

1 A bill to be entitled
2 An act relating to clerks of the court; transferring the
3 Clerks of the Court Trust Fund to the Department of
4 Revenue; amending s. 11.90, F.S.; providing additional
5 powers and duties of the Legislative Budget Commission;
6 amending s. 28.241, F.S.; revising distributions of filing
7 fees for trial and appellate proceedings; amending s.
8 28.246, F.S.; conforming provisions relating to transfer
9 of the Clerks of the Court Trust Fund; amending s. 28.35,
10 F.S.; deleting provisions providing for housing the
11 Florida Clerks of Court Operations Corporation within the
12 Justice Administrative Commission, specifying the
13 corporation as a budget entity of the commission, and
14 specifying corporation employees as commission employees;
15 revising membership of the corporation's executive
16 council; specifying that the corporation is subject to
17 certain procurement requirements; revising and expanding
18 the duties and responsibilities of the corporation
19 relating to budget requests; providing definitions;
20 requiring the corporation to submit certain budgets and
21 information to the Legislative Budget Commission;
22 providing duties and responsibilities of the commission;
23 deleting a requirement that clerks of court submit certain
24 financial audit information to the Supreme Court; amending
25 s. 28.36, F.S.; revising required budget procedures for
26 budget requests for funding court-related functions of the
27 clerks of court; providing duties of the corporation;
28 creating s. 28.365, F.S.; subjecting clerks of the courts

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29 | to certain procurement requirements and limitations;
30 | amending s. 28.37, F.S.; revising requirements for
31 | distribution of fines, fees, service charges, and court
32 | costs collected by clerks of the court; amending s. 28.43,
33 | F.S.; conforming provisions relating to transfer of the
34 | Clerks of the Court Trust Fund; amending s. 34.041, F.S.;
35 | revising requirements for distribution of certain filing
36 | fees collected by clerks of the court; requiring certain
37 | filing fees to be retained as fee income of the office of
38 | the clerk of the circuit court; amending s. 43.16, F.S.;
39 | deleting provisions including the Florida Clerks of Court
40 | Operations Corporation under provisions relating to the
41 | Justice Administrative Commission; amending s. 110.205,
42 | F.S.; deleting the Florida Clerks of Court Operations
43 | Corporation from certain career service exempt positions
44 | provisions; amending s. 142.01, F.S.; conforming
45 | provisions relating to transfer of the Clerks of the Court
46 | Trust Fund; amending s. 213.131, F.S.; specifying creation
47 | of the Clerks of the Court Trust Fund within the
48 | Department of Revenue; providing for credit of certain
49 | funds to the trust fund; amending s. 216.011, F.S.;
50 | deleting a reference to the Florida Clerks of Court
51 | Operations Corporation as a state agency; providing for
52 | approved budgets of the clerks of the circuit court;
53 | providing an effective date.

54 |
55 | Be It Enacted by the Legislature of the State of Florida:
56 |

57 Section 1. The Clerks of the Court Trust Fund within the
 58 Justice Administrative Commission, FLAIR number 21-2-588, is
 59 transferred together with all balances in the fund to the
 60 Department of Revenue.

61 Section 2. Subsection (6) of section 11.90, Florida
 62 Statutes, is amended to read:

63 11.90 Legislative Budget Commission.—

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

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

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

70 (c) Review and approve, disapprove, or amend the budget of
 71 the Florida Clerks of Court Operations Corporation.

72 (d) Review, approve, disapprove, or amend the total
 73 combined budgets of the clerks of court or the budget of any
 74 individual clerk of court.

75 ~~(e) In addition to the powers and duties specified in this~~
 76 ~~subsection, the commission shall Exercise all other powers and~~
 77 perform any other duties prescribed by the Legislature.

78 Section 3. Subsection (1) of section 28.241, Florida
 79 Statutes, is amended to read:

80 28.241 Filing fees for trial and appellate proceedings.—

81 (1)(a)1.a. Except as provided in sub-subparagraph b. and
 82 subparagraph 2., the party instituting any civil action, suit,
 83 or proceeding in the circuit court shall pay to the clerk of
 84 that court a filing fee of up to \$395 in all cases in which

85 | there are not more than five defendants and an additional filing
 86 | fee of up to \$2.50 for each defendant in excess of five. Of the
 87 | first \$265 in filing fees, \$80 must be remitted by the clerk to
 88 | the Department of Revenue for deposit into the General Revenue
 89 | Fund, \$180 must be remitted to the Department of Revenue for
 90 | deposit into the State Courts Revenue Trust Fund, \$5.00 ~~\$3.50~~
 91 | must be remitted to the Department of Revenue for deposit into
 92 | the Administrative Clerks of the Court Trust Fund within the
 93 | Department of Financial Services ~~Justice Administrative~~
 94 | ~~Commission~~ and used to fund the contract with the Florida Clerks
 95 | of Court Operations Corporation created in s. 28.35, ~~and \$1.50~~
 96 | ~~shall be remitted to the Department of Revenue for deposit into~~
 97 | ~~the Administrative Trust Fund within the Department of Financial~~
 98 | ~~Services to fund clerk budget reviews conducted by the~~
 99 | ~~Department of Financial Services.~~ The next \$15 of the filing fee
 100 | collected shall be deposited in the state courts' Mediation and
 101 | Arbitration Trust Fund. One third of any filing fees collected
 102 | by the clerk of the circuit court in excess of \$100 shall be
 103 | remitted to the Department of Revenue for deposit into the
 104 | department's Clerks of the Court Trust Fund ~~within the Justice~~
 105 | ~~Administrative Commission.~~

106 | b. The party instituting any civil action, suit, or
 107 | proceeding in the circuit court under chapter 39, chapter 61,
 108 | chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 109 | 753 shall pay to the clerk of that court a filing fee of up to
 110 | \$295 in all cases in which there are not more than five
 111 | defendants and an additional filing fee of up to \$2.50 for each
 112 | defendant in excess of five. Of the first \$165 in filing fees,

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113 \$80 must be remitted by the clerk to the Department of Revenue
 114 for deposit into the General Revenue Fund, \$80 must be remitted
 115 to the Department of Revenue for deposit into the State Courts
 116 Revenue Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the
 117 Department of Revenue for deposit into the Administrative Clerks
 118 ~~of the Court~~ Trust Fund within the Department of Financial
 119 Services ~~Justice Administrative Commission~~ and used to fund the
 120 contract with the Florida Clerks of Court Operations Corporation
 121 created in s. 28.35, ~~and \$1.50 shall be remitted to the~~
 122 ~~Department of Revenue for deposit into the Administrative Trust~~
 123 ~~Fund within the Department of Financial Services to fund clerk~~
 124 ~~budget reviews conducted by the Department of Financial~~
 125 ~~Services.~~ The next \$15 of the filing fee collected shall be
 126 deposited in the state courts' Mediation and Arbitration Trust
 127 Fund.

128 c. An additional filing fee of \$4 shall be paid to the
 129 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 130 for deposit into the Court Education Trust Fund and shall remit
 131 50 cents to the Department of Revenue for deposit into the
 132 department's Clerks of the Court Trust Fund ~~within the Justice~~
 133 ~~Administrative Commission~~ to fund clerk education. An additional
 134 filing fee of up to \$18 shall be paid by the party seeking each
 135 severance that is granted. The clerk may impose an additional
 136 filing fee of up to \$85 for all proceedings of garnishment,
 137 attachment, replevin, and distress. Postal charges incurred by
 138 the clerk of the circuit court in making service by certified or
 139 registered mail on defendants or other parties shall be paid by
 140 the party at whose instance service is made. No additional fees,

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141 charges, or costs shall be added to the filing fees imposed
142 under this section, except as authorized in this section or by
143 general law.

144 2.a. Notwithstanding the fees prescribed in subparagraph
145 1., a party instituting a civil action in circuit court relating
146 to real property or mortgage foreclosure shall pay a graduated
147 filing fee based on the value of the claim.

148 b. A party shall estimate in writing the amount in
149 controversy of the claim upon filing the action. For purposes of
150 this subparagraph, the value of a mortgage foreclosure action is
151 based upon the principal due on the note secured by the
152 mortgage, plus interest owed on the note and any moneys advanced
153 by the lender for property taxes, insurance, and other advances
154 secured by the mortgage, at the time of filing the foreclosure.
155 The value shall also include the value of any tax certificates
156 related to the property. In stating the value of a mortgage
157 foreclosure claim, a party shall declare in writing the total
158 value of the claim, as well as the individual elements of the
159 value as prescribed in this sub-subparagraph.

160 c. In its order providing for the final disposition of the
161 matter, the court shall identify the actual value of the claim.
162 The clerk shall adjust the filing fee if there is a difference
163 between the estimated amount in controversy and the actual value
164 of the claim and collect any additional filing fee owed or
165 provide a refund of excess filing fee paid.

166 d. The party shall pay a filing fee of:

167 (I) Three hundred and ninety-five dollars in all cases in
168 which the value of the claim is \$50,000 or less and in which

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169 | there are not more than five defendants. The party shall pay an
 170 | additional filing fee of up to \$2.50 for each defendant in
 171 | excess of five. Of the first \$265 in filing fees, \$80 must be
 172 | remitted by the clerk to the Department of Revenue for deposit
 173 | into the General Revenue Fund, \$180 must be remitted to the
 174 | Department of Revenue for deposit into the State Courts Revenue
 175 | Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the Department of
 176 | Revenue for deposit into the Administrative Clerks of the Court
 177 | Trust Fund within the Department of Financial Services Justice
 178 | ~~Administrative Commission~~ and used to fund the contract with the
 179 | Florida Clerks of Court Operations Corporation created in s.
 180 | 28.35, and ~~\$1.50~~ shall be remitted to the Department of Revenue
 181 | ~~for deposit into the Administrative Trust Fund within the~~
 182 | ~~Department of Financial Services to fund clerk budget reviews~~
 183 | ~~conducted by the Department of Financial Services.~~ The next \$15
 184 | of the filing fee collected shall be deposited in the state
 185 | courts' Mediation and Arbitration Trust Fund;

186 | (II) Nine hundred dollars in all cases in which the value
 187 | of the claim is more than \$50,000 but less than \$250,000 and in
 188 | which there are not more than five defendants. The party shall
 189 | pay an additional filing fee of up to \$2.50 for each defendant
 190 | in excess of five. Of the first \$770 in filing fees, \$80 must be
 191 | remitted by the clerk to the Department of Revenue for deposit
 192 | into the General Revenue Fund, \$685 must be remitted to the
 193 | Department of Revenue for deposit into the State Courts Revenue
 194 | Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the Department of
 195 | Revenue for deposit into the Administrative Clerks of the Court
 196 | Trust Fund within the Department of Financial Services Justice

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197 ~~Administrative Commission~~ and used to fund the contract with the
 198 Florida Clerks of Court Operations Corporation described in s.
 199 28.35, and ~~\$1.50 shall be remitted to the Department of Revenue~~
 200 ~~for deposit into the Administrative Trust Fund within the~~
 201 ~~Department of Financial Services to fund clerk budget reviews~~
 202 ~~conducted by the Department of Financial Services.~~ The next \$15
 203 of the filing fee collected shall be deposited in the state
 204 courts' Mediation and Arbitration Trust Fund; or

205 (III) One thousand nine hundred dollars in all cases in
 206 which the value of the claim is \$250,000 or more and in which
 207 there are not more than five defendants. The party shall pay an
 208 additional filing fee of up to \$2.50 for each defendant in
 209 excess of five. Of the first \$1,770 in filing fees, \$80 must be
 210 remitted by the clerk to the Department of Revenue for deposit
 211 into the General Revenue Fund, \$1,685 must be remitted to the
 212 Department of Revenue for deposit into the State Courts Revenue
 213 Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the Department of
 214 Revenue for deposit into the Administrative Clerks of the Court
 215 Trust Fund within the Department of Financial Services ~~Justice~~
 216 ~~Administrative Commission~~ to fund the contract with the Florida
 217 Clerks of Court Operations Corporation created in s. 28.35, and
 218 ~~\$1.50 shall be remitted to the Department of Revenue for deposit~~
 219 ~~into the Administrative Trust Fund within the Department of~~
 220 ~~Financial Services to fund clerk budget reviews conducted by the~~
 221 ~~Department of Financial Services.~~ The next \$15 of the filing fee
 222 collected shall be deposited in the state courts' Mediation and
 223 Arbitration Trust Fund.

224 e. An additional filing fee of \$4 shall be paid to the

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225 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 226 for deposit into the Court Education Trust Fund and shall remit
 227 50 cents to the Department of Revenue for deposit into the
 228 department's Clerks of the Court Trust Fund ~~within the Justice~~
 229 ~~Administrative Commission~~ to fund clerk education. An additional
 230 filing fee of up to \$18 shall be paid by the party seeking each
 231 severance that is granted. The clerk may impose an additional
 232 filing fee of up to \$85 for all proceedings of garnishment,
 233 attachment, replevin, and distress. Postal charges incurred by
 234 the clerk of the circuit court in making service by certified or
 235 registered mail on defendants or other parties shall be paid by
 236 the party at whose instance service is made. No additional fees,
 237 charges, or costs shall be added to the filing fees imposed
 238 under this section, except as authorized in this section or by
 239 general law.

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

- 248 1. A writ of garnishment;
- 249 2. A writ of replevin;
- 250 3. A distress writ;
- 251 4. A writ of attachment;
- 252 5. A motion for rehearing filed within 10 days;

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253 6. A motion for attorney's fees filed within 30 days after
 254 entry of a judgment or final order;

255 7. A motion for dismissal filed after a mediation
 256 agreement has been filed;

257 8. A disposition of personal property without
 258 administration;

259 9. Any probate case prior to the discharge of a personal
 260 representative;

261 10. Any guardianship pleading prior to discharge;

262 11. Any mental health pleading;

263 12. Motions to withdraw by attorneys;

264 13. Motions exclusively for the enforcement of child
 265 support orders;

266 14. A petition for credit of child support;

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

269 16. Stipulations;

270 17. Responsive pleadings; or

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

272 (c)1. A party in addition to a party described in sub-
 273 subparagraph (a)1.a. who files a pleading in an original civil
 274 action in circuit court for affirmative relief by cross-claim,
 275 counterclaim, counterpetition, or third-party complaint shall
 276 pay the clerk of court a fee of \$395. A party in addition to a
 277 party described in sub-subparagraph (a)1.b. who files a pleading
 278 in an original civil action in circuit court for affirmative
 279 relief by cross-claim, counterclaim, counterpetition, or third-
 280 party complaint shall pay the clerk of court a fee of \$295. The

281 clerk shall remit the fee to the Department of Revenue for
 282 deposit into the General Revenue Fund.

283 2. A party in addition to a party described in
 284 subparagraph (a)2. who files a pleading in an original civil
 285 action in circuit court for affirmative relief by cross-claim,
 286 counterclaim, counterpetition, or third-party complaint shall
 287 pay the clerk of court a graduated fee of:

288 a. Three hundred and ninety-five dollars in all cases in
 289 which the value of the pleading is \$50,000 or less;

290 b. Nine hundred dollars in all cases in which the value of
 291 the pleading is more than \$50,000 but less than \$250,000; or

292 c. One thousand nine hundred dollars in all cases in which
 293 the value of the pleading is \$250,000 or more.

294
 295 The clerk shall remit the fees collected under this subparagraph
 296 to the Department of Revenue for deposit into the General
 297 Revenue Fund, except that the clerk shall remit \$100 of the fee
 298 collected under sub-subparagraph a., \$605 of the fee collected
 299 under sub-subparagraph b., and \$1,605 of the fee collected under
 300 sub-subparagraph c. to the Department of Revenue for deposit
 301 into the State Courts Revenue Trust Fund.

302 (d) The clerk of court shall collect a service charge of
 303 \$10 for issuing a summons. The clerk shall assess the fee
 304 against the party seeking to have the summons issued.

305 Section 4. Paragraph (b) of subsection (5) of section
 306 28.246, Florida Statutes, is amended to read:

307 28.246 Payment of court-related fees, charges, and costs;
 308 partial payments; distribution of funds.—

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

312 (b) That portion of fees, service charges, court costs,
 313 and fines which are required to be retained by the clerk of the
 314 court or deposited into the Clerks of the Court Trust Fund
 315 within the Department of Revenue ~~Justice Administrative~~
 316 ~~Commission~~.

317
 318 To offset processing costs, clerks may impose either a per-month
 319 service charge pursuant to s. 28.24(26) (b) or a one-time
 320 administrative processing service charge at the inception of the
 321 payment plan pursuant to s. 28.24(26) (c).

322 Section 5. Section 28.35, Florida Statutes, is amended to
 323 read:

324 28.35 Florida Clerks of Court Operations Corporation.—

325 (1) (a) The Florida Clerks of Court Operations Corporation
 326 is created as a public corporation organized to perform the
 327 functions specified in this section and ~~s. 28.36 and shall be~~
 328 ~~administratively housed within the Justice Administrative~~
 329 ~~Commission. The corporation shall be a budget entity within the~~
 330 ~~Justice Administrative Commission, and its employees shall be~~
 331 ~~considered state employees. The corporation is not subject to~~
 332 ~~control, supervision, or direction by the Justice Administrative~~
 333 ~~Commission in the performance of its duties, but the employees~~
 334 ~~of the corporation shall be governed by the classification plan~~
 335 ~~and salary and benefits plan of the Justice Administrative~~
 336 ~~Commission. The classification plan must have a separate chapter~~

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337 ~~for the corporation.~~ All clerks of the circuit court shall be
338 members of the corporation and hold their position and authority
339 in an ex officio capacity. The functions assigned to the
340 corporation shall be performed by an executive council pursuant
341 to the plan of operation approved by the members.

342 (b) The executive council shall be composed of eight
343 clerks of the court elected by the clerks of the courts for a
344 term of 2 years, with two clerks from counties with a population
345 of fewer than 100,000, two clerks from counties with a
346 population of at least 100,000 but fewer than 500,000, two
347 clerks from counties with a population of at least 500,000 but
348 fewer than 1 million, and two clerks from counties with a
349 population of more than 1 million. ~~The executive council shall~~
350 ~~also include, as ex officio members, a designee of the President~~
351 ~~of the Senate and a designee of the Speaker of the House of~~
352 ~~Representatives. The Chief Justice of the Supreme Court shall~~
353 ~~designate one additional member to represent the state courts~~
354 ~~system.~~

355 (c) The corporation shall be considered a political
356 subdivision of the state and shall be exempt from the corporate
357 income tax. The corporation is ~~not~~ subject to the procurement
358 provisions of chapter 287 ~~120~~.

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

362 (2) The duties of the corporation shall include the
363 following:

364 (a) Adopting a plan of operation.

365 (b) Conducting the election of directors as required in
366 paragraph (1) (a).

367 (c) Recommending to the Legislature changes in the various
368 court-related fines, fees, service charges, and court costs
369 established by law to ensure reasonable and adequate funding of
370 the clerks of the court in the performance of their court-
371 related functions.

372 (d) Developing and certifying a uniform system of
373 performance measures and applicable workload performance
374 standards for the functions specified in paragraph (3) (a) and
375 ~~the service unit costs required in s. 28.36 and measures for~~
376 clerk workload performance in meeting the workload performance
377 standards. These workload performance measures and workload
378 performance standards shall be designed to facilitate an
379 objective determination of the performance of each clerk in
380 accordance with minimum standards for fiscal management,
381 operational efficiency, and effective collection of fines, fees,
382 service charges, and court costs. The corporation shall develop
383 the workload performance measures and workload performance
384 standards in consultation with the Legislature ~~and the Supreme~~
385 ~~Court. The Legislature may modify the clerk performance measures~~
386 ~~and performance standards in legislation implementing the~~
387 ~~General Appropriations Act or other law.~~ When the corporation
388 finds a clerk has not met the workload performance standards,
389 the corporation shall identify the nature of each deficiency and
390 any corrective action recommended and taken by the affected
391 clerk of the court. The corporation shall notify the Legislature
392 ~~and the Supreme Court~~ of any clerk not meeting performance

393 standards and provide a copy of any corrective action plans. For
 394 the purposes of this section, the term:

395 1. "Workload performance measures" means the measurement
 396 of the activities and frequency of the work required for the
 397 clerk to adequately perform the court-related duties of the
 398 office.

399 2. "Workload performance standards" means the standards
 400 developed to measure the timeliness and effectiveness of the
 401 activities that are accomplished by the clerk in the performance
 402 of the court-related duties of the office.

403 (e) Pursuant to contract with the Chief Financial Officer,
 404 establishing a process for the review of proposed court-related
 405 budgets submitted by clerks of the court for completeness and
 406 compliance with this section and ss. 28.36 and 28.37. Such
 407 process shall be designed and be of sufficient detail to permit
 408 independent verification and validation of such budgets. The
 409 contract shall specify the process to be used in determining
 410 compliance by the corporation with this section and ss. 28.36
 411 and 28.37 and shall require the corporation to determine the
 412 minimum amount of revenue necessary for each clerk of court to
 413 efficiently perform the list of court-related functions
 414 specified in paragraph (3) (a) in its budget review and approval
 415 process.

416 (f) ~~(e)~~ Reviewing and certifying proposed budgets submitted
 417 by clerks of the court using the process approved by the Chief
 418 Financial Officer pursuant to paragraph (e) for the purpose of
 419 making the certification in paragraph (3) (a). As part of this
 420 process, the corporation shall: ~~pursuant to s. 28.36.~~

421 1. Calculate the minimum amount of revenue necessary for
422 each to efficiently perform the list of court-related functions
423 specified in paragraph (3) (a).

424 2. Prepare a cost comparison of similarly situated clerks
425 of court, based on county population and numbers of filings,
426 using the standard list of court-related functions specified in
427 paragraph (3) (a).

428 3. Conduct an annual base budget review and an annual
429 budget exercise examining the total budget of each clerk of
430 court. The review shall examine revenues from all sources,
431 expenses of court-related functions, and expenses of non-court-
432 related functions as necessary to determine that court-related
433 revenues are not being used for non-court-related purposes.
434 Funds paid by a clerk to join or be a member of any group or
435 organization shall be separately listed and the benefits
436 received from any such group or organization described in
437 detail. The review and exercise shall identify potential
438 targeted budget reductions in the percentage amount provided in
439 Schedule VIII-B of the state's prior year's legislative budget
440 instructions, as referenced in s. 216.023(3), or an equivalent
441 schedule or instruction as may be adopted by the Legislature.

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

445 5. Identify those clerks projected to have court-related
446 revenues insufficient to fund their anticipated court-related
447 expenditures.

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

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

452 (i) Recommending a combined budget for the clerks of the
 453 circuit court to the Legislative Budget Commission as described
 454 in paragraph (j) that shall not exceed 105 percent of the prior
 455 year's approved budget. Exceptions may be approved by the
 456 corporation.

457 (j) By August 1 of each year, submitting to the
 458 Legislative Budget Commission, as provided in s. 11.90, its
 459 proposed budget and the information described in paragraph (f),
 460 as well as the approved budgets for each clerk of court and the
 461 corporation. By September 15 of each year, the Legislative
 462 Budget Commission shall consider the submitted budgets and shall
 463 approve, disapprove or amend the corporation's budget and shall
 464 approve, disapprove, or amend and approve the total of the
 465 clerks' combined budgets or any individual clerk's budget. If
 466 the Legislative Budget Commission fails to approve or amend the
 467 clerks' combined budgets by September 15, the clerk shall
 468 continue to perform the court-related functions based upon the
 469 clerk's approved budget for the preceding county fiscal year.
 470 If the Legislative Budget Commission fails to approve or amend
 471 the corporation's budget by September 15, the clerk shall
 472 continue to operate based upon the corporation's approved budget
 473 for the preceding county fiscal year.

474 (3) (a) The list of court-related functions that clerks may
 475 fund from filing fees, service charges, court costs, and fines
 476 is perform ~~are~~ limited to those functions expressly authorized

477 by law or court rule. Those functions include the following:
 478 case maintenance; records management; court preparation and
 479 attendance; processing the assignment, reopening, and
 480 reassignment of cases; processing of appeals; collection and
 481 distribution of fines, fees, service charges, and court costs;
 482 processing of bond forfeiture payments; payment of jurors and
 483 witnesses; payment of expenses for meals or lodging provided to
 484 jurors; data collection and reporting; processing of jurors;
 485 determinations of indigent status; and reasonable administrative
 486 support costs to enable the clerk of the court to carry out
 487 these court-related functions.

488 (b) The list of functions that clerks may not fund from
 489 filing fees, service charges, court costs, and fines includes
 490 ~~state appropriations include:~~

- 491 1. Those functions not specified within paragraph (a).
- 492 2. Functions assigned by administrative orders which are
 493 not required for the clerk to perform the functions in paragraph
 494 (a).
- 495 3. Enhanced levels of service which are not required for
 496 the clerk to perform the functions in paragraph (a).
- 497 4. Functions identified as local requirements in law or
 498 local optional programs.

499 (4) The corporation shall ~~prepare a legislative budget~~
 500 ~~request for the resources necessary to perform its duties,~~
 501 ~~submit the request pursuant to chapter 216, and be funded~~
 502 pursuant to a contract with the Chief Financial Officer. Funds
 503 shall be provided to the Chief Financial Officer for such
 504 purpose as appropriated by general law. Such funds shall be

505 available to the corporation for the performance of the duties
 506 and responsibilities as set forth in this section ~~as a budget~~
 507 ~~entity in the General Appropriations Act.~~ The corporation may
 508 hire staff and pay other expenses from such funds ~~state~~
 509 ~~appropriations~~ as necessary to perform the official duties and
 510 responsibilities of the corporation as described in this section
 511 ~~by law.~~

512 (5) (a) The corporation shall submit an annual audited
 513 financial statement to the Auditor General in a form and manner
 514 prescribed by the Auditor General. The Auditor General shall
 515 conduct an annual audit of the operations of the corporation,
 516 including the use of funds and compliance with the provisions of
 517 this section and ss. 28.36 and 28.37.

518 (b) Certified public accountants conducting audits of
 519 counties pursuant to s. 218.39 shall report, as part of the
 520 audit, whether or not the clerks of the courts have complied
 521 with the requirements of this section and s. 28.36. ~~In addition,~~
 522 ~~each clerk of court shall forward a copy of the portion of the~~
 523 ~~financial audit relating to the court-related duties of the~~
 524 ~~clerk of court to the Supreme Court.~~ The Auditor General shall
 525 develop a compliance supplement for the audit of compliance with
 526 the budgets and applicable workload performance standards
 527 certified by the corporation.

528 Section 6. Section 28.36, Florida Statutes, is amended to
 529 read:

530 28.36 Budget procedure.—There is established a budget
 531 procedure ~~for preparing budget requests for funding~~ for the
 532 court-related functions of the clerks of the court.

533 (1) Only those functions on the standard list developed
534 pursuant to s. 28.35(3)(a) may be funded from fees, service
535 charges, court costs, and fines retained by the clerks of the
536 court. For the county fiscal year beginning October 1, 2010, and
537 for each county fiscal year thereafter, each clerk of court
538 shall prepare a budget request for court-related expenditures
539 ~~that the last quarter of the county fiscal year and the first~~
540 ~~three quarters of the next county fiscal year. The proposed~~
541 ~~budget~~ shall be prepared, summarized, and submitted by the clerk
542 in each county to the Florida Clerks of Court Operations
543 Corporation in the manner and form prescribed by the corporation
544 to meet the requirements of law. ~~Each clerk shall forward a copy~~
545 ~~of his or her budget request to the Supreme Court.~~ The budget
546 requests must be provided to the corporation by June ~~October~~ 1
547 of the each year prior to the year of the budget.

548 (2) Each proposed budget shall also conform to the
549 requirements of this subsection. On or before June 1 for each
550 fiscal year thereafter, the clerk of the court in each county
551 shall prepare, summarize, and submit a proposed budget to the
552 Florida Clerks of Court Operations Corporation in the manner and
553 form prescribed by the corporation. However, at a minimum, the
554 proposed budgets shall include for each clerk the information
555 required by s. 28.35(2)(f). The proposed budget must provide
556 detailed information on the anticipated revenues available and
557 expenditures necessary for the performance of the standard list
558 of court-related functions of the clerk's office developed
559 pursuant to s. 28.35(3)(a) for the county fiscal year beginning
560 the following October 1. The Florida Clerks of Court Operations

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561 Corporation shall also prepare its proposed budget by July 1 of
562 each year ~~clerk shall include in his or her budget request a~~
563 ~~projection of the amount of court-related fees, service charges,~~
564 ~~and any other court-related clerk fees which will be collected~~
565 ~~during the proposed budget period. If the corporation determines~~
566 ~~that the proposed budget is limited to the standard list of~~
567 ~~court-related functions in s. 28.35(3)(a) and the projected~~
568 ~~court-related revenues are less than the proposed budget, the~~
569 ~~clerk shall increase all fees, service charges, and any other~~
570 ~~court-related clerk fees and charges to the maximum amounts~~
571 ~~specified by law or the amount necessary to resolve the deficit,~~
572 ~~whichever is less.~~

573 (3) Each proposed budget must be balanced, such that the
574 total of the estimated revenues available must equal or exceed
575 the total of the anticipated expenditures. Such revenues include
576 cash balances brought forward from the prior fiscal period;
577 revenue projected to be received from fees, service charges,
578 court costs, and fines for court-related functions during the
579 fiscal period covered by the budget; and supplemental revenue
580 that may be requested pursuant to subsection (4). The
581 anticipated expenditures must be itemized as required by the
582 corporation, pursuant to contract with the Chief Financial
583 Officer ~~clerk shall include in his or her budget request the~~
584 ~~number of personnel and the proposed budget for each of the~~
585 ~~following core services:~~

- 586 (a) ~~Case processing.~~
587 (b) ~~Financial processing.~~
588 (c) ~~Jury management.~~

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589 ~~(d) Information and reporting.~~

590

591 ~~Central administrative costs shall be allocated among the core-~~
592 ~~services categories.~~

593 (4) If a clerk of the court estimates that available funds
594 plus projected revenues from fines, fees, service charges, and
595 costs for court-related services are insufficient to meet the
596 anticipated expenditures for the standard list of court-related
597 functions in s. 28.35(3)(a) performed by his or her office, the
598 clerk must report the revenue deficit to the corporation in the
599 manner and form prescribed by the corporation pursuant to
600 contract with the Chief Financial Officer. The corporation shall
601 verify that the proposed budget is limited to the standard list
602 of court-related functions in s. 28.35(3)(a).

603 (a) If the corporation verifies that the proposed budget
604 is limited to the standard list of court-related functions in s.
605 28.35(3)(a) and a revenue deficit is projected, a clerk seeking
606 to retain revenues pursuant to this subsection shall increase
607 all fees, service charges, and any other court-related clerk
608 fees and charges to the maximum amounts specified by law or the
609 amount necessary to resolve the deficit, whichever is less. If,
610 after increasing fees, service charges, and any other court-
611 related clerk fees and charges to the maximum amounts specified
612 by law, a revenue deficit is still projected, the corporation
613 shall, pursuant to the terms of the contract with the Chief
614 Financial Officer, certify a revenue deficit and notify the
615 Department of Revenue that the clerk is authorized to retain
616 revenues, in an amount necessary to fully fund the projected

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

636 (b) If the Chief Financial Officer finds the court-related
637 budget proposed by a clerk includes functions not included in
638 the standard list of court-related functions in s. 28.35(3)(a),
639 the Chief Financial Officer shall notify the clerk of the amount
640 of the proposed budget not eligible to be funded from fines,
641 fees, service charges, and costs for court-related functions and
642 shall identify appropriate corrective measures to ensure budget
643 integrity. The clerk shall immediately discontinue all
644 ineligible expenditures of court-related funds for non-court-

645 related functions and reimburse the Clerks of the Court Trust
646 Fund for any previously ineligible expenditures made for non-
647 court-related functions, and shall implement any corrective
648 actions identified by the Chief Financial Officer. ~~The budget~~
649 ~~request must identify the service units to be provided within~~
650 ~~each core service. The service units shall be developed by the~~
651 ~~corporation, in consultation with the Supreme Court, the Chief~~
652 ~~Financial Officer, and the appropriations committees of the~~
653 ~~Senate and the House of Representatives.~~

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

657 ~~(6) The corporation shall review each individual clerk's~~
658 ~~prior-year expenditures, projected revenue, proposed unit costs,~~
659 ~~and the proposed budget for each of the core services~~
660 ~~categories. The corporation shall compare each clerk's prior-~~
661 ~~year expenditures and unit costs for core services with a peer~~
662 ~~group of clerks' offices having a population of a similar size~~
663 ~~and a similar number of case filings. If the corporation finds~~
664 ~~that the expenditures, unit costs, or proposed budget of a clerk~~
665 ~~is significantly higher than those of clerks in that clerk's~~
666 ~~peer group, the corporation shall require the clerk to submit~~
667 ~~documentation justifying the difference in each core services~~
668 ~~category. Justification for higher expenditures may include, but~~
669 ~~is not limited to, collective bargaining agreements, county~~
670 ~~civil service agreements, and the number and distribution of~~
671 ~~courthouses served by the clerk. If the expenditures and unit~~
672 ~~costs are not justified, the corporation shall recommend a~~

673 ~~reduction in the funding for that core services category in the~~
674 ~~budget request to an amount similar to the peer group of clerks~~
675 ~~or to an amount that the corporation determines is justified.~~

676 ~~(7) The corporation shall complete its review and~~
677 ~~adjustments to the clerks' budget requests and make its~~
678 ~~recommendations to the Legislature and the Supreme Court by~~
679 ~~December 1 each year.~~

680 ~~(8) The Chief Financial Officer shall review the proposed~~
681 ~~unit costs associated with each clerk of court's budget request~~
682 ~~and make recommendations to the Legislature. The Chief Financial~~
683 ~~Officer may conduct any audit of the corporation or a clerk of~~
684 ~~court as authorized by law. The Chief Justice of the Supreme~~
685 ~~Court may request an audit of the corporation or any clerk of~~
686 ~~court by the Chief Financial Officer.~~

687 ~~(9) The Legislature shall appropriate the total amount for~~
688 ~~the budgets of the clerks in the General Appropriations Act. The~~
689 ~~Legislature may reject or modify any or all of the unit costs~~
690 ~~recommended by the corporation. If the Legislature does not~~
691 ~~specify the unit costs in the General Appropriations Act or~~
692 ~~other law, the unit costs recommended by the corporation shall~~
693 ~~be the official unit costs for that budget period.~~

694 ~~(10) For the 2009-2010 fiscal year, the corporation shall~~
695 ~~release appropriations in an amount equal to one twelfth of each~~
696 ~~clerk's approved budget each month. The statewide total~~
697 ~~appropriation for the 2009-2010 fiscal year shall be set in the~~
698 ~~General Appropriations Act. The corporation shall determine the~~
699 ~~amount of each clerk of court budget, but the statewide total of~~
700 ~~such amounts may not exceed the amount listed in the General~~

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701 ~~Appropriations Act. Beginning in the 2010-2011 fiscal year, the~~
 702 ~~corporation shall release appropriations to each clerk~~
 703 ~~quarterly. The amount of the release shall be based on the prior~~
 704 ~~quarter's performance of service units identified in the four~~
 705 ~~core services and the established unit costs for each clerk.~~

706 ~~(11) The corporation may submit proposed legislation to~~
 707 ~~the Governor, the President of the Senate, and the Speaker of~~
 708 ~~the House of Representatives relating to the preparation of~~
 709 ~~budget requests of the clerks of court.~~

710 Section 7. Section 28.365, Florida Statutes, is created to
 711 read:

712 28.365 Procurement.-The clerks of court are subject to the
 713 procurement requirements and limitations of chapter 287 for
 714 expenditures made pursuant to the budget provided for in s.
 715 28.35.

716 Section 8. Section 28.37, Florida Statutes, is amended to
 717 read:

718 28.37 Fines, fees, service charges, and costs remitted to
 719 the state.-

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

726 (2) Beginning July 1, 2010, except as otherwise provided
 727 in ss. 28.241 and 34.041, one-third of all fines, fees, service
 728 charges, and court costs collected by the clerks of the court

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729 during the prior month for the performance of court-related
730 functions shall be remitted to the Department of Revenue for
731 deposit into the department's Clerks of the Court Trust Fund.
732 Such collections do not include funding received for the
733 operation of the Title IV-D child support collections and
734 disbursement program. The clerk of the court shall remit the
735 revenues collected during the prior month due to the state on or
736 before the 20th day of each month. The Department of Revenue
737 shall make a monthly transfer to the General Revenue Fund of the
738 funds in the department's Clerks of the Court Trust Fund that
739 are not needed to resolve clerk of the court revenue deficits,
740 as specified in s. 28.36.

741 (3) Beginning January 1, 2010, and each January 1
742 thereafter for the preceding county fiscal year of October 1
743 through September 30, the clerk of the court shall remit to the
744 Department of Revenue for deposit in the General Revenue Fund
745 the cumulative excess of all fines, fees, service charges, and
746 court costs retained by the clerks of the court, plus any funds
747 received by the clerks of the court from the department's Clerk
748 of the Court Trust Fund under s. 28.36(4)(a), that exceed the
749 amount needed to meet the approved budget amounts established
750 under s. 28.36.

751 (4) The Department of Revenue shall collect any funds that
752 the Florida Clerks of Court Operations Corporation determines
753 upon investigation were due on January 1 but not remitted to the
754 department. ~~Except as otherwise provided in ss. 28.241 and~~
755 ~~34.041, all court-related fines, fees, service charges, and~~
756 ~~costs are considered state funds and shall be remitted by the~~

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757 ~~clerk to the Department of Revenue for deposit into the Clerks~~
758 ~~of the Court Trust Fund within the Justice Administrative~~
759 ~~Commission. However, 10 percent of all court-related fines~~
760 ~~collected by the clerk shall be deposited into the clerk's~~
761 ~~Public Records Modernization Trust Fund to be used exclusively~~
762 ~~for additional clerk court-related operational needs and program~~
763 ~~enhancements.~~

764 Section 9. Subsection (1) of section 28.43, Florida
765 Statutes, is amended to read:

766 28.43 Adoption of rules relating to ss. 28.35, 28.36, and
767 28.37.—

768 (1) The Department of Revenue may adopt rules necessary to
769 carry out its responsibilities in ss. 28.35, 28.36, and 28.37.
770 The rules shall include forms and procedures for transferring
771 funds from the clerks of the court to the Clerks of the Court
772 Trust Fund within the Department of Revenue ~~Justice~~
773 ~~Administrative Commission.~~

774 Section 10. Paragraph (b) of subsection (1) of section
775 34.041, Florida Statutes, is amended to read:

776 34.041 Filing fees.—

777 (1)

778 (b) The first \$80 of the filing fee collected under
779 subparagraph (a)4. shall be remitted to the Department of
780 Revenue for deposit into the General Revenue Fund. The next \$15
781 of the filing fee collected under subparagraph (a)4., and the
782 first \$10 of the filing fee collected under subparagraph (a)7.,
783 shall be deposited in the state courts' Mediation and
784 Arbitration Trust Fund. One-third of any filing fees collected

785 by the clerk under this section in excess of the first \$95
 786 collected under subparagraph (a)4. shall be remitted to the
 787 Department of Revenue for deposit into the department's Clerks
 788 of the Court Trust Fund. An additional filing fee of \$4 shall be
 789 paid to the clerk. The clerk shall transfer \$3.50 to the
 790 Department of Revenue for deposit into the Court Education Trust
 791 Fund and shall transfer 50 cents to the Department of Revenue
 792 for deposit into the department's Clerks of the Court Trust Fund
 793 ~~within the Justice Administrative Commission~~ to fund clerk
 794 education. Postal charges incurred by the clerk of the county
 795 court in making service by mail on defendants or other parties
 796 shall be paid by the party at whose instance service is made.
 797 Except as provided herein, filing fees and service charges for
 798 performing duties of the clerk relating to the county court
 799 shall be as provided in ss. 28.24 and 28.241. Except as
 800 otherwise provided herein, all filing fees shall be retained as
 801 fee income of the office of the clerk of the circuit court
 802 ~~remitted to the Department of Revenue for deposit into the~~
 803 ~~Clerks of the Court Trust Fund within the Justice Administrative~~
 804 ~~Commission.~~ Filing fees imposed by this section may not be added
 805 to any penalty imposed by chapter 316 or chapter 318.

806 Section 11. Subsection (5) of section 43.16, Florida
 807 Statutes, is amended to read:

808 43.16 Justice Administrative Commission; membership,
 809 powers and duties.—

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

812 (a) The maintenance of a central state office for

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813 administrative services and assistance when possible to and on
 814 behalf of the state attorneys and public defenders of Florida,
 815 the capital collateral regional counsel of Florida, the criminal
 816 conflict and civil regional counsel, and the Guardian Ad Litem
 817 Program, ~~and the Florida Clerks of Court Operations Corporation.~~

818 (b) Each state attorney, public defender, criminal
 819 conflict and civil regional counsel, and the Guardian Ad Litem
 820 Program, ~~and the Florida Clerks of Court Operations Corporation~~
 821 shall continue to prepare necessary budgets, vouchers that
 822 represent valid claims for reimbursement by the state for
 823 authorized expenses, and other things incidental to the proper
 824 administrative operation of the office, such as revenue
 825 transmittals to the Chief Financial Officer and automated
 826 systems plans, but will forward same to the commission for
 827 recording and submission to the proper state officer. However,
 828 when requested by a state attorney, a public defender, a
 829 criminal conflict and civil regional counsel, or the Guardian Ad
 830 Litem Program, the commission will either assist in the
 831 preparation of budget requests, voucher schedules, and other
 832 forms and reports or accomplish the entire project involved.

833 Section 12. Paragraph (x) of subsection (2) of section
 834 110.205, Florida Statutes, is amended to read:

835 110.205 Career service; exemptions.—

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

838 (x) All officers and employees of the Justice
 839 Administrative Commission, Office of the State Attorney, Office
 840 of the Public Defender, regional offices of capital collateral

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841 counsel, offices of criminal conflict and civil regional
 842 counsel, and Statewide Guardian Ad Litem Office, including the
 843 circuit guardian ad litem programs ~~and the Florida Clerks of~~
 844 ~~Court Operations Corporation.~~

845 Section 13. Subsections (2) and (3) of section 142.01,
 846 Florida Statutes, are amended to read:

847 142.01 Fine and forfeiture fund; disposition of revenue;
 848 clerk of the circuit court.-

849 ~~(2) All revenues received by the clerk in the fine and~~
 850 ~~forfeiture fund from court-related fees, fines, costs, and~~
 851 ~~service charges are considered state funds and shall be remitted~~
 852 ~~monthly to the Department of Revenue for deposit into the Clerks~~
 853 ~~of the Court Trust Fund within the Justice Administrative~~
 854 ~~Commission.~~

855 (2)~~(3)~~ Notwithstanding the provisions of this section, all
 856 fines and forfeitures arising from operation of the provisions
 857 of s. 318.1215 shall be disbursed in accordance with that
 858 section.

859 Section 14. Section 213.131, Florida Statutes, is amended
 860 to read:

861 213.131 Clerks of the Court Trust Fund within the
 862 Department of Revenue ~~Justice Administrative Commission.~~-The
 863 Clerks of the Court Trust Fund is created within the Department
 864 of Revenue ~~Justice Administrative Commission.~~ Funds received by
 865 the department from the clerks of court shall be credited to the
 866 trust fund as provided in chapter 2001-122, Laws of Florida, to
 867 be used for the purposes set forth in that act.

868 Section 15. Paragraph (qq) of subsection (1) of section
 869 216.011, Florida Statutes, is amended to read:

870 216.011 Definitions.—

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

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

886 Section 16. For the period of July 1, 2010, through
 887 September 30, 2010, the approved budget for the clerks of the
 888 circuit court shall be \$112,845,078. The Clerks of Court
 889 Operations Corporation shall determine budget amounts for the
 890 individual clerks.

891 Section 17. This act shall take effect July 1, 2010.