

HB 1513

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1 A bill to be entitled
2 An act relating to the clerks of the court; amending s.
3 11.90, F.S.; providing additional powers and duties of the
4 Legislative Budget Commission; amending s. 28.35, F.S.;
5 specifying that the Florida Clerks of Court Operations
6 Corporation is subject to certain procurement
7 requirements; removing a statement exempting the
8 corporation from the Administrative Procedure Act;
9 revising and expanding the duties and responsibilities of
10 the corporation relating to budget requests; requiring the
11 corporation to submit certain budgets and information to
12 the Legislative Budget Commission; providing duties and
13 responsibilities of the commission; deleting a requirement
14 that clerks of court submit certain financial audit
15 information to the Supreme Court; amending s. 28.36, F.S.;
16 revising required budget procedures for budget requests
17 for funding court-related functions of the clerks of
18 court; providing duties of the corporation; creating s.
19 28.365, F.S.; subjecting clerks of the courts to certain
20 procurement requirements and limitations; amending s.
21 28.37, F.S.; authorizing the chair of the corporation to
22 request a loan of funds from certain funds in the State
23 Treasury under certain circumstances; amending s. 215.22,
24 F.S.; exempting the Clerks of the Court Trust Fund and the
25 State Courts Revenue Trust Fund from certain appropriation
26 requirements; providing an appropriation; providing an
27 effective date.
28

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

30

31 Section 1. Subsection (6) of section 11.90, Florida
 32 Statutes, is amended to read:

33 11.90 Legislative Budget Commission.—

34 (6) The commission shall have the power and duty to:

35 (a) Review and approve or disapprove budget amendments
 36 recommended by the Governor or the Chief Justice of the Supreme
 37 Court as provided in chapter 216.

38 (b) Develop the long-range financial outlook described in
 39 s. 19, Art. III of the State Constitution.

40 (c) Review and approve or disapprove the budget of the
 41 Florida Clerks of Court Operations Corporation.

42 (d) Review, approve, disapprove, or amend the total
 43 combined budgets of the clerks of court or the budget of any
 44 individual clerk of court.

45 (e) In addition to the powers and duties specified in this
 46 subsection, the commission shall exercise all other powers and
 47 perform any other duties prescribed by the Legislature.

48 Section 2. Paragraph (c) of subsection (1), subsections
 49 (2) and (4), and paragraph (b) of subsection (5) of section
 50 28.35, Florida Statutes, are amended to read:

51 28.35 Florida Clerks of Court Operations Corporation.—

52 (1)

53 (c) The corporation shall be considered a political
 54 subdivision of the state and shall be exempt from the corporate
 55 income tax. The corporation is ~~not~~ subject to the procurement
 56 provisions of chapter 287 ~~120~~.

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57 (2) The duties of the corporation shall include the
58 following:

59 (a) Adopting a plan of operation.

60 (b) Conducting the election of directors as required in
61 paragraph (1) (a).

62 (c) Recommending to the Legislature changes in the various
63 court-related fines, fees, service charges, and court costs
64 established by law.

65 (d) Developing and certifying a uniform system of
66 performance measures and applicable workload performance
67 standards for the functions specified in paragraph (3) (a) and
68 ~~the service unit costs required in s. 28.36 and measures for~~
69 clerk workload performance in meeting the workload performance
70 standards. These workload performance measures and workload
71 performance standards shall be designed to facilitate an
72 objective determination of the performance of each clerk in
73 accordance with minimum standards for fiscal management,
74 operational efficiency, and effective collection of fines, fees,
75 service charges, and court costs. ~~The corporation shall develop~~
76 ~~the performance measures and performance standards in~~
77 ~~consultation with the Legislature and the Supreme Court. The~~
78 ~~Legislature may modify the clerk performance measures and~~
79 ~~performance standards in legislation implementing the General~~
80 ~~Appropriations Act or other law.~~ When the corporation finds a
81 clerk has not met the workload performance standards, the
82 corporation shall identify the nature of each deficiency and any
83 corrective action recommended and taken by the affected clerk of
84 the court. ~~The corporation shall notify the Legislature and the~~

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85 ~~Supreme Court of any clerk not meeting performance standards and~~
86 ~~provide a copy of any corrective action plans.~~

87 (e) Pursuant to contract with the Chief Financial Officer,
88 establishing a process for the review of proposed court-related
89 budgets submitted by clerks of the court for completeness and
90 compliance with this section and ss. 28.36 and 28.37. Such
91 process shall be designed and be of sufficient detail to permit
92 independent verification and validation of such budgets. The
93 contract shall specify the process to be used in determining
94 compliance by the corporation with this section and ss. 28.36
95 and 28.37 and shall require the corporation to determine the
96 minimum amount of revenue necessary for each clerk of court to
97 efficiently perform the list of court-related functions
98 specified in paragraph (3) (a) in its budget review and approval
99 process.

100 (f)-(e) Reviewing and approving proposed budgets submitted
101 by clerks of the court using the process approved by the Chief
102 Financial Officer pursuant to paragraph (e) for the purposes of
103 making the certification under paragraph (e). As part of such
104 process, the corporation shall:

105 1. Calculate the maximum authorized annual budget pursuant
106 to s. 28.36.

107 2. Calculate the minimum amount of revenue necessary for
108 each clerk to efficiently perform the list of court-related
109 functions specified in paragraph (3) (a).

110 3. Prepare a cost comparison of similarly situated clerks
111 of court, based on county population and numbers of filings,
112 using the standard list of court-related functions specified in

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113 paragraph (3) (a).

114 4. Conduct an annual base budget review and an annual
115 budget exercise examining the total budget of each clerk of
116 court. The review shall examine revenues from all sources,
117 expenses of court-related functions, and expenses of non-court-
118 related functions as necessary to determine that court-related
119 revenues are not being used for non-court-related purposes.
120 Funds paid by a clerk to join or be a member of any group or
121 organization shall be separately listed and the benefits
122 received from any such group or organization described in
123 detail. The review and exercise shall identify potential
124 targeted budget reductions in the percentage amount provided in
125 Schedule VIII-B of the state's prior year's legislative budget
126 instructions, as referenced in s. 216.023(3), or an equivalent
127 schedule or instruction as may be adopted by the Legislature.

128 5. Identify those proposed budgets containing funding for
129 items not included on the standard list of court-related
130 functions specified in paragraph (3) (a).

131 6. Identify those clerks projected to have court-related
132 revenues insufficient to fund their anticipated court-related
133 expenditures.

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

135 (h) ~~(g)~~ Publishing a uniform schedule of actual fees,
136 service charges, and costs charged by a clerk of the court
137 pursuant to general law.

138 (i) By August 1 of each year, submitting to the
139 Legislative Budget Commission, as provided in s. 11.90, its
140 proposed budget and the information described in paragraph (f),

141 as well as the approved budgets for each clerk of court and the
 142 corporation. By October 1 of each year, the Legislative Budget
 143 Commission shall consider the submitted budgets and shall
 144 approve or disapprove the corporation's budget and shall
 145 approve, disapprove, or amend and approve the total of the
 146 clerks' combined budgets or any individual clerk's budget. If
 147 the Legislative Budget Commission fails to approve the
 148 corporation's budget or the clerks' combined budgets by October
 149 1, the clerk shall continue to perform the court-related
 150 functions based upon the clerk's approved budget for the
 151 preceding county fiscal year.

152 (4) ~~The corporation shall prepare a legislative budget~~
 153 ~~request for the resources necessary to perform its duties,~~
 154 ~~submit the request pursuant to chapter 216, and be funded as a~~
 155 ~~budget entity in the General Appropriations Act. The corporation~~
 156 may hire staff and pay other expenses from state appropriations
 157 as necessary to perform the official duties and responsibilities
 158 of the corporation as described by law.

159 (5)

160 (b) Certified public accountants conducting audits of
 161 counties pursuant to s. 218.39 shall report, as part of the
 162 audit, whether or not the clerks of the courts have complied
 163 with the requirements of this section and s. 28.36. ~~In addition,~~
 164 ~~each clerk of court shall forward a copy of the portion of the~~
 165 ~~financial audit relating to the court-related duties of the~~
 166 ~~clerk of court to the Supreme Court. The Auditor General shall~~
 167 develop a compliance supplement for the audit of compliance with
 168 the budgets and applicable workload performance standards

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169 certified by the corporation.

170 Section 3. Section 28.36, Florida Statutes, is amended to
 171 read:

172 28.36 Budget procedure.—There is established a budget
 173 procedure for preparing budget requests for funding for the
 174 court-related functions of the clerks of the court.

175 (1) For the county fiscal year beginning October 1, 2011,
 176 and for each county fiscal year thereafter, each clerk of court
 177 shall prepare a budget request for court-related expenditures
 178 which the last quarter of the county fiscal year and the first
 179 three quarters of the next county fiscal year. ~~The proposed~~
 180 ~~budget~~ shall be prepared, summarized, and submitted by the clerk
 181 in each county to the Florida Clerks of Court Operations
 182 Corporation in the manner and form prescribed by the corporation
 183 to meet the requirements of law. Each clerk shall forward a copy
 184 of his or her budget request to the Supreme Court. The budget
 185 requests must be provided to the corporation by April 15 ~~October~~
 186 ~~1~~ of the each year prior to the year of the budget.

187 (2) Each proposed budget shall also conform to the
 188 requirements of this subsection. On or before April 15 for each
 189 fiscal year thereafter, the clerk of the court in each county
 190 shall prepare, summarize, and submit a proposed budget to the
 191 Florida Clerks of Court Operations Corporation in the manner and
 192 form prescribed by the corporation. However, at a minimum, the
 193 proposed budgets shall include for each clerk the information
 194 required by the Legislative Budget Commission. The proposed
 195 budget must provide detailed information on the anticipated
 196 revenues available and expenditures necessary for the

197 performance of the standard list of court-related functions of
 198 the clerk's office developed pursuant to s. 28.35(3) (a) for the
 199 county fiscal year beginning the following October 1. The
 200 Florida Clerks of Court Operations Corporation shall also
 201 prepare its proposed budget by July 1 of each year, which shall
 202 also contain such information as required by the Legislative
 203 Budget Commission and provide a summary listing of clerks who
 204 have not met all performance measures and the specific measures
 205 that each clerk did not achieve ~~clerk shall include in his or~~
 206 ~~her budget request a projection of the amount of court-related~~
 207 ~~fees, service charges, and any other court-related clerk fees~~
 208 ~~which will be collected during the proposed budget period. If~~
 209 ~~the corporation determines that the proposed budget is limited~~
 210 ~~to the standard list of court-related functions in s.~~
 211 ~~28.35(3) (a) and the projected court-related revenues are less~~
 212 ~~than the proposed budget, the clerk shall increase all fees,~~
 213 ~~service charges, and any other court-related clerk fees and~~
 214 ~~charges to the maximum amounts specified by law or the amount~~
 215 ~~necessary to resolve the deficit, whichever is less.~~

216 ~~(3) Each clerk shall include in his or her budget request~~
 217 ~~the number of personnel and the proposed budget for each of the~~
 218 ~~following core services:~~

- 219 ~~(a) Case processing.~~
- 220 ~~(b) Financial processing.~~
- 221 ~~(c) Jury management.~~
- 222 ~~(d) Information and reporting.~~

223
 224 ~~Central administrative costs shall be allocated among the core-~~

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225 ~~services categories.~~

226 ~~(4) The budget request must identify the service units to~~
227 ~~be provided within each core service. The service units shall be~~
228 ~~developed by the corporation, in consultation with the Supreme~~
229 ~~Court, the Chief Financial Officer, and the appropriations~~
230 ~~committees of the Senate and the House of Representatives.~~

231 ~~(5) The budget request must propose a unit cost for each~~
232 ~~service unit. The corporation shall provide a copy of each~~
233 ~~clerk's budget request to the Supreme Court.~~

234 ~~(6) The corporation shall review each individual clerk's~~
235 ~~prior-year expenditures, projected revenue, proposed unit costs,~~
236 ~~and the proposed budget for each of the core services~~
237 ~~categories. The corporation shall compare each clerk's prior-~~
238 ~~year expenditures and unit costs for core services with a peer~~
239 ~~group of clerks' offices having a population of a similar size~~
240 ~~and a similar number of case filings. If the corporation finds~~
241 ~~that the expenditures, unit costs, or proposed budget of a clerk~~
242 ~~is significantly higher than those of clerks in that clerk's~~
243 ~~peer group, the corporation shall require the clerk to submit~~
244 ~~documentation justifying the difference in each core services~~
245 ~~category. Justification for higher expenditures may include, but~~
246 ~~is not limited to, collective bargaining agreements, county~~
247 ~~civil service agreements, and the number and distribution of~~
248 ~~courthouses served by the clerk. If the expenditures and unit~~
249 ~~costs are not justified, the corporation shall recommend a~~
250 ~~reduction in the funding for that core services category in the~~
251 ~~budget request to an amount similar to the peer group of clerks~~
252 ~~or to an amount that the corporation determines is justified.~~

253 ~~(7) The corporation shall complete its review and~~
254 ~~adjustments to the clerks' budget requests and make its~~
255 ~~recommendations to the Legislature and the Supreme Court by~~
256 ~~December 1 each year.~~

257 ~~(8) The Chief Financial Officer shall review the proposed~~
258 ~~unit costs associated with each clerk of court's budget request~~
259 ~~and make recommendations to the Legislature. The Chief Financial~~
260 ~~Officer may conduct any audit of the corporation or a clerk of~~
261 ~~court as authorized by law. The Chief Justice of the Supreme~~
262 ~~Court may request an audit of the corporation or any clerk of~~
263 ~~court by the Chief Financial Officer.~~

264 ~~(9) The Legislature shall appropriate the total amount for~~
265 ~~the budgets of the clerks in the General Appropriations Act. The~~
266 ~~Legislature may reject or modify any or all of the unit costs~~
267 ~~recommended by the corporation. If the Legislature does not~~
268 ~~specify the unit costs in the General Appropriations Act or~~
269 ~~other law, the unit costs recommended by the corporation shall~~
270 ~~be the official unit costs for that budget period.~~

271 ~~(10) For the 2009-2010 fiscal year, the corporation shall~~
272 ~~release appropriations in an amount equal to one-twelfth of each~~
273 ~~clerk's approved budget each month. The statewide total~~
274 ~~appropriation for the 2009-2010 fiscal year shall be set in the~~
275 ~~General Appropriations Act. The corporation shall determine the~~
276 ~~amount of each clerk of court budget, but the statewide total of~~
277 ~~such amounts may not exceed the amount listed in the General~~
278 ~~Appropriations Act. Beginning in the 2010-2011 fiscal year, the~~
279 ~~corporation shall release appropriations to each clerk~~
280 ~~quarterly. The amount of the release shall be based on the prior~~

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281 ~~quarter's performance of service units identified in the four~~
 282 ~~core services and the established unit costs for each clerk.~~

283 ~~(11) The corporation may submit proposed legislation to~~
 284 ~~the Governor, the President of the Senate, and the Speaker of~~
 285 ~~the House of Representatives relating to the preparation of~~
 286 ~~budget requests of the clerks of court.~~

287 Section 4. Section 28.365, Florida Statutes, is created to
 288 read:

289 28.365 Procurement.-The clerks of court are subject to the
 290 procurement requirements and limitations of chapter 287 for
 291 expenditures made pursuant to the budget provided for in s.
 292 28.35.

293 Section 5. Subsection (3) is added to section 28.37,
 294 Florida Statutes, to read:

295 28.37 Fines, fees, service charges, and costs remitted to
 296 the state.-

297 (3) The chair of the Florida Clerks of Court Operations
 298 Corporation may request a loan of funds pursuant to s. 215.18,
 299 notwithstanding the Clerks of the Court Trust Fund's ability to
 300 repay the loan by the end of the fiscal year, if, at any time
 301 during the 2010-2011 fiscal year, the Revenue Estimating
 302 Conference projects that revenues deposited into the Clerks of
 303 the Court Trust Fund will be less than 98 percent of the amount
 304 appropriated from the trust fund in the General Appropriations
 305 Act for the 2010-2011 fiscal year.

306 Section 6. Paragraphs (x) and (y) are added to subsection
 307 (1) of section 215.22, Florida Statutes, to read:

308 215.22 Certain income and certain trust funds exempt.-

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309 (1) The following income of a revenue nature or the
310 following trust funds shall be exempt from the appropriation
311 required by s. 215.20(1):

312 (x) The Clerks of the Court Trust Fund.

313 (y) The State Courts Revenue Trust Fund.

314 Section 7. The Legislature shall appropriate in the 2011-
315 2012 General Appropriations Act sufficient funding for the
316 period July 1, 2010, through September 30, 2011, to allow clerks
317 of court to perform court-related duties during such transition
318 period.

319 Section 8. This act shall take effect July 1, 2010.