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1 A bill to be entitled
2 An act relating to clerks of the court; amending s.
3 11.90, F.S.; removing duties of the Legislative Budget
4 Commission regarding budgets of the Florida Clerks of
5 Court Operations Corporation and the clerks of the
6 court; amending s. 28.241, F.S.; requiring that
7 certain filing fees for trial and appellate
8 proceedings be deposited into clerks of the circuit
9 court fine and forfeiture funds, rather than into the
10 General Revenue Fund; amending s. 28.35, F.S.;
11 revising duties of the corporation; prohibiting the
12 total combined proposed budgets of clerks of the court
13 from exceeding specified limits; requiring the
14 corporation to provide an annual report to the
15 Governor, Legislature, and chairs of the legislative
16 appropriations committees regarding court operations
17 and budgets; deleting duties of the commission in
18 considering budgets of the clerks of the court;
19 amending s. 28.36, F.S.; authorizing the corporation
20 to amend budgets of the clerks of the court; amending
21 s. 28.37, F.S.; revising the fund into which certain
22 fines collected by the clerk are to be deposited;
23 amending s. 40.29, F.S.; requiring the Justice
24 Administrative Commission to provide funds to the
25 clerks of court for certain jury-related costs;
26 requiring the clerks of court and the corporation to
27 submit quarterly estimates of certain expenses to the
28 commission; providing the procedure for securing such
29 funds and distributing them to the clerks; providing

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30 for the apportionment of costs if funds appropriated
31 by the Legislature are estimated to be insufficient to
32 pay all amounts requested; requiring the clerks of
33 court to pay amounts in excess of appropriated
34 amounts; amending s. 45.035, F.S.; revising a
35 provision for the payment of a service charge for
36 electronic sales; amending s. 775.083, F.S.; deleting
37 a provision requiring a clerk to remit certain fines
38 under a specified circumstance to the Department of
39 Revenue; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Subsection (6) of section 11.90, Florida
44 Statutes, is amended to read:

45 11.90 Legislative Budget Commission.—

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

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

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

52 ~~(c) Review and approve, disapprove, or amend and approve~~
53 ~~the budget of the Florida Clerks of Court Operations~~
54 ~~Corporation.~~

55 ~~(d) Review and approve, disapprove, or amend and approve~~
56 ~~the total combined budgets of the clerks of the court or the~~
57 ~~budget of any individual clerk of the court for court-related~~
58 ~~functions. As part of this review, the commission shall consider~~

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59 ~~the workload and expense data submitted pursuant to s. 28.35.~~

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

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

64 28.241 Filing fees for trial and appellate proceedings.—

65 (1) Filing fees are due at the time a party files a
66 pleading to initiate a proceeding or files a pleading for
67 relief. Reopen fees are due at the time a party files a pleading
68 to reopen a proceeding if at least 90 days have elapsed since
69 the filing of a final order or final judgment with the clerk. If
70 a fee is not paid upon the filing of the pleading as required
71 under this section, the clerk shall pursue collection of the fee
72 pursuant to s. 28.246.

73 (c)1. A party in addition to a party described in sub-
74 subparagraph (a)1.a. who files a pleading in an original civil
75 action in circuit court for affirmative relief by cross-claim,
76 counterclaim, counterpetition, or third-party complaint shall
77 pay the clerk of court a fee of \$395. A party in addition to a
78 party described in sub-subparagraph (a)1.b. who files a pleading
79 in an original civil action in circuit court for affirmative
80 relief by cross-claim, counterclaim, counterpetition, or third-
81 party complaint shall pay the clerk of court a fee of \$295. The
82 clerk shall deposit ~~remit~~ the fee ~~to the Department of Revenue~~
83 ~~for deposit~~ into the fine and forfeiture fund established
84 pursuant to s. 142.01 General Revenue Fund.

85 2. A party in addition to a party described in subparagraph
86 (a)2. who files a pleading in an original civil action in
87 circuit court for affirmative relief by cross-claim,

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88 counterclaim, counterpetition, or third-party complaint shall
89 pay the clerk of court a graduated fee of:

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

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

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

96

97 The clerk shall deposit ~~remit~~ the fees collected under this
98 subparagraph ~~to the Department of Revenue for deposit~~ into the
99 fine and forfeiture fund established pursuant to s. 142.01
100 ~~General Revenue Fund.~~

101 (2) Upon the institution of any appellate proceeding from
102 any lower court to the circuit court of any such county,
103 including appeals filed by a county or municipality as provided
104 in s. 34.041(5), or from the circuit court to an appellate court
105 of the state, the clerk shall charge and collect from the party
106 or parties instituting such appellate proceedings a filing fee
107 not to exceed \$280 for filing a notice of appeal from the county
108 court to the circuit court and, in addition to the filing fee
109 required under s. 25.241 or s. 35.22, \$100 for filing a notice
110 of appeal from the circuit court to the district court of appeal
111 or to the Supreme Court. If the party is determined to be
112 indigent, the clerk shall defer payment of the fee. ~~The clerk~~
113 ~~shall remit the first \$80 to the Department of Revenue for~~
114 ~~deposit into the General Revenue Fund.~~

115 Section 3. Paragraphs (a), (f), and (h) of subsection (2)
116 and subsection (3) of section 28.35, Florida Statutes, are

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117 amended to read:

118 28.35 Florida Clerks of Court Operations Corporation.—

119 (2) The duties of the corporation shall include the
120 following:

121 (a) Adopting a plan of operation including a detailed
122 budget for the corporation.

123 (f) Approving the Reviewing, certifying, and recommending
124 proposed budgets submitted by clerks of the court pursuant to s.
125 28.36. The corporation must ensure that the total combined
126 budgets of the clerks of the court do not exceed the total
127 estimated revenues available for court-related expenditures as
128 determined by the most recent Revenue Estimating Conference. The
129 corporation may amend any individual clerk of the court budget
130 to ensure compliance with this paragraph and must consider
131 performance measures, workload performance standards, workload
132 measures, and expense data before modifying the budget. As part
133 of this process, the corporation shall:

134 1. Calculate the minimum amount of revenue necessary for
135 each clerk of the court to efficiently perform the list of
136 court-related functions specified in paragraph (3) (a). The
137 corporation shall apply the workload measures appropriate for
138 determining the individual level of review required to fund the
139 clerk's budget.

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

144 3. Conduct an annual base budget review and an annual
145 budget exercise examining the total budget of each clerk of the

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146 court. The review shall examine revenues from all sources,
147 expenses of court-related functions, and expenses of noncourt-
148 related functions as necessary to determine that court-related
149 revenues are not being used for noncourt-related purposes. The
150 review and exercise shall identify potential targeted budget
151 reductions in the percentage amount provided in Schedule VIII-B
152 of the state's previous year's legislative budget instructions,
153 as referenced in s. 216.023(3), or an equivalent schedule or
154 instruction as may be adopted by the Legislature.

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

158 5. Identify those clerks projected to have court-related
159 revenues insufficient to fund their anticipated court-related
160 expenditures.

161 6. Use revenue estimates based on the official estimate for
162 funds accruing to the clerks of the court made by the Revenue
163 Estimating Conference. The total combined budgets of the clerks
164 of the court may not exceed the revenue estimates established by
165 the most recent Revenue Estimating Conference.

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

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

172 9. Identify ~~and report~~ the budget of any clerk which
173 exceeds the average budget of similarly situated clerks by more
174 than 10 percent.

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175 (h) Preparing and submitting a report to the Governor, the
176 President of the Senate, the Speaker of the House of
177 Representatives, and the chairs of the legislative
178 appropriations committees by January 1 of each year on the
179 operations and activities of the corporation and detailing the
180 budget development for the clerks of the court and the end-of-
181 year reconciliation of actual expenditures versus projected
182 expenditures for each clerk of court. Beginning August 1, 2014,
183 ~~and each August 1 thereafter, submitting to the Legislative~~
184 ~~Budget Commission, as provided in s. 11.90, its proposed budget~~
185 ~~and the information described in paragraph (f), as well as the~~
186 ~~proposed budgets for each clerk of the court. Before October 1~~
187 ~~of each year beginning in 2014, the Legislative Budget~~
188 ~~Commission shall consider the submitted budgets and shall~~
189 ~~approve, disapprove, or amend and approve the corporation's~~
190 ~~budget and shall approve, disapprove, or amend and approve the~~
191 ~~total of the clerks' combined budgets or any individual clerk's~~
192 ~~budget. If the Legislative Budget Commission fails to approve or~~
193 ~~amend and approve the corporation's budget or the clerks'~~
194 ~~combined budgets before October 1, the clerk shall continue to~~
195 ~~perform the court-related functions based upon the clerk's~~
196 ~~budget for the previous county fiscal year.~~

197 (3) (a) The list of court-related functions that clerks may
198 fund from filing fees, service charges, costs, and fines is
199 limited to those functions expressly authorized by law or court
200 rule. Those functions include the following: case maintenance;
201 records management; court preparation and attendance; processing
202 the assignment, reopening, and reassignment of cases; processing
203 of appeals; collection and distribution of fines, fees, service

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204 charges, and court costs; processing of bond forfeiture
205 payments; ~~payment of jurors and witnesses; payment of expenses~~
206 ~~for meals or lodging provided to jurors;~~ data collection and
207 reporting; ~~processing of jurors;~~ determinations of indigent
208 status; and paying reasonable administrative support costs to
209 enable the clerk of the court to carry out these court-related
210 functions.

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

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

215 2. Functions assigned by administrative orders which are
216 not required for the clerk to perform the functions in paragraph
217 (a).

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

220 4. Functions identified as local requirements in law or
221 local optional programs.

222 Section 4. Paragraph (a) of subsection (2) and subsection
223 (4) of section 28.36, Florida Statutes, are amended to read:

224 28.36 Budget procedure.—There is established a budget
225 procedure for the court-related functions of the clerks of the
226 court.

227 (2) Each proposed budget shall further conform to the
228 following requirements:

229 (a) On or before June 1 ~~of each year beginning in 2014,~~ the
230 proposed budget shall be prepared, summarized, and submitted by
231 the clerk in each county to the Florida Clerks of Court
232 Operations Corporation in the manner and form prescribed by the

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233 corporation. The proposed budget must provide detailed
234 information on the anticipated revenues available and
235 expenditures necessary for the performance of the court-related
236 functions listed in s. 28.35(3)(a) of the clerk's office for the
237 county fiscal year beginning October 1.

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

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

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

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

250 28.37 Fines, fees, service charges, and costs remitted to
251 the state.—

252 (5) Ten percent of all court-related fines collected by the
253 clerk, except for penalties or fines distributed to counties or
254 municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a),
255 shall be deposited into the fine and forfeiture clerk's Public
256 ~~Records Modernization Trust~~ fund to be used exclusively for
257 additional clerk court-related functions, as provided in s.
258 28.35(3)(a) operational needs and program enhancements.

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

261 40.29 Payment of due-process costs.—

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262 (5) The Justice Administrative Commission shall provide
263 funds to the clerks of the court to compensate jurors, to pay
264 for meals or lodging provided to jurors, and to pay for jury-
265 related personnel costs as provided in this section. Each clerk
266 of the court shall forward to the Justice Administrative
267 Commission a quarterly estimate of funds necessary to compensate
268 jurors and pay for meals or lodging provided to jurors during
269 the upcoming quarter. The Florida Clerks of Court Operations
270 Corporation shall forward to the Justice Administrative
271 Commission a quarterly estimate of the amount necessary to
272 reimburse each clerk of the court for its personnel and other
273 costs related to jury management. Upon receipt of such
274 estimates, the Justice Administrative Commission shall determine
275 the amount deemed necessary for payment to the clerks of the
276 court during the upcoming quarter and submit a request for
277 payment to the Chief Financial Officer. If the Justice
278 Administrative Commission believes that the amount appropriated
279 by the Legislature is insufficient to meet such costs during the
280 remaining part of the state fiscal year, the commission may
281 apportion the funds appropriated in the General Appropriations
282 Act for those purposes among the several counties, basing the
283 apportionment upon the amount expended for such purposes in each
284 county during the prior fiscal year, in which case, the Chief
285 Financial Officer shall issue the appropriate apportioned amount
286 by warrant to each county. The clerks of the court are
287 responsible for any compensation to jurors, for payments for
288 meals or lodging provided to jurors, and for jury-related
289 personnel costs that exceed the funding provided in the General
290 Appropriations Act for these purposes.

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

293 45.035 Clerk's fees.—In addition to other fees or service
294 charges authorized by law, the clerk shall receive service
295 charges related to the judicial sales procedure set forth in ss.
296 45.031-45.034 and this section:

297 (3) If the sale is conducted by electronic means, as
298 provided in s. 45.031(10), the clerk shall receive an additional
299 service charge not to exceed \$70 for services in conducting or
300 contracting for the electronic sale, which service charge shall
301 be assessed as costs and paid when filing for an electronic sale
302 date ~~by the winning bidder~~. If the clerk requires advance
303 electronic deposits to secure the right to bid, such deposits
304 shall not be subject to the fee under s. 28.24(10). The portion
305 of an advance deposit from a winning bidder required by s.
306 45.031(3) shall, upon acceptance of the winning bid, be subject
307 to the fee under s. 28.24(10).

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

310 775.083 Fines.—

311 (1) A person who has been convicted of an offense other
312 than a capital felony may be sentenced to pay a fine in addition
313 to any punishment described in s. 775.082; when specifically
314 authorized by statute, he or she may be sentenced to pay a fine
315 in lieu of any punishment described in s. 775.082. A person who
316 has been convicted of a noncriminal violation may be sentenced
317 to pay a fine. Fines for designated crimes and for noncriminal
318 violations shall not exceed:

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

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

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

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

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

328 (f) Any higher amount equal to double the pecuniary gain
329 derived from the offense by the offender or double the pecuniary
330 loss suffered by the victim.

331 (g) Any higher amount specifically authorized by statute.
332

333 Fines imposed in this subsection shall be deposited by the clerk
334 of the court in the fine and forfeiture fund established
335 pursuant to s. 142.01, ~~except that the clerk shall remit fines~~
336 ~~imposed when adjudication is withheld to the Department of~~
337 ~~Revenue for deposit in the General Revenue Fund.~~ If a defendant
338 is unable to pay a fine, the court may defer payment of the fine
339 to a date certain. As used in this subsection, the term
340 "convicted" or "conviction" means a determination of guilt which
341 is the result of a trial or the entry of a plea of guilty or
342 nolo contendere, regardless of whether adjudication is withheld.

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