



786762

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2009	.	
	.	
	.	
	.	

The Policy and Steering Committee on Ways and Means (Pruitt) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 28.241, Florida Statutes, is amended to read

28.241 Filing fees for trial and appellate proceedings.—

(1) (a) The party instituting any civil action, suit, or proceeding in the circuit court shall pay to the clerk of that court a filing fee of up to \$295 in all cases in which there are not more than five defendants and an additional filing fee of up



786762

12 to \$2.50 for each defendant in excess of five. Of the first \$85
13 in filing fees, \$80 must be remitted by the clerk to the
14 Department of Revenue for deposit into the General Revenue Fund,
15 and \$5 must be remitted to the Department of Revenue for deposit
16 into the Clerks of the Court Trust Fund within the Justice
17 Administrative Commission and used ~~Department of Financial~~
18 ~~Services' Administrative Trust Fund~~ to fund the contract with
19 the Florida Clerks of Court Operations Corporation created in s.
20 28.35. The next \$15 of the filing fee collected shall be
21 deposited in the state courts' Mediation and Arbitration Trust
22 Fund. One-third of any filing fees collected by the clerk of the
23 circuit court in excess of \$100 shall be remitted to the
24 Department of Revenue for deposit into the Department of Revenue
25 Clerks of the Court Trust Fund. An additional filing fee of \$4
26 shall be paid to the clerk. The clerk shall remit \$3.50 to the
27 Department of Revenue for deposit into the Court Education Trust
28 Fund and shall remit 50 cents to the Department of Revenue for
29 deposit into the Clerks of the Court ~~Department of Financial~~
30 ~~Services' Administrative~~ Trust Fund to fund clerk education. An
31 additional filing fee of up to \$18 shall be paid by the party
32 seeking each severance that is granted. The clerk may impose an
33 additional filing fee of up to \$85 for all proceedings of
34 garnishment, attachment, replevin, and distress. Postal charges
35 incurred by the clerk of the circuit court in making service by
36 certified or registered mail on defendants or other parties
37 shall be paid by the party at whose instance service is made. No
38 additional fees, charges, or costs shall be added to the filing
39 fees imposed under this section, except as authorized herein or
40 by general law.



786762

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

- 49 1. A writ of garnishment;
- 50 2. A writ of replevin;
- 51 3. A distress writ;
- 52 4. A writ of attachment;
- 53 5. A motion for rehearing filed within 10 days;
- 54 6. A motion for attorney's fees filed within 30 days after
55 entry of a judgment or final order;
- 56 7. A motion for dismissal filed after a mediation agreement
57 has been filed;
- 58 8. A disposition of personal property without
59 administration;
- 60 9. Any probate case prior to the discharge of a personal
61 representative;
- 62 10. Any guardianship pleading prior to discharge;
- 63 11. Any mental health pleading;
- 64 12. Motions to withdraw by attorneys;
- 65 13. Motions exclusively for the enforcement of child
66 support orders;
- 67 14. A petition for credit of child support;
- 68 15. A Notice of Intent to Relocate and any order issuing as
69 a result of an uncontested relocation;



786762

- 70 16. Stipulations;
71 17. Responsive pleadings; or
72 18. Cases in which there is no initial filing fee.

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

79 (d) The clerk of court shall collect a service charge of
80 \$10 for issuing a summons. The clerk shall assess the fee
81 against the party seeking to have the summons issued.

82 Section 2. Section 28.35, Florida Statutes, is amended to
83 read:

84 28.35 Florida Clerks of Court Operations Corporation.—

85 (1) (a) The Florida Clerks of Court Operations Corporation
86 is hereby created as a public corporation organized to perform
87 the functions specified in this section and s. 28.36, and shall
88 be administratively housed within the Justice Administrative
89 Commission. The corporation shall be a budget entity within the
90 Justice Administrative Commission and its employees shall be
91 considered state employees. All clerks of the circuit court
92 shall be members of the corporation and hold their position and
93 authority in an ex officio capacity. The functions assigned to
94 the corporation shall be performed by an executive council
95 pursuant to the plan of operation approved by the members.

96 (b) The executive council shall be composed of eight clerks
97 of the court elected by the clerks of the courts for a term of 2
98 years, with two clerks from counties with a population of fewer



786762

99 than 100,000, two clerks from counties with a population of at
100 least 100,000 but fewer than 500,000, two clerks from counties
101 with a population of at least 500,000 but fewer than 1 million,
102 and two clerks from counties with a population of more than 1
103 million. In addition to the eight clerks of court serving on the
104 executive council, the Chief Justice of the Supreme Court shall
105 designate one additional member to represent the state courts
106 system.

107 (c) The corporation shall be considered a political
108 subdivision of the state and shall be exempt from the corporate
109 income tax. ~~The corporation is not subject to the procurement~~
110 ~~provisions of chapter 287 and policies and decisions of the~~
111 ~~corporation relating to incurring debt, levying assessments, and~~
112 ~~the sale, issuance, continuation, terms, and claims under~~
113 ~~corporation policies, and all services relating thereto, are not~~
114 ~~subject to the provisions of chapter 120.~~

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

118 (2) The duties of the corporation shall include the
119 following:

120 (a) Adopting a plan of operation.

121 (b) Conducting the election of directors as required in
122 paragraph (1) (a).

123 (c) Recommending to the Legislature changes in the various
124 court-related fines, fees, service charges, and court costs
125 established by law ~~to ensure reasonable and adequate funding of~~
126 ~~the clerks of the court in the performance of their court-~~
127 ~~related functions.~~



786762

128 ~~(d) Pursuant to contract with the Chief Financial Officer,~~
129 ~~establishing a process for the review and certification of~~
130 ~~proposed court related budgets submitted by clerks of the court~~
131 ~~for completeness and compliance with this section and ss. 28.36~~
132 ~~and 28.37. This process shall be designed and be of sufficient~~
133 ~~detail to permit independent verification and validation of the~~
134 ~~budget certification. The contract shall specify the process to~~
135 ~~be used in determining compliance by the corporation with this~~
136 ~~section and ss. 28.36 and 28.37.~~

137 (d)(e) Developing and certifying a uniform system of
138 performance measures and applicable performance standards for
139 the functions specified in paragraph (3) (a) and the service unit
140 costs required in s. 28.36 paragraph (4) (a) and measures for
141 clerk performance in meeting the performance standards. These
142 measures and standards shall be designed to facilitate an
143 objective determination of the performance of each clerk in
144 accordance with minimum standards for fiscal management,
145 operational efficiency, and effective collection of fines, fees,
146 service charges, and court costs. The corporation shall develop
147 the performance measures and performance standards in
148 consultation with the Legislature and the Supreme Court. The
149 Legislature may modify the clerk performance measures and
150 performance standards in legislation implementing the General
151 Appropriations Act or other law. When the corporation finds a
152 clerk has not met the performance standards, the corporation
153 shall identify the nature of each deficiency and any corrective
154 action recommended and taken by the affected clerk of the court.
155 The corporation shall notify the Legislature and the Supreme
156 Court of any clerk not meeting performance standards and provide



786762

157 a copy of any corrective action plans.

158 ~~(e)-(f) Reviewing and certifying proposed budgets submitted~~
159 ~~by clerks of the court pursuant to s. 28.36 utilizing the~~
160 ~~process approved by the Chief Financial Officer pursuant to~~
161 ~~paragraph (d) for the purpose of making the certification in~~
162 ~~paragraph (3) (a). As part of this process, the corporation~~
163 ~~shall:~~

164 ~~1. Calculate the maximum authorized annual budget pursuant~~
165 ~~to the requirements of s. 28.36.~~

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

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

172 ~~4. Identify those clerks projected to have court-related~~
173 ~~revenues insufficient to fund their anticipated court-related~~
174 ~~expenditures.~~

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

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

179 ~~(3) (a) The Clerks of Court Operations Corporation shall~~
180 ~~certify to the President of the Senate, the Speaker of the House~~
181 ~~of Representatives, the Chief Financial Officer, and the~~
182 ~~Department of Revenue by October 15 of each year, the amount of~~
183 ~~the proposed budget certified for each clerk; the revenue~~
184 ~~projection supporting each clerk's budget; each clerk eligible~~
185 ~~to retain some or all of the state's share of fines, fees,~~



786762

186 ~~service charges, and costs; the amount to be paid to each clerk~~
187 ~~from the Clerks of the Court Trust Fund within the Department of~~
188 ~~Revenue; the performance measures and standards approved by the~~
189 ~~corporation for each clerk; and the performance of each clerk in~~
190 ~~meeting the performance standards.~~

191 ~~(b) Prior to December 1 of each year, the Chief Financial~~
192 ~~Officer shall review the certifications made by the corporation~~
193 ~~for the purpose of determining compliance with the approved~~
194 ~~process and report its findings to the President of the Senate,~~
195 ~~the Speaker of the House of Representatives and to the~~
196 ~~Department of Revenue. To determine compliance with this~~
197 ~~process, the Chief Financial Officer may examine the budgets~~
198 ~~submitted to the corporation by the clerks.~~

199 ~~(3)-(4)~~ (a) The list of court-related functions that clerks
200 may perform are fund from filing fees, service charges, court
201 costs, and fines shall be limited to those functions expressly
202 authorized by law or court rule. Those functions must include
203 the following: case maintenance; records management; court
204 preparation and attendance; processing the assignment,
205 reopening, and reassignment of cases; processing of appeals;
206 collection and distribution of fines, fees, service charges, and
207 court costs; processing of bond forfeiture payments; payment of
208 jurors and witnesses; payment of expenses for meals or lodging
209 provided to jurors; data collection and reporting; processing of
210 jurors; determinations of indigent status; and reasonable
211 administrative support costs to enable the clerk of the court to
212 carry out these court-related functions.

213 (b) The list of functions that clerks may not fund from
214 state appropriations filing fees, service charges, court costs,



786762

215 ~~and fines shall~~ include:

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

217 2. Functions assigned by administrative orders which are
218 not required for the clerk to perform the functions in paragraph
219 (a).

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

222 4. Functions identified as local requirements in law or
223 local optional programs.

224 ~~(4)(5)~~ The corporation shall be funded pursuant to the
225 General Appropriations Act ~~contract with the Chief Financial~~
226 ~~Officer. Funds shall be provided to the Chief Financial Officer~~
227 ~~for this purpose as appropriated by general law. These funds~~
228 ~~shall be available to the corporation for the performance of the~~
229 ~~duties and responsibilities as set forth in this section. The~~
230 corporation may hire staff and pay other expenses from state
231 appropriations ~~these funds~~ as necessary to perform the official
232 duties and responsibilities of the corporation as described by
233 law in this section.

234 ~~(5)(6)~~(a) The corporation shall submit an annual audited
235 financial statement to the Auditor General in a form and manner
236 prescribed by the Auditor General. The Auditor General shall
237 conduct an annual audit of the operations of the corporation,
238 including the use of funds and compliance with the provisions of
239 this section and ss. 28.36 and 28.37.

240 (b) Certified public accountants conducting audits of
241 counties pursuant to s. 218.39 shall report, as part of the
242 audit, whether or not the clerks of the courts have complied
243 with the requirements of this section and s. 28.36. In addition,



786762

244 each clerk of court shall forward a copy of the portion of the
245 financial audit relating to the court-related duties of the
246 clerk of court to the Supreme Court. ~~budgets certified by the~~
247 ~~Florida Clerk of Courts Operations Corporation pursuant to the~~
248 ~~budget review process pursuant to contract with the Chief~~
249 ~~Financial Officer and with the performance standards developed~~
250 ~~and certified pursuant to this section.~~ The Auditor General
251 shall develop a compliance supplement for the audit of
252 compliance with the budgets and applicable performance standards
253 certified by the corporation.

254 Section 3. Section 28.36, Florida Statutes, is amended to
255 read:

256 28.36 Budget procedure.—There is ~~hereby~~ established a
257 budget procedure for the preparing budget requests for funding
258 for the court-related functions of the clerks of the court.

259 (1) Each clerk of court shall prepare a budget request for
260 the last quarter of the county fiscal year and the first three
261 quarters of the next county fiscal year. The proposed budget
262 shall be prepared, summarized, and submitted by the clerk in
263 each county to the Clerks of Court Operations Corporation in the
264 manner and form prescribed by the corporation to meet the
265 requirements of law. Each clerk shall forward a copy of his or
266 her budget request to the Supreme Court. The budget requests
267 must be provided to the corporation by October 1 of each year.

268 ~~(1) Only those functions on the standard list developed~~
269 ~~pursuant to s. 28.35(4) (a) may be funded from fees, service~~
270 ~~charges, court costs, and fines retained by the clerks of the~~
271 ~~court. No clerk may use fees, service charges, court costs, and~~
272 ~~fines in excess of the maximum budget amounts as established in~~



786762

273 ~~subsection (5).~~
274 ~~(2) For the period July 1, 2004, through September 30,~~
275 ~~2004, and for each county fiscal year ending September 30~~
276 ~~thereafter, each clerk of the court shall prepare a budget~~
277 ~~relating solely to the performance of the standard list of~~
278 ~~court-related functions pursuant to s. 28.35(4) (a).~~
279 ~~(3) Each proposed budget shall further conform to the~~
280 ~~following requirements:~~
281 ~~(a) On or before August 15 for each fiscal year thereafter,~~
282 ~~the proposed budget shall be prepared, summarized, and submitted~~
283 ~~by the clerk in each county to the Clerks of Court Operations~~
284 ~~Corporation in the manner and form prescribed by the~~
285 ~~corporation. The proposed budget must provide detailed~~
286 ~~information on the anticipated revenues available and~~
287 ~~expenditures necessary for the performance of the standard list~~
288 ~~of court-related functions of the clerk's office developed~~
289 ~~pursuant to s. 28.35(4) (a) for the county fiscal year beginning~~
290 ~~the following October 1.~~
291 ~~(b) The proposed budget must be balanced, such that the~~
292 ~~total of the estimated revenues available must equal or exceed~~
293 ~~the total of the anticipated expenditures. These revenues~~
294 ~~include the following: cash balances brought forward from the~~
295 ~~prior fiscal period; revenue projected to be received from fees,~~
296 ~~service charges, court costs, and fines for court-related~~
297 ~~functions during the fiscal period covered by the budget; and~~
298 ~~supplemental revenue that may be requested pursuant to~~
299 ~~subsection (4). The anticipated expenditures must be itemized as~~
300 ~~required by the corporation, pursuant to contract with the Chief~~
301 ~~Financial Officer.~~



786762

302 ~~(c) The proposed budget may include a contingency reserve~~
303 ~~not to exceed 10 percent of the total budget, provided that,~~
304 ~~overall, the proposed budget does not exceed the limits~~
305 ~~prescribed in subsection (5).~~

306 ~~(4) If a clerk of the court estimates that available funds~~
307 ~~plus projected revenues from fines, fees, service charges, and~~
308 ~~costs for court-related services are insufficient to meet the~~
309 ~~anticipated expenditures for the standard list of court-related~~
310 ~~functions in s. 28.35(4) (a) performed by his or her office, the~~
311 ~~clerk must report the revenue deficit to the Clerks of Court~~
312 ~~Operations Corporation in the manner and form prescribed by the~~
313 ~~corporation pursuant to contract with the Chief Financial~~
314 ~~Officer. The corporation shall verify that the proposed budget~~
315 ~~is limited to the standard list of court-related functions in s.~~
316 ~~28.35(4) (a).~~

317 (2)(a) Each clerk shall include in his or her budget
318 request a projection of the amount of court-related fees,
319 service charges, and any other court-related clerk fees which
320 will be collected during the proposed budget period. If the
321 corporation determines ~~verifies~~ that the proposed budget is
322 limited to the standard list of court-related functions in s.
323 28.35(3) (a) ~~s. 28.35(4) (a)~~ and the projected court-related
324 revenues are less than the proposed budget, the ~~a~~ revenue
325 deficit is projected, a clerk seeking to retain revenues
326 pursuant to this subsection shall increase all fees, service
327 charges, and any other court-related clerk fees and charges to
328 the maximum amounts specified by law or the amount necessary to
329 resolve the deficit, whichever is less.

330 (3) Each clerk shall include in his or her budget request



786762

331 the number of personnel and the proposed budget for each of the
332 following core services:

- 333 (a) Case processing;
- 334 (b) Financial processing;
- 335 (c) Jury management; and
- 336 (d) Information and reporting.

337
338 Central administrative costs shall be allocated among the core-
339 services categories.

340 (4) The budget request must identify the service units to
341 be provided within each core service. The service units shall be
342 developed by the corporation, in consultation with the Supreme
343 Court, the Chief Financial Officer, and the appropriation
344 committees of the Senate and the House of Representatives.

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

348 (6) The corporation shall review each individual clerk's
349 prior-year expenditures, projected revenue, proposed unit costs,
350 and the proposed budget for each of the core-services
351 categories. The corporation shall compare each clerk's prior-
352 year expenditures and unit costs for core services with a peer
353 group of clerks' offices having a population of a similar size
354 and a similar number of case filings. If the corporation finds
355 that the expenditures, unit costs, or proposed budget of a clerk
356 are significantly higher than those of clerks in that clerk's
357 peer group, the corporation shall require the clerk to submit
358 documentation justifying the difference in each core-services
359 category. Justification for higher expenditures may include, but



786762

360 need not be limited to, collective bargaining agreements, county
361 civil service agreements, and the number and distribution of
362 court houses served by the clerk. If the expenditures and unit
363 costs are not justified, the corporation shall recommend a
364 reduction in the funding for that core-services category in the
365 budget request to an amount similar to the peer group of clerks
366 or to an amount that the corporation determines is justified.

367 (7) The corporation shall complete its review and
368 adjustments to the clerks' budget requests and make its
369 recommendations to the Legislature and the Supreme Court by
370 December 1 each year.

371 (8) The Chief Financial Officer shall review the proposed
372 unit costs associated with each clerk of court's budget request
373 and make recommendations to the Legislature. The Chief Financial
374 Officer may conduct any audit of the corporation or a clerk of
375 court as authorized by law. The Chief Justice of the Supreme
376 Court may request an audit of the corporation or any clerk of
377 court by the Chief Financial Officer.

378 (9) The Legislature shall appropriate the total amount for
379 the budgets of the clerks in the General Appropriations Act. The
380 Legislature may reject or modify any or all of the unit costs
381 recommended by the corporation. If the Legislature does not
382 specify the unit costs in the General Appropriations Act or
383 other law, the unit costs recommended by the corporation will be
384 the official unit costs for that budget period.

385 (10) The corporation shall release appropriations to each
386 clerk quarterly. The amount of the release shall be based on the
387 prior quarter's performance of service units identified in the
388 four core services and the established unit costs for each



786762

389 ~~clerk. If, after increasing fees, service charges, and any other~~
390 ~~court-related clerk fees and charges to the maximum amounts~~
391 ~~specified by law, a revenue deficit is still projected, the~~
392 ~~corporation shall, pursuant to the terms of the contract with~~
393 ~~the Chief Financial Officer, certify a revenue deficit and~~
394 ~~notify the Department of Revenue that the clerk is authorized to~~
395 ~~retain revenues, in an amount necessary to fully fund the~~
396 ~~projected revenue deficit, which he or she would otherwise be~~
397 ~~required to remit to the Department of Revenue for deposit into~~
398 ~~the Department of Revenue Clerks of the Court Trust Fund~~
399 ~~pursuant to s. 28.37. If a revenue deficit is projected for that~~
400 ~~clerk after retaining all of the projected collections from the~~
401 ~~court-related fines, fees, service charges, and costs, the~~
402 ~~Department of Revenue shall certify the amount of the revenue~~
403 ~~deficit amount to the Executive Office of the Governor and~~
404 ~~request release authority for funds appropriated for this~~
405 ~~purpose from the Department of Revenue Clerks of the Court Trust~~
406 ~~Fund. Notwithstanding provisions of s. 216.192 related to the~~
407 ~~release of funds, the Executive Office of the Governor may~~
408 ~~approve the release of funds appropriated to resolve projected~~
409 ~~revenue deficits in accordance with the notice, review, and~~
410 ~~objection procedures set forth in s. 216.177 and shall provide~~
411 ~~notice to the Chief Financial Officer. The Department of Revenue~~
412 ~~is directed to request monthly distributions from the Chief~~
413 ~~Financial Officer in equal amounts to each clerk certified to~~
414 ~~have a revenue deficit, in accordance with the releases approved~~
415 ~~by the Governor.~~

416 ~~(b) If the Chief Financial Officer finds the court-related~~
417 ~~budget proposed by a clerk includes functions not included in~~



786762

418 ~~the standard list of court-related functions in s. 28.35(4)(a),~~
419 ~~the Chief Financial Officer shall notify the clerk of the amount~~
420 ~~of the proposed budget not eligible to be funded from fees,~~
421 ~~service charges, costs, and fines for court-related functions~~
422 ~~and shall identify appropriate corrective measures to ensure~~
423 ~~budget integrity. The clerk shall then immediately discontinue~~
424 ~~all ineligible expenditures of court-related funds for this~~
425 ~~purpose and reimburse the Clerks of the Court Trust Fund for any~~
426 ~~previously ineligible expenditures made for non-court-related~~
427 ~~functions, and shall implement any corrective actions identified~~
428 ~~by the Chief Financial Officer.~~

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

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

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

443 ~~(b) For the county fiscal year 2005-2006, the maximum~~
444 ~~budget amount for the standard list of court-related functions~~
445 ~~of the clerks of court in s. 28.35(4)(a) that may be funded from~~
446 ~~fees, service charges, court costs, and fines retained by the~~



786762

447 ~~clerks of the court shall be the approved budget for county~~
448 ~~fiscal year 2004-2005 adjusted by the projected percentage~~
449 ~~change in revenue between the county fiscal years 2004-2005 and~~
450 ~~2005-2006.~~

451 ~~(c) For the county fiscal years 2006-2007 and thereafter,~~
452 ~~the maximum budget amount for the standard list of court-related~~
453 ~~functions of the clerks of court in s. 28.35(4) (a) that may be~~
454 ~~funded from fees, service charges, court costs, and fines~~
455 ~~retained by the clerks of the court shall be established by~~
456 ~~first rebasing the prior fiscal year budget to reflect the~~
457 ~~actual percentage change in the prior fiscal year revenue and~~
458 ~~then adjusting the rebased prior fiscal year budget by the~~
459 ~~projected percentage change in revenue for the proposed budget~~
460 ~~year. The rebasing calculations and maximum annual budget~~
461 ~~calculations shall be as follows:~~

462 ~~1. For county fiscal year 2006-2007, the approved budget~~
463 ~~for county fiscal year 2004-2005 shall be adjusted for the~~
464 ~~actual percentage change in revenue between the two 12-month~~
465 ~~periods ending June 30, 2005, and June 30, 2006. This result is~~
466 ~~the rebased budget for the county fiscal year 2005-2006. Then~~
467 ~~the rebased budget for the county fiscal year 2005-2006 shall be~~
468 ~~adjusted by the projected percentage change in revenue between~~
469 ~~the county fiscal years 2005-2006 and 2006-2007. This result~~
470 ~~shall be the maximum annual budget amount for the standard list~~
471 ~~of court-related functions of the clerks of court in s.~~
472 ~~28.35(4) (a) that may be funded from fees, service charges, court~~
473 ~~costs, and fines retained by the clerks of the court for each~~
474 ~~clerk for the county fiscal year 2006-2007.~~

475 ~~2. For county fiscal year 2007-2008, the rebased budget for~~



786762

476 ~~county fiscal year 2005-2006 shall be adjusted for the actual~~
477 ~~percentage change in revenue between the two 12-month periods~~
478 ~~ending June 30, 2006, and June 30, 2007. This result is the~~
479 ~~rebased budget for the county fiscal year 2006-2007. The rebased~~
480 ~~budget for county fiscal year 2006-2007 shall be adjusted by the~~
481 ~~projected percentage change in revenue between the county fiscal~~
482 ~~years 2006-2007 and 2007-2008. This result shall be the maximum~~
483 ~~annual budget amount for the standard list of court-related~~
484 ~~functions of the clerks of court in s. 28.35(4) (a) that may be~~
485 ~~funded from fees, service charges, court costs, and fines~~
486 ~~retained by the clerks of the court for county fiscal year 2007-~~
487 ~~2008.~~

488 ~~3. For county fiscal years 2008-2009 and thereafter, the~~
489 ~~maximum budget amount for the standard list of court-related~~
490 ~~functions of the clerks of court in s. 28.35(4) (a) that may be~~
491 ~~funded from fees, service charges, court costs, and fines~~
492 ~~retained by the clerks of the court shall be calculated as the~~
493 ~~rebased budget for the prior county fiscal year adjusted by the~~
494 ~~projected percentage change in revenues between the prior county~~
495 ~~fiscal year and the county fiscal year for which the maximum~~
496 ~~budget amount is being authorized. The rebased budget for the~~
497 ~~prior county fiscal year shall always be calculated by adjusting~~
498 ~~the rebased budget for the year preceding the prior county~~
499 ~~fiscal year by the actual percentage change in revenues between~~
500 ~~the 12-month period ending June 30 of the year preceding the~~
501 ~~prior county fiscal year and the 12-month period ending June 30~~
502 ~~of the prior county fiscal year.~~

503 ~~(6) The Legislative Budget Commission may approve increases~~
504 ~~to the maximum annual budgets approved for individual clerks of~~



786762

505 ~~the court pursuant to this section for court related duties, if~~
506 ~~either of the following conditions exist:~~

507 ~~(a) The additional funding is necessary to pay the cost of~~
508 ~~performing new or additional functions required by changes in~~
509 ~~law or court rule. Before the Legislative Budget Commission may~~
510 ~~approve an increase in the maximum annual budget of any clerk~~
511 ~~under this paragraph, the Clerk of the Court Operations~~
512 ~~Corporation must provide the Legislative Budget Commission with~~
513 ~~a statement of the impact of the proposed budget changes on~~
514 ~~state revenues, and evidence that the respective clerk of the~~
515 ~~court is meeting or exceeding the established performance~~
516 ~~standards for measures on the fiscal management, operational~~
517 ~~efficiency, and effective collection of fines, fees, service~~
518 ~~charges, and court costs.~~

519 ~~(b) The additional funding is necessary to pay the cost of~~
520 ~~supporting increases in the number of judges or magistrates~~
521 ~~authorized by the Legislature. Before the Legislative Budget~~
522 ~~Commission may approve an increase in the maximum annual budget~~
523 ~~of any clerk under this paragraph, the Clerk of the Court~~
524 ~~Operations Corporation must provide the Legislative Budget~~
525 ~~Commission with a statement of the impact of the proposed budget~~
526 ~~changes on state revenues; evidence that the respective clerk of~~
527 ~~the court is meeting or exceeding the established performance~~
528 ~~standards for measures on the fiscal management, operational~~
529 ~~efficiency, and effective collection of fines, fees, service~~
530 ~~charges, and court costs; and a proposed staffing model,~~
531 ~~including the cost and number of staff necessary to support each~~
532 ~~new judge or magistrate.~~

533



786762

534 ~~The total amount of increases approved by the Legislative Budget~~
535 ~~Commission for each county fiscal year shall not exceed an~~
536 ~~amount equal to 2 percent of the maximum annual budgets approved~~
537 ~~pursuant to this section for all clerks, in the aggregate, for~~
538 ~~that same county fiscal year.~~

539 ~~(11)(7) The corporation may submit proposed legislation to~~
540 ~~the Governor, the President of the Senate, and the Speaker of~~
541 ~~the House of Representatives relating to the preparation of~~
542 ~~budget requests of the clerks of court no later than November 1~~
543 ~~in any year for approval of clerk budget request amounts~~
544 ~~exceeding the restrictions in this section for the following~~
545 ~~October 1. If proposed legislation is recommended, the~~
546 ~~corporation shall also submit supporting justification with~~
547 ~~sufficient detail to identify the specific proposed expenditures~~
548 ~~that would cause the limitations to be exceeded for each~~
549 ~~affected clerk and the estimated fiscal impact on state~~
550 ~~revenues.~~

551 Section 4. Section 28.37, Florida Statutes, is amended to
552 read:

553 28.37 Fines, fees, service charges, and costs remitted to
554 the state.—

555 (1) Pursuant to s. 14(b), Art. V of the State Constitution,
556 selected salaries, costs, and expenses of the state courts
557 system and court-related functions shall be funded from a
558 portion of the revenues derived from statutory fines, fees,
559 service charges, and costs collected by the clerks of the court.

560 (2) Except as otherwise provided in ss. 28.241 and 34.041,
561 all court-related fines, fees, service charges, and costs are
562 considered state funds and shall be remitted by the clerk to the



786762

563 Department of Revenue for deposit into the Clerks of the Court
564 Trust Fund.

565 ~~(2) Beginning August 1, 2004, except as otherwise provided~~
566 ~~in ss. 28.241 and 34.041, one third of all fines, fees, service~~
567 ~~charges, and costs collected by the clerks of the court during~~
568 ~~the prior month for the performance of court-related functions~~
569 ~~shall be remitted to the Department of Revenue for deposit in~~
570 ~~the Department of Revenue Clerks of the Court Trust Fund. These~~
571 ~~collections do not include funding received for the operation of~~
572 ~~the Title IV-D child support collections and disbursement~~
573 ~~program. The clerk of the court shall remit the revenues~~
574 ~~collected during the prior month due to the state on or before~~
575 ~~the 20th day of each month. The Department of Revenue shall make~~
576 ~~a monthly transfer of the funds in the Department of Revenue~~
577 ~~Clerks of the Court Trust Fund that are not needed to resolve~~
578 ~~clerk of the court revenue deficits, as specified in s. 28.36,~~
579 ~~to the General Revenue Fund.~~

580 ~~(3) For the period of October 1, 2003, to June 30, 2004,~~
581 ~~those clerks operating as fee officers for court-related~~
582 ~~services shall determine the amount of fees collected and~~
583 ~~expenses generated for court-related services. Any excess fees~~
584 ~~generated during this period shall be remitted to the county on~~
585 ~~December 31, 2004. However, any billings for payment of due~~
586 ~~process services rendered before July 1, 2004, may be paid by~~
587 ~~the clerk from these funds. Due process services shall include,~~
588 ~~but not be limited to, court reporter services, court~~
589 ~~interpreter services, expert witness services, mental health~~
590 ~~evaluations, and court-appointed counsel services. In addition,~~
591 ~~any deficit experienced by the clerk for court-related services~~



786762

592 ~~during the period from October 1, 2003, to June 30, 2004, shall~~
593 ~~be funded by the county.~~

594 ~~(4) Beginning January 1, 2005, for the period July 1, 2004,~~
595 ~~through September 30, 2004, and each January 1 thereafter for~~
596 ~~the preceding county fiscal year of October 1 through September~~
597 ~~30, the clerk of the court must remit to the Department of~~
598 ~~Revenue for deposit in the General Revenue Fund the cumulative~~
599 ~~excess of all fees, service charges, court costs, and fines~~
600 ~~retained by the clerks of the court, plus any funds received by~~
601 ~~the clerks of the court from the Department of Revenue Clerk of~~
602 ~~the Court Trust Fund under s. 28.36(4) (a), over the amount~~
603 ~~needed to meet the approved budget amounts established under s.~~
604 ~~28.36.~~

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

608 Section 5. Paragraph (b) of subsection (1) of section
609 34.041, Florida Statutes, is amended to read:

610 34.041 Filing fees.—

611 (1)

612 (b) The first \$80 of the filing fee collected under
613 subparagraph (a)4. shall be remitted to the Department of
614 Revenue for deposit into the General Revenue Fund. The next \$15
615 of the filing fee collected under subparagraph (a)4., and the
616 first \$15 of each filing fee collected under subparagraph (a)6.,
617 shall be deposited in the state courts' Mediation and
618 Arbitration Trust Fund. ~~One-third of any filing fees collected~~
619 ~~by the clerk under this section in excess of the first \$95~~
620 ~~collected under subparagraph (a)4. shall be remitted to the~~



786762

621 ~~Department of Revenue for deposit into the Department of Revenue~~
622 ~~Clerks of the Court Trust Fund.~~ An additional filing fee of \$4
623 shall be paid to the clerk. The clerk shall transfer \$3.50 to
624 the Department of Revenue for deposit into the Court Education
625 Trust Fund and shall transfer 50 cents to the Department of
626 Revenue for deposit into the Clerks of the Court ~~Department of~~
627 ~~Financial Services' Administrative~~ Trust Fund to fund clerk
628 education. Postal charges incurred by the clerk of the county
629 court in making service by mail on defendants or other parties
630 shall be paid by the party at whose instance service is made.
631 Except as provided herein, filing fees and service charges for
632 performing duties of the clerk relating to the county court
633 shall be as provided in ss. 28.24 and 28.241. Except as
634 otherwise provided herein, all filing fees shall be remitted to
635 the Department of Revenue for deposit into the Clerks of the
636 Court Trust Fund ~~retained as fee income of the office of the~~
637 ~~clerk of circuit court.~~ Filing fees imposed by this section may
638 not be added to any penalty imposed by chapter 316 or chapter
639 318.

640 Section 6. Subsection (5) of section 43.16, Florida
641 Statutes, is amended to read

642 43.16 Justice Administrative Commission; membership, powers
643 and duties.—

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

646 (a) The maintenance of a central state office for
647 administrative services and assistance when possible to and on
648 behalf of the state attorneys and public defenders of Florida,
649 the capital collateral regional counsel of Florida, the criminal



786762

650 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem
651 Program, and the Florida Clerks of Court Operations Corporation.

652 (b) Each state attorney, public defender, ~~and~~ criminal
653 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem
654 Program, and the Florida Clerks of Court Operations Corporation
655 shall continue to prepare necessary budgets, vouchers that
656 represent valid claims for reimbursement by the state for
657 authorized expenses, and other things incidental to the proper
658 administrative operation of the office, such as revenue
659 transmittals to the Chief Financial Officer and automated
660 systems plans, but will forward same to the commission for
661 recording and submission to the proper state officer. However,
662 when requested by a state attorney, a public defender, a
663 criminal conflict and civil regional counsel, or the Guardian Ad
664 Litem Program, the commission will either assist in the
665 preparation of budget requests, voucher schedules, and other
666 forms and reports or accomplish the entire project involved.

667 Section 7. Section 43.27, Florida Statutes, is amended to
668 read

669 43.27 Office hours of clerks of court.—With the advice and
670 consent of the chief judge of the circuit, the clerks of the
671 courts of the several counties may establish the hours during
672 which the office of clerk may be open to the public. The hours
673 should conform as nearly as possible to the customary weekday
674 hours of business prevailing in the county. The clerk may
675 prescribe that the office be open such additional hours as
676 public needs require. The clerk of court may not close any
677 office of the clerk of court during customary weekday hours
678 without the consent of the chief judge of the circuit.



786762

679 Section 8. Section 142.01, Florida Statutes, is amended to
680 read:

681 142.01 Fine and forfeiture fund; disposition of revenue;
682 clerk of the circuit court.-

683 (1) There shall be established by the clerk of the circuit
684 court in each county of this state a separate fund to be known
685 as the fine and forfeiture fund for use by the clerk of the
686 circuit court in performing court-related functions. The fund
687 shall consist of the following:

688 (a)~~(1)~~ Fines and penalties pursuant to ss. 28.2402(2),
689 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

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

692 (c)~~(3)~~ Court costs pursuant to ss. 28.2402(1)(b),
693 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and
694 (11)(a), and 938.05(3).

695 (d)~~(4)~~ Proceeds from forfeited bail bonds, unclaimed bonds,
696 unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a),
697 379.2203(1), and 903.26(3)(a).

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

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

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

707 (3) Notwithstanding the provisions of this section, all



786762

708 fines and forfeitures arising from operation of the provisions
709 of s. 318.1215 shall be disbursed in accordance with that
710 section.

711 Section 9. Paragraph (qq) of subsection (1) of section
712 216.011, Florida Statutes, is amended to read

713 216.011 Definitions.—

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

717 (qq) "State agency" or "agency" means any official,
718 officer, commission, board, authority, council, committee, or
719 department of the executive branch of state government. For
720 purposes of this chapter and chapter 215, "state agency" or
721 "agency" includes, but is not limited to, state attorneys,
722 public defenders, criminal conflict and civil regional counsel,
723 capital collateral regional counsel, the Florida Clerks of Court
724 Operations Corporation, the Justice Administrative Commission,
725 the Florida Housing Finance Corporation, and the Florida Public
726 Service Commission. Solely for the purposes of implementing s.
727 19(h), Art. III of the State Constitution, the terms "state
728 agency" or "agency" include the judicial branch.

729 Section 10. Each clerk of court shall provide financial
730 data concerning his or her expenditures for court-related
731 duties, including expenditures for court-related information
732 technology, to the Executive Office of the Governor for the
733 purposes contained in SB 1796 or similar legislation.

734 Section 11. The Clerks of the Court Trust Fund within the
735 Department of Revenue, FLAIR number 73-2-588, is transferred
736 along with all balances and obligations to the Justice



786762

737 Administrative Commission.

738 Section 12. The Legislature finds and declares that this
739 act fulfills an important state interest.

740 Section 13. This act shall take effect July 1, 2009.

741

742 ===== T I T L E A M E N D M E N T =====

743 And the title is amended as follows:

744 Delete everything before the enacting clause
745 and insert:

746 A bill to be entitled

747 An act relating to the clerks of court; amending s.
748 28.241, F.S.; redirecting a portion of certain civil
749 filing fees to the Clerks of the Court Trust Fund
750 within the Justice Administrative Commission;
751 eliminating a requirement that a portion of such fees
752 be deposited into the Department of Financial
753 Services' Administrative Trust Fund; amending s.
754 28.35, F.S.; providing for the Florida Clerks of Court
755 Operations Corporation to be administratively housed
756 within the Justice Administrative Commission;
757 requiring the Chief Justice of the Supreme Court to
758 designate a member of the corporation's executive
759 council to represent the state courts system; deleting
760 provisions exempting the corporation from ch. 287,
761 F.S., relating to procurement, and from ch. 120, F.S.,
762 relating to administrative procedures; revising the
763 duties of the corporation; requiring that the Florida
764 Clerks of Court Operations Corporation develop
765 measures and standards for reviewing the performance



786762

766 of clerks of court and notify the Legislature and the
767 Supreme Court of any clerk not meeting the standards;
768 conforming cross-references; deleting provisions
769 relating to the certification of the amount of the
770 proposed budget for each clerk; providing for the
771 clerks of court to be funded pursuant to state
772 appropriations rather than from filing fees, service
773 charges, court costs, and fines; providing for the
774 Florida Clerks of Court Operations Corporation to be
775 funded pursuant to the General Appropriations Act
776 rather than a contract with the Chief Financial
777 Officer; revising requirements for the audits of
778 clerks of court; amending s. 28.36, F.S.; providing a
779 procedure for the clerks of court to prepare budget
780 requests for submission to the Florida Clerks of Court
781 Operations Corporation, with a copy to the Supreme
782 Court; providing requirements for the budget requests;
783 requiring the corporation to determine whether
784 projected court-related revenues are less than the
785 proposed budget for a clerk; requiring that a clerk
786 increase fees and service charges to resolve a
787 deficit; requiring the corporation to compare a
788 clerk's expenditures and costs with the clerk's peer
789 group and for the clerk to submit documentation
790 justifying higher expenditures; requiring that the
791 corporation and the Chief Financial Officer review the
792 clerks' budget requests and make recommendations to
793 the Legislature; authorizing the Chief Financial
794 Officer to conduct, and the Chief Justice of the



786762

795 Supreme Court to request, an audit of the corporation
796 or a clerk of court; providing for the Legislature to
797 make appropriations for the budgets of the clerks;
798 requiring that the corporation release appropriations
799 each quarter; deleting provisions authorizing the
800 Legislative Budget Commission to approve budgets;
801 amending s. 28.37, F.S.; clarifying the requirement
802 for all court-related fines, fees, service charges,
803 and costs to be deposited into the Clerks of the Court
804 Trust Fund; deleting obsolete provisions relating to
805 the funding of the clerks of court; amending s.
806 34.041, F.S., relating to filing fees; conforming
807 provisions to changes made by the act; amending s.
808 43.16, F.S., relating to the duties of the Justice
809 Administrative Commission; conforming provisions to
810 the transfer of the Florida Clerks of Court Operations
811 Corporation to the commission; amending s. 43.27,
812 F.S.; requiring that the clerk of court obtain the
813 consent of the chief judge of the circuit concerning
814 the clerk's office hours; amending s. 142.01, F.S.;
815 requiring the deposit of revenues received in the fine
816 and forfeiture funds of the clerks of court into the
817 Clerks of the Court Trust Fund within the Justice
818 Administrative Commission; amending s. 216.011, F.S.;
819 redefining the term "state agency" for purposes of the
820 fiscal affairs of the state to include the Florida
821 Clerks of Court Operations Corporation; requiring that
822 the clerks of court submit financial data to the
823 Executive Office of the Governor; transferring the



786762

824 Clerks of the Court Trust Fund from the Department of
825 Revenue to the Justice Administrative Commission;
826 providing a finding that the act fulfills an important
827 state interest; providing an effective date.