

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Bogdanoff offered the following:

2  
3 **Substitute Amendment for Amendment (194225) to Senate Bill**  
4 **(with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Subsections (1) and (2) of section 28.241,  
7 Florida Statutes, are amended to read:

8 28.241 Filing fees for trial and appellate proceedings.--

9 (1)(a) The party instituting any civil action, suit, or  
10 proceeding in the circuit court shall pay to the clerk of that  
11 court a filing fee of up to \$295 in all cases in which there are  
12 not more than five defendants and an additional filing fee of up  
13 to \$2.50 for each defendant in excess of five. Of the first \$85  
14 in filing fees, \$80 must be remitted by the clerk to the  
15 Department of Revenue for deposit into the General Revenue Fund,  
16 \$3.50 ~~and \$5~~ must be remitted to the Department of Revenue for  
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17 | deposit into the Clerks of the Court Trust Fund within the  
18 | Justice Administrative Commission and used ~~Department of~~  
19 | ~~Financial Services' Administrative Trust Fund~~ to fund the  
20 | ~~contract with~~ the Florida Clerks of Court Operations Corporation  
21 | created in s. 28.35, and \$1.50 shall be remitted to the  
22 | Department of Revenue for deposit into the Administrative Trust  
23 | Fund within the Department of Financial Services to fund clerk  
24 | budget reviews conducted by the Department of Financial  
25 | Services. The next \$15 of the filing fee collected shall be  
26 | deposited in the state courts' Mediation and Arbitration Trust  
27 | Fund. One-third of any filing fees collected by the clerk of the  
28 | circuit court in excess of \$100 shall be remitted to the  
29 | Department of Revenue for deposit into the ~~Department of Revenue~~  
30 | Clerks of the Court Trust Fund within the Justice Administrative  
31 | Commission. An additional filing fee of \$4 shall be paid to the  
32 | clerk. The clerk shall remit \$3.50 to the Department of Revenue  
33 | for deposit into the Court Education Trust Fund and shall remit  
34 | 50 cents to the Department of Revenue for deposit into the  
35 | Clerks of the Court ~~Department of Financial Services~~  
36 | ~~Administrative~~ Trust Fund within the Justice Administrative  
37 | Commission to fund clerk education. An additional filing fee of  
38 | up to \$18 shall be paid by the party seeking each severance that  
39 | is granted. The clerk may impose an additional filing fee of up  
40 | to \$85 for all proceedings of garnishment, attachment, replevin,  
41 | and distress. Postal charges incurred by the clerk of the  
42 | circuit court in making service by certified or registered mail  
43 | on defendants or other parties shall be paid by the party at  
44 | whose instance service is made. No additional fees, charges, or  
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45 costs shall be added to the filing fees imposed under this  
46 section, except as authorized herein or by general law.

47 (b) A party reopening any civil action, suit, or  
48 proceeding in the circuit court shall pay to the clerk of court  
49 a filing fee set by the clerk in an amount not to exceed \$50.  
50 For purposes of this section, a case is reopened when a case  
51 previously reported as disposed of is resubmitted to a court and  
52 includes petitions for modification of a final judgment of  
53 dissolution. A party is exempt from paying the fee for any of  
54 the following:

- 55 1. A writ of garnishment;
- 56 2. A writ of replevin;
- 57 3. A distress writ;
- 58 4. A writ of attachment;
- 59 5. A motion for rehearing filed within 10 days;
- 60 6. A motion for attorney's fees filed within 30 days after  
61 entry of a judgment or final order;
- 62 7. A motion for dismissal filed after a mediation  
63 agreement has been filed;
- 64 8. A disposition of personal property without  
65 administration;
- 66 9. Any probate case prior to the discharge of a personal  
67 representative;
- 68 10. Any guardianship pleading prior to discharge;
- 69 11. Any mental health pleading;
- 70 12. Motions to withdraw by attorneys;
- 71 13. Motions exclusively for the enforcement of child  
72 support orders;

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73 14. A petition for credit of child support;

74 15. A Notice of Intent to Relocate and any order issuing  
75 as a result of an uncontested relocation;

76 16. Stipulations;

77 17. Responsive pleadings; or

78 18. Cases in which there is no initial filing fee.

79 (c) Any party other than a party described in paragraph  
80 (a) who files a pleading in an original civil action in circuit  
81 court for affirmative relief by cross-claim, counterclaim, or  
82 third-party complaint shall pay the clerk of court a fee of  
83 \$295. The clerk shall remit the fee to the Department of Revenue  
84 for deposit into the General Revenue Fund.

85 (d) The clerk of court shall collect a service charge of  
86 \$10 for issuing a summons. The clerk shall assess the fee  
87 against the party seeking to have the summons issued.

88 (2) Upon the institution of any appellate proceeding from  
89 any lower court to the circuit court of any such county,  
90 including appeals filed by a county or municipality as provided  
91 in s. 34.041(5), or from the circuit court to an appellate court  
92 of the state, the clerk shall charge and collect from the party  
93 or parties instituting such appellate proceedings a filing fee  
94 not to exceed \$280 for filing a notice of appeal from the county  
95 court to the circuit court and, in addition to the filing fee  
96 required under s. 25.241 or s. 35.22, \$100 for filing a notice  
97 of appeal from the circuit court to the district court of appeal  
98 or to the Supreme Court. If the party is determined to be  
99 indigent, the clerk shall defer payment of the fee. The clerk  
100 shall remit the first \$80 to the Department of Revenue for

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101 deposit into the General Revenue Fund. ~~One-third of the fee~~  
102 ~~collected by the clerk in excess of \$80 also shall be remitted~~  
103 ~~to the Department of Revenue for deposit into the Clerks of the~~  
104 ~~Court Trust Fund.~~

105 Section 2. Paragraph (b) of subsection (5) and subsection  
106 (6) of section 28.246, Florida Statutes, are amended to read:

107 28.246 Payment of court-related fees, charges, and costs;  
108 partial payments; distribution of funds.--

109 (5) When receiving partial payment of fees, service  
110 charges, court costs, and fines, clerks shall distribute funds  
111 according to the following order of priority:

112 (b) That portion of fees, service charges, court costs,  
113 and fines which are required to be retained by the clerk of the  
114 court or deposited into the Clerks of the Court Trust Fund  
115 within the Justice Administrative Commission.

116  
117 To offset processing costs, clerks may impose either a per-month  
118 service charge pursuant to s. 28.24(26) (b) or a one-time  
119 administrative processing service charge at the inception of the  
120 payment plan pursuant to s. 28.24(26) (c).

121 (6) A clerk of court shall ~~may~~ pursue the collection of  
122 any fees, service charges, fines, court costs, and liens for the  
123 payment of attorney's fees and costs pursuant to s. 938.29 which  
124 remain unpaid after ~~for~~ 90 days by referring ~~or more, or refer~~  
125 the account to a private attorney who is a member in good  
126 standing of The Florida Bar or collection agent who is  
127 registered and in good standing pursuant to chapter 559. In  
128 pursuing the collection of such unpaid financial obligations

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129 through a private attorney or collection agent, the clerk of the  
130 court must have attempted to collect the unpaid amount through a  
131 collection court, collections docket, or other collections  
132 process, if any, established by the court, find this to be cost-  
133 effective and follow any applicable procurement practices. The  
134 collection fee, including any reasonable attorney's fee, paid to  
135 any attorney or collection agent retained by the clerk may be  
136 added to the balance owed in an amount not to exceed 40 percent  
137 of the amount owed at the time the account is referred to the  
138 attorney or agent for collection.

139 Section 3. Section 28.35, Florida Statutes, is amended to  
140 read:

141 28.35 Florida Clerks of Court Operations Corporation.--

142 (1) (a) The Florida Clerks of Court Operations Corporation  
143 is hereby created as a public corporation organized to perform  
144 the functions specified in this section and s. 28.36 and shall  
145 be administratively housed within the Justice Administrative  
146 Commission. The corporation shall be a budget entity within the  
147 Justice Administrative Commission, and its employees shall be  
148 considered state employees. The corporation is not subject to  
149 control, supervision, or direction by the Justice Administrative  
150 Commission in the performance of its duties, but the employees  
151 of the corporation shall be governed by the classification plan  
152 and salary and benefits plan of the Justice Administrative  
153 Commission. The classification plan must have a separate chapter  
154 for the corporation. All clerks of the circuit court shall be  
155 members of the corporation and hold their position and authority  
156 in an ex officio capacity. The functions assigned to the

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157 corporation shall be performed by an executive council pursuant  
158 to the plan of operation approved by the members.

159 (b) The executive council shall be composed of eight  
160 clerks of the court elected by the clerks of the courts for a  
161 term of 2 years, with two clerks from counties with a population  
162 of fewer than 100,000, two clerks from counties with a  
163 population of at least 100,000 but fewer than 500,000, two  
164 clerks from counties with a population of at least 500,000 but  
165 fewer than 1 million, and two clerks from counties with a  
166 population of more than 1 million. The executive council shall  
167 also include, as ex officio members, a designee of the President  
168 of the Senate and a designee of the Speaker of the House of  
169 Representatives. The Chief Justice of the Supreme Court shall  
170 designate one additional member to represent the state courts  
171 system.

172 (c) The corporation shall be considered a political  
173 subdivision of the state and shall be exempt from the corporate  
174 income tax. The corporation is not subject to the ~~procurement~~  
175 ~~provisions of chapter 287 and policies and decisions of the~~  
176 ~~corporation relating to incurring debt, levying assessments, and~~  
177 ~~the sale, issuance, continuation, terms, and claims under~~  
178 ~~corporation policies, and all services relating thereto, are not~~  
179 ~~subject to the provisions of chapter 120.~~

180 (d) The functions assigned to the corporation under this  
181 section and ss. 28.36 and 28.37 are considered to be for a valid  
182 public purpose.

183 (2) The duties of the corporation shall include the  
184 following:

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185 (a) Adopting a plan of operation.

186 (b) Conducting the election of directors as required in  
187 paragraph (1) (a).

188 (c) Recommending to the Legislature changes in the various  
189 court-related fines, fees, service charges, and court costs  
190 established by law ~~to ensure reasonable and adequate funding of~~  
191 ~~the clerks of the court in the performance of their court-~~  
192 ~~related functions.~~

193 ~~(d) Pursuant to contract with the Chief Financial Officer,~~  
194 ~~establishing a process for the review and certification of~~  
195 ~~proposed court related budgets submitted by clerks of the court~~  
196 ~~for completeness and compliance with this section and ss. 28.36~~  
197 ~~and 28.37. This process shall be designed and be of sufficient~~  
198 ~~detail to permit independent verification and validation of the~~  
199 ~~budget certification. The contract shall specify the process to~~  
200 ~~be used in determining compliance by the corporation with this~~  
201 ~~section and ss. 28.36 and 28.37.~~

202 (d)(e) Developing and certifying a uniform system of  
203 performance measures and applicable performance standards for  
204 the functions specified in paragraph (3) (a) and the service unit  
205 costs required in s. 28.36 ~~paragraph (4) (a)~~ and measures for  
206 clerk performance in meeting the performance standards. These  
207 measures and standards shall be designed to facilitate an  
208 objective determination of the performance of each clerk in  
209 accordance with minimum standards for fiscal management,  
210 operational efficiency, and effective collection of fines, fees,  
211 service charges, and court costs. The corporation shall develop  
212 the performance measures and performance standards in

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213 consultation with the Legislature and the Supreme Court. The  
214 Legislature may modify the clerk performance measures and  
215 performance standards in legislation implementing the General  
216 Appropriations Act or other law. When the corporation finds a  
217 clerk has not met the performance standards, the corporation  
218 shall identify the nature of each deficiency and any corrective  
219 action recommended and taken by the affected clerk of the court.  
220 The corporation shall notify the Legislature and the Supreme  
221 Court of any clerk not meeting performance standards and provide  
222 a copy of any corrective action plans.

223 ~~(e)-(f) Reviewing and certifying proposed budgets submitted~~  
224 ~~by clerks of the court pursuant to s. 28.36 utilizing the~~  
225 ~~process approved by the Chief Financial Officer pursuant to~~  
226 ~~paragraph (d) for the purpose of making the certification in~~  
227 ~~paragraph (3)(a). As part of this process, the corporation~~  
228 ~~shall:~~

229 ~~1. Calculate the maximum authorized annual budget pursuant~~  
230 ~~to the requirements of s. 28.36.~~

231 ~~2. Identify those proposed budgets exceeding the maximum~~  
232 ~~annual budget pursuant to s. 28.36(5) for the standard list of~~  
233 ~~court-related functions specified in paragraph (4)(a).~~

234 ~~3. Identify those proposed budgets containing funding for~~  
235 ~~items not included on the standard list of court-related~~  
236 ~~functions specified in paragraph (4)(a).~~

237 ~~4. Identify those clerks projected to have court-related~~  
238 ~~revenues insufficient to fund their anticipated court-related~~  
239 ~~expenditures.~~

240 ~~(f)-(g) Developing and conducting clerk education programs.~~

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241 ~~(g)(h)~~ Publishing a uniform schedule of actual fees,  
242 service charges, and costs charged by a clerk of the court ~~for~~  
243 ~~court-related functions~~ pursuant to general law.

244 ~~(3)(a)~~ ~~The Clerks of Court Operations Corporation shall~~  
245 ~~certify to the President of the Senate, the Speaker of the House~~  
246 ~~of Representatives, the Chief Financial Officer, and the~~  
247 ~~Department of Revenue by October 15 of each year, the amount of~~  
248 ~~the proposed budget certified for each clerk; the revenue~~  
249 ~~projection supporting each clerk's budget; each clerk eligible~~  
250 ~~to retain some or all of the state's share of fines, fees,~~  
251 ~~service charges, and costs; the amount to be paid to each clerk~~  
252 ~~from the Clerks of the Court Trust Fund within the Department of~~  
253 ~~Revenue; the performance measures and standards approved by the~~  
254 ~~corporation for each clerk; and the performance of each clerk in~~  
255 ~~meeting the performance standards.~~

256 ~~(b)~~ ~~Prior to December 1 of each year, the Chief Financial~~  
257 ~~Officer shall review the certifications made by the corporation~~  
258 ~~for the purpose of determining compliance with the approved~~  
259 ~~process and report its findings to the President of the Senate,~~  
260 ~~the Speaker of the House of Representatives and to the~~  
261 ~~Department of Revenue. To determine compliance with this~~  
262 ~~process, the Chief Financial Officer may examine the budgets~~  
263 ~~submitted to the corporation by the clerks.~~

264 ~~(3)(4)(a)~~ The ~~list of~~ court-related functions that clerks  
265 may perform are ~~fund from filing fees, service charges, court~~  
266 ~~costs, and fines shall be limited to those functions expressly~~  
267 ~~authorized by law or court rule. Those functions must include~~  
268 ~~the following: case maintenance; records management; court~~

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269 preparation and attendance; processing the assignment,  
270 reopening, and reassignment of cases; processing of appeals;  
271 collection and distribution of fines, fees, service charges, and  
272 court costs; processing of bond forfeiture payments; payment of  
273 jurors and witnesses; payment of expenses for meals or lodging  
274 provided to jurors; data collection and reporting; processing of  
275 jurors; determinations of indigent status; and reasonable  
276 administrative support ~~costs~~ to enable the clerk of the court to  
277 carry out these court-related functions.

278 (b) The ~~list of~~ functions that clerks may not fund from  
279 state appropriations ~~filing fees, service charges, court costs,~~  
280 ~~and fines~~ shall include:

281 1. Those functions not specified within paragraph (a).

282 2. Functions assigned by administrative orders which are  
283 not required for the clerk to perform the functions in paragraph  
284 (a).

285 3. Enhanced levels of service which are not required for  
286 the clerk to perform the functions in paragraph (a).

287 4. Functions identified as local requirements in law or  
288 local optional programs.

289 ~~(4)-(5)~~ The corporation shall prepare a legislative budget  
290 request for the resources necessary to perform its duties,  
291 submit the request pursuant to chapter 216, and be funded as a  
292 budget entity in the General Appropriations Act ~~pursuant to~~  
293 ~~contract with the Chief Financial Officer. Funds shall be~~  
294 ~~provided to the Chief Financial Officer for this purpose as~~  
295 ~~appropriated by general law. These funds shall be available to~~  
296 ~~the corporation for the performance of the duties and~~

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297 ~~responsibilities as set forth in this section.~~ The corporation  
298 may hire staff and pay other expenses from state appropriations  
299 ~~these funds~~ as necessary to perform the official duties and  
300 responsibilities of the corporation as described by law ~~in this~~  
301 ~~section.~~

302 (5)~~(6)~~(a) The corporation shall submit an annual audited  
303 financial statement to the Auditor General in a form and manner  
304 prescribed by the Auditor General. The Auditor General shall  
305 conduct an annual audit of the operations of the corporation,  
306 including the use of funds and compliance with the provisions of  
307 this section and ss. 28.36 and 28.37.

308 (b) Certified public accountants conducting audits of  
309 counties pursuant to s. 218.39 shall report, as part of the  
310 audit, whether or not the clerks of the courts have complied  
311 with the requirements of this section and s. 28.36. In addition,  
312 each clerk of court shall forward a copy of the portion of the  
313 financial audit relating to the court-related duties of the  
314 clerk of court to the Supreme Court ~~budgets certified by the~~  
315 ~~Florida Clerk of Courts Operations Corporation pursuant to the~~  
316 ~~budget review process pursuant to contract with the Chief~~  
317 ~~Financial Officer and with the performance standards developed~~  
318 ~~and certified pursuant to this section.~~ The Auditor General  
319 shall develop a compliance supplement for the audit of  
320 compliance with the budgets and applicable performance standards  
321 certified by the corporation.

322 Section 4. Section 28.36, Florida Statutes, is amended to  
323 read:

324 28.36 Budget procedure.--There is ~~hereby~~ established a  
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325 budget procedure for the preparing budget requests for funding  
326 for the court-related functions of the clerks of the court.

327 (1) Each clerk of court shall prepare a budget request for  
328 the last quarter of the county fiscal year and the first three  
329 quarters of the next county fiscal year. The proposed budget  
330 shall be prepared, summarized, and submitted by the clerk in  
331 each county to the Florida Clerks of Court Operations  
332 Corporation in the manner and form prescribed by the corporation  
333 to meet the requirements of law. Each clerk shall forward a copy  
334 of his or her budget request to the Supreme Court. The budget  
335 requests must be provided to the corporation by October 1 of  
336 each year.

337 ~~(1) Only those functions on the standard list developed~~  
338 ~~pursuant to s. 28.35(4)(a) may be funded from fees, service~~  
339 ~~charges, court costs, and fines retained by the clerks of the~~  
340 ~~court. No clerk may use fees, service charges, court costs, and~~  
341 ~~fines in excess of the maximum budget amounts as established in~~  
342 ~~subsection (5).~~

343 ~~(2) For the period July 1, 2004, through September 30,~~  
344 ~~2004, and for each county fiscal year ending September 30~~  
345 ~~thereafter, each clerk of the court shall prepare a budget~~  
346 ~~relating solely to the performance of the standard list of~~  
347 ~~court-related functions pursuant to s. 28.35(4)(a).~~

348 ~~(3) Each proposed budget shall further conform to the~~  
349 ~~following requirements:~~

350 ~~(a) On or before August 15 for each fiscal year~~  
351 ~~thereafter, the proposed budget shall be prepared, summarized,~~  
352 ~~and submitted by the clerk in each county to the Clerks of Court~~  
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353 ~~Operations Corporation in the manner and form prescribed by the~~  
354 ~~corporation. The proposed budget must provide detailed~~  
355 ~~information on the anticipated revenues available and~~  
356 ~~expenditures necessary for the performance of the standard list~~  
357 ~~of court-related functions of the clerk's office developed~~  
358 ~~pursuant to s. 28.35(4) (a) for the county fiscal year beginning~~  
359 ~~the following October 1.~~

360 ~~(b) The proposed budget must be balanced, such that the~~  
361 ~~total of the estimated revenues available must equal or exceed~~  
362 ~~the total of the anticipated expenditures. These revenues~~  
363 ~~include the following: cash balances brought forward from the~~  
364 ~~prior fiscal period; revenue projected to be received from fees,~~  
365 ~~service charges, court costs, and fines for court-related~~  
366 ~~functions during the fiscal period covered by the budget; and~~  
367 ~~supplemental revenue that may be requested pursuant to~~  
368 ~~subsection (4). The anticipated expenditures must be itemized as~~  
369 ~~required by the corporation, pursuant to contract with the Chief~~  
370 ~~Financial Officer.~~

371 ~~(c) The proposed budget may include a contingency reserve~~  
372 ~~not to exceed 10 percent of the total budget, provided that,~~  
373 ~~overall, the proposed budget does not exceed the limits~~  
374 ~~prescribed in subsection (5).~~

375 ~~(4) If a clerk of the court estimates that available funds~~  
376 ~~plus projected revenues from fines, fees, service charges, and~~  
377 ~~costs for court-related services are insufficient to meet the~~  
378 ~~anticipated expenditures for the standard list of court-related~~  
379 ~~functions in s. 28.35(4) (a) performed by his or her office, the~~  
380 ~~clerk must report the revenue deficit to the Clerks of Court~~

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381 ~~Operations Corporation in the manner and form prescribed by the~~  
382 ~~corporation pursuant to contract with the Chief Financial~~  
383 ~~Officer. The corporation shall verify that the proposed budget~~  
384 ~~is limited to the standard list of court-related functions in s.~~  
385 ~~28.35(4)(a).~~

386 (2)(a) Each clerk shall include in his or her budget  
387 request a projection of the amount of court-related fees,  
388 service charges, and any other court-related clerk fees which  
389 will be collected during the proposed budget period. If the  
390 corporation determines ~~verifies~~ that the proposed budget is  
391 limited to the standard list of court-related functions in s.  
392 28.35(3)(a) ~~s. 28.35(4)(a)~~ and the projected court-related  
393 revenues are less than the proposed budget, the a revenue  
394 deficit is projected, a clerk seeking to retain revenues  
395 pursuant to this subsection shall increase all fees, service  
396 charges, and any other court-related clerk fees and charges to  
397 the maximum amounts specified by law or the amount necessary to  
398 resolve the deficit, whichever is less.

399 (3) Each clerk shall include in his or her budget request  
400 the number of personnel and the proposed budget for each of the  
401 following core services:

- 402 (a) Case processing.  
403 (b) Financial processing.  
404 (c) Jury management.  
405 (d) Information and reporting.

406  
407 Central administrative costs shall be allocated among the core-  
408 services categories.

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409       (4) The budget request must identify the service units to  
410 be provided within each core service. The service units shall be  
411 developed by the corporation, in consultation with the Supreme  
412 Court, the Chief Financial Officer, and the appropriation  
413 committees of the Senate and the House of Representatives.

414       (5) The budget request must propose a unit cost for each  
415 service unit. The corporation shall provide a copy of each  
416 clerk's budget request to the Supreme Court.

417       (6) The corporation shall review each individual clerk's  
418 prior-year expenditures, projected revenue, proposed unit costs,  
419 and the proposed budget for each of the core-services  
420 categories. The corporation shall compare each clerk's prior-  
421 year expenditures and unit costs for core services with a peer  
422 group of clerks' offices having a population of a similar size  
423 and a similar number of case filings. If the corporation finds  
424 that the expenditures, unit costs, or proposed budget of a clerk  
425 are significantly higher than those of clerks in that clerk's  
426 peer group, the corporation shall require the clerk to submit  
427 documentation justifying the difference in each core-services  
428 category. Justification for higher expenditures may include, but  
429 are not limited to, collective bargaining agreements, county  
430 civil service agreements, and the number and distribution of  
431 courthouses served by the clerk. If the expenditures and unit  
432 costs are not justified, the corporation shall recommend a  
433 reduction in the funding for that core-services category in the  
434 budget request to an amount similar to the peer group of clerks  
435 or to an amount that the corporation determines is justified.

436       (7) The corporation shall complete its review and

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437 adjustments to the clerks' budget requests and make its  
438 recommendations to the Legislature and the Supreme Court by  
439 December 1 each year.

440 (8) The Chief Financial Officer shall review the proposed  
441 unit costs associated with each clerk of court's budget request  
442 and make recommendations to the Legislature. The Chief Financial  
443 Officer may conduct any audit of the corporation or a clerk of  
444 court as authorized by law. The Chief Justice of the Supreme  
445 Court may request an audit of the corporation or any clerk of  
446 court by the Chief Financial Officer.

447 (9) The Legislature shall appropriate the total amount for  
448 the budgets of the clerks in the General Appropriations Act. The  
449 Legislature may reject or modify any or all of the unit costs  
450 recommended by the corporation. If the Legislature does not  
451 specify the unit costs in the General Appropriations Act or  
452 other law, the unit costs recommended by the corporation shall  
453 be the official unit costs for that budget period.

454 (10) For the 2009-2010 fiscal year, the corporation shall  
455 release appropriations in an amount equal to one-twelfth of each  
456 clerk's approved budget each month. The statewide total  
457 appropriation for the 2009-2010 fiscal year shall be set in the  
458 General Appropriations Act. The corporation shall determine the  
459 amount of each clerk of court budget, but the statewide total of  
460 such amounts may not exceed the amount listed in the General  
461 Appropriations Act. Beginning in the 2010-2011 fiscal year, the  
462 corporation shall release appropriations to each clerk  
463 quarterly. The amount of the release shall be based on the prior  
464 quarter's performance of service units identified in the four

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465 ~~core services and the established unit costs for each clerk. If,~~  
466 ~~after increasing fees, service charges, and any other court-~~  
467 ~~related clerk fees and charges to the maximum amounts specified~~  
468 ~~by law, a revenue deficit is still projected, the corporation~~  
469 ~~shall, pursuant to the terms of the contract with the Chief~~  
470 ~~Financial Officer, certify a revenue deficit and notify the~~  
471 ~~Department of Revenue that the clerk is authorized to retain~~  
472 ~~revenues, in an amount necessary to fully fund the projected~~  
473 ~~revenue deficit, which he or she would otherwise be required to~~  
474 ~~remit to the Department of Revenue for deposit into the~~  
475 ~~Department of Revenue Clerks of the Court Trust Fund pursuant to~~  
476 ~~s. 28.37. If a revenue deficit is projected for that clerk after~~  
477 ~~retaining all of the projected collections from the court-~~  
478 ~~related fines, fees, service charges, and costs, the Department~~  
479 ~~of Revenue shall certify the amount of the revenue deficit~~  
480 ~~amount to the Executive Office of the Governor and request~~  
481 ~~release authority for funds appropriated for this purpose from~~  
482 ~~the Department of Revenue Clerks of the Court Trust Fund.~~  
483 ~~Notwithstanding provisions of s. 216.192 related to the release~~  
484 ~~of funds, the Executive Office of the Governor may approve the~~  
485 ~~release of funds appropriated to resolve projected revenue~~  
486 ~~deficits in accordance with the notice, review, and objection~~  
487 ~~procedures set forth in s. 216.177 and shall provide notice to~~  
488 ~~the Chief Financial Officer. The Department of Revenue is~~  
489 ~~directed to request monthly distributions from the Chief~~  
490 ~~Financial Officer in equal amounts to each clerk certified to~~  
491 ~~have a revenue deficit, in accordance with the releases approved~~  
492 ~~by the Governor.~~

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493 ~~(b) If the Chief Financial Officer finds the court related~~  
494 ~~budget proposed by a clerk includes functions not included in~~  
495 ~~the standard list of court-related functions in s. 28.35(4)(a),~~  
496 ~~the Chief Financial Officer shall notify the clerk of the amount~~  
497 ~~of the proposed budget not eligible to be funded from fees,~~  
498 ~~service charges, costs, and fines for court related functions~~  
499 ~~and shall identify appropriate corrective measures to ensure~~  
500 ~~budget integrity. The clerk shall then immediately discontinue~~  
501 ~~all ineligible expenditures of court related funds for this~~  
502 ~~purpose and reimburse the Clerks of the Court Trust Fund for any~~  
503 ~~previously ineligible expenditures made for non court related~~  
504 ~~functions, and shall implement any corrective actions identified~~  
505 ~~by the Chief Financial Officer.~~

506 ~~(5)(a) For the county fiscal year October 1, 2004, through~~  
507 ~~September 30, 2005, the maximum annual budget amount for the~~  
508 ~~standard list of court-related functions of the clerks of court~~  
509 ~~in s. 28.35(4)(a) that may be funded from fees, service charges,~~  
510 ~~court costs, and fines retained by the clerks of the court shall~~  
511 ~~not exceed:~~

512 ~~1. One hundred and three percent of the clerk's estimated~~  
513 ~~expenditures for the prior county fiscal year; or~~

514 ~~2. One hundred and five percent of the clerk's estimated~~  
515 ~~expenditures for the prior county fiscal year for those clerks~~  
516 ~~in counties that for calendar years 1998-2002 experienced an~~  
517 ~~average annual increase of at least 5 percent in both population~~  
518 ~~and case filings for all case types as reported through the~~  
519 ~~Summary Reporting System used by the state courts system.~~

520 ~~(b) For the county fiscal year 2005-2006, the maximum~~

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521 ~~budget amount for the standard list of court related functions~~  
522 ~~of the clerks of court in s. 28.35(4)(a) that may be funded from~~  
523 ~~fees, service charges, court costs, and fines retained by the~~  
524 ~~clerks of the court shall be the approved budget for county~~  
525 ~~fiscal year 2004-2005 adjusted by the projected percentage~~  
526 ~~change in revenue between the county fiscal years 2004-2005 and~~  
527 ~~2005-2006.~~

528 ~~(c) For the county fiscal years 2006-2007 and thereafter,~~  
529 ~~the maximum budget amount for the standard list of court related~~  
530 ~~functions of the clerks of court in s. 28.35(4)(a) that may be~~  
531 ~~funded from fees, service charges, court costs, and fines~~  
532 ~~retained by the clerks of the court shall be established by~~  
533 ~~first rebasing the prior fiscal year budget to reflect the~~  
534 ~~actual percentage change in the prior fiscal year revenue and~~  
535 ~~then adjusting the rebased prior fiscal year budget by the~~  
536 ~~projected percentage change in revenue for the proposed budget~~  
537 ~~year. The rebasing calculations and maximum annual budget~~  
538 ~~calculations shall be as follows:~~

539 ~~1. For county fiscal year 2006-2007, the approved budget~~  
540 ~~for county fiscal year 2004-2005 shall be adjusted for the~~  
541 ~~actual percentage change in revenue between the two 12-month~~  
542 ~~periods ending June 30, 2005, and June 30, 2006. This result is~~  
543 ~~the rebased budget for the county fiscal year 2005-2006. Then~~  
544 ~~the rebased budget for the county fiscal year 2005-2006 shall be~~  
545 ~~adjusted by the projected percentage change in revenue between~~  
546 ~~the county fiscal years 2005-2006 and 2006-2007. This result~~  
547 ~~shall be the maximum annual budget amount for the standard list~~  
548 ~~of court related functions of the clerks of court in s.~~

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549 ~~28.35(4) (a) that may be funded from fees, service charges, court~~  
550 ~~costs, and fines retained by the clerks of the court for each~~  
551 ~~clerk for the county fiscal year 2006-2007.~~

552 ~~2. For county fiscal year 2007-2008, the rebased budget~~  
553 ~~for county fiscal year 2005-2006 shall be adjusted for the~~  
554 ~~actual percentage change in revenue between the two 12-month~~  
555 ~~periods ending June 30, 2006, and June 30, 2007. This result is~~  
556 ~~the rebased budget for the county fiscal year 2006-2007. The~~  
557 ~~rebased budget for county fiscal year 2006-2007 shall be~~  
558 ~~adjusted by the projected percentage change in revenue between~~  
559 ~~the county fiscal years 2006-2007 and 2007-2008. This result~~  
560 ~~shall be the maximum annual budget amount for the standard list~~  
561 ~~of court-related functions of the clerks of court in s.~~

562 ~~28.35(4) (a) that may be funded from fees, service charges, court~~  
563 ~~costs, and fines retained by the clerks of the court for county~~  
564 ~~fiscal year 2007-2008.~~

565 ~~3. For county fiscal years 2008-2009 and thereafter, the~~  
566 ~~maximum budget amount for the standard list of court-related~~  
567 ~~functions of the clerks of court in s. 28.35(4) (a) that may be~~  
568 ~~funded from fees, service charges, court costs, and fines~~  
569 ~~retained by the clerks of the court shall be calculated as the~~  
570 ~~rebased budget for the prior county fiscal year adjusted by the~~  
571 ~~projected percentage change in revenues between the prior county~~  
572 ~~fiscal year and the county fiscal year for which the maximum~~  
573 ~~budget amount is being authorized. The rebased budget for the~~  
574 ~~prior county fiscal year shall always be calculated by adjusting~~  
575 ~~the rebased budget for the year preceding the prior county~~  
576 ~~fiscal year by the actual percentage change in revenues between~~

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577 ~~the 12-month period ending June 30 of the year preceding the~~  
578 ~~prior county fiscal year and the 12-month period ending June 30~~  
579 ~~of the prior county fiscal year.~~

580 ~~(6) The Legislative Budget Commission may approve~~  
581 ~~increases to the maximum annual budgets approved for individual~~  
582 ~~clerks of the court pursuant to this section for court-related~~  
583 ~~duties, if either of the following conditions exist:~~

584 ~~(a) The additional funding is necessary to pay the cost of~~  
585 ~~performing new or additional functions required by changes in~~  
586 ~~law or court rule. Before the Legislative Budget Commission may~~  
587 ~~approve an increase in the maximum annual budget of any clerk~~  
588 ~~under this paragraph, the Clerk of the Court Operations~~  
589 ~~Corporation must provide the Legislative Budget Commission with~~  
590 ~~a statement of the impact of the proposed budget changes on~~  
591 ~~state revenues, and evidence that the respective clerk of the~~  
592 ~~court is meeting or exceeding the established performance~~  
593 ~~standards for measures on the fiscal management, operational~~  
594 ~~efficiency, and effective collection of fines, fees, service~~  
595 ~~charges, and court costs.~~

596 ~~(b) The additional funding is necessary to pay the cost of~~  
597 ~~supporting increases in the number of judges or magistrates~~  
598 ~~authorized by the Legislature. Before the Legislative Budget~~  
599 ~~Commission may approve an increase in the maximum annual budget~~  
600 ~~of any clerk under this paragraph, the Clerk of the Court~~  
601 ~~Operations Corporation must provide the Legislative Budget~~  
602 ~~Commission with a statement of the impact of the proposed budget~~  
603 ~~changes on state revenues; evidence that the respective clerk of~~  
604 ~~the court is meeting or exceeding the established performance~~

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605 ~~standards for measures on the fiscal management, operational~~  
606 ~~efficiency, and effective collection of fines, fees, service~~  
607 ~~charges, and court costs; and a proposed staffing model,~~  
608 ~~including the cost and number of staff necessary to support each~~  
609 ~~new judge or magistrate.~~

610  
611 ~~The total amount of increases approved by the Legislative Budget~~  
612 ~~Commission for each county fiscal year shall not exceed an~~  
613 ~~amount equal to 2 percent of the maximum annual budgets approved~~  
614 ~~pursuant to this section for all clerks, in the aggregate, for~~  
615 ~~that same county fiscal year.~~

616 ~~(11)(7)~~ The corporation may submit proposed legislation to  
617 the Governor, the President of the Senate, and the Speaker of  
618 the House of Representatives relating to the preparation of  
619 budget requests of the clerks of court ~~no later than November 1~~  
620 ~~in any year for approval of clerk budget request amounts~~  
621 ~~exceeding the restrictions in this section for the following~~  
622 ~~October 1. If proposed legislation is recommended, the~~  
623 ~~corporation shall also submit supporting justification with~~  
624 ~~sufficient detail to identify the specific proposed expenditures~~  
625 ~~that would cause the limitations to be exceeded for each~~  
626 ~~affected clerk and the estimated fiscal impact on state~~  
627 ~~revenues.~~

628 Section 5. Section 28.37, Florida Statutes, is amended to  
629 read:

630 28.37 Fines, fees, service charges, and costs remitted to  
631 the state.--

632 (1) Pursuant to s. 14(b), Art. V of the State

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633 Constitution, selected salaries, costs, and expenses of the  
634 state courts system and court-related functions shall be funded  
635 from a portion of the revenues derived from statutory fines,  
636 fees, service charges, and costs collected by the clerks of the  
637 court.

638 (2) Except as otherwise provided in ss. 28.241 and 34.041,  
639 all court-related fines, fees, service charges, and costs are  
640 considered state funds and shall be remitted by the clerk to the  
641 Department of Revenue for deposit into the Clerks of the Court  
642 Trust Fund within the Justice Administrative Commission.  
643 However, 10 percent of all court-related fines collected by the  
644 clerk shall be deposited into the clerk's Public Records  
645 Modernization Trust Fund to be used exclusively for additional  
646 clerk court-related operational needs and program enhancements.

647 ~~(2) Beginning August 1, 2004, except as otherwise provided~~  
648 ~~in ss. 28.241 and 34.041, one-third of all fines, fees, service~~  
649 ~~charges, and costs collected by the clerks of the court during~~  
650 ~~the prior month for the performance of court-related functions~~  
651 ~~shall be remitted to the Department of Revenue for deposit in~~  
652 ~~the Department of Revenue Clerks of the Court Trust Fund. These~~  
653 ~~collections do not include funding received for the operation of~~  
654 ~~the Title IV-D child support collections and disbursement~~  
655 ~~program. The clerk of the court shall remit the revenues~~  
656 ~~collected during the prior month due to the state on or before~~  
657 ~~the 20th day of each month. The Department of Revenue shall make~~  
658 ~~a monthly transfer of the funds in the Department of Revenue~~  
659 ~~Clerks of the Court Trust Fund that are not needed to resolve~~  
660 ~~clerk of the court revenue deficits, as specified in s. 28.36,~~  
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661 ~~to the General Revenue Fund.~~

662 ~~(3) For the period of October 1, 2003, to June 30, 2004,~~  
663 ~~those clerks operating as fee officers for court-related~~  
664 ~~services shall determine the amount of fees collected and~~  
665 ~~expenses generated for court-related services. Any excess fees~~  
666 ~~generated during this period shall be remitted to the county on~~  
667 ~~December 31, 2004. However, any billings for payment of due~~  
668 ~~process services rendered before July 1, 2004, may be paid by~~  
669 ~~the clerk from these funds. Due process services shall include,~~  
670 ~~but not be limited to, court reporter services, court~~  
671 ~~interpreter services, expert witness services, mental health~~  
672 ~~evaluations, and court-appointed counsel services. In addition,~~  
673 ~~any deficit experienced by the clerk for court-related services~~  
674 ~~during the period from October 1, 2003, to June 30, 2004, shall~~  
675 ~~be funded by the county.~~

676 ~~(4) Beginning January 1, 2005, for the period July 1,~~  
677 ~~2004, through September 30, 2004, and each January 1 thereafter~~  
678 ~~for the preceding county fiscal year of October 1 through~~  
679 ~~September 30, the clerk of the court must remit to the~~  
680 ~~Department of Revenue for deposit in the General Revenue Fund~~  
681 ~~the cumulative excess of all fees, service charges, court costs,~~  
682 ~~and fines retained by the clerks of the court, plus any funds~~  
683 ~~received by the clerks of the court from the Department of~~  
684 ~~Revenue Clerk of the Court Trust Fund under s. 28.36(4) (a), over~~  
685 ~~the amount needed to meet the approved budget amounts~~  
686 ~~established under s. 28.36.~~

687 ~~(5) The Department of Revenue shall collect any funds that~~  
688 ~~the corporation determines upon investigation were due on~~  
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689 ~~January 1 but not remitted to the department.~~

690 Section 6. Subsection (1) of section 28.43, Florida  
691 Statutes, is amended to read:

692 28.43 Adoption of rules relating to ss. 28.35, 28.36, and  
693 28.37.--

694 (1) The Department of Revenue may adopt rules necessary to  
695 carry out its responsibilities in ss. 28.35, 28.36, and 28.37.  
696 The rules shall include forms and procedures for transferring  
697 funds from the clerks of the court to the Clerks of the Court  
698 Trust Fund within the Justice Administrative Commission  
699 ~~Department of Revenue.~~

700 Section 7. Paragraph (b) of subsection (1) of section  
701 34.041, Florida Statutes, is amended to read:

702 34.041 Filing fees.--

703 (1)

704 (b) The first \$80 of the filing fee collected under  
705 subparagraph (a)4. shall be remitted to the Department of  
706 Revenue for deposit into the General Revenue Fund. The next \$15  
707 of the filing fee collected under subparagraph (a)4., and the  
708 first \$15 of each filing fee collected under subparagraph (a)6.,  
709 shall be deposited in the state courts' Mediation and  
710 Arbitration Trust Fund. ~~One-third of any filing fees collected~~  
711 ~~by the clerk under this section in excess of the first \$95~~  
712 ~~collected under subparagraph (a)4. shall be remitted to the~~  
713 ~~Department of Revenue for deposit into the Department of Revenue~~  
714 ~~Clerks of the Court Trust Fund.~~ An additional filing fee of \$4  
715 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
716 the Department of Revenue for deposit into the Court Education  
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717 Trust Fund and shall transfer 50 cents to the Department of  
718 Revenue for deposit into the Clerks of the Court ~~Department of~~  
719 ~~Financial Services' Administrative~~ Trust Fund within the Justice  
720 Administrative Commission to fund clerk education. Postal  
721 charges incurred by the clerk of the county court in making  
722 service by mail on defendants or other parties shall be paid by  
723 the party at whose instance service is made. Except as provided  
724 herein, filing fees and service charges for performing duties of  
725 the clerk relating to the county court shall be as provided in  
726 ss. 28.24 and 28.241. Except as otherwise provided herein, all  
727 filing fees shall be remitted to the Department of Revenue for  
728 deposit into the Clerks of the Court Trust Fund within the  
729 Justice Administrative Commission ~~retained as fee income of the~~  
730 ~~office of the clerk of circuit court~~. Filing fees imposed by  
731 this section may not be added to any penalty imposed by chapter  
732 316 or chapter 318.

733 Section 8. Subsection (5) of section 43.16, Florida  
734 Statutes, is amended to read

735 43.16 Justice Administrative Commission; membership,  
736 powers and duties.--

737 (5) The duties of the commission shall include, but not be  
738 limited to, the following:

739 (a) The maintenance of a central state office for  
740 administrative services and assistance when possible to and on  
741 behalf of the state attorneys and public defenders of Florida,  
742 the capital collateral regional counsel of Florida, the criminal  
743 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
744 Program, and the Florida Clerks of Court Operations Corporation.

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745 (b) Each state attorney, public defender, and criminal  
746 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
747 Program, and the Florida Clerks of Court Operations Corporation  
748 shall continue to prepare necessary budgets, vouchers that  
749 represent valid claims for reimbursement by the state for  
750 authorized expenses, and other things incidental to the proper  
751 administrative operation of the office, such as revenue  
752 transmittals to the Chief Financial Officer and automated  
753 systems plans, but will forward same to the commission for  
754 recording and submission to the proper state officer. However,  
755 when requested by a state attorney, a public defender, a  
756 criminal conflict and civil regional counsel, or the Guardian Ad  
757 Litem Program, the commission will either assist in the  
758 preparation of budget requests, voucher schedules, and other  
759 forms and reports or accomplish the entire project involved.

760 Section 9. Section 43.27, Florida Statutes, is amended to  
761 read

762 43.27 Office hours of clerks of court.--With the advice  
763 and consent of the chief judge of the circuit, the clerks of the  
764 courts of the several counties may establish the hours during  
765 which the office of clerk may be open to the public. The hours  
766 should conform as nearly as possible to the customary weekday  
767 hours of business prevailing in the county. The clerk may  
768 prescribe that the office be open such additional hours as  
769 public needs require. The clerk of court may not close any  
770 office of the clerk of court during customary weekday hours  
771 without the consent of the chief judge of the circuit.

772 Section 10. Subsection (3) of section 45.035, Florida  
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773 Statutes, as amended by section 3 of chapter 2009-21, Laws of  
774 Florida, is amended to read:

775 45.035 Clerk's fees.--In addition to other fees or service  
776 charges authorized by law, the clerk shall receive service  
777 charges related to the judicial sales procedure set forth in ss.  
778 45.031-45.034 and this section:

779 (3) If the sale is conducted by electronic means, as  
780 provided in s. 45.031(10), the clerk shall receive an additional  
781 a service charge not to exceed of \$70 ~~as provided in subsection~~  
782 ~~(1)~~ for services in conducting or contracting for the electronic  
783 sale, which service charge shall be assessed as costs and paid  
784 by the winning bidder ~~shall be advanced by the plaintiff before~~  
785 ~~the sale~~. If the clerk requires advance electronic deposits to  
786 secure the right to bid, such deposits shall not be subject to  
787 the fee under s. 28.24(10). The portion of an advance deposit  
788 from a winning bidder required by s. 45.031(3) shall, upon  
789 acceptance of the winning bid, be subject to the fee under s.  
790 28.24(10).

791 Section 11. Paragraph (y) of subsection (2) of section  
792 110.205, Florida Statutes, is amended to read:

793 110.205 Career service; exemptions.--

794 (2) EXEMPT POSITIONS.--The exempt positions that are not  
795 covered by this part include the following:

796 (y) All officers and employees of the Justice  
797 Administrative Commission, Office of the State Attorney, Office  
798 of the Public Defender, regional offices of capital collateral  
799 counsel, offices of criminal conflict and civil regional  
800 counsel, and Statewide Guardian Ad Litem Office, including the  
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801 circuit guardian ad litem programs and the Florida Clerks of  
802 Court Operations Corporation.

803 Section 12. Section 142.01, Florida Statutes, is amended  
804 to read:

805 142.01 Fine and forfeiture fund; disposition of revenue;  
806 clerk of the circuit court.--

807 (1) There shall be established by the clerk of the circuit  
808 court in each county of this state a separate fund to be known  
809 as the fine and forfeiture fund for use by the clerk of the  
810 circuit court in performing court-related functions. The fund  
811 shall consist of the following:

812 (a)~~(1)~~ Fines and penalties pursuant to ss. 28.2402(2),  
813 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

814 (b)~~(2)~~ That portion of civil penalties directed to this  
815 fund pursuant to s. 318.21.

816 (c)~~(3)~~ Court costs pursuant to ss. 28.2402(1)(b),  
817 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and  
818 (11)(a), and 938.05(3).

819 (d)~~(4)~~ Proceeds from forfeited bail bonds, unclaimed  
820 bonds, unclaimed moneys, or recognizances pursuant to ss.  
821 321.05(4)(a), 379.2203(1), and 903.26(3)(a).

822 (e)~~(5)~~ Fines and forfeitures pursuant to s. 34.191.

823 (f)~~(6)~~ All other revenues received by the clerk as revenue  
824 authorized by law to be retained by the clerk.

825 (2) All revenues received by the clerk in the fine and  
826 forfeiture fund from court-related fees, fines, costs, and  
827 service charges are considered state funds and shall be remitted  
828 monthly to the Department of Revenue for deposit into the Clerks  
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829 of the Court Trust Fund within the Justice Administrative  
830 Commission.

831 (3) Notwithstanding the provisions of this section, all  
832 fines and forfeitures arising from operation of the provisions  
833 of s. 318.1215 shall be disbursed in accordance with that  
834 section.

835 Section 13. Subsection (4) of section 197.542, Florida  
836 Statutes, is amended to read:

837 197.542 Sale at public auction.--

838 (4) (a) A clerk may conduct electronic tax deed sales in  
839 lieu of public outcry. The clerk must comply with the procedures  
840 provided in this chapter, except that electronic proxy bidding  
841 shall be allowed and the clerk may require bidders to advance  
842 sufficient funds to pay the deposit required by subsection (2).  
843 The clerk shall provide access to the electronic sale by  
844 computer terminals open to the public at a designated location.  
845 A clerk who conducts such electronic sales may receive  
846 electronic deposits and payments related to the sale. The  
847 portion of an advance deposit from a winning bidder required by  
848 subsection (2) shall, upon acceptance of the winning bid, be  
849 subject to the fee under s. 28.24(10).

850 (b) Nothing in this subsection shall be construed to  
851 restrict or limit the authority of a charter county from  
852 conducting electronic tax deed sales. In a charter county where  
853 the clerk of the circuit court does not conduct all electronic  
854 sales, the charter county shall be permitted to receive  
855 electronic deposits and payments related to sales it conducts,  
856 as well as to subject the winning bidder to a fee, consistent  
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857 with the schedule in s. 28.24(10).

858 (c) The costs of electronic tax deed sales shall be added  
859 to the charges for the costs of sale under subsection (1) and  
860 paid by the certificateholder when filing an application for a  
861 tax deed.

862 Section 14. Section 213.131, Florida Statutes, is amended  
863 to read:

864 213.131 ~~Department of Revenue~~ Clerks of the Court Trust  
865 Fund within the Justice Administrative Commission.--The  
866 ~~Department of Revenue~~ Clerks of the Court Trust Fund is created  
867 within the Justice Administrative Commission ~~Department of~~  
868 ~~Revenue.~~ Funds received by the department from the clerks of  
869 court shall be credited to the trust fund as provided in ch.  
870 ~~2001-122, Laws of Florida,~~ to be used for the purposes set forth  
871 ~~in such legislation.~~

872 Section 15. Paragraph (qq) of subsection (1) of section  
873 216.011, Florida Statutes, is amended to read:

874 216.011 Definitions.--

875 (1) For the purpose of fiscal affairs of the state,  
876 appropriations acts, legislative budgets, and approved budgets,  
877 each of the following terms has the meaning indicated:

878 (qq) "State agency" or "agency" means any official,  
879 officer, commission, board, authority, council, committee, or  
880 department of the executive branch of state government. For  
881 purposes of this chapter and chapter 215, "state agency" or  
882 "agency" includes, but is not limited to, state attorneys,  
883 public defenders, criminal conflict and civil regional counsel,  
884 capital collateral regional counsel, the Florida Clerks of Court  
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885 Operations Corporation, the Justice Administrative Commission,  
886 the Florida Housing Finance Corporation, and the Florida Public  
887 Service Commission. Solely for the purposes of implementing s.  
888 19(h), Art. III of the State Constitution, the terms "state  
889 agency" or "agency" include the judicial branch.

890 Section 16. Subsection (13) of section 318.18, Florida  
891 Statutes, is amended to read:

892 318.18 Amount of penalties.--The penalties required for a  
893 noncriminal disposition pursuant to s. 318.14 or a criminal  
894 offense listed in s. 318.17 are as follows:

895 (13) (a) In addition to any penalties imposed for  
896 noncriminal traffic infractions pursuant to this chapter or  
897 imposed for criminal violations listed in s. 318.17, a board of  
898 county commissioners or any unit of local government that ~~which~~  
899 is consolidated as provided by s. 9, Art. VIII of the State  
900 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the  
901 Constitution of 1968:

902 1.(a) May impose by ordinance a surcharge of up to \$30 ~~\$15~~  
903 for any infraction or violation to fund state court facilities.  
904 The court shall not waive this surcharge. Up to 25 percent of  
905 the revenue from such surcharge may be used to support local law  
906 libraries provided that the county or unit of local government  
907 provides a level of service equal to that provided prior to July  
908 1, 2004, which shall include the continuation of library  
909 facilities located in or near the county courthouse or any annex  
910 to the courthouse annexes.

911 2.(b) May, if such board or unit ~~That~~ imposed increased  
912 fees or service charges by ordinance under s. 28.2401, s.

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913 28.241, or s. 34.041 for the purpose of securing payment of the  
914 principal and interest on bonds issued by the county before July  
915 1, 2003, to finance state court facilities, ~~may~~ impose by  
916 ordinance a surcharge for any infraction or violation for the  
917 exclusive purpose of securing payment of the principal and  
918 interest on bonds issued by the county before July 1, 2003, to  
919 fund state court facilities until the date of stated maturity.  
920 The court shall not waive this surcharge. Such surcharge may not  
921 exceed an amount per violation calculated as the quotient of the  
922 maximum annual payment of the principal and interest on the  
923 bonds as of July 1, 2003, divided by the number of traffic  
924 citations for county fiscal year 2002-2003 certified as paid by  
925 the clerk of the court of the county. Such quotient shall be  
926 rounded up to the next highest dollar amount. The bonds may be  
927 refunded only if savings will be realized on payments of debt  
928 service and the refunding bonds are scheduled to mature on the  
929 same date or before the bonds being refunded. Notwithstanding  
930 any of the foregoing provisions of this subparagraph ~~paragraph~~  
931 that limit the use of surcharge revenues, if the revenues  
932 generated as a result of the adoption of this ordinance exceed  
933 the debt service on the bonds, the surplus revenues may be used  
934 to pay down the debt service on the bonds; fund other state-  
935 court-facility construction projects as may be certified by the  
936 chief judge as necessary to address unexpected growth in  
937 caseloads, emergency requirements to accommodate public access,  
938 threats to the safety of the public, judges, staff, and  
939 litigants, or other exigent circumstances; or support local law  
940 libraries in or near the county courthouse or any annex to the  
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941 courthouse annexes.

942 3. May impose by ordinance a surcharge for any infraction  
943 or violation for the exclusive purpose of securing payment of  
944 the principal and interest on bonds issued by the county on or  
945 after July 1, 2009, to fund state court facilities until the  
946 stated date of maturity. The court may not waive this surcharge.  
947 The surcharge may not exceed an amount per violation calculated  
948 as the quotient of the maximum annual payment of the principal  
949 and interest on the bonds, divided by the number of traffic  
950 citations certified as paid by the clerk of the court of the  
951 county on August 15 of each year. The quotient shall be rounded  
952 up to the next highest dollar amount. The bonds may be refunded  
953 if savings are realized on payments of debt service and the  
954 refunding bonds are scheduled to mature on or before the  
955 maturity date of the bonds being refunded. If the revenues  
956 generated as a result of the adoption of the ordinance exceed  
957 the debt service on the bonds, the surplus revenues may be used  
958 to pay the debt service on the bonds; to fund other state court  
959 facility construction projects certified by the chief judge as  
960 necessary to address unexpected growth in caseloads, emergency  
961 requirements to accommodate public access, threats to the safety  
962 of the public, judges, staff, and litigants, or other exigent  
963 circumstances; or to support local law libraries in or near the  
964 county courthouse or any annex to the courthouse.

965 (b) A county may not impose ~~both~~ of the surcharges  
966 authorized under subparagraphs (a)1., 2., and 3. ~~paragraphs (a)~~  
967 ~~and (b)~~ concurrently. The clerk of court shall report, no later  
968 than 30 days after the end of the quarter, the amount of funds

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969 collected under this subsection during each quarter of the  
970 fiscal year. The clerk shall submit the report, in a format  
971 developed by the Office of State Courts Administrator, to the  
972 chief judge of the circuit, the Governor, the President of the  
973 Senate, ~~and~~ the Speaker of the House of Representatives, and the  
974 board of county commissioners.

975 Section 17. Each clerk of court shall provide financial  
976 data concerning his or her expenditures for court-related  
977 duties, including expenditures for court-related information  
978 technology, to the Executive Office of the Governor for the  
979 purposes contained in SB 1796 or similar legislation.

980 Section 18. (1) By January 15, 2010, the Office of  
981 Program Policy Analysis and Government Accountability, in  
982 consultation with the Chief Financial Officer and the Auditor  
983 General, shall provide a report to the President of the Senate  
984 and the Speaker of the House of Representatives regarding the  
985 operation and functions of the clerks of court and the courts.  
986 The Office of Program Policy Analysis and Government  
987 Accountability shall examine who is performing each court-  
988 related function, how each function is funded, and how  
989 efficiently these functions are performed. The clerks of court,  
990 the Florida Clerks of Court Operations Corporation, and the  
991 state courts system are directed to cooperate fully with the  
992 office and, upon request, provide any and all information  
993 necessary to the review without cost or delay. The report shall  
994 describe in detail the base budget for each of the clerks and  
995 for the state courts system and report on the overall efficiency  
996 of the current process. Administrative overhead shall be

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997 calculated separately, and any apparent means to reduce such  
998 overhead shall be explored and included in the report. The study  
999 shall list each court-related function, a recommendation on who  
1000 should perform the function, and a recommendation for how to pay  
1001 for such function.

1002 (2) The Technology Review Workgroup shall develop a  
1003 proposed plan for identifying and recommending options for  
1004 implementing the integrated computer system established in s.  
1005 29.008(1)(f)2., Florida Statutes. The plan shall describe the  
1006 approaches and processes for evaluating the existing computer  
1007 systems and data-sharing networks of the state courts system and  
1008 the clerks of the court; identifying the required business and  
1009 technical requirements; reliably estimating the cost, work, and  
1010 change requirements; and examining the use of the funds  
1011 collected under s. 28.24(12)(e), Florida Statutes. The plan may  
1012 also address any necessary policy, operational, fiscal, or  
1013 technical changes, including, but not limited to, potential  
1014 changes to the distribution and use of funds collected under s.  
1015 28.24(12)(e), Florida Statutes, that may be needed in order to  
1016 manage, implement, and operate an integrated computer system.  
1017 The plan shall be submitted to the President of the Senate and  
1018 the Speaker of the House of Representatives no later than  
1019 February 1, 2010. The clerks of court, the Florida Clerks of  
1020 Court Operations Corporation, and the state courts system are  
1021 directed to cooperate fully with the workgroup and provide any  
1022 and all information necessary for the completion of the project  
1023 without cost or delay upon request. The workgroup shall work in  
1024 conjunction with the Auditor General and consider the results of

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1025 the plans, studies, and reports of the Office of Program Policy  
1026 Analysis and Government Accountability under subsection (1).  
1027 Until July 1, 2011, a clerk may not purchase any new software  
1028 unless a clerk is already obligated by a contract for new  
1029 software entered into before May 1, 2009. A clerk may purchase  
1030 regular and necessary upgrades to existing software if otherwise  
1031 budgeted. Until July 1, 2011, a clerk may not purchase any  
1032 computer hardware unless a clerk is already obligated by a  
1033 contract for new hardware entered into before May 1, 2009.  
1034 However, a clerk may purchase hardware necessary to replace  
1035 broken equipment or necessary to equip new staff and only if  
1036 otherwise budgeted. A clerk may apply to the Florida Clerks of  
1037 Court Operations Corporation for a limited and specific  
1038 exception to these purchasing limits. The corporation shall  
1039 report all such exceptions to the President of the Senate and  
1040 the Speaker of the House of Representatives.

1041       Section 19. The Clerks of the Court Trust Fund within the  
1042 Department of Revenue, FLAIR number 73-2-588, is transferred  
1043 along with all balances and obligations to the Justice  
1044 Administrative Commission.

1045       Section 20. The Legislature finds and declares that this  
1046 act fulfills an important state interest.

1047       Section 21. Sections 25.311, 25.321, 25.331, 25.361, and  
1048 25.381, Florida Statutes, are repealed.

1049       Section 22. This act shall take effect upon becoming a  
1050 law.

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

A bill to be entitled

An act relating to the clerks of court; amending s. 28.241, F.S.; redirecting a portion of certain civil filing fees to the Clerks of the Court Trust Fund within the Justice Administrative Commission; revising a requirement that a portion of such fees be deposited into the Department of Financial Services Administrative Trust Fund for a specified purpose; eliminating a requirement that a portion of such fees be deposited into the Clerks of the Court Trust Fund; conforming terminology to changes made by the act; amending s. 28.246, F.S.; conforming terminology to changes made by the act; requiring the clerk to refer certain unpaid accounts to a private attorney or a collection agent; amending s. 28.35, F.S.; providing for the Florida Clerks of Court Operations Corporation to be administratively housed within the Justice Administrative Commission; providing that the corporation is not subject to control, supervision, or direction by the commission; requiring employees of the corporation to be governed by the classification, salary, and benefits plan of the commission in a separate chapter; providing for legislative designees to the corporation's executive council; requiring the Chief Justice of the Supreme Court to designate a member of the corporation's executive council to represent the state courts system; deleting provisions exempting the corporation from ch.

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1081 287, F.S., relating to procurement, and from ch. 120,  
1082 F.S., relating to administrative procedures; revising the  
1083 duties of the corporation; requiring that the corporation  
1084 develop measures and standards for reviewing the  
1085 performance of clerks of court and notify the Legislature  
1086 and the Supreme Court of any clerk not meeting the  
1087 standards; conforming cross-references; deleting  
1088 provisions relating to the certification of the amount of  
1089 the proposed budget for each clerk; providing for the  
1090 clerks of court to be funded pursuant to state  
1091 appropriations rather than from filing fees, service  
1092 charges, court costs, and fines; providing for the  
1093 corporation to be funded pursuant to the General  
1094 Appropriations Act rather than a contract with the Chief  
1095 Financial Officer; requiring the corporation to submit a  
1096 legislative budget request; revising requirements for the  
1097 audits of clerks of court; amending s. 28.36, F.S.;  
1098 providing a procedure for the clerks of court to prepare  
1099 budget requests for submission to the Florida Clerks of  
1100 Court Operations Corporation, with a copy to the Supreme  
1101 Court; providing requirements for the budget requests;  
1102 requiring the corporation to determine whether projected  
1103 court-related revenues are less than the proposed budget  
1104 for a clerk; requiring that a clerk increase fees and  
1105 service charges to resolve a deficit; requiring the  
1106 corporation to compare a clerk's expenditures and costs  
1107 with the clerk's peer group and for the clerk to submit  
1108 documentation justifying higher expenditures; requiring

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1109 | that the corporation and the Chief Financial Officer  
1110 | review the clerks' budget requests and make  
1111 | recommendations to the Legislature; authorizing the Chief  
1112 | Financial Officer to conduct, and the Chief Justice of the  
1113 | Supreme Court to request, an audit of the corporation or a  
1114 | clerk of court; providing for the Legislature to make  
1115 | appropriations for the budgets of the clerks; requiring  
1116 | that the corporation release appropriations; specifying  
1117 | criteria for such release; deleting obsolete provisions;  
1118 | deleting provisions authorizing the Legislative Budget  
1119 | Commission to approve budgets; amending s. 28.37, F.S.;  
1120 | clarifying the requirement for depositing court-related  
1121 | fines, fees, service charges, and costs into the Clerks of  
1122 | the Court Trust Fund within the Justice Administrative  
1123 | Commission; requiring that a specified percentage of all  
1124 | court-related fines collected by the clerk be deposited  
1125 | into the clerk's Public Records Modernization Trust Fund  
1126 | and used exclusively for additional court-related  
1127 | operational needs and programs; deleting obsolete  
1128 | provisions relating to the funding of the clerks of court;  
1129 | amending s. 28.43, F.S.; conforming terminology to changes  
1130 | made by the act; amending s. 34.041, F.S., relating to  
1131 | filing fees; conforming provisions to changes made by the  
1132 | act; amending s. 43.16, F.S., relating to the duties of  
1133 | the Justice Administrative Commission; conforming  
1134 | provisions to the transfer of the Florida Clerks of Court  
1135 | Operations Corporation to the commission; amending s.  
1136 | 43.27, F.S.; requiring that the clerk of court obtain the

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1137 consent of the chief judge of the circuit concerning the  
1138 clerk's office hours; amending s. 45.035, F.S.; revising  
1139 the service charge for certain sales conducted by  
1140 electronic means; requiring the service charge to be paid  
1141 by the winning bidder; amending s. 110.205, F.S.;  
1142 providing that positions in the Florida Clerks of Court  
1143 Operations Corporation are excluded from career service  
1144 exemption; amending s. 142.01, F.S.; requiring the deposit  
1145 of revenues received in the fine and forfeiture funds of  
1146 the clerks of court into the Clerks of the Court Trust  
1147 Fund within the Justice Administrative Commission;  
1148 amending s. 197.542, F.S.; adding the costs to conduct an  
1149 electronic tax deed sale to certain other costs which must  
1150 be paid by the certificate holder; amending s. 213.131,  
1151 F.S.; conforming terminology and provisions to changes  
1152 made by the act; amending s. 216.011, F.S.; redefining the  
1153 term "state agency" for purposes of the fiscal affairs of  
1154 the state to include the Florida Clerks of Court  
1155 Operations Corporation; amending s. 318.18, F.S.;  
1156 authorizing certain local governments to impose a  
1157 surcharge on certain infractions or violations to repay  
1158 bonds relating to court facilities; requiring a clerk of  
1159 court to report the amount of surcharge collections;  
1160 requiring that the clerks of court submit financial data  
1161 to the Executive Office of the Governor; requiring the  
1162 Office of Program Policy Analysis and Government  
1163 Accountability, in consultation with the Chief Financial  
1164 Officer and the Auditor General, to provide a report

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1165 regarding the operation and relationship of the clerks of  
1166 court and the courts to the Legislature by a specified  
1167 date; providing report requirements; requiring the  
1168 Technology Review Workgroup to develop a proposed plan for  
1169 identifying and recommending options for implementing the  
1170 integrated computer system and submit the plan to the  
1171 Legislature by a specified date; providing plan  
1172 requirements; providing specified restrictions for the  
1173 purchase of computer software and hardware; providing an  
1174 exception; transferring the Clerks of the Court Trust Fund  
1175 from the Department of Revenue to the Justice  
1176 Administrative Commission; providing a finding that the  
1177 act fulfills an important state interest; repealing ss.  
1178 25.311, 25.321, 25.331, 25.361, and 25.381, F.S., relating  
1179 to the distribution and resupply of copies of the reports  
1180 of decisions of the Supreme Court and district court of  
1181 appeals, the declaration that such reports remain the  
1182 public property of the state, the authorization of the  
1183 Supreme Court to obtain state publications for exchange  
1184 purposes, and the publication, purchase, and distribution  
1185 of the reports of the opinions of the Supreme Court and  
1186 the district courts of appeal, respectively; providing an  
1187 effective date.

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