost 1,000 judges.<sup>3</sup> In 2016, more than 3,245 judges and court staff received training funded through Court Education Trust Fund,<sup>4</sup> which is discussed below. An additional 142 people attended distance learning sessions, and many publications are provided online.

### *Council Membership*

The Council is composed of 20 members who are appointed by the Chief Justice of the Supreme Court in an administrative order. The current members are justices or judges from each of the four court levels, the Supreme Court, district courts of appeal, circuit court, and county court, as well as one trial court administrator, and a magistrate.<sup>5</sup> The current number of members and area of responsibility are:

- Florida Supreme Court – Chief Justice (1).
- District Court of Appeal (2).
- Circuit Courts (4).
- County Courts (4).
- Deans and Associate Deans (4).
- Trial Court Administrators (1).
- Florida Court Personnel (2).
- Universal Planning Committee (2).

The Court Education Section, within the Office of State Courts Administrator, provides staffing needs for the Council. The Court Education Section assists in managing the trust fund discussed below and oversees budgeting, record keeping, and travel reimbursements. They also assist with

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<sup>1</sup> *In Re: Florida Court Educational Council*, Fla. Admin. Order No. AOSC14-35. (July 1, 2014).

<sup>2</sup> Office of Program Policy Analysis & Government Accountability, Report No. 15-13, (December 2015) available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1513rpt.pdf>.

<sup>3</sup> Office of the State Court Administrator, Florida, *Short History of Florida State Courts System Processes, Programs, and Initiatives* (2016) available at [http://www.flcourts.org/core/fileparse.php/646/urlt/Short-History\\_2016.pdf](http://www.flcourts.org/core/fileparse.php/646/urlt/Short-History_2016.pdf).

<sup>4</sup> Office of the State Courts Administrator, *2017 Judicial Impact Statement for SB 748* (March 23, 2017) (on file with the Senate Committee on Judiciary).

<sup>5</sup> *In Re: Florida Court Education Council*, Fla. Admin. Order No AOSC16-42 (June 30, 2016) (on file with the Senate Committee on Judiciary).

planning and developing training and help judges meet the continuing education requirements.<sup>6</sup> According to the Office of the State Courts Administrator, there are currently 15 full-time employees who create and administer court education in the state.<sup>7</sup>

### **Court Education Trust Fund**

The Supreme Court, through the Florida Court Education Council, administers the Court Education Trust Fund, which was established by the Legislature in 1982.<sup>8</sup> The trust fund moneys are used to provide education and training for judges and other court personnel, as determined by the Council.<sup>9</sup> The Council is responsible for developing a comprehensive plan for the operation of the trust fund and for the expenditure of the moneys deposited into the trust fund. The plan provides for travel, per diem, tuition, educational materials, and other costs incurred for the educational programs, both in and out of state, for the benefit of the judiciary of the state.<sup>10</sup>

The trust fund is funded from two sources: a portion of the filing fees for trial and appellate proceedings<sup>11</sup> and service charges in probate matters.<sup>12</sup> These fees or service charges amount to \$3.50 per applicable filing.

On July 1, 2015, the Court Education Trust Fund had a cash balance of \$1,204,003. During Fiscal Year 2015-16, the trust fund accrued \$2,585,091 in total revenues and had \$2,019,300 in total disbursements. The ending cash balance on June 30, 2016, was \$1,769,794.

The Supreme Court, operating through the Council, is required to submit an annual report by October 1 to the President of the Senate and Speaker of the House of Representatives. The report must include the number of judges and court personnel who attend each training and educational program, the program attended and its location, and the costs incurred. The report must also identify which judges and personnel attended out-of-state programs and the costs incurred. Finally, the report must show the total dollars deposited into the fund for each fiscal year and the balance at the end of the fiscal year.

## **III. Effect of Proposed Changes:**

### **Court Education Trust Fund**

The bill removes the Supreme Court as the administrator of the Court Education Trust Fund and names the Florida Court Educational Council as the administrator. The Council is required to adopt a comprehensive plan for operating the Court Education Trust Fund and for the expenditure of the moneys in the trust fund. The responsibilities transferred to the Council are almost identical to those required under current law. The comprehensive plan must provide for travel, per diem, tuition, educational materials, and other related costs incurred for in-state and

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<sup>6</sup> See *supra* note 2.

<sup>7</sup> See *supra* note 4.

<sup>8</sup> Ch. 82-168, s. 1, Laws of Fla. and s. 25.384, F.S.

<sup>9</sup> Section 25.384(2)(a), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Sections 28.241(1)(a)l.c., and 34.041(1)(b), F.S.

<sup>12</sup> Section 28.2401(3), F.S.

out-of-state education and training programs for judges and court personnel to benefit the judiciary. The programs will be determined by the Council.

### **Florida Court Educational Council**

#### ***Appointment and Composition***

The bill significantly changes the method of appointment and composition of the Council. The Chief Justice of the Supreme Court will not make the appointments to the Council. Instead, the members will be appointed based upon the positions they occupy. The chief judge of each of the five appellate districts and the chief judge of each of the 20 judicial circuits will compose the new Council. The Council will elect its chair for a 1-year term and also elect other officers from the membership when it deems necessary.

#### ***Duties***

The administrative duties of the council include:

- Adopting guidelines on permissible administrative expenses, which may not exceed 15 percent of the funds deposited into the previous year's trust fund;
- Adopting policies and guidelines relative to the selection of education and training programs, the approval of courses and the selection of participants as well as developing and funding programs for new judges, hearing officers, and magistrates;
- Adopting reporting formats; and
- Supervising council employees,<sup>13</sup> although the Council may not hire more than three full-time employees.

#### ***New Location***

The Council and its employees will be headquartered in the ninth judicial circuit, which is composed of Orange and Osceola counties, rather than its current location in Tallahassee.

#### ***Annual Report***

The annual report required under the bill is virtually identical to the annual report required under current law. It must be submitted by October 1 to the President of the Senate and the Speaker of House and include the number of judges and court personnel who attend in-state training or educational programs, the program attended and its location, and the costs involved. The report must also include the judges and court personnel who attend out-of-state programs and the costs incurred with those programs. The annual report must identify the total dollars deposited into the trust fund for each fiscal year and the balance remaining in the trust fund at the end of the fiscal year.

#### ***Invalidity and Reversion***

The bill provides that if any of its substantive provisions relating to the Court Education Trust Fund or the Florida Court Educational Council are declared invalid, all of the substantive provisions are invalid. Additionally, upon the finding of invalidity, at least some of the fees

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<sup>13</sup> The bill text states on line 81 "Supervising council employs" but this most likely is a drafting error and the phrase should read "Supervising council employees."

funding the Court Education Trust Fund may not be assessed and the funds in the trust fund revert to the General Revenue Fund.<sup>14</sup>

The bill takes effect July 1, 2017.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

There are two constitutional provisions that are relevant to this bill. Article V, s. 2(a) of the State Constitution states that “The supreme court shall adopt rules for the practice and procedure in all courts including . . . the administrative supervision of all courts.”

Article V, s. 14(d) of State Constitution states that “The judiciary shall have no power to fix appropriations.” There is no case law indicating that the Court’s authority to provide administrative supervision of all courts includes the exclusive authority to direct funding for court education programs or determine who is eligible to participate in an education program.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

If a substantive provision of the bill is declared invalid, the additional filing fee or surcharge of \$3.50 that funds the Court Education Trust Fund is not to be collected. Additionally, at the time of the finding of invalidity, any remaining unencumbered funds in the trust fund are to revert to the General Revenue Fund.

B. Private Sector Impact:

The bill does not appear to have an impact on the private sector.

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<sup>14</sup> The portion bill which prohibits the assessment of certain fees funding the Court Education Trust Fund upon a finding that a substantive provision of the bill is invalid identifies only two of the three statutes that provide for the funding of the trust fund. As such, the Legislature may wish to amend the bill to prohibit the collection of the fee required under s. 34.041(1)(b), F.S.

**C. Government Sector Impact:**

The Florida Court Education Council is required to establish its operations in the ninth judicial circuit.

**VI. Technical Deficiencies:**

The Court Education Trust Fund receives funding from three sources: service charges in probate matters, s. 28.2401, F.S., filing fees for trial and appellate proceedings, s. 28.241, F.S., and county civil filing fees, s. 34.041(1)(b), F.S. However, if the substantive provisions of the bill are invalidated and the trust fund terminated, the bill prohibits the collection of fees assessed by only two of the three relevant statutes.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 25.384 and 25.385.

**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.