

20092108e2

1                   A bill to be entitled  
2     An act relating to the clerks of court; amending s.  
3     28.241, F.S.; redirecting a portion of certain civil  
4     filing fees to the Clerks of the Court Trust Fund  
5     within the Justice Administrative Commission; revising  
6     a requirement that a portion of such fees be deposited  
7     into the Department of Financial Services  
8     Administrative Trust Fund for a specified purpose;  
9     eliminating a requirement that a portion of such fees  
10    be deposited into the Clerks of the Court Trust Fund;  
11    conforming terminology to changes made by the act;  
12    amending s. 28.246, F.S.; conforming terminology to  
13    changes made by the act; requiring the clerk to refer  
14    certain unpaid accounts to a private attorney or a  
15    collection agent; amending s. 28.35, F.S.; providing  
16    for the Florida Clerks of Court Operations Corporation  
17    to be administratively housed within the Justice  
18    Administrative Commission; providing that the  
19    corporation is not subject to control, supervision, or  
20    direction by the commission; requiring employees of  
21    the corporation to be governed by the classification,  
22    salary, and benefits plan of the commission in a  
23    separate chapter; providing for legislative designees  
24    to the corporation's executive council; requiring the  
25    Chief Justice of the Supreme Court to designate a  
26    member of the corporation's executive council to  
27    represent the state courts system; deleting provisions  
28    exempting the corporation from ch. 287, F.S., relating  
29    to procurement, and from ch. 120, F.S., relating to

20092108e2

30 administrative procedures; revising the duties of the  
31 corporation; requiring that the corporation develop  
32 measures and standards for reviewing the performance  
33 of clerks of court and notify the Legislature and the  
34 Supreme Court of any clerk not meeting the standards;  
35 conforming cross-references; deleting provisions  
36 relating to the certification of the amount of the  
37 proposed budget for each clerk; providing for the  
38 clerks of court to be funded pursuant to state  
39 appropriations rather than from filing fees, service  
40 charges, court costs, and fines; providing for the  
41 corporation to be funded pursuant to the General  
42 Appropriations Act rather than a contract with the  
43 Chief Financial Officer; requiring the corporation to  
44 submit a legislative budget request; revising  
45 requirements for the audits of clerks of court;  
46 amending s. 28.36, F.S.; providing a procedure for the  
47 clerks of court to prepare budget requests for  
48 submission to the Florida Clerks of Court Operations  
49 Corporation, with a copy to the Supreme Court;  
50 providing requirements for the budget requests;  
51 requiring the corporation to determine whether  
52 projected court-related revenues are less than the  
53 proposed budget for a clerk; requiring that a clerk  
54 increase fees and service charges to resolve a  
55 deficit; requiring the corporation to compare a  
56 clerk's expenditures and costs with the clerk's peer  
57 group and for the clerk to submit documentation  
58 justifying higher expenditures; requiring that the

20092108e2

59 corporation and the Chief Financial Officer review the  
60 clerks' budget requests and make recommendations to  
61 the Legislature; authorizing the Chief Financial  
62 Officer to conduct, and the Chief Justice of the  
63 Supreme Court to request, an audit of the corporation  
64 or a clerk of court; providing for the Legislature to  
65 make appropriations for the budgets of the clerks;  
66 requiring that the corporation release appropriations;  
67 specifying criteria for such release; deleting  
68 obsolete provisions; deleting provisions authorizing  
69 the Legislative Budget Commission to approve budgets;  
70 amending s. 28.37, F.S.; clarifying the requirement  
71 for depositing court-related fines, fees, service  
72 charges, and costs into the Clerks of the Court Trust  
73 Fund within the Justice Administrative Commission;  
74 requiring that a specified percentage of all court-  
75 related fines collected by the clerk be deposited into  
76 the clerk's Public Records Modernization Trust Fund  
77 and used exclusively for additional court-related  
78 operational needs and programs; deleting obsolete  
79 provisions relating to the funding of the clerks of  
80 court; amending s. 28.43, F.S.; conforming terminology  
81 to changes made by the act; amending s. 34.041, F.S.,  
82 relating to filing fees; conforming provisions to  
83 changes made by the act; amending s. 43.16, F.S.,  
84 relating to the duties of the Justice Administrative  
85 Commission; conforming provisions to the transfer of  
86 the Florida Clerks of Court Operations Corporation to  
87 the commission; amending s. 43.27, F.S.; requiring

20092108e2

88 that the clerk of court obtain the consent of the  
89 chief judge of the circuit concerning the clerk's  
90 office hours; amending s. 45.035, F.S.; revising the  
91 service charge for certain sales conducted by  
92 electronic means; requiring the service charge to be  
93 paid by the winning bidder; amending s. 110.205, F.S.;  
94 providing that positions in the Florida Clerks of  
95 Court Operations Corporation are excluded from career  
96 service exemption; amending s. 142.01, F.S.; requiring  
97 the deposit of revenues received in the fine and  
98 forfeiture funds of the clerks of court into the  
99 Clerks of the Court Trust Fund within the Justice  
100 Administrative Commission; amending s. 197.542, F.S.;  
101 adding the costs to conduct an electronic tax deed  
102 sale to certain other costs which must be paid by the  
103 certificate holder; amending s. 213.131, F.S.;  
104 conforming terminology and provisions to changes made  
105 by the act; amending s. 216.011, F.S.; redefining the  
106 term "state agency" for purposes of the fiscal affairs  
107 of the state to include the Florida Clerks of Court  
108 Operations Corporation; amending s. 318.18, F.S.;  
109 authorizing certain local governments to impose a  
110 surcharge on certain infractions or violations to  
111 repay bonds relating to court facilities; requiring a  
112 clerk of court to report the amount of surcharge  
113 collections; requiring that the clerks of court submit  
114 financial data to the Executive Office of the  
115 Governor; requiring the Office of Program Policy  
116 Analysis and Government Accountability, in

20092108e2

117 consultation with the Chief Financial Officer and the  
118 Auditor General, to provide a report regarding the  
119 operation and relationship of the clerks of court and  
120 the courts to the Legislature by a specified date;  
121 providing report requirements; requiring the  
122 Technology Review Workgroup to develop a proposed plan  
123 for identifying and recommending options for  
124 implementing the integrated computer system and submit  
125 the plan to the Legislature by a specified date;  
126 providing plan requirements; providing specified  
127 restrictions for the purchase of computer software and  
128 hardware; providing an exception; transferring the  
129 Clerks of the Court Trust Fund from the Department of  
130 Revenue to the Justice Administrative Commission;  
131 providing a finding that the act fulfills an important  
132 state interest; repealing ss. 25.311, 25.321, 25.331,  
133 25.361, and 25.381, F.S., relating to the distribution  
134 and resupply of copies of the reports of decisions of  
135 the Supreme Court and district court of appeals, the  
136 declaration that such reports remain the public  
137 property of the state, the authorization of the  
138 Supreme Court to obtain state publications for  
139 exchange purposes, and the publication, purchase, and  
140 distribution of the reports of the opinions of the  
141 Supreme Court and the district courts of appeal,  
142 respectively; providing an effective date.

143  
144 Be It Enacted by the Legislature of the State of Florida:  
145

20092108e2

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

148 28.241 Filing fees for trial and appellate proceedings.—

149 (1) (a) The party instituting any civil action, suit, or  
150 proceeding in the circuit court shall pay to the clerk of that  
151 court a filing fee of up to \$295 in all cases in which there are  
152 not more than five defendants and an additional filing fee of up  
153 to \$2.50 for each defendant in excess of five. Of the first \$85  
154 in filing fees, \$80 must be remitted by the clerk to the  
155 Department of Revenue for deposit into the General Revenue Fund,  
156 \$3.50 ~~and \$5~~ must be remitted to the Department of Revenue for  
157 deposit into the Clerks of the Court Trust Fund within the  
158 Justice Administrative Commission and used ~~Department of~~  
159 ~~Financial Services' Administrative Trust Fund~~ to fund the  
160 ~~contract with~~ the Florida Clerks of Court Operations Corporation  
161 created in s. 28.35, and \$1.50 shall be remitted to the  
162 Department of Revenue for deposit into the Administrative Trust  
163 Fund within the Department of Financial Services to fund clerk  
164 budget reviews conducted by the Department of Financial  
165 Services. The next \$15 of the filing fee collected shall be  
166 deposited in the state courts' Mediation and Arbitration Trust  
167 Fund. One-third of any filing fees collected by the clerk of the  
168 circuit court in excess of \$100 shall be remitted to the  
169 Department of Revenue for deposit into the ~~Department of Revenue~~  
170 Clerks of the Court Trust Fund within the Justice Administrative  
171 Commission. An additional filing fee of \$4 shall be paid to the  
172 clerk. The clerk shall remit \$3.50 to the Department of Revenue  
173 for deposit into the Court Education Trust Fund and shall remit  
174 50 cents to the Department of Revenue for deposit into the

20092108e2

175 Clerks of the Court ~~Department of Financial Services~~  
176 ~~Administrative~~ Trust Fund within the Justice Administrative  
177 Commission to fund clerk education. An additional filing fee of  
178 up to \$18 shall be paid by the party seeking each severance that  
179 is granted. The clerk may impose an additional filing fee of up  
180 to \$85 for all proceedings of garnishment, attachment, replevin,  
181 and distress. Postal charges incurred by the clerk of the  
182 circuit court in making service by certified or registered mail  
183 on defendants or other parties shall be paid by the party at  
184 whose instance service is made. No additional fees, charges, or  
185 costs shall be added to the filing fees imposed under this  
186 section, except as authorized herein or by general law.

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

- 195 1. A writ of garnishment;
- 196 2. A writ of replevin;
- 197 3. A distress writ;
- 198 4. A writ of attachment;
- 199 5. A motion for rehearing filed within 10 days;
- 200 6. A motion for attorney's fees filed within 30 days after  
201 entry of a judgment or final order;
- 202 7. A motion for dismissal filed after a mediation agreement  
203 has been filed;

20092108e2

204 8. A disposition of personal property without  
205 administration;

206 9. Any probate case prior to the discharge of a personal  
207 representative;

208 10. Any guardianship pleading prior to discharge;

209 11. Any mental health pleading;

210 12. Motions to withdraw by attorneys;

211 13. Motions exclusively for the enforcement of child  
212 support orders;

213 14. A petition for credit of child support;

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

216 16. Stipulations;

217 17. Responsive pleadings; or

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

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

225 (d) The clerk of court shall collect a service charge of  
226 \$10 for issuing a summons. The clerk shall assess the fee  
227 against the party seeking to have the summons issued.

228 (2) Upon the institution of any appellate proceeding from  
229 any lower court to the circuit court of any such county,  
230 including appeals filed by a county or municipality as provided  
231 in s. 34.041(5), or from the circuit court to an appellate court  
232 of the state, the clerk shall charge and collect from the party

20092108e2

233 or parties instituting such appellate proceedings a filing fee  
234 not to exceed \$280 for filing a notice of appeal from the county  
235 court to the circuit court and, in addition to the filing fee  
236 required under s. 25.241 or s. 35.22, \$100 for filing a notice  
237 of appeal from the circuit court to the district court of appeal  
238 or to the Supreme Court. If the party is determined to be  
239 indigent, the clerk shall defer payment of the fee. The clerk  
240 shall remit the first \$80 to the Department of Revenue for  
241 deposit into the General Revenue Fund. ~~One-third of the fee~~  
242 ~~collected by the clerk in excess of \$80 also shall be remitted~~  
243 ~~to the Department of Revenue for deposit into the Clerks of the~~  
244 ~~Court Trust Fund.~~

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

247 28.246 Payment of court-related fees, charges, and costs;  
248 partial payments; distribution of funds.—

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

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

256  
257 To offset processing costs, clerks may impose either a per-month  
258 service charge pursuant to s. 28.24(26) (b) or a one-time  
259 administrative processing service charge at the inception of the  
260 payment plan pursuant to s. 28.24(26) (c).

261 (6) A clerk of court shall ~~may~~ pursue the collection of any

20092108e2

262 fees, service charges, fines, court costs, and liens for the  
263 payment of attorney's fees and costs pursuant to s. 938.29 which  
264 remain unpaid after ~~for~~ 90 days by referring ~~or more, or refer~~  
265 the account to a private attorney who is a member in good  
266 standing of The Florida Bar or collection agent who is  
267 registered and in good standing pursuant to chapter 559. In  
268 pursuing the collection of such unpaid financial obligations  
269 through a private attorney or collection agent, the clerk of the  
270 court must have attempted to collect the unpaid amount through a  
271 collection court, collections docket, or other collections  
272 process, if any, established by the court, find this to be cost-  
273 effective and follow any applicable procurement practices. The  
274 collection fee, including any reasonable attorney's fee, paid to  
275 any attorney or collection agent retained by the clerk may be  
276 added to the balance owed in an amount not to exceed 40 percent  
277 of the amount owed at the time the account is referred to the  
278 attorney or agent for collection.

279 Section 3. Section 28.35, Florida Statutes, is amended to  
280 read:

281 28.35 Florida Clerks of Court Operations Corporation.—

282 (1) (a) The Florida Clerks of Court Operations Corporation  
283 is ~~hereby~~ created as a public corporation organized to perform  
284 the functions specified in this section and s. 28.36 and shall  
285 be administratively housed within the Justice Administrative  
286 Commission. The corporation shall be a budget entity within the  
287 Justice Administrative Commission, and its employees shall be  
288 considered state employees. The corporation is not subject to  
289 control, supervision, or direction by the Justice Administrative  
290 Commission in the performance of its duties, but the employees

20092108e2

291 of the corporation shall be governed by the classification plan  
292 and salary and benefits plan of the Justice Administrative  
293 Commission. The classification plan must have a separate chapter  
294 for the corporation. All clerks of the circuit court shall be  
295 members of the corporation and hold their position and authority  
296 in an ex officio capacity. The functions assigned to the  
297 corporation shall be performed by an executive council pursuant  
298 to the plan of operation approved by the members.

299 (b) The executive council shall be composed of eight clerks  
300 of the court elected by the clerks of the courts for a term of 2  
301 years, with two clerks from counties with a population of fewer  
302 than 100,000, two clerks from counties with a population of at  
303 least 100,000 but fewer than 500,000, two clerks from counties  
304 with a population of at least 500,000 but fewer than 1 million,  
305 and two clerks from counties with a population of more than 1  
306 million. The executive council shall also include, as ex officio  
307 members, a designee of the President of the Senate and a  
308 designee of the Speaker of the House of Representatives. The  
309 Chief Justice of the Supreme Court shall designate one  
310 additional member to represent the state courts system.

311 (c) The corporation shall be considered a political  
312 subdivision of the state and shall be exempt from the corporate  
313 income tax. The corporation is not subject to the ~~procurement~~  
314 ~~provisions of chapter 287 and policies and decisions of the~~  
315 ~~corporation relating to incurring debt, levying assessments, and~~  
316 ~~the sale, issuance, continuation, terms, and claims under~~  
317 ~~corporation policies, and all services relating thereto, are not~~  
318 ~~subject to the provisions of chapter 120.~~

319 (d) The functions assigned to the corporation under this

20092108e2

320 section and ss. 28.36 and 28.37 are considered to be for a valid  
321 public purpose.

322 (2) The duties of the corporation shall include the  
323 following:

324 (a) Adopting a plan of operation.

325 (b) Conducting the election of directors as required in  
326 paragraph (1) (a).

327 (c) Recommending to the Legislature changes in the various  
328 court-related fines, fees, service charges, and court costs  
329 established by law ~~to ensure reasonable and adequate funding of~~  
330 ~~the clerks of the court in the performance of their court-~~  
331 ~~related functions.~~

332 ~~(d) Pursuant to contract with the Chief Financial Officer,~~  
333 ~~establishing a process for the review and certification of~~  
334 ~~proposed court-related budgets submitted by clerks of the court~~  
335 ~~for completeness and compliance with this section and ss. 28.36~~  
336 ~~and 28.37. This process shall be designed and be of sufficient~~  
337 ~~detail to permit independent verification and validation of the~~  
338 ~~budget certification. The contract shall specify the process to~~  
339 ~~be used in determining compliance by the corporation with this~~  
340 ~~section and ss. 28.36 and 28.37.~~

341 (d)(e) Developing and certifying a uniform system of  
342 performance measures and applicable performance standards for  
343 the functions specified in paragraph (3) (a) and the service unit  
344 costs required in s. 28.36 ~~paragraph (4) (a)~~ and measures for  
345 clerk performance in meeting the performance standards. These  
346 measures and standards shall be designed to facilitate an  
347 objective determination of the performance of each clerk in  
348 accordance with minimum standards for fiscal management,

20092108e2

349 operational efficiency, and effective collection of fines, fees,  
350 service charges, and court costs. The corporation shall develop  
351 the performance measures and performance standards in  
352 consultation with the Legislature and the Supreme Court. The  
353 Legislature may modify the clerk performance measures and  
354 performance standards in legislation implementing the General  
355 Appropriations Act or other law. When the corporation finds a  
356 clerk has not met the performance standards, the corporation  
357 shall identify the nature of each deficiency and any corrective  
358 action recommended and taken by the affected clerk of the court.  
359 The corporation shall notify the Legislature and the Supreme  
360 Court of any clerk not meeting performance standards and provide  
361 a copy of any corrective action plans.

362 ~~(e)-(f) Reviewing and certifying proposed budgets submitted~~  
363 ~~by clerks of the court pursuant to s. 28.36 utilizing the~~  
364 ~~process approved by the Chief Financial Officer pursuant to~~  
365 ~~paragraph (d) for the purpose of making the certification in~~  
366 ~~paragraph (3)(a). As part of this process, the corporation~~  
367 ~~shall:~~

368 ~~1. Calculate the maximum authorized annual budget pursuant~~  
369 ~~to the requirements of s. 28.36.~~

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

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

376 ~~4. Identify those clerks projected to have court-related~~  
377 ~~revenues insufficient to fund their anticipated court-related~~

20092108e2

378 expenditures.

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

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

383 ~~(3)~~(a) ~~The Clerks of Court Operations Corporation shall~~  
384 ~~certify to the President of the Senate, the Speaker of the House~~  
385 ~~of Representatives, the Chief Financial Officer, and the~~  
386 ~~Department of Revenue by October 15 of each year, the amount of~~  
387 ~~the proposed budget certified for each clerk; the revenue~~  
388 ~~projection supporting each clerk's budget; each clerk eligible~~  
389 ~~to retain some or all of the state's share of fines, fees,~~  
390 ~~service charges, and costs; the amount to be paid to each clerk~~  
391 ~~from the Clerks of the Court Trust Fund within the Department of~~  
392 ~~Revenue; the performance measures and standards approved by the~~  
393 ~~corporation for each clerk; and the performance of each clerk in~~  
394 ~~meeting the performance standards.~~

395 ~~(b)~~ Prior to December 1 of each year, the Chief Financial  
396 Officer shall review the certifications made by the corporation  
397 for the purpose of determining compliance with the approved  
398 process and report its findings to the President of the Senate,  
399 the Speaker of the House of Representatives and to the  
400 Department of Revenue. To determine compliance with this  
401 process, the Chief Financial Officer may examine the budgets  
402 submitted to the corporation by the clerks.

403 ~~(3)~~(4)(a) The ~~list of~~ court-related functions that clerks  
404 may perform are fund from filing fees, service charges, court  
405 ~~costs, and fines shall be~~ limited to those functions expressly  
406 authorized by law or court rule. Those functions ~~must~~ include

20092108e2

407 the following: case maintenance; records management; court  
408 preparation and attendance; processing the assignment,  
409 reopening, and reassignment of cases; processing of appeals;  
410 collection and distribution of fines, fees, service charges, and  
411 court costs; processing of bond forfeiture payments; payment of  
412 jurors and witnesses; payment of expenses for meals or lodging  
413 provided to jurors; data collection and reporting; processing of  
414 jurors; determinations of indigent status; and reasonable  
415 administrative support ~~costs~~ to enable the clerk of the court to  
416 carry out these court-related functions.

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

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

421 2. Functions assigned by administrative orders which are  
422 not required for the clerk to perform the functions in paragraph  
423 (a).

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

426 4. Functions identified as local requirements in law or  
427 local optional programs.

428 ~~(4)-(5)~~ The corporation shall prepare a legislative budget  
429 request for the resources necessary to perform its duties,  
430 submit the request pursuant to chapter 216, and be funded as a  
431 budget entity in the General Appropriations Act pursuant to  
432 ~~contract with the Chief Financial Officer. Funds shall be~~  
433 ~~provided to the Chief Financial Officer for this purpose as~~  
434 ~~appropriated by general law. These funds shall be available to~~  
435 ~~the corporation for the performance of the duties and~~

20092108e2

436 ~~responsibilities as set forth in this section.~~ The corporation  
437 may hire staff and pay other expenses from state appropriations  
438 ~~these funds~~ as necessary to perform the official duties and  
439 responsibilities of the corporation as described by law ~~in this~~  
440 ~~section.~~

441 (5) ~~(6)~~ (a) The corporation shall submit an annual audited  
442 financial statement to the Auditor General in a form and manner  
443 prescribed by the Auditor General. The Auditor General shall  
444 conduct an annual audit of the operations of the corporation,  
445 including the use of funds and compliance with the provisions of  
446 this section and ss. 28.36 and 28.37.

447 (b) Certified public accountants conducting audits of  
448 counties pursuant to s. 218.39 shall report, as part of the  
449 audit, whether or not the clerks of the courts have complied  
450 with the requirements of this section and s. 28.36. In addition,  
451 each clerk of court shall forward a copy of the portion of the  
452 financial audit relating to the court-related duties of the  
453 clerk of court to the Supreme Court ~~budgets certified by the~~  
454 ~~Florida Clerk of Courts Operations Corporation pursuant to the~~  
455 ~~budget review process pursuant to contract with the Chief~~  
456 ~~Financial Officer and with the performance standards developed~~  
457 ~~and certified pursuant to this section.~~ The Auditor General  
458 shall develop a compliance supplement for the audit of  
459 compliance with the budgets and applicable performance standards  
460 certified by the corporation.

461 Section 4. Section 28.36, Florida Statutes, is amended to  
462 read:

463 28.36 Budget procedure.—There is ~~hereby~~ established a  
464 budget procedure for the preparing budget requests for funding

20092108e2

465 for the court-related functions of the clerks of the court.

466 (1) Each clerk of court shall prepare a budget request for  
467 the last quarter of the county fiscal year and the first three  
468 quarters of the next county fiscal year. The proposed budget  
469 shall be prepared, summarized, and submitted by the clerk in  
470 each county to the Florida Clerks of Court Operations  
471 Corporation in the manner and form prescribed by the corporation  
472 to meet the requirements of law. Each clerk shall forward a copy  
473 of his or her budget request to the Supreme Court. The budget  
474 requests must be provided to the corporation by October 1 of  
475 each year.

476 ~~(1) Only those functions on the standard list developed~~  
477 ~~pursuant to s. 28.35(4)(a) may be funded from fees, service~~  
478 ~~charges, court costs, and fines retained by the clerks of the~~  
479 ~~court. No clerk may use fees, service charges, court costs, and~~  
480 ~~fines in excess of the maximum budget amounts as established in~~  
481 ~~subsection (5).~~

482 ~~(2) For the period July 1, 2004, through September 30,~~  
483 ~~2004, and for each county fiscal year ending September 30~~  
484 ~~thereafter, each clerk of the court shall prepare a budget~~  
485 ~~relating solely to the performance of the standard list of~~  
486 ~~court-related functions pursuant to s. 28.35(4)(a).~~

487 ~~(3) Each proposed budget shall further conform to the~~  
488 ~~following requirements:~~

489 ~~(a) On or before August 15 for each fiscal year thereafter,~~  
490 ~~the proposed budget shall be prepared, summarized, and submitted~~  
491 ~~by the clerk in each county to the Clerks of Court Operations~~  
492 ~~Corporation in the manner and form prescribed by the~~  
493 ~~corporation. The proposed budget must provide detailed~~

20092108e2

494 ~~information on the anticipated revenues available and~~  
495 ~~expenditures necessary for the performance of the standard list~~  
496 ~~of court-related functions of the clerk's office developed~~  
497 ~~pursuant to s. 28.35(4) (a) for the county fiscal year beginning~~  
498 ~~the following October 1.~~

499 ~~(b) The proposed budget must be balanced, such that the~~  
500 ~~total of the estimated revenues available must equal or exceed~~  
501 ~~the total of the anticipated expenditures. These revenues~~  
502 ~~include the following: cash balances brought forward from the~~  
503 ~~prior fiscal period; revenue projected to be received from fees,~~  
504 ~~service charges, court costs, and fines for court-related~~  
505 ~~functions during the fiscal period covered by the budget; and~~  
506 ~~supplemental revenue that may be requested pursuant to~~  
507 ~~subsection (4). The anticipated expenditures must be itemized as~~  
508 ~~required by the corporation, pursuant to contract with the Chief~~  
509 ~~Financial Officer.~~

510 ~~(c) The proposed budget may include a contingency reserve~~  
511 ~~not to exceed 10 percent of the total budget, provided that,~~  
512 ~~overall, the proposed budget does not exceed the limits~~  
513 ~~prescribed in subsection (5).~~

514 ~~(4) If a clerk of the court estimates that available funds~~  
515 ~~plus projected revenues from fines, fees, service charges, and~~  
516 ~~costs for court-related services are insufficient to meet the~~  
517 ~~anticipated expenditures for the standard list of court-related~~  
518 ~~functions in s. 28.35(4) (a) performed by his or her office, the~~  
519 ~~clerk must report the revenue deficit to the Clerks of Court~~  
520 ~~Operations Corporation in the manner and form prescribed by the~~  
521 ~~corporation pursuant to contract with the Chief Financial~~  
522 ~~Officer. The corporation shall verify that the proposed budget~~

20092108e2

523 ~~is limited to the standard list of court-related functions in s.~~  
524 ~~28.35(4)(a).~~

525 (2)(a) Each clerk shall include in his or her budget  
526 request a projection of the amount of court-related fees,  
527 service charges, and any other court-related clerk fees which  
528 will be collected during the proposed budget period. If the  
529 corporation determines ~~verifies~~ that the proposed budget is  
530 limited to the standard list of court-related functions in s.  
531 28.35(3)(a) ~~s. 28.35(4)(a)~~ and the projected court-related  
532 revenues are less than the proposed budget, the a revenue  
533 ~~deficit is projected, a clerk seeking to retain revenues~~  
534 ~~pursuant to this subsection~~ shall increase all fees, service  
535 charges, and any other court-related clerk fees and charges to  
536 the maximum amounts specified by law or the amount necessary to  
537 resolve the deficit, whichever is less.

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

- 541 (a) Case processing.  
542 (b) Financial processing.  
543 (c) Jury management.  
544 (d) Information and reporting.

545  
546 Central administrative costs shall be allocated among the core-  
547 services categories.

548 (4) The budget request must identify the service units to  
549 be provided within each core service. The service units shall be  
550 developed by the corporation, in consultation with the Supreme  
551 Court, the Chief Financial Officer, and the appropriation

20092108e2

552 committees of the Senate and the House of Representatives.

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

556 (6) The corporation shall review each individual clerk's  
557 prior-year expenditures, projected revenue, proposed unit costs,  
558 and the proposed budget for each of the core-services  
559 categories. The corporation shall compare each clerk's prior-  
560 year expenditures and unit costs for core services with a peer  
561 group of clerks' offices having a population of a similar size  
562 and a similar number of case filings. If the corporation finds  
563 that the expenditures, unit costs, or proposed budget of a clerk  
564 are significantly higher than those of clerks in that clerk's  
565 peer group, the corporation shall require the clerk to submit  
566 documentation justifying the difference in each core-services  
567 category. Justification for higher expenditures may include, but  
568 are not limited to, collective bargaining agreements, county  
569 civil service agreements, and the number and distribution of  
570 courthouses served by the clerk. If the expenditures and unit  
571 costs are not justified, the corporation shall recommend a  
572 reduction in the funding for that core-services category in the  
573 budget request to an amount similar to the peer group of clerks  
574 or to an amount that the corporation determines is justified.

575 (7) The corporation shall complete its review and  
576 adjustments to the clerks' budget requests and make its  
577 recommendations to the Legislature and the Supreme Court by  
578 December 1 each year.

579 (8) The Chief Financial Officer shall review the proposed  
580 unit costs associated with each clerk of court's budget request

20092108e2

581 and make recommendations to the Legislature. The Chief Financial  
582 Officer may conduct any audit of the corporation or a clerk of  
583 court as authorized by law. The Chief Justice of the Supreme  
584 Court may request an audit of the corporation or any clerk of  
585 court by the Chief Financial Officer.

586 (9) The Legislature shall appropriate the total amount for  
587 the budgets of the clerks in the General Appropriations Act. The  
588 Legislature may reject or modify any or all of the unit costs  
589 recommended by the corporation. If the Legislature does not  
590 specify the unit costs in the General Appropriations Act or  
591 other law, the unit costs recommended by the corporation shall  
592 be the official unit costs for that budget period.

593 (10) For the 2009-2010 fiscal year, the corporation shall  
594 release appropriations in an amount equal to one-twelfth of each  
595 clerk's approved budget each month. The statewide total  
596 appropriation for the 2009-2010 fiscal year shall be set in the  
597 General Appropriations Act. The corporation shall determine the  
598 amount of each clerk of court budget, but the statewide total of  
599 such amounts may not exceed the amount listed in the General  
600 Appropriations Act. Beginning in the 2010-2011 fiscal year, the  
601 corporation shall release appropriations to each clerk  
602 quarterly. The amount of the release shall be based on the prior  
603 quarter's performance of service units identified in the four  
604 core services and the established unit costs for each clerk. ~~If,~~  
605 ~~after increasing fees, service charges, and any other court-~~  
606 ~~related clerk fees and charges to the maximum amounts specified~~  
607 ~~by law, a revenue deficit is still projected, the corporation~~  
608 ~~shall, pursuant to the terms of the contract with the Chief~~  
609 ~~Financial Officer, certify a revenue deficit and notify the~~

20092108e2

610 ~~Department of Revenue that the clerk is authorized to retain~~  
611 ~~revenues, in an amount necessary to fully fund the projected~~  
612 ~~revenue deficit, which he or she would otherwise be required to~~  
613 ~~remit to the Department of Revenue for deposit into the~~  
614 ~~Department of Revenue Clerks of the Court Trust Fund pursuant to~~  
615 ~~s. 28.37. If a revenue deficit is projected for that clerk after~~  
616 ~~retaining all of the projected collections from the court-~~  
617 ~~related fines, fees, service charges, and costs, the Department~~  
618 ~~of Revenue shall certify the amount of the revenue deficit~~  
619 ~~amount to the Executive Office of the Governor and request~~  
620 ~~release authority for funds appropriated for this purpose from~~  
621 ~~the Department of Revenue Clerks of the Court Trust Fund.~~  
622 ~~Notwithstanding provisions of s. 216.192 related to the release~~  
623 ~~of funds, the Executive Office of the Governor may approve the~~  
624 ~~release of funds appropriated to resolve projected revenue~~  
625 ~~deficits in accordance with the notice, review, and objection~~  
626 ~~procedures set forth in s. 216.177 and shall provide notice to~~  
627 ~~the Chief Financial Officer. The Department of Revenue is~~  
628 ~~directed to request monthly distributions from the Chief~~  
629 ~~Financial Officer in equal amounts to each clerk certified to~~  
630 ~~have a revenue deficit, in accordance with the releases approved~~  
631 ~~by the Governor.~~

632 ~~(b) If the Chief Financial Officer finds the court-related~~  
633 ~~budget proposed by a clerk includes functions not included in~~  
634 ~~the standard list of court-related functions in s. 28.35(4)(a),~~  
635 ~~the Chief Financial Officer shall notify the clerk of the amount~~  
636 ~~of the proposed budget not eligible to be funded from fees,~~  
637 ~~service charges, costs, and fines for court-related functions~~  
638 ~~and shall identify appropriate corrective measures to ensure~~

20092108e2

639 ~~budget integrity. The clerk shall then immediately discontinue~~  
640 ~~all ineligible expenditures of court-related funds for this~~  
641 ~~purpose and reimburse the Clerks of the Court Trust Fund for any~~  
642 ~~previously ineligible expenditures made for non-court-related~~  
643 ~~functions, and shall implement any corrective actions identified~~  
644 ~~by the Chief Financial Officer.~~

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

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

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

659 ~~(b) For the county fiscal year 2005-2006, the maximum~~  
660 ~~budget amount for the standard list of court-related functions~~  
661 ~~of the clerks of court in s. 28.35(4) (a) that may be funded from~~  
662 ~~fees, service charges, court costs, and fines retained by the~~  
663 ~~clerks of the court shall be the approved budget for county~~  
664 ~~fiscal year 2004-2005 adjusted by the projected percentage~~  
665 ~~change in revenue between the county fiscal years 2004-2005 and~~  
666 ~~2005-2006.~~

667 ~~(c) For the county fiscal years 2006-2007 and thereafter,~~

20092108e2

668 ~~the maximum budget amount for the standard list of court-related~~  
669 ~~functions of the clerks of court in s. 28.35(4)(a) that may be~~  
670 ~~funded from fees, service charges, court costs, and fines~~  
671 ~~retained by the clerks of the court shall be established by~~  
672 ~~first rebasing the prior fiscal year budget to reflect the~~  
673 ~~actual percentage change in the prior fiscal year revenue and~~  
674 ~~then adjusting the rebased prior fiscal year budget by the~~  
675 ~~projected percentage change in revenue for the proposed budget~~  
676 ~~year. The rebasing calculations and maximum annual budget~~  
677 ~~calculations shall be as follows:~~

678 ~~1. For county fiscal year 2006-2007, the approved budget~~  
679 ~~for county fiscal year 2004-2005 shall be adjusted for the~~  
680 ~~actual percentage change in revenue between the two 12-month~~  
681 ~~periods ending June 30, 2005, and June 30, 2006. This result is~~  
682 ~~the rebased budget for the county fiscal year 2005-2006. Then~~  
683 ~~the rebased budget for the county fiscal year 2005-2006 shall be~~  
684 ~~adjusted by the projected percentage change in revenue between~~  
685 ~~the county fiscal years 2005-2006 and 2006-2007. This result~~  
686 ~~shall be the maximum annual budget amount for the standard list~~  
687 ~~of court-related functions of the clerks of court in s.~~  
688 ~~28.35(4)(a) that may be funded from fees, service charges, court~~  
689 ~~costs, and fines retained by the clerks of the court for each~~  
690 ~~clerk for the county fiscal year 2006-2007.~~

691 ~~2. For county fiscal year 2007-2008, the rebased budget for~~  
692 ~~county fiscal year 2005-2006 shall be adjusted for the actual~~  
693 ~~percentage change in revenue between the two 12-month periods~~  
694 ~~ending June 30, 2006, and June 30, 2007. This result is the~~  
695 ~~rebased budget for the county fiscal year 2006-2007. The rebased~~  
696 ~~budget for county fiscal year 2006-2007 shall be adjusted by the~~

20092108e2

697 ~~projected percentage change in revenue between the county fiscal~~  
698 ~~years 2006-2007 and 2007-2008. This result shall be the maximum~~  
699 ~~annual budget amount for the standard list of court-related~~  
700 ~~functions of the clerks of court in s. 28.35(4)(a) that may be~~  
701 ~~funded from fees, service charges, court costs, and fines~~  
702 ~~retained by the clerks of the court for county fiscal year 2007-~~  
703 ~~2008.~~

704 ~~3. For county fiscal years 2008-2009 and thereafter, the~~  
705 ~~maximum budget amount for the standard list of court-related~~  
706 ~~functions of the clerks of court in s. 28.35(4)(a) that may be~~  
707 ~~funded from fees, service charges, court costs, and fines~~  
708 ~~retained by the clerks of the court shall be calculated as the~~  
709 ~~rebased budget for the prior county fiscal year adjusted by the~~  
710 ~~projected percentage change in revenues between the prior county~~  
711 ~~fiscal year and the county fiscal year for which the maximum~~  
712 ~~budget amount is being authorized. The rebased budget for the~~  
713 ~~prior county fiscal year shall always be calculated by adjusting~~  
714 ~~the rebased budget for the year preceding the prior county~~  
715 ~~fiscal year by the actual percentage change in revenues between~~  
716 ~~the 12-month period ending June 30 of the year preceding the~~  
717 ~~prior county fiscal year and the 12-month period ending June 30~~  
718 ~~of the prior county fiscal year.~~

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

723 ~~(a) The additional funding is necessary to pay the cost of~~  
724 ~~performing new or additional functions required by changes in~~  
725 ~~law or court rule. Before the Legislative Budget Commission may~~

20092108e2

726 ~~approve an increase in the maximum annual budget of any clerk~~  
727 ~~under this paragraph, the Clerk of the Court Operations~~  
728 ~~Corporation must provide the Legislative Budget Commission with~~  
729 ~~a statement of the impact of the proposed budget changes on~~  
730 ~~state revenues, and evidence that the respective clerk of the~~  
731 ~~court is meeting or exceeding the established performance~~  
732 ~~standards for measures on the fiscal management, operational~~  
733 ~~efficiency, and effective collection of fines, fees, service~~  
734 ~~charges, and court costs.~~

735 ~~(b) The additional funding is necessary to pay the cost of~~  
736 ~~supporting increases in the number of judges or magistrates~~  
737 ~~authorized by the Legislature. Before the Legislative Budget~~  
738 ~~Commission may approve an increase in the maximum annual budget~~  
739 ~~of any clerk under this paragraph, the Clerk of the Court~~  
740 ~~Operations Corporation must provide the Legislative Budget~~  
741 ~~Commission with a statement of the impact of the proposed budget~~  
742 ~~changes on state revenues; evidence that the respective clerk of~~  
743 ~~the court is meeting or exceeding the established performance~~  
744 ~~standards for measures on the fiscal management, operational~~  
745 ~~efficiency, and effective collection of fines, fees, service~~  
746 ~~charges, and court costs; and a proposed staffing model,~~  
747 ~~including the cost and number of staff necessary to support each~~  
748 ~~new judge or magistrate.~~

749  
750 ~~The total amount of increases approved by the Legislative Budget~~  
751 ~~Commission for each county fiscal year shall not exceed an~~  
752 ~~amount equal to 2 percent of the maximum annual budgets approved~~  
753 ~~pursuant to this section for all clerks, in the aggregate, for~~  
754 ~~that same county fiscal year.~~

20092108e2

755        ~~(11)(7)~~ The corporation may submit proposed legislation to  
756 the Governor, the President of the Senate, and the Speaker of  
757 the House of Representatives relating to the preparation of  
758 budget requests of the clerks of court no later than November 1  
759 ~~in any year for approval of clerk budget request amounts~~  
760 ~~exceeding the restrictions in this section for the following~~  
761 ~~October 1. If proposed legislation is recommended, the~~  
762 ~~corporation shall also submit supporting justification with~~  
763 ~~sufficient detail to identify the specific proposed expenditures~~  
764 ~~that would cause the limitations to be exceeded for each~~  
765 ~~affected clerk and the estimated fiscal impact on state~~  
766 ~~revenues.~~

767        Section 5. Section 28.37, Florida Statutes, is amended to  
768 read:

769        28.37 Fines, fees, service charges, and costs remitted to  
770 the state.—

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

776        (2) Except as otherwise provided in ss. 28.241 and 34.041,  
777 all court-related fines, fees, service charges, and costs are  
778 considered state funds and shall be remitted by the clerk to the  
779 Department of Revenue for deposit into the Clerks of the Court  
780 Trust Fund within the Justice Administrative Commission.  
781 However, 10 percent of all court-related fines collected by the  
782 clerk shall be deposited into the clerk's Public Records  
783 Modernization Trust Fund to be used exclusively for additional

20092108e2

784 clerk court-related operational needs and program enhancements.

785 ~~(2) Beginning August 1, 2004, except as otherwise provided~~  
786 ~~in ss. 28.241 and 34.041, one-third of all fines, fees, service~~  
787 ~~charges, and costs collected by the clerks of the court during~~  
788 ~~the prior month for the performance of court-related functions~~  
789 ~~shall be remitted to the Department of Revenue for deposit in~~  
790 ~~the Department of Revenue Clerks of the Court Trust Fund. These~~  
791 ~~collections do not include funding received for the operation of~~  
792 ~~the Title IV-D child support collections and disbursement~~  
793 ~~program. The clerk of the court shall remit the revenues~~  
794 ~~collected during the prior month due to the state on or before~~  
795 ~~the 20th day of each month. The Department of Revenue shall make~~  
796 ~~a monthly transfer of the funds in the Department of Revenue~~  
797 ~~Clerks of the Court Trust Fund that are not needed to resolve~~  
798 ~~clerk of the court revenue deficits, as specified in s. 28.36,~~  
799 ~~to the General Revenue Fund.~~

800 ~~(3) For the period of October 1, 2003, to June 30, 2004,~~  
801 ~~those clerks operating as fee officers for court-related~~  
802 ~~services shall determine the amount of fees collected and~~  
803 ~~expenses generated for court-related services. Any excess fees~~  
804 ~~generated during this period shall be remitted to the county on~~  
805 ~~December 31, 2004. However, any billings for payment of due~~  
806 ~~process services rendered before July 1, 2004, may be paid by~~  
807 ~~the clerk from these funds. Due process services shall include,~~  
808 ~~but not be limited to, court reporter services, court~~  
809 ~~interpreter services, expert witness services, mental health~~  
810 ~~evaluations, and court-appointed counsel services. In addition,~~  
811 ~~any deficit experienced by the clerk for court-related services~~  
812 ~~during the period from October 1, 2003, to June 30, 2004, shall~~

20092108e2

813 ~~be funded by the county.~~

814 ~~(4) Beginning January 1, 2005, for the period July 1, 2004,~~  
815 ~~through September 30, 2004, and each January 1 thereafter for~~  
816 ~~the preceding county fiscal year of October 1 through September~~  
817 ~~30, the clerk of the court must remit to the Department of~~  
818 ~~Revenue for deposit in the General Revenue Fund the cumulative~~  
819 ~~excess of all fees, service charges, court costs, and fines~~  
820 ~~retained by the clerks of the court, plus any funds received by~~  
821 ~~the clerks of the court from the Department of Revenue Clerk of~~  
822 ~~the Court Trust Fund under s. 28.36(4)(a), over the amount~~  
823 ~~needed to meet the approved budget amounts established under s.~~  
824 ~~28.36.~~

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

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

830 28.43 Adoption of rules relating to ss. 28.35, 28.36, and  
831 28.37.—

832 (1) The Department of Revenue may adopt rules necessary to  
833 carry out its responsibilities in ss. 28.35, 28.36, and 28.37.  
834 The rules shall include forms and procedures for transferring  
835 funds from the clerks of the court to the Clerks of the Court  
836 Trust Fund within the Justice Administrative Commission  
837 ~~Department of Revenue.~~

838 Section 7. Paragraph (b) of subsection (1) of section  
839 34.041, Florida Statutes, is amended to read:

840 34.041 Filing fees.—

841 (1)

20092108e2

842 (b) The first \$80 of the filing fee collected under  
843 subparagraph (a)4. shall be remitted to the Department of  
844 Revenue for deposit into the General Revenue Fund. The next \$15  
845 of the filing fee collected under subparagraph (a)4., and the  
846 first \$15 of each filing fee collected under subparagraph (a)6.,  
847 shall be deposited in the state courts' Mediation and  
848 Arbitration Trust Fund. ~~One-third of any filing fees collected~~  
849 ~~by the clerk under this section in excess of the first \$95~~  
850 ~~collected under subparagraph (a)4. shall be remitted to the~~  
851 ~~Department of Revenue for deposit into the Department of Revenue~~  
852 ~~Clerks of the Court Trust Fund.~~ An additional filing fee of \$4  
853 shall be paid to the clerk. The clerk shall transfer \$3.50 to  
854 the Department of Revenue for deposit into the Court Education  
855 Trust Fund and shall transfer 50 cents to the Department of  
856 Revenue for deposit into the Clerks of the Court ~~Department of~~  
857 ~~Financial Services' Administrative~~ Trust Fund within the Justice  
858 Administrative Commission to fund clerk education. Postal  
859 charges incurred by the clerk of the county court in making  
860 service by mail on defendants or other parties shall be paid by  
861 the party at whose instance service is made. Except as provided  
862 herein, filing fees and service charges for performing duties of  
863 the clerk relating to the county court shall be as provided in  
864 ss. 28.24 and 28.241. Except as otherwise provided herein, all  
865 filing fees shall be remitted to the Department of Revenue for  
866 deposit into the Clerks of the Court Trust Fund within the  
867 Justice Administrative Commission ~~retained as fee income of the~~  
868 ~~office of the clerk of circuit court.~~ Filing fees imposed by  
869 this section may not be added to any penalty imposed by chapter  
870 316 or chapter 318.

20092108e2

871 Section 8. Subsection (5) of section 43.16, Florida  
872 Statutes, is amended to read:

873 43.16 Justice Administrative Commission; membership, powers  
874 and duties.—

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

877 (a) The maintenance of a central state office for  
878 administrative services and assistance when possible to and on  
879 behalf of the state attorneys and public defenders of Florida,  
880 the capital collateral regional counsel of Florida, the criminal  
881 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
882 Program, and the Florida Clerks of Court Operations Corporation.

883 (b) Each state attorney, public defender, ~~and~~ criminal  
884 conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem  
885 Program, and the Florida Clerks of Court Operations Corporation  
886 shall continue to prepare necessary budgets, vouchers that  
887 represent valid claims for reimbursement by the state for  
888 authorized expenses, and other things incidental to the proper  
889 administrative operation of the office, such as revenue  
890 transmittals to the Chief Financial Officer and automated  
891 systems plans, but will forward same to the commission for  
892 recording and submission to the proper state officer. However,  
893 when requested by a state attorney, a public defender, a  
894 criminal conflict and civil regional counsel, or the Guardian Ad  
895 Litem Program, the commission will either assist in the  
896 preparation of budget requests, voucher schedules, and other  
897 forms and reports or accomplish the entire project involved.

898 Section 9. Section 43.27, Florida Statutes, is amended to  
899 read:

20092108e2

900           43.27 Office hours of clerks of court.—With the advice and  
901 consent of the chief judge of the circuit, the clerks of the  
902 courts of the several counties may establish the hours during  
903 which the office of clerk may be open to the public. The hours  
904 should conform as nearly as possible to the customary weekday  
905 hours of business prevailing in the county. The clerk may  
906 prescribe that the office be open such additional hours as  
907 public needs require. The clerk of court may not close any  
908 office of the clerk of court during customary weekday hours  
909 without the consent of the chief judge of the circuit.

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

913           45.035 Clerk's fees.—In addition to other fees or service  
914 charges authorized by law, the clerk shall receive service  
915 charges related to the judicial sales procedure set forth in ss.  
916 45.031-45.034 and this section:

917           (3) If the sale is conducted by electronic means, as  
918 provided in s. 45.031(10), the clerk shall receive an additional  
919 a service charge not to exceed ~~of \$70 as provided in subsection~~  
920 ~~(1)~~ for services in conducting or contracting for the electronic  
921 sale, which service charge shall be assessed as costs and paid  
922 by the winning bidder ~~shall be advanced by the plaintiff before~~  
923 ~~the sale~~. If the clerk requires advance electronic deposits to  
924 secure the right to bid, such deposits shall not be subject to  
925 the fee under s. 28.24(10). The portion of an advance deposit  
926 from a winning bidder required by s. 45.031(3) shall, upon  
927 acceptance of the winning bid, be subject to the fee under s.  
928 28.24(10).

20092108e2

929 Section 11. Paragraph (y) of subsection (2) of section  
930 110.205, Florida Statutes, is amended to read:

931 110.205 Career service; exemptions.—

932 (2) EXEMPT POSITIONS.—The exempt positions that are not  
933 covered by this part include the following:

934 (y) All officers and employees of the Justice  
935 Administrative Commission, Office of the State Attorney, Office  
936 of the Public Defender, regional offices of capital collateral  
937 counsel, offices of criminal conflict and civil regional  
938 counsel, and Statewide Guardian Ad Litem Office, including the  
939 circuit guardian ad litem programs and the Florida Clerks of  
940 Court Operations Corporation.

941 Section 12. Section 142.01, Florida Statutes, is amended to  
942 read:

943 142.01 Fine and forfeiture fund; disposition of revenue;  
944 clerk of the circuit court.—

945 (1) There shall be established by the clerk of the circuit  
946 court in each county of this state a separate fund to be known  
947 as the fine and forfeiture fund for use by the clerk of the  
948 circuit court in performing court-related functions. The fund  
949 shall consist of the following:

950 (a) ~~(1)~~ Fines and penalties pursuant to ss. 28.2402(2),  
951 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

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

954 (c) ~~(3)~~ Court costs pursuant to ss. 28.2402(1)(b),  
955 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and  
956 (11)(a), and 938.05(3).

957 (d) ~~(4)~~ Proceeds from forfeited bail bonds, unclaimed bonds,

20092108e2

958 unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a),  
959 379.2203(1), and 903.26(3)(a).

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

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

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

969 (3) Notwithstanding the provisions of this section, all  
970 fines and forfeitures arising from operation of the provisions  
971 of s. 318.1215 shall be disbursed in accordance with that  
972 section.

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

975 197.542 Sale at public auction.—

976 (4)(a) A clerk may conduct electronic tax deed sales in  
977 lieu of public outcry. The clerk must comply with the procedures  
978 provided in this chapter, except that electronic proxy bidding  
979 shall be allowed and the clerk may require bidders to advance  
980 sufficient funds to pay the deposit required by subsection (2).  
981 The clerk shall provide access to the electronic sale by  
982 computer terminals open to the public at a designated location.  
983 A clerk who conducts such electronic sales may receive  
984 electronic deposits and payments related to the sale. The  
985 portion of an advance deposit from a winning bidder required by  
986 subsection (2) shall, upon acceptance of the winning bid, be

20092108e2

987 subject to the fee under s. 28.24(10).

988 (b) Nothing in this subsection shall be construed to  
989 restrict or limit the authority of a charter county from  
990 conducting electronic tax deed sales. In a charter county where  
991 the clerk of the circuit court does not conduct all electronic  
992 sales, the charter county shall be permitted to receive  
993 electronic deposits and payments related to sales it conducts,  
994 as well as to subject the winning bidder to a fee, consistent  
995 with the schedule in s. 28.24(10).

996 (c) The costs of electronic tax deed sales shall be added  
997 to the charges for the costs of sale under subsection (1) and  
998 paid by the certificateholder when filing an application for a  
999 tax deed.

1000 Section 14. Section 213.131, Florida Statutes, is amended  
1001 to read:

1002 213.131 ~~Department of Revenue~~ Clerks of the Court Trust  
1003 Fund within the Justice Administrative Commission.—The  
1004 ~~Department of Revenue~~ Clerks of the Court Trust Fund is created  
1005 within the Justice Administrative Commission ~~Department of~~  
1006 ~~Revenue. Funds received by the department from the clerks of~~  
1007 ~~court shall be credited to the trust fund as provided in ch.~~  
1008 ~~2001-122, Laws of Florida, to be used for the purposes set forth~~  
1009 ~~in such legislation.~~

1010 Section 15. Paragraph (qq) of subsection (1) of section  
1011 216.011, Florida Statutes, is amended to read:

1012 216.011 Definitions.—

1013 (1) For the purpose of fiscal affairs of the state,  
1014 appropriations acts, legislative budgets, and approved budgets,  
1015 each of the following terms has the meaning indicated:

20092108e2

1016 (qq) "State agency" or "agency" means any official,  
1017 officer, commission, board, authority, council, committee, or  
1018 department of the executive branch of state government. For  
1019 purposes of this chapter and chapter 215, "state agency" or  
1020 "agency" includes, but is not limited to, state attorneys,  
1021 public defenders, criminal conflict and civil regional counsel,  
1022 capital collateral regional counsel, the Florida Clerks of Court  
1023 Operations Corporation, the Justice Administrative Commission,  
1024 the Florida Housing Finance Corporation, and the Florida Public  
1025 Service Commission. Solely for the purposes of implementing s.  
1026 19(h), Art. III of the State Constitution, the terms "state  
1027 agency" or "agency" include the judicial branch.

1028 Section 16. Subsection (13) of section 318.18, Florida  
1029 Statutes, is amended to read:

1030 318.18 Amount of penalties.—The penalties required for a  
1031 noncriminal disposition pursuant to s. 318.14 or a criminal  
1032 offense listed in s. 318.17 are as follows:

1033 (13) (a) In addition to any penalties imposed for  
1034 noncriminal traffic infractions pursuant to this chapter or  
1035 imposed for criminal violations listed in s. 318.17, a board of  
1036 county commissioners or any unit of local government that ~~which~~  
1037 is consolidated as provided by s. 9, Art. VIII of the State  
1038 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the  
1039 Constitution of 1968:

1040 1.-(a) May impose by ordinance a surcharge of up to \$30 ~~\$15~~  
1041 for any infraction or violation to fund state court facilities.  
1042 The court shall not waive this surcharge. Up to 25 percent of  
1043 the revenue from such surcharge may be used to support local law  
1044 libraries provided that the county or unit of local government

20092108e2

1045 provides a level of service equal to that provided prior to July  
1046 1, 2004, which shall include the continuation of library  
1047 facilities located in or near the county courthouse or any annex  
1048 to the courthouse annexes.

1049 2.-(b) May, if such board or unit ~~That~~ imposed increased  
1050 fees or service charges by ordinance under s. 28.2401, s.  
1051 28.241, or s. 34.041 for the purpose of securing payment of the  
1052 principal and interest on bonds issued by the county before July  
1053 1, 2003, to finance state court facilities, ~~may~~ impose by  
1054 ordinance a surcharge for any infraction or violation for the  
1055 exclusive purpose of securing payment of the principal and  
1056 interest on bonds issued by the county before July 1, 2003, to  
1057 fund state court facilities until the date of stated maturity.  
1058 The court shall not waive this surcharge. Such surcharge may not  
1059 exceed an amount per violation calculated as the quotient of the  
1060 maximum annual payment of the principal and interest on the  
1061 bonds as of July 1, 2003, divided by the number of traffic  
1062 citations for county fiscal year 2002-2003 certified as paid by  
1063 the clerk of the court of the county. Such quotient shall be  
1064 rounded up to the next highest dollar amount. The bonds may be  
1065 refunded only if savings will be realized on payments of debt  
1066 service and the refunding bonds are scheduled to mature on the  
1067 same date or before the bonds being refunded. Notwithstanding  
1068 any of the foregoing provisions of this subparagraph ~~paragraph~~  
1069 that limit the use of surcharge revenues, if the revenues  
1070 generated as a result of the adoption of this ordinance exceed  
1071 the debt service on the bonds, the surplus revenues may be used  
1072 to pay down the debt service on the bonds; fund other state-  
1073 court-facility construction projects as may be certified by the

20092108e2

1074 chief judge as necessary to address unexpected growth in  
1075 caseloads, emergency requirements to accommodate public access,  
1076 threats to the safety of the public, judges, staff, and  
1077 litigants, or other exigent circumstances; or support local law  
1078 libraries in or near the county courthouse or any annex to the  
1079 courthouse annexes.

1080 3. May impose by ordinance a surcharge for any infraction  
1081 or violation for the exclusive purpose of securing payment of  
1082 the principal and interest on bonds issued by the county on or  
1083 after July 1, 2009, to fund state court facilities until the  
1084 stated date of maturity. The court may not waive this surcharge.  
1085 The surcharge may not exceed an amount per violation calculated  
1086 as the quotient of the maximum annual payment of the principal  
1087 and interest on the bonds, divided by the number of traffic  
1088 citations certified as paid by the clerk of the court of the  
1089 county on August 15 of each year. The quotient shall be rounded  
1090 up to the next highest dollar amount. The bonds may be refunded  
1091 if savings are realized on payments of debt service and the  
1092 refunding bonds are scheduled to mature on or before the  
1093 maturity date of the bonds being refunded. If the revenues  
1094 generated as a result of the adoption of the ordinance exceed  
1095 the debt service on the bonds, the surplus revenues may be used  
1096 to pay the debt service on the bonds; to fund other state court  
1097 facility construction projects certified by the chief judge as  
1098 necessary to address unexpected growth in caseloads, emergency  
1099 requirements to accommodate public access, threats to the safety  
1100 of the public, judges, staff, and litigants, or other exigent  
1101 circumstances; or to support local law libraries in or near the  
1102 county courthouse or any annex to the courthouse.

20092108e2

1103        (b) A county may not impose ~~both~~ of the surcharges  
1104 authorized under subparagraphs (a)1., 2., and 3. ~~paragraphs (a)~~  
1105 ~~and (b)~~ concurrently. The clerk of court shall report, no later  
1106 than 30 days after the end of the quarter, the amount of funds  
1107 collected under this subsection during each quarter of the  
1108 fiscal year. The clerk shall submit the report, in a format  
1109 developed by the Office of State Courts Administrator, to the  
1110 chief judge of the circuit, the Governor, the President of the  
1111 Senate, ~~and~~ the Speaker of the House of Representatives, and the  
1112 board of county commissioners.

1113        Section 17. Each clerk of court shall provide financial  
1114 data concerning his or her expenditures for court-related  
1115 duties, including expenditures for court-related information  
1116 technology, to the Executive Office of the Governor for the  
1117 purposes contained in SB 1796 or similar legislation.

1118        Section 18. (1) By January 15, 2010, the Office of Program  
1119 Policy Analysis and Government Accountability, in consultation  
1120 with the Chief Financial Officer and the Auditor General, shall  
1121 provide a report to the President of the Senate and the Speaker  
1122 of the House of Representatives regarding the operation and  
1123 functions of the clerks of court and the courts. The Office of  
1124 Program Policy Analysis and Government Accountability shall  
1125 examine who is performing each court-related function, how each  
1126 function is funded, and how efficiently these functions are  
1127 performed. The clerks of court, the Florida Clerks of Court  
1128 Operations Corporation, and the state courts system are directed  
1129 to cooperate fully with the office and, upon request, provide  
1130 any and all information necessary to the review without cost or  
1131 delay. The report shall describe in detail the base budget for

20092108e2

1132 each of the clerks and for the state courts system and report on  
1133 the overall efficiency of the current process. Administrative  
1134 overhead shall be calculated separately, and any apparent means  
1135 to reduce such overhead shall be explored and included in the  
1136 report. The study shall list each court-related function, a  
1137 recommendation on who should perform the function, and a  
1138 recommendation for how to pay for such function.

1139 (2) The Technology Review Workgroup shall develop a  
1140 proposed plan for identifying and recommending options for  
1141 implementing the integrated computer system established in s.  
1142 29.008(1)(f)2., Florida Statutes. The plan shall describe the  
1143 approaches and processes for evaluating the existing computer  
1144 systems and data-sharing networks of the state courts system and  
1145 the clerks of the court; identifying the required business and  
1146 technical requirements; reliably estimating the cost, work, and  
1147 change requirements; and examining the use of the funds  
1148 collected under s. 28.24(12)(e), Florida Statutes. The plan may  
1149 also address any necessary policy, operational, fiscal, or  
1150 technical changes, including, but not limited to, potential  
1151 changes to the distribution and use of funds collected under s.  
1152 28.24(12)(e), Florida Statutes, that may be needed in order to  
1153 manage, implement, and operate an integrated computer system.  
1154 The plan shall be submitted to the President of the Senate and  
1155 the Speaker of the House of Representatives no later than  
1156 February 1, 2010. The clerks of court, the Florida Clerks of  
1157 Court Operations Corporation, and the state courts system are  
1158 directed to cooperate fully with the workgroup and provide any  
1159 and all information necessary for the completion of the project  
1160 without cost or delay upon request. The workgroup shall work in

20092108e2

1161 conjunction with the Auditor General and consider the results of  
1162 the plans, studies, and reports of the Office of Program Policy  
1163 Analysis and Government Accountability under subsection (1).  
1164 Until July 1, 2011, a clerk may not purchase any new software  
1165 unless a clerk is already obligated by a contract for new  
1166 software entered into before May 1, 2009. A clerk may purchase  
1167 regular and necessary upgrades to existing software if otherwise  
1168 budgeted. Until July 1, 2011, a clerk may not purchase any  
1169 computer hardware unless a clerk is already obligated by a  
1170 contract for new hardware entered into before May 1, 2009.  
1171 However, a clerk may purchase hardware necessary to replace  
1172 broken equipment or necessary to equip new staff and only if  
1173 otherwise budgeted. A clerk may apply to the Florida Clerks of  
1174 Court Operations Corporation for a limited and specific  
1175 exception to these purchasing limits. The corporation shall  
1176 report all such exceptions to the President of the Senate and  
1177 the Speaker of the House of Representatives.

1178       Section 19. The Clerks of the Court Trust Fund within the  
1179 Department of Revenue, FLAIR number 73-2-588, is transferred  
1180 along with all balances and obligations to the Justice  
1181 Administrative Commission.

1182       Section 20. The Legislature finds and declares that this  
1183 act fulfills an important state interest.

1184       Section 21. Sections 25.311, 25.321, 25.331, 25.361, and  
1185 25.381, Florida Statutes, are repealed.

1186       Section 22. This act shall take effect upon becoming a law.