



245796

LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/CR	.	Floor: AD
05/08/2017 04:10 PM	.	05/08/2017 08:39 PM
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The Conference Committee on SB 2506 recommended the following:

1 **Senate Conference Committee Amendment (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

8 11.90 Legislative Budget Commission.—

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

10 (a) Review and approve or disapprove budget amendments
11 recommended by the Governor or the Chief Justice of the Supreme



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12 Court as provided in chapter 216.

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

15 ~~(c) Review and approve, disapprove, or amend and approve~~
16 ~~the budget of the Florida Clerks of Court Operations~~
17 ~~Corporation.~~

18 ~~(d) Review and approve, disapprove, or amend and approve~~
19 ~~the total combined budgets of the clerks of the court or the~~
20 ~~budget of any individual clerk of the court for court-related~~
21 ~~functions. As part of this review, the commission shall consider~~
22 ~~the workload and expense data submitted pursuant to s. 28.35.~~

23 ~~(c)(e)~~ Exercise all other powers and perform any other
24 duties prescribed by the Legislature.

25 Section 2. Paragraph (c) of subsection (1) and subsection
26 (2) of section 28.241, Florida Statutes, are amended to read:

27 28.241 Filing fees for trial and appellate proceedings.—

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

36 (c)1. A party in addition to a party described in sub-
37 subparagraph (a)1.a. who files a pleading in an original civil
38 action in circuit court for affirmative relief by cross-claim,
39 counterclaim, counterpetition, or third-party complaint shall
40 pay the clerk of court a fee of \$395. A party in addition to a



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41 party described in sub-subparagraph (a)1.b. who files a pleading
42 in an original civil action in circuit court for affirmative
43 relief by cross-claim, counterclaim, counterpetition, or third-
44 party complaint shall pay the clerk of court a fee of \$295. The
45 clerk shall deposit ~~remit~~ the fee ~~to the Department of Revenue~~
46 ~~for deposit~~ into the fine and forfeiture fund established
47 pursuant to s. 142.01 ~~General Revenue Fund~~.

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

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

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

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

59
60 The clerk shall deposit ~~remit~~ the fees collected under this
61 subparagraph ~~to the Department of Revenue for deposit~~ into the
62 fine and forfeiture fund established pursuant to s. 142.01
63 ~~General Revenue Fund~~.

64 (2) Upon the institution of any appellate proceeding from
65 any lower court to the circuit court of any such county,
66 including appeals filed by a county or municipality as provided
67 in s. 34.041(5), or from the circuit court to an appellate court
68 of the state, the clerk shall charge and collect from the party
69 or parties instituting such appellate proceedings a filing fee



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70 not to exceed \$280 for filing a notice of appeal from the county
71 court to the circuit court and, in addition to the filing fee
72 required under s. 25.241 or s. 35.22, \$100 for filing a notice
73 of appeal from the circuit court to the district court of appeal
74 or to the Supreme Court. If the party is determined to be
75 indigent, the clerk shall defer payment of the fee. ~~The clerk~~
76 ~~shall remit the first \$80 to the Department of Revenue for~~
77 ~~deposit into the General Revenue Fund.~~

78 Section 3. Paragraphs (a), (f), and (h) of subsection (2)
79 and subsection (3) of section 28.35, Florida Statutes, are
80 amended to read:

81 28.35 Florida Clerks of Court Operations Corporation.—

82 (2) The duties of the corporation shall include the
83 following:

84 (a) Adopting a plan of operation including a detailed
85 budget for the corporation.

86 (f) Approving the Reviewing, certifying, and recommending
87 proposed budgets submitted by clerks of the court pursuant to s.
88 28.36. The corporation must ensure that the total combined
89 budgets of the clerks of the court do not exceed the total
90 estimated revenues available for court-related expenditures as
91 determined by the most recent Revenue Estimating Conference. The
92 corporation may amend any individual clerk of the court budget
93 to ensure compliance with this paragraph and must consider
94 performance measures, workload performance standards, workload
95 measures, and expense data before modifying the budget. As part
96 of this process, the corporation shall:

97 1. Calculate the minimum amount of revenue necessary for
98 each clerk of the court to efficiently perform the list of



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99 court-related functions specified in paragraph (3) (a). The
100 corporation shall apply the workload measures appropriate for
101 determining the individual level of review required to fund the
102 clerk's budget.

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

107 3. Conduct an annual base budget review and an annual
108 budget exercise examining the total budget of each clerk of the
109 court. The review shall examine revenues from all sources,
110 expenses of court-related functions, and expenses of noncourt-
111 related functions as necessary to determine that court-related
112 revenues are not being used for noncourt-related purposes. The
113 review and exercise shall identify potential targeted budget
114 reductions in the percentage amount provided in Schedule VIII-B
115 of the state's previous year's legislative budget instructions,
116 as referenced in s. 216.023(3), or an equivalent schedule or
117 instruction as may be adopted by the Legislature.

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

121 5. Identify those clerks projected to have court-related
122 revenues insufficient to fund their anticipated court-related
123 expenditures.

124 6. Use revenue estimates based on the official estimate for
125 funds accruing to the clerks of the court made by the Revenue
126 Estimating Conference. The total combined budgets of the clerks
127 of the court may not exceed the revenue estimates established by



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128 the most recent Revenue Estimating Conference.

129 7. Identify ~~and report~~ pay and benefit increases in any
130 proposed clerk budget, including, but not limited to, cost of
131 living increases, merit increases, and bonuses.

132 8. Identify ~~Provide detailed explanation for~~ increases in
133 anticipated expenditures in any clerk budget that exceeds the
134 current year budget by more than 3 percent.

135 9. Identify ~~and report~~ the budget of any clerk which
136 exceeds the average budget of similarly situated clerks by more
137 than 10 percent.

138 (h) Preparing and submitting a report to the Governor, the
139 President of the Senate, the Speaker of the House of
140 Representatives, and the chairs of the legislative
141 appropriations committees by January 1 of each year on the
142 operations and activities of the corporation and detailing the
143 budget development for the clerks of the court and the end-of-
144 year reconciliation of actual expenditures versus projected
145 expenditures for each clerk of court. Beginning August 1, 2014,
146 and each August 1 thereafter, submitting to the Legislative
147 Budget Commission, as provided in s. 11.90, its proposed budget
148 and the information described in paragraph (f), as well as the
149 proposed budgets for each clerk of the court. Before October 1
150 of each year beginning in 2014, the Legislative Budget
151 Commission shall consider the submitted budgets and shall
152 approve, disapprove, or amend and approve the corporation's
153 budget and shall approve, disapprove, or amend and approve the
154 total of the clerks' combined budgets or any individual clerk's
155 budget. If the Legislative Budget Commission fails to approve or
156 amend and approve the corporation's budget or the clerks'



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157 ~~combined budgets before October 1, the clerk shall continue to~~
158 ~~perform the court-related functions based upon the clerk's~~
159 ~~budget for the previous county fiscal year.~~

160 (3) (a) The list of court-related functions that clerks may
161 fund from filing fees, service charges, costs, and fines is
162 limited to those functions expressly authorized by law or court
163 rule. Those functions include the following: case maintenance;
164 records management; court preparation and attendance; processing
165 the assignment, reopening, and reassignment of cases; processing
166 of appeals; collection and distribution of fines, fees, service
167 charges, and court costs; processing of bond forfeiture
168 payments; ~~payment of jurors and witnesses; payment of expenses~~
169 ~~for meals or lodging provided to jurors;~~ data collection and
170 reporting; ~~processing of jurors;~~ determinations of indigent
171 status; and paying reasonable administrative support costs to
172 enable the clerk of the court to carry out these court-related
173 functions.

174 (b) The list of court-related functions that clerks may not
175 fund from filing fees, service charges, costs, and fines
176 includes:

- 177 1. Those functions not specified within paragraph (a).
- 178 2. Functions assigned by administrative orders which are
179 not required for the clerk to perform the functions in paragraph
180 (a).
- 181 3. Enhanced levels of service which are not required for
182 the clerk to perform the functions in paragraph (a).
- 183 4. Functions identified as local requirements in law or
184 local optional programs.

185 Section 4. Paragraph (a) of subsection (2) and subsection



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186 (4) of section 28.36, Florida Statutes, are amended to read:

187 28.36 Budget procedure.—There is established a budget
188 procedure for the court-related functions of the clerks of the
189 court.

190 (2) Each proposed budget shall further conform to the
191 following requirements:

192 (a) On or before June 1 ~~of each year beginning in 2014~~, the
193 proposed budget shall be prepared, summarized, and submitted by
194 the clerk in each county to the Florida Clerks of Court
195 Operations Corporation in the manner and form prescribed by the
196 corporation. The proposed budget must provide detailed
197 information on the anticipated revenues available and
198 expenditures necessary for the performance of the court-related
199 functions listed in s. 28.35(3)(a) of the clerk's office for the
200 county fiscal year beginning October 1.

201 (4) The corporation ~~Legislative Budget Commission~~ may
202 approve increases or decreases to the previously authorized
203 budgets approved for individual clerks of the court pursuant to
204 s. 28.35 for court-related functions, if:

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

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

211 Section 5. Subsection (5) of section 28.37, Florida
212 Statutes, is amended to read:

213 28.37 Fines, fees, service charges, and costs remitted to
214 the state.—



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215 (5) Ten percent of all court-related fines collected by the
216 clerk, except for penalties or fines distributed to counties or
217 municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
218 shall be deposited into the fine and forfeiture ~~clerk's Public~~
219 ~~Records Modernization Trust~~ fund to be used exclusively for
220 ~~additional~~ clerk court-related functions, as provided in s.
221 28.35(3)(a) operational needs and program enhancements.

222 Section 6. Subsection (5) is added to section 40.29,
223 Florida Statutes, to read:

224 40.29 Payment of due-process costs.—

225 (5) The Justice Administrative Commission shall provide
226 funds to the clerks of the court to compensate jurors, to pay
227 for meals or lodging provided to jurors, and to pay for jury-
228 related personnel costs as provided in this section. Each clerk
229 of the court shall forward to the Justice Administrative
230 Commission a quarterly estimate of funds necessary to compensate
231 jurors and pay for meals or lodging provided to jurors during
232 the upcoming quarter. The Florida Clerks of Court Operations
233 Corporation shall forward to the Justice Administrative
234 Commission a quarterly estimate of the amount necessary to
235 reimburse each clerk of the court for its personnel and other
236 costs related to jury management. Upon receipt of such
237 estimates, the Justice Administrative Commission shall determine
238 the amount deemed necessary for payment to the clerks of the
239 court during the upcoming quarter and submit a request for
240 payment to the Chief Financial Officer. If the Justice
241 Administrative Commission believes that the amount appropriated
242 by the Legislature is insufficient to meet such costs during the
243 remaining part of the state fiscal year, the commission may



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244 apportion the funds appropriated in the General Appropriations
245 Act for those purposes among the several counties, basing the
246 apportionment upon the amount expended for such purposes in each
247 county during the prior fiscal year, in which case, the Chief
248 Financial Officer shall issue the appropriate apportioned amount
249 by warrant to each county. The clerks of the court are
250 responsible for any compensation to jurors, for payments for
251 meals or lodging provided to jurors, and for jury-related
252 personnel costs that exceed the funding provided in the General
253 Appropriations Act for these purposes.

254 Section 7. Subsection (3) of section 45.035, Florida
255 Statutes, is amended to read:

256 45.035 Clerk's fees.—In addition to other fees or service
257 charges authorized by law, the clerk shall receive service
258 charges related to the judicial sales procedure set forth in ss.
259 45.031-45.034 and this section:

260 (3) If the sale is conducted by electronic means, as
261 provided in s. 45.031(10), the clerk shall receive an additional
262 service charge not to exceed \$70 for services in conducting or
263 contracting for the electronic sale, which service charge shall
264 be assessed as costs and paid when filing for an electronic sale
265 date by the winning bidder. If the clerk requires advance
266 electronic deposits to secure the right to bid, such deposits
267 shall not be subject to the fee under s. 28.24(10). The portion
268 of an advance deposit from a winning bidder required by s.
269 45.031(3) shall, upon acceptance of the winning bid, be subject
270 to the fee under s. 28.24(10).

271 Section 8. Subsection (1) of section 775.083, Florida
272 Statutes, is amended to read:



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273 775.083 Fines.—

274 (1) A person who has been convicted of an offense other
275 than a capital felony may be sentenced to pay a fine in addition
276 to any punishment described in s. 775.082; when specifically
277 authorized by statute, he or she may be sentenced to pay a fine
278 in lieu of any punishment described in s. 775.082. A person who
279 has been convicted of a noncriminal violation may be sentenced
280 to pay a fine. Fines for designated crimes and for noncriminal
281 violations shall not exceed:

282 (a) \$15,000, when the conviction is of a life felony.

283 (b) \$10,000, when the conviction is of a felony of the
284 first or second degree.

285 (c) \$5,000, when the conviction is of a felony of the third
286 degree.

287 (d) \$1,000, when the conviction is of a misdemeanor of the
288 first degree.

289 (e) \$500, when the conviction is of a misdemeanor of the
290 second degree or a noncriminal violation.

291 (f) Any higher amount equal to double the pecuniary gain
292 derived from the offense by the offender or double the pecuniary
293 loss suffered by the victim.

294 (g) Any higher amount specifically authorized by statute.

295

296 Fines imposed in this subsection shall be deposited by the clerk
297 of the court in the fine and forfeiture fund established
298 pursuant to s. 142.01, ~~except that the clerk shall remit fines~~
299 ~~imposed when adjudication is withheld to the Department of~~
300 ~~Revenue for deposit in the General Revenue Fund.~~ If a defendant
301 is unable to pay a fine, the court may defer payment of the fine



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302 to a date certain. As used in this subsection, the term
303 "convicted" or "conviction" means a determination of guilt which
304 is the result of a trial or the entry of a plea of guilty or
305 nolo contendere, regardless of whether adjudication is withheld.

306 Section 9. This act shall take effect upon becoming a law.

307

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

309 And the title is amended as follows:

310 Delete everything before the enacting clause

311 and insert:

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A bill to be entitled

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An act relating to clerks of the court; amending s.

314

11.90, F.S.; removing duties of the Legislative Budget

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Commission regarding budgets of the Florida Clerks of

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Court Operations Corporation and the clerks of the

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court; amending s. 28.241, F.S.; requiring that

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certain filing fees for trial and appellate

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proceedings be deposited into clerks of the circuit

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court fine and forfeiture funds, rather than into the

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General Revenue Fund; amending s. 28.35, F.S.;

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revising duties of the corporation; prohibiting the

323

total combined proposed budgets of clerks of the court

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from exceeding specified limits; requiring the

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corporation to provide an annual report to the

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Governor, Legislature, and chairs of the legislative

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appropriations committees regarding court operations

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and budgets; deleting duties of the commission in

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considering budgets of the clerks of the court;

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amending s. 28.36, F.S.; authorizing the corporation



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331 to amend budgets of the clerks of the court; amending
332 s. 28.37, F.S.; revising the fund into which certain
333 fines collected by the clerk are to be deposited;
334 amending s. 40.29, F.S.; requiring the Justice
335 Administrative Commission to provide funds to the
336 clerks of court for certain jury-related costs;
337 requiring the clerks of court and the corporation to
338 submit quarterly estimates of certain expenses to the
339 commission; providing the procedure for securing such
340 funds and distributing them to the clerks; providing
341 for the apportionment of costs if funds appropriated
342 by the Legislature are estimated to be insufficient to
343 pay all amounts requested; requiring the clerks of
344 court to pay amounts in excess of appropriated
345 amounts; amending s. 45.035, F.S.; revising a
346 provision for the payment of a service charge for
347 electronic sales; amending s. 775.083, F.S.; deleting
348 a provision requiring a clerk to remit certain fines
349 under a specified circumstance to the Department of
350 Revenue; providing an effective date.