

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative McBurney offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

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

11.90 Legislative Budget Commission.-

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

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

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

18 (c) Review and approve, disapprove, or amend and approve
19 the budget of the Florida Clerks of Court Operations
20 Corporation.

21 (d) Review and approve, disapprove, or amend and approve
22 the total combined budgets of the clerks of the court or the
23 budget of any individual clerk of the court for court-related
24 functions.

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

28 Section 3. Paragraph (a) of subsection (1) of section
29 28.241, Florida Statutes, is amended to read:

30 28.241 Filing fees for trial and appellate proceedings.—

31 (1) Filing fees are due at the time a party files a
32 pleading to initiate a proceeding or files a pleading for
33 relief. Reopen fees are due at the time a party files a pleading
34 to reopen a proceeding if at least 90 days have elapsed since
35 the filing of a final order or final judgment with the clerk. If
36 a fee is not paid upon the filing of the pleading as required
37 under this section, the clerk shall pursue collection of the fee
38 pursuant to s. 28.246.

39 (a)1.a. Except as provided in sub-subparagraph b. and
40 subparagraph 2., the party instituting any civil action, suit,
41 or proceeding in the circuit court shall pay to the clerk of
42 that court a filing fee of up to \$395 in all cases in which
43 there are not more than five defendants and an additional filing

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44 fee of up to \$2.50 for each defendant in excess of five. Of the
45 first \$200 ~~\$280~~ in filing fees, ~~\$80 must be remitted by the~~
46 ~~clerk to the Department of Revenue for deposit into the General~~
47 ~~Revenue Fund,~~ \$195 must be remitted to the Department of Revenue
48 for deposit into the State Courts Revenue Trust Fund, \$4 ~~\$3.50~~
49 must be remitted to the Department of Revenue for deposit into
50 the Administrative Clerks of the Court Trust Fund within the
51 Department of Financial Services ~~Justice Administrative~~
52 ~~Commission~~ and used to fund the contract with the Florida Clerks
53 of Court Operations Corporation created in s. 28.35, and \$1
54 ~~\$1.50~~ must be remitted to the Department of Revenue for deposit
55 into the Administrative Trust Fund within the Department of
56 Financial Services to fund audits of individual clerks' court-
57 related expenditures ~~clerk budget reviews~~ conducted by the
58 Department of Financial Services. By the 10th of each month, the
59 clerk shall submit that portion of the filing fees collected in
60 the previous month that is in excess of one-twelfth of the
61 clerk's total budget ~~One third of any filing fees collected by~~
62 ~~the clerk of the circuit court in excess of \$100 must be~~
63 ~~remitted~~ to the Department of Revenue for deposit into the
64 Clerks of the Court Trust Fund ~~within the Justice Administrative~~
65 ~~Commission~~.

66 b. The party instituting any civil action, suit, or
67 proceeding in the circuit court under chapter 39, chapter 61,
68 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
69 753 shall pay to the clerk of that court a filing fee of up to
70 \$295 in all cases in which there are not more than five
71 defendants and an additional filing fee of up to \$2.50 for each

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72 defendant in excess of five. Of the first \$100 ~~\$180~~ in filing
73 fees, ~~\$80 must be remitted by the clerk to the Department of~~
74 ~~Revenue for deposit into the General Revenue Fund,~~ \$95 must be
75 remitted to the Department of Revenue for deposit into the State
76 Courts Revenue Trust Fund, \$4 ~~\$3.50~~ must be remitted to the
77 Department of Revenue for deposit into the Administrative Clerks
78 ~~of the Court~~ Trust Fund within the Department of Financial
79 Services ~~Justice Administrative Commission~~ and used to fund the
80 contract with the Florida Clerks of Court Operations Corporation
81 created in s. 28.35, and \$1 ~~\$1.50~~ must be remitted to the
82 Department of Revenue for deposit into the Administrative Trust
83 Fund within the Department of Financial Services to fund audits
84 of individual clerks' court-related expenditures ~~clerk budget~~
85 ~~reviews~~ conducted by the Department of Financial Services.

86 c. An additional filing fee of \$4 shall be paid to the
87 clerk. The clerk shall remit \$3.50 to the Department of Revenue
88 for deposit into the Court Education Trust Fund and shall remit
89 50 cents to the Department of Revenue for deposit into the
90 Administrative Clerks of the Court Trust Fund within the
91 Department of Financial Services ~~Justice Administrative~~
92 ~~Commission~~ to fund clerk education provided by the Florida
93 Clerks of Court Operations Corporation. An additional filing fee
94 of up to \$18 shall be paid by the party seeking each severance
95 that is granted. The clerk may impose an additional filing fee
96 of up to \$85 for all proceedings of garnishment, attachment,
97 replevin, and distress. Postal charges incurred by the clerk of
98 the circuit court in making service by certified or registered
99 mail on defendants or other parties shall be paid by the party

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100 at whose instance service is made. Additional fees, charges, or
101 costs may not be added to the filing fees imposed under this
102 section, except as authorized in this section or by general law.

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

107 b. A party shall estimate in writing the amount in
108 controversy of the claim upon filing the action. For purposes of
109 this subparagraph, the value of a mortgage foreclosure action is
110 based upon the principal due on the note secured by the
111 mortgage, plus interest owed on the note and any moneys advanced
112 by the lender for property taxes, insurance, and other advances
113 secured by the mortgage, at the time of filing the foreclosure.
114 The value shall also include the value of any tax certificates
115 related to the property. In stating the value of a mortgage
116 foreclosure claim, a party shall declare in writing the total
117 value of the claim, as well as the individual elements of the
118 value as prescribed in this sub-subparagraph.

119 c. In its order providing for the final disposition of the
120 matter, the court shall identify the actual value of the claim.
121 The clerk shall adjust the filing fee if there is a difference
122 between the estimated amount in controversy and the actual value
123 of the claim and collect any additional filing fee owed or
124 provide a refund of excess filing fee paid.

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

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

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128 there are not more than five defendants. The party shall pay an
129 additional filing fee of up to \$2.50 for each defendant in
130 excess of five. Of the first \$200 ~~\$280~~ in filing fees, \$195 ~~\$275~~
131 must be remitted by the clerk to the Department of Revenue for
132 deposit into the General Revenue Fund, \$4 ~~\$3.50~~ must be remitted
133 to the Department of Revenue for deposit into the Administrative
134 ~~Clerks of the Court~~ Trust Fund within the Department of
135 Financial Services ~~Justice Administrative Commission~~ and used to
136 fund the contract with the Florida Clerks of Court Operations
137 Corporation created in s. 28.35, and \$1 ~~\$1.50~~ must be remitted
138 to the Department of Revenue for deposit into the Administrative
139 Trust Fund within the Department of Financial Services to fund
140 audits of individual clerks' court-related expenditures ~~clerk~~
141 ~~budget reviews~~ conducted by the Department of Financial
142 Services;

143 (II) Nine hundred dollars in all cases in which the value
144 of the claim is more than \$50,000 but less than \$250,000 and in
145 which there are not more than five defendants. The party shall
146 pay an additional filing fee of up to \$2.50 for each defendant
147 in excess of five. Of the first \$705 ~~\$785~~ in filing fees, \$700
148 ~~\$780~~ must be remitted by the clerk to the Department of Revenue
149 for deposit into the General Revenue Fund, \$4 ~~\$3.50~~ must be
150 remitted to the Department of Revenue for deposit into the
151 Administrative ~~Clerks of the Court~~ Trust Fund within the
152 Department of Financial Services ~~Justice Administrative~~
153 ~~Commission~~ and used to fund the contract with the Florida Clerks
154 of Court Operations Corporation created ~~described~~ in s. 28.35,
155 and \$1 ~~\$1.50~~ must be remitted to the Department of Revenue for

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156 deposit into the Administrative Trust Fund within the Department
157 of Financial Services to fund audits of individual clerks'
158 court-related expenditures ~~clerk budget reviews~~ conducted by the
159 Department of Financial Services; or

160 (III) One thousand nine hundred dollars in all cases in
161 which the value of the claim is \$250,000 or more and in which
162 there are not more than five defendants. The party shall pay an
163 additional filing fee of up to \$2.50 for each defendant in
164 excess of five. Of the first \$1,705 ~~\$1,785~~ in filing fees, \$930
165 ~~\$1,010~~ must be remitted by the clerk to the Department of
166 Revenue for deposit into the General Revenue Fund, \$770 must be
167 remitted to the Department of Revenue for deposit into the State
168 Courts Revenue Trust Fund, \$4 ~~\$3.50~~ must be remitted to the
169 Department of Revenue for deposit into the Administrative Clerks
170 ~~of the Court~~ Trust Fund within the Department of Financial
171 Services ~~Justice Administrative Commission~~ to fund the contract
172 with the Florida Clerks of Court Operations Corporation created
173 in s. 28.35, and \$1 ~~\$1.50~~ must be remitted to the Department of
174 Revenue for deposit into the Administrative Trust Fund within
175 the Department of Financial Services to fund audits of
176 individual clerks' court-related expenditures ~~clerk budget~~
177 ~~reviews~~ conducted by the Department of Financial Services.

178 e. An additional filing fee of \$4 shall be paid to the
179 clerk. The clerk shall remit \$3.50 to the Department of Revenue
180 for deposit into the Court Education Trust Fund and shall remit
181 50 cents to the Department of Revenue for deposit into the
182 Administrative Clerks of the Court Trust Fund within the
183 Department of Financial Services ~~Justice Administrative~~

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184 ~~Commission~~ to fund clerk education provided by the Florida
185 Clerks of Court Operations Corporation. An additional filing fee
186 of up to \$18 shall be paid by the party seeking each severance
187 that is granted. The clerk may impose an additional filing fee
188 of up to \$85 for all proceedings of garnishment, attachment,
189 replevin, and distress. Postal charges incurred by the clerk of
190 the circuit court in making service by certified or registered
191 mail on defendants or other parties shall be paid by the party
192 at whose instance service is made. Additional fees, charges, or
193 costs may not be added to the filing fees imposed under this
194 section, except as authorized in this section or by general law.

195 Section 4. Effective upon this act becoming a law, section
196 28.2455, Florida Statutes, is repealed.

197 Section 5. Paragraph (b) of subsection (5) of section
198 28.246, Florida Statutes, is amended to read:

199 28.246 Payment of court-related fines or other monetary
200 penalties, fees, charges, and costs; partial payments;
201 distribution of funds.—

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

205 (b) That portion of fees, service charges, court costs,
206 and fines required to be retained by the clerk of the court or
207 deposited into the Clerks of the Court Trust Fund within the
208 Department of Revenue ~~Justice Administrative Commission~~.

209
210 To offset processing costs, clerks may impose either a per-month
211 service charge pursuant to s. 28.24(26) (b) or a one-time

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212 administrative processing service charge at the inception of the
213 payment plan pursuant to s. 28.24(26)(c).

214 Section 6. Section 28.35, Florida Statutes, is amended to
215 read:

216 28.35 Florida Clerks of Court Operations Corporation.—

217 (1)(a) The Florida Clerks of Court Operations Corporation
218 is created as a public corporation organized to perform the
219 functions specified in this section and s. 28.36 ~~and shall be~~
220 ~~administratively housed within the Justice Administrative~~
221 ~~Commission. The corporation shall be a budget entity within the~~
222 ~~Justice Administrative Commission, and its employees shall be~~
223 ~~considered state employees. The corporation is not subject to~~
224 ~~control, supervision, or direction by the Justice Administrative~~
225 ~~Commission in the performance of its duties, but the employees~~
226 ~~of the corporation shall be governed by the classification plan~~
227 ~~and salary and benefits plan of the Justice Administrative~~
228 ~~Commission. The classification plan must have a separate chapter~~
229 ~~for the corporation.~~ All clerks of the circuit court shall be
230 members of the corporation and hold their position and authority
231 in an ex officio capacity. The functions assigned to the
232 corporation shall be performed by an executive council pursuant
233 to the plan of operation approved by the members.

234 (b) The executive council shall be composed of eight
235 clerks of the court elected by the clerks of the courts for a
236 term of 2 years, with two clerks from counties with a population
237 of fewer than 100,000, two clerks from counties with a
238 population of at least 100,000 but fewer than 500,000, two
239 clerks from counties with a population of at least 500,000 but

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240 fewer than 1 million, and two clerks from counties with a
241 population of more than 1 million. The executive council shall
242 also include, as ex officio members, a designee of the President
243 of the Senate and a designee of the Speaker of the House of
244 Representatives. The Chief Justice of the Supreme Court shall
245 designate one additional member to represent the state courts
246 system.

247 (c) The corporation shall be considered a political
248 subdivision of the state and shall be exempt from the corporate
249 income tax. The corporation is not subject to ~~the provisions of~~
250 chapter 120.

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

254 (2) The duties of the corporation shall include the
255 following:

256 (a) Adopting a plan of operation.

257 (b) Conducting the election of an executive council
258 ~~directors~~ as required in paragraph (1) (b) ~~(1) (a)~~.

259 (c) Recommending to the Legislature changes in the amounts
260 of the various court-related fines, fees, service charges, and
261 ~~court~~ costs established by law to ensure reasonable and adequate
262 funding of the clerks of the court in the performance of their
263 court-related functions.

264 (d) Developing and certifying a uniform system of workload
265 ~~performance~~ measures and applicable workload ~~performance~~
266 standards for the functions specified in paragraph (3) (a) and
267 ~~the service unit costs required in s. 28.36 and measures for~~

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268 clerk workload performance in meeting the workload performance
269 standards. These workload measures and workload performance
270 standards shall be designed to facilitate an objective
271 determination of the performance of each clerk in accordance
272 with minimum standards for fiscal management, operational
273 efficiency, and effective collection of fines, fees, service
274 charges, and court costs. The corporation shall develop the
275 workload performance measures and workload performance standards
276 in consultation with the Legislature ~~and the Supreme Court. The~~
277 ~~Legislature may modify the clerk performance measures and~~
278 ~~performance standards in legislation implementing the General~~
279 ~~Appropriations Act or other law.~~ When the corporation finds a
280 clerk has not met the workload performance standards, the
281 corporation shall identify the nature of each deficiency and any
282 corrective action recommended and taken by the affected clerk of
283 the court. The corporation shall notify the Legislature ~~and the~~
284 ~~Supreme Court~~ of any clerk not meeting workload performance
285 standards and provide a copy of any corrective action plans. As
286 used in this subsection, the term:

287 1. "Workload measures" means the measurement of the
288 activities and frequency of the work required for the clerk to
289 adequately perform the court-related duties of the office as
290 defined by the Florida Clerks of Court Operations Corporation.

291 2. "Workload performance standards" means the standards
292 developed to measure the timeliness and effectiveness of the
293 activities that are accomplished by the clerk in the performance
294 of the court-related duties of the office as defined by the
295 Florida Clerks of Court Operations Corporation.

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296 (e) Entering into a contract with the Department of
297 Financial Services for the department to audit the court-related
298 expenditures of individual clerks.

299 (f)(e) Reviewing, certifying, and recommending proposed
300 budgets submitted by clerks of the court pursuant to s. 28.36.
301 As part of this process, the corporation shall:

302 1. Calculate the minimum amount of revenue necessary for
303 each clerk of the court to efficiently perform the list of
304 court-related functions specified in paragraph (3) (a). The
305 corporation shall apply the workload measures appropriate for
306 determining the individual level of review required to fund the
307 clerk's budget.

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

312 3. Conduct an annual base budget review and an annual
313 budget exercise examining the total budget of each clerk of the
314 court. The review shall examine revenues from all sources,
315 expenses of court-related functions, and expenses of noncourt-
316 related functions as necessary to determine that court-related
317 revenues are not being used for noncourt-related purposes. The
318 review and exercise shall identify potential targeted budget
319 reductions in the percentage amount provided in Schedule VIII-B
320 of the state's previous year's legislative budget instructions,
321 as referenced in s. 216.023(3), or an equivalent schedule or
322 instruction as may be adopted by the Legislature.

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

326 5. Identify those clerks projected to have court-related
327 revenues insufficient to fund their anticipated court-related
328 expenditures

329 6. Use revenue estimates based on the official estimate
330 for funds accruing to the Clerks of the Court Trust Fund made by
331 the Revenue Estimating Conference.

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

333 ~~(g) Publishing a uniform schedule of actual fees, service~~
334 ~~charges, and costs charged by a clerk of the court pursuant to~~
335 ~~general law.~~

336 (h) Beginning August 1, 2014, and each August 1
337 thereafter, submitting to the Legislative Budget Commission, as
338 provided in s. 11.90, its proposed budget and the information
339 described in paragraph (f), as well as the authorized budgets
340 for each clerk of the court and the corporation. Before October
341 1 of each year beginning in 2014, the Legislative Budget
342 Commission shall consider the submitted budgets and shall
343 approve, disapprove, or amend and approve the corporation's
344 budget and shall approve, disapprove, or amend and approve the
345 total of the clerks' combined budgets or any individual clerk's
346 budget. If the Legislative Budget Commission fails to approve or
347 amend and approve the corporation's budget or the clerks'
348 combined budgets before October 1, the clerk shall continue to
349 perform the court-related functions based upon the clerk's
350 authorized budget for the previous county fiscal year.

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351 (3) (a) The list of court-related functions that clerks may
352 fund from filing fees, service charges, costs, and fines is
353 ~~perform are~~ limited to those functions expressly authorized by
354 law or court rule. Those functions include the following: case
355 maintenance; records management; court preparation and
356 attendance; processing the assignment, reopening, and
357 reassignment of cases; processing of appeals; collection and
358 distribution of fines, fees, service charges, and court costs;
359 processing of bond forfeiture payments; payment of jurors and
360 witnesses; payment of expenses for meals or lodging provided to
361 jurors; data collection and reporting; processing of jurors;
362 determinations of indigent status; and paying reasonable
363 administrative support costs to enable the clerk of the court to
364 carry out these court-related functions.

365 (b) The list of court-related functions that clerks may
366 not fund from filing fees, service charges, costs, and fines
367 includes ~~state appropriations include:~~

- 368 1. Those functions not specified within paragraph (a).
369 2. Functions assigned by administrative orders which are
370 not required for the clerk to perform the functions in paragraph
371 (a).
372 3. Enhanced levels of service which are not required for
373 the clerk to perform the functions in paragraph (a).
374 4. Functions identified as local requirements in law or
375 local optional programs.

376 (4) The corporation shall ~~prepare a legislative budget~~
377 ~~request for the resources necessary to perform its duties,~~
378 ~~submit the request pursuant to chapter 216, and be funded~~

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379 pursuant a contract with the Chief Financial Officer. Funds
380 shall be provided to the Chief Financial Officer for such
381 purpose as appropriated by general law. Such funds shall be
382 available to the corporation for the performance of the duties
383 and responsibilities set forth in this section ~~as a budget~~
384 ~~entity in the General Appropriations Act.~~ The corporation may
385 hire staff and pay other expenses from such funds ~~state~~
386 ~~appropriations~~ as necessary to perform the official duties and
387 responsibilities of the corporation as described in this section
388 ~~by law.~~

389 (5) Certified public accountants conducting audits of
390 counties pursuant to s. 218.39 shall report, as part of the
391 audit, whether ~~or not~~ the clerks of the courts have complied
392 with the requirements of this section and s. 28.36. In addition,
393 each clerk of court shall forward a copy of the ~~portion of the~~
394 financial audit ~~relating to the court-related duties of the~~
395 ~~clerk of court~~ to the Florida Clerks of Court Operations
396 Corporation ~~Supreme Court~~. The Auditor General shall develop a
397 compliance supplement for the audit of compliance with the
398 budgets and applicable workload performance standards certified
399 by the corporation.

400 Section 7. Section 28.36, Florida Statutes, is amended to
401 read:

402 28.36 Budget procedure.—There is established a budget
403 procedure ~~for preparing budget requests for funding~~ for the
404 court-related functions of the clerks of the court.

405 (1) Only those functions listed in s. 28.35(3)(a) may be
406 funded from fees, service charges, costs, and fines retained by

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407 ~~the clerks of the court Each clerk of court shall prepare a~~
408 ~~budget request for the last quarter of the county fiscal year~~
409 ~~and the first three quarters of the next county fiscal year. The~~
410 ~~proposed budget shall be prepared, summarized, and submitted by~~
411 ~~the clerk in each county to the Florida Clerks of Court~~
412 ~~Operations Corporation in the manner and form prescribed by the~~
413 ~~corporation to meet the requirements of law. Each clerk shall~~
414 ~~forward a copy of his or her budget request to the Supreme~~
415 ~~Court. The budget requests must be provided to the corporation~~
416 ~~by October 1 of each year.~~

417 ~~(2) Each clerk shall include in his or her budget request~~
418 ~~a projection of the amount of court-related fees, service~~
419 ~~charges, and any other court-related clerk fees which will be~~
420 ~~collected during the proposed budget period. If the corporation~~
421 ~~determines that the proposed budget is limited to the standard~~
422 ~~list of court-related functions in s. 28.35(3)(a) and the~~
423 ~~projected court-related revenues are less than the proposed~~
424 ~~budget, the clerk shall increase all fees, service charges, and~~
425 ~~any other court-related clerk fees and charges to the maximum~~
426 ~~amounts specified by law or the amount necessary to resolve the~~
427 ~~deficit, whichever is less.~~

428 ~~(2)(3) Each proposed budget shall further conform to the~~
429 ~~following requirements clerk shall include in his or her budget~~
430 ~~request the number of personnel and the proposed budget for each~~
431 ~~of the following core services:~~

432 ~~(a) On or before June 1 of each year beginning in 2014,~~
433 ~~the proposed budget shall be prepared, summarized, and submitted~~
434 ~~by the clerk in each county to the Florida Clerks of Court~~

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435 Operations Corporation in the manner and form prescribed by the
436 corporation. The proposed budget must provide detailed
437 information on the anticipated revenues available and
438 expenditures necessary for the performance of the court-related
439 functions listed in s. 28.35(3) (a) of the clerk's office for the
440 county fiscal year beginning October 1.

441 (b) The proposed budget must be balanced such that the
442 total of the estimated revenues available equals or exceeds the
443 total of the anticipated expenditures. Such revenues include
444 revenue projected to be received from fees, services charges,
445 costs, and fines for court-related functions during the fiscal
446 period covered by the budget. The anticipated expenditures must
447 be itemized as required by the corporation.

- 448 ~~(a) Circuit criminal.~~
449 ~~(b) County criminal.~~
450 ~~(c) Juvenile delinquency.~~
451 ~~(d) Criminal traffic.~~
452 ~~(e) Circuit civil.~~
453 ~~(f) County civil.~~
454 ~~(g) Civil traffic.~~
455 ~~(h) Probate.~~
456 ~~(i) Family.~~
457 ~~(j) Juvenile dependency.~~

458
459 ~~Central administrative costs shall be allocated among the core-~~
460 ~~services categories.~~

461 (3) If a clerk of the court estimates that available funds
462 plus projected revenues from fines, fees, service charges, and

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463 costs for court-related services are insufficient to meet the
464 anticipated expenditures for the standard list of court-related
465 functions in s. 28.35(3) (a) performed by his or her office, the
466 clerk must report the revenue deficit to the corporation in the
467 manner and form prescribed by the corporation. The corporation
468 shall verify that the proposed budget is limited to the standard
469 list of court-related functions in s. 28.35(3) (a). If the
470 corporation verifies that a revenue deficit is projected, the
471 corporation shall certify a revenue deficit and notify the
472 Department of Revenue that the clerk is authorized to retain
473 revenues, in an amount necessary to fully fund the projected
474 revenue deficit, which he or she would otherwise be required to
475 remit to the Department of Revenue for deposit into the
476 department's Clerks of the Court Trust Fund pursuant to s.
477 28.37. If a revenue deficit is projected for that clerk after
478 retaining all of the projected collections from the court-
479 related fines, fees, service charges, and costs, the corporation
480 shall certify the amount of the revenue deficit to the Executive
481 Office of the Governor and request release authority for funds
482 from the department's Clerks of the Court Trust Fund.
483 Notwithstanding s. 216.192 relating to the release of funds, the
484 Executive Office of the Governor may approve the release of
485 funds in accordance with the notice, review, and objection
486 procedures set forth in s. 216.177 and shall provide notice to
487 the Chief Financial Officer. The Department of Revenue shall
488 request monthly distributions from the Chief Financial Officer
489 in equal amounts to each clerk certified to have a revenue

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490 deficit, in accordance with the releases approved by the
491 Governor.

492 (4) The Legislative Budget Commission may approve
493 increases to the previously authorized budgets approved for
494 individual clerks of the court pursuant to section 28.35 for
495 court-related functions, if:

496 (a) The additional budget authority is necessary to pay
497 the cost of performing new or additional functions required by
498 changes in law or court rule; or

499 (b) The additional budget authority is necessary to pay
500 the cost of supporting increases in the number of judges or
501 magistrates authorized by the Legislature.

502 ~~(4) The budget request must identify the service units to~~
503 ~~be provided within each core service. The service units shall be~~
504 ~~developed by the corporation, in consultation with the Supreme~~
505 ~~Court, the Chief Financial Officer, and the appropriations~~
506 ~~committees of the Senate and the House of Representatives.~~

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

510 ~~(6) The corporation shall review each individual clerk's~~
511 ~~prior-year expenditures, projected revenue, proposed unit costs,~~
512 ~~and the proposed budget for each of the core services~~
513 ~~categories. The corporation shall compare each clerk's prior-~~
514 ~~year expenditures and unit costs for core services with a peer~~
515 ~~group of clerks' offices having a population of a similar size~~
516 ~~and a similar number of case filings. If the corporation finds~~
517 ~~that the expenditures, unit costs, or proposed budget of a clerk~~

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518 ~~is significantly higher than those of clerks in that clerk's~~
519 ~~peer group, the corporation shall require the clerk to submit~~
520 ~~documentation justifying the difference in each core-services~~
521 ~~category. Justification for higher expenditures may include, but~~
522 ~~is not limited to, collective bargaining agreements, county~~
523 ~~civil service agreements, and the number and distribution of~~
524 ~~courthouses served by the clerk. If the expenditures and unit~~
525 ~~costs are not justified, the corporation shall recommend a~~
526 ~~reduction in the funding for that core-services category in the~~
527 ~~budget request to an amount similar to the peer group of clerks~~
528 ~~or to an amount that the corporation determines is justified.~~

529 ~~(7) The corporation shall complete its review and~~
530 ~~adjustments to the clerks' budget requests and make its~~
531 ~~recommendations to the Legislature and the Supreme Court by~~
532 ~~December 1 each year.~~

533 ~~(8) The Chief Financial Officer shall review the proposed~~
534 ~~unit costs associated with each clerk of court's budget request~~
535 ~~and make recommendations to the Legislature. The Chief Financial~~
536 ~~Officer may conduct any audit of the corporation or a clerk of~~
537 ~~court as authorized by law. The Chief Justice of the Supreme~~
538 ~~Court may request an audit of the corporation or any clerk of~~
539 ~~court by the Chief Financial Officer.~~

540 ~~(9) The Legislature shall appropriate the total amount for~~
541 ~~the budgets of the clerks in the General Appropriations Act. The~~
542 ~~Legislature may reject or modify any or all of the unit costs~~
543 ~~recommended by the corporation. If the Legislature does not~~
544 ~~specify the unit costs in the General Appropriations Act or~~

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545 ~~other law, the unit costs recommended by the corporation shall~~
546 ~~be the official unit costs for that budget period.~~

547 ~~(10) (a) Beginning in the 2010-2011 fiscal year, the~~
548 ~~corporation shall release appropriations to each clerk~~
549 ~~quarterly. If funds in the Clerks of Court Trust Fund are~~
550 ~~insufficient to provide a release in a quarter in a single~~
551 ~~release, the corporation may release partial amounts for that~~
552 ~~quarter so long as the total of those partial amounts does not~~
553 ~~exceed that quarter's release. If funds in the Clerks of Court~~
554 ~~Trust Fund are insufficient for the first quarter release, the~~
555 ~~corporation may make a request to the Governor for a trust fund~~
556 ~~loan pursuant to chapter 215. The amount of the first three~~
557 ~~releases shall be based on one quarter of the estimated budget~~
558 ~~for each clerk as identified in the General Appropriations Act.~~

559 ~~(b) The corporation shall estimate the fourth quarter's~~
560 ~~number of units to be performed by each clerk. The amount of the~~
561 ~~fourth quarter release shall be based on the approved unit cost~~
562 ~~times the estimated number of units of the fourth quarter with~~
563 ~~the following adjustment: the fourth quarter release shall be~~
564 ~~adjusted based on the first three quarter's actual number of~~
565 ~~service units provided as reported to the corporation by each~~
566 ~~clerk. If the clerk has performed fewer service units in the~~
567 ~~first three quarters of the year compared to three quarters of~~
568 ~~the estimated number of service units in the General~~
569 ~~Appropriations Act, the corporation shall decrease the fourth-~~
570 ~~quarter release. The amount of the decrease shall equal the~~
571 ~~amount of the difference between the estimated number of service~~
572 ~~units for the first three quarters and the actual number of~~

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573 ~~service units provided in the first three quarters times the~~
574 ~~approved unit cost.~~

575 ~~(c) No adjustment for the fourth-quarter release shall be~~
576 ~~made if the clerk has performed more units than the estimate for~~
577 ~~the first three quarters.~~

578 ~~(d) If the clerk performs fewer units in the fourth~~
579 ~~quarter than estimated by the corporation, the corporation shall~~
580 ~~decrease the first-quarter release for the clerk in the next~~
581 ~~fiscal year by the amount of the difference between the~~
582 ~~estimated number of service units for the fourth quarter and the~~
583 ~~actual number of service units performed in that quarter times~~
584 ~~the approved unit cost.~~

585 ~~(e) The total of all releases to the clerks of court may~~
586 ~~not exceed the amount appropriated in the General Appropriations~~
587 ~~Act. If, during the year, the corporation determines that the~~
588 ~~projected releases of appropriations for service units will~~
589 ~~exceed the estimate used in the General Appropriations Act and~~
590 ~~result in statewide expenditures greater than the amount~~
591 ~~appropriated by law, the corporation shall reduce all service~~
592 ~~unit costs of all clerks by the amount necessary to ensure that~~
593 ~~service units are funded within the total amount appropriated to~~
594 ~~the clerks of court. If such action is necessary, the~~
595 ~~corporation shall notify the Legislative Budget Commission. If~~
596 ~~the Legislative Budget Commission objects to the adjustments,~~
597 ~~the Legislative Budget Commission shall adjust all service unit~~
598 ~~costs by the amount necessary to ensure that projected units of~~
599 ~~service are funded within the total amount appropriated to the~~
600 ~~clerks of court at its next scheduled meeting.~~

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601 ~~(11) The corporation may submit proposed legislation to~~
602 ~~the Governor, the President of the Senate, and the Speaker of~~
603 ~~the House of Representatives relating to the preparation of~~
604 ~~budget requests of the clerks of court.~~

605 Section 8. Section 28.365, Florida Statutes, is created to
606 read:

607 28.365 Procurement.—The clerks of the court and the
608 Florida Clerks of Court Operations Corporation are subject to
609 the procurement requirements and limitations of chapter 287 for
610 expenditures made pursuant to the budget provided for in ss.
611 28.35 and 28.36.

612 Section 9. Section 28.37, Florida Statutes, is amended to
613 read:

614 28.37 Fines, fees, service charges, and costs remitted to
615 the state.—

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

622 (2) Beginning November 1, 2013, that portion of all fines,
623 fees, service charges, and costs collected by the clerks of the
624 court for the previous month that is in excess of one-twelfth of
625 the clerks' total budget for the performance of court-related
626 functions shall be remitted to the Department of Revenue for
627 deposit into the Clerks of the Court Trust Fund. Such
628 collections do not include funding received for the operation of

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629 the Title IV-D child support collections and disbursement
630 program. The clerk of the court shall remit the revenues
631 collected during the previous month due to the state on or
632 before the 10th day of each month.

633 (3) No later than January 25, 2015, and each January 25
634 thereafter for the previous county fiscal year, the clerks of
635 court, in consultation with the Florida Clerks of Court
636 Operations Corporation, shall remit to the Department of Revenue
637 for deposit in the General Revenue Fund the cumulative excess of
638 all fines, fees, service charges, and costs retained by the
639 clerks of the court, plus any funds received by the clerks of
640 the court from the Clerks of the Court Trust Fund under s.
641 28.36(3), that exceed the amount needed to meet their authorized
642 budget amounts established under s. 28.35, and the Florida
643 Clerks of Court Operations Corporation shall remit to the
644 Department of Revenue for deposit in the General Revenue Fund
645 the cumulative excess of all fines, fees, service charges, and
646 costs retained in the Clerks of the Court Trust Fund. However,
647 if the official estimate for funds accruing to the Clerks of the
648 Court Trust Fund made by the Revenue Estimating Conference for
649 the current fiscal year or the next fiscal year included in the
650 estimate is less than the cumulative amount of authorized
651 budgets from the Clerks of the Court Trust Fund for the current
652 fiscal year, the Department of Revenue shall deposit the
653 difference in the Clerks of the Court Trust Fund rather than in
654 the General Revenue Fund.

655 (4) The Department of Revenue shall collect any funds that
656 the Florida Clerks of Court Operations Corporation determines

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657 upon investigation were due no later than January 20 but not
658 remitted to the department.

659 ~~(5)(2) Ten Except as otherwise provided in ss. 28.241 and~~
660 ~~34.041, all court-related fines, fees, service charges, and~~
661 ~~costs are considered state funds and shall be remitted by the~~
662 ~~clerk to the Department of Revenue for deposit into the Clerks~~
663 ~~of the Court Trust Fund within the Justice Administrative~~
664 ~~Commission. However, 10 percent of all court-related fines~~
665 ~~collected by the clerk, except for penalties or fines~~
666 ~~distributed to counties or municipalities under s.~~
667 ~~316.0083(1)(b)3. or s. 318.18(15)(a), shall be deposited into~~
668 ~~the clerk's Public Records Modernization Trust Fund to be used~~
669 ~~exclusively for additional clerk court-related operational needs~~
670 ~~and program enhancements.~~

671 Section 10. Paragraph (b) of subsection (1) of section
672 34.041, Florida Statutes, is amended, and paragraph (a) of that
673 subsection is published, to read:

674 34.041 Filing fees.—

675 (1)(a) Filing fees are due at the time a party files a
676 pleading to initiate a proceeding or files a pleading for
677 relief. Reopen fees are due at the time a party files a pleading
678 to reopen a proceeding if at least 90 days have elapsed since
679 the filing of a final order or final judgment with the clerk. If
680 a fee is not paid upon the filing of the pleading as required
681 under this section, the clerk shall pursue collection of the fee
682 pursuant to s. 28.246. Upon the institution of any civil action,
683 suit, or proceeding in county court, the party shall pay the
684 following filing fee, not to exceed:

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- 685 1. For all claims less than \$100.....\$50.
- 686 2. For all claims of \$100 or more but not more than \$500\$75.
- 687 3. For all claims of more than \$500 but not more than
- 688 \$2,500.....\$170.
- 689 4. For all claims of more than \$2,500.....\$295.
- 690 5. In addition, for all proceedings of garnishment,
- 691 attachment, replevin, and distress.....\$85.
- 692 6. Notwithstanding subparagraphs 3. and 5., for all claims
- 693 of not more than \$1,000 filed simultaneously with an action for
- 694 replevin of property that is the subject of the claim.....\$125.
- 695 7. For removal of tenant action.....\$180.

696

697 The filing fee in subparagraph 6. is the total fee due under

698 this paragraph for that type of filing, and no other filing fee

699 under this paragraph may be assessed against such a filing.

700 (b) ~~The first \$80 of the filing fee collected under~~

701 ~~subparagraph (a)4. shall be remitted to the Department of~~

702 ~~Revenue for deposit into the General Revenue Fund. The next \$15~~

703 ~~of the filing fee collected under subparagraph (a)4. and the~~

704 ~~first \$10 of the filing fee collected under subparagraph (a)7.~~

705 ~~shall be deposited in the State Courts Revenue Trust Fund. By~~

706 ~~the 10th day of each month, the clerk shall submit that portion~~

707 ~~of the fees collected in the previous month that is in excess of~~

708 ~~one-twelfth of the clerk's total budget for the performance of~~

709 ~~court-related functions to the Department of Revenue for deposit~~

710 ~~into the Clerks of the Court Trust Fund. An additional filing~~

711 ~~fee of \$4 shall be paid to the clerk. The clerk shall transfer~~

712 \$3.50 to the Department of Revenue for deposit into the Court

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713 Education Trust Fund and shall transfer 50 cents to the
714 Department of Revenue for deposit into the Administrative Clerks
715 ~~of the Court~~ Trust Fund within the Department of Financial
716 Services Justice Administrative Commission to fund clerk
717 education provided by the Florida Clerks of Court Operations
718 Corporation. Postal charges incurred by the clerk of the county
719 court in making service by mail on defendants or other parties
720 shall be paid by the party at whose instance service is made.
721 Except as provided in this section herein, filing fees and
722 service charges for performing duties of the clerk relating to
723 the county court shall be as provided in ss. 28.24 and 28.241.
724 Except as otherwise provided in this section herein, all filing
725 fees shall be retained as fee income of the office of the clerk
726 of the circuit court ~~remitted to the Department of Revenue for~~
727 ~~deposit into the Clerks of the Court Trust Fund within the~~
728 ~~Justice Administrative Commission~~. Filing fees imposed by this
729 section may not be added to any penalty imposed by chapter 316
730 or chapter 318.

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

733 43.16 Justice Administrative Commission; membership,
734 powers and duties.—

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

737 (a) The maintenance of a central state office for
738 administrative services and assistance when possible to and on
739 behalf of the state attorneys and public defenders of Florida,
740 the capital collateral regional counsel of Florida, the criminal

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

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

758 Section 12. Paragraph (x) of subsection (2) of section
759 110.205, Florida Statutes, is amended to read:

760 110.205 Career service; exemptions.—

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

763 (x) All officers and employees of the Justice
764 Administrative Commission, Office of the State Attorney, Office
765 of the Public Defender, regional offices of capital collateral
766 counsel, offices of criminal conflict and civil regional
767 counsel, and Statewide Guardian Ad Litem Office, including the

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768 circuit guardian ad litem programs ~~and the Florida Clerks of~~
769 ~~Court Operations Corporation.~~

770 Section 13. Section 142.01, Florida Statutes, is amended
771 to read:

772 142.01 Fine and forfeiture fund; disposition of revenue;
773 clerk of the circuit court.—

774 (1) There shall be established by the clerk of the circuit
775 court in each county of this state a separate fund to be known
776 as the fine and forfeiture fund for use by the clerk of the
777 circuit court in performing court-related functions. The fund
778 shall consist of the following:

779 (a) Fines and penalties pursuant to ss. 28.2402(2),
780 34.045(2), 316.193, 327.35, 327.72, 379.2203(1), and 775.083(1).

781 (b) That portion of civil penalties directed to this fund
782 pursuant to s. 318.21.

783 (c) Court costs pursuant to ss. 28.2402(1)(b),
784 34.045(1)(b), 318.14(10)(b), 318.18(11)(a), 327.73(9)(a) and
785 (11)(a), and 938.05(3).

786 (d) Proceeds from forfeited bail bonds, unclaimed bonds,
787 unclaimed moneys, or recognizances pursuant to ss. 321.05(4)(a),
788 379.2203(1), and 903.26(3)(a).

789 (e) Fines and forfeitures pursuant to s. 34.191.

790 (f) Filing fees received pursuant to ss. 28.241 and
791 34.041, unless the disposition of such fees is otherwise
792 required by law.

793 (g) ~~(f)~~ All other revenues received by the clerk as revenue
794 authorized by law to be retained by the clerk.

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

801 (2)~~(3)~~ Notwithstanding the provisions of this section, all
 802 fines and forfeitures arising from operation of ~~the provisions~~
 803 ~~of~~ s. 318.1215 shall be disbursed in accordance with that
 804 section.

805 Section 14. Section 213.131, Florida Statutes, is amended
 806 to read:

807 213.131 Clerks of the Court Trust Fund within the
 808 Department of Revenue Justice Administrative Commission.—The
 809 Clerks of the Court Trust Fund is created within the Department
 810 of Revenue Justice Administrative Commission.

811 Section 15. Subsection (2) of section 215.22, Florida
 812 Statutes, is amended to read:

813 215.22 Certain income and certain trust funds exempt.—

814 (2) Moneys and income of a revenue nature shared with
 815 political subdivisions or received from taxes or fees authorized
 816 to be levied by any political subdivision, including moneys from
 817 service charges, fees, costs, and fines deposited into the
 818 Clerks of the Court Trust Fund within the Department of Revenue,
 819 shall be exempt from the deduction required by s. 215.20(1).

820 Section 16. Paragraph (qq) of subsection (1) of section
 821 216.011, Florida Statutes, is amended to read:

822 216.011 Definitions.—

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

826 (qq) "State agency" or "agency" means any official,
827 officer, commission, board, authority, council, committee, or
828 department of the executive branch of state government. For
829 purposes of this chapter and chapter 215, "state agency" or
830 "agency" includes, but is not limited to, state attorneys,
831 public defenders, criminal conflict and civil regional counsel,
832 capital collateral regional counsel, ~~the Florida Clerks of Court~~
833 ~~Operations Corporation~~, the Justice Administrative Commission,
834 the Florida Housing Finance Corporation, and the Florida Public
835 Service Commission. Solely for the purposes of implementing s.
836 19(h), Art. III of the State Constitution, the terms "state
837 agency" or "agency" include the judicial branch.

838 Section 17. For the period of July 1, 2013, through
839 September 30, 2013, the authorized budget for the clerks of the
840 circuit court shall be \$110,845,078 and the authorized budget
841 for the Florida Clerks of Court Operations Corporation shall be
842 \$405,412. The Florida Clerks of Court Operations Corporation
843 shall determine budget amounts for the individual clerks for
844 that period. For the county fiscal year beginning October 1,
845 2013, and ending September 30, 2014, the authorized budget for
846 the clerks of the circuit court shall be \$443,380,312 and the
847 authorized budget for the Florida Clerks of Court Operations
848 Corporation shall be \$1,621,648. The Florida Clerks of Court
849 Operations Corporation shall determine budget amounts for the
850 individual clerks for that period.

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851 Section 18. Except as otherwise expressly provided in this
852 act and except for this section, which shall take effect upon
853 this act becoming a law, this act shall take effect July 1,
854 2013.

855
856 -----

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

857 Remove everything before the enacting clause and insert:

858 A bill to be entitled

859 An act relating to clerks of court; transferring the
860 Clerks of the Court Trust Fund from the Justice
861 Administrative Commission to the Department of
862 Revenue; amending s. 11.90, F.S.; providing additional
863 duties of the Legislative Budget Commission relating
864 to clerks of court; amending s. 28.241, F.S.; revising
865 distribution of filing fees; revising references to
866 trust funds; repealing s. 28.2455, F.S., relating to
867 transfer of trust funds in excess of amount needed for
868 clerk budgets; amending s. 28.246, F.S.; conforming
869 provisions to changes made by the act; amending s.
870 28.35, F.S.; deleting provisions providing for the
871 housing of the Florida Clerks of Court Operations
872 Corporation; revising duties of the corporation;
873 defining terms; providing requirements for annual
874 submission of a proposed budget and related
875 information; revising provisions concerning functions
876 that may and may not be funded from specified sources;
877 revising distribution of the corporation's audit
878

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879 report; amending s. 28.36, F.S.; specifying that only
880 certain functions may be funded from fees, service
881 charges, costs, and fines retained by the clerks of
882 the court; revising provisions relating to preparation
883 of budget requests by clerks; providing for reporting
884 and certification of revenue deficits; providing
885 procedures for retention of additional revenues by
886 clerks in the event of a deficit; providing for the
887 release of funds from a specified trust fund to
888 relieve such a deficit in certain circumstances;
889 providing for increases in previously authorized
890 budgets in certain circumstances; deleting provisions
891 relating to review of budgets and related information;
892 creating s. 28.365, F.S.; providing that clerks of
893 court and the Florida Clerks of Court Operations
894 Corporation are subject to specified procurement
895 requirements for expenditures made pursuant to
896 specified provisions; amending s. 28.37, F.S.;
897 providing that a portion of all fines, fees, service
898 charges, and costs collected by the clerks of the
899 court that exceeds a specified portion of the clerk's
900 annual budget be remitted to a specified trust fund;
901 providing for remission of certain excess collections
902 to the department for deposit into the General Revenue
903 Fund on specified dates; providing for deposit of such
904 funds in a specified trust fund in certain
905 circumstances; providing for collection of certain
906 funds due by the department; amending s. 34.041, F.S.;

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907 conforming provisions to changes made by the act;
908 revising distribution of certain fees; amending ss.
909 43.16 and 110.205, F.S.; conforming provisions to
910 changes made by the act; amending s. 142.01, F.S.;
911 revising the funds deposited in each county's fine and
912 forfeiture fund; deleting provisions specifying that
913 certain moneys are considered state funds; amending s.
914 213.131, F.S.; conforming provisions to changes made
915 by the act; amending s. 215.22, F.S.; exempting
916 certain moneys deposited in the Clerks of the Court
917 Trust Fund from a specified deduction; amending s.
918 216.011, F.S.; conforming provisions to changes made
919 by the act; specifying the authorized budget for the
920 clerks of the circuit court and the corporation for
921 specified periods; requiring the corporation to
922 determine budget amounts for the individual clerks for
923 those periods; providing effective dates.