

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 590

INTRODUCER: Senator Hooper

SUBJECT: Clerks of the Court

DATE: December 9, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	<b>Pre-meeting</b>
2.			ACJ	
3.			AP	

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**I. Summary:**

SB 590 revises the procedure for clerks of the circuit court to receive payments for management of the jury process for the court system. The current procedure provides for *pre-imburement* in which clerks send a quarterly funding estimate of their costs to the Clerks of Court Operations Corporation (CCOC) for review. The CCOC completes its review, and forwards the estimate to the Justice Administrative Commission (JAC) for further review and verification that the funds are available. The JAC then submits the request to the Division of Financial Services to provide quarterly pre-imburement payments to the clerks.

The new process is not a pre-imburement process but a *reimbursement* process for actual costs that have been incurred in the previous quarter. The bill removes the responsibility of paying jury management costs from the JAC and assigns that responsibility to the Department of Revenue. Consistent with that change, the JAC will no longer provide oversight and management of the funds to the counties. The CCOC will assume the responsibility to review the reimbursement requests and forward to the Department of Revenue the amounts necessary to reimburse each clerk.

Additionally, the bill specifies a purpose for the use of the Clerks of the Courts Trust Fund. The Trust Fund will be a depository for excess revenue collected monthly by the clerks that exceed one-twelfth of the clerks' total budget. Those excess revenues must be used to provide funds to clerks who project a revenue deficit, which is a codification of current practice. The CCOC will conduct an end-of-year reconciliation of the excess funds deposited in the Trust Fund to make certain that clerks receive their approved budget amounts as required by statute.

## II. Present Situation:

### Clerks of the Court

The State Constitution establishes the office of clerk of the circuit court in each of the state's 67 counties. Each clerk is elected by the voters to a 4-year term. The State Constitution further provides that the clerk's duties may be divided by special or general law between two officers. Under that arrangement, one serves as clerk of the court and one serves as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.<sup>1</sup>

### Jury Management

Court clerks are tasked with many responsibilities, including the specific responsibility of managing the jury process. This includes determining the qualifications of jurors, issuing jury summons, providing selection lists, reporting, and compensating jurors when necessary to prevent financial hardship.<sup>2</sup> It is estimated that Florida clerks summon almost 2 million jurors annually.<sup>3</sup>

### Florida Clerks of Court Operations Corporation

The Legislature created the Florida Clerks of Court Operations Corporation (CCOC) in 2003. It is a public corporation organized to perform the specific functions assigned in ss. 28.35, 28.36, and 28.37, F.S., which outline the CCOC's duties, the clerks' budget procedure for court-related functions, and how fines, fees, service charges, and costs are to be remitted to the state. All clerks of the circuit court are members and hold their position and authority as ex officio members. The responsibilities assigned to the corporation are performed by an executive council composed of eight clerks from various size populations and three ex officio members designated by the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.<sup>4</sup>

In general terms, the CCOC was created to provide professional budget support to the 67 clerks of court and ensure that resources are fairly and equitably distributed for the operation of the courts.<sup>5</sup> The CCOC's duties include, but are not limited to:

- Recommending to the Legislature changes in the amounts of various court-related fines, fees, service charges, and costs that are established in law to ensure that the clerks have reasonable and adequate funding to perform their court-related functions.
- Developing and certifying a uniform system of workload measures and workload standards for court-related functions.
- Entering into a contract with the Department of Financial Services for the department to audit the court-related expenditures of individual clerks.

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<sup>1</sup> FLA. CONST. art. V, s. 16 and art. VIII, s. (1)(d).

<sup>2</sup> See s. 40.001, F.S.

<sup>3</sup> Florida Clerks of Court Operations Corporation, *Senate Bill 590 Analysis* (Dec. 2, 2019), <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=29742>.

<sup>4</sup> Section 28.35(1), F.S.

<sup>5</sup> Florida Clerks of Court Operations Corporation, *Welcome to Florida Clerks of Court Operations Corporation (CCOC)*, available at <https://flccoc.org/>.

- Approving the proposed budgets submitted by clerks.<sup>6</sup>

When approving the clerks' proposed budgets, the CCOC must ensure that the total combined budgets of the clerks do not exceed:

- The total estimated revenues from fees, service charges, costs, and fines for court-related functions that are available for court-related expenditures (as determined by the most recent Revenue Estimating Conference); *plus*
- The total of unspent budgeted funds for court-related functions carried forward by the clerks from the previous county fiscal year; *plus*
- The balance of funds remaining in the Clerks of Court Trust Fund after funds are transferred to the General Revenue Fund as required by law.<sup>7</sup>

### **Budget Procedure for Payment of Costs**

The Justice Administration Commission (JAC) is required by s. 40.29(5), F.S., to provide funds to the clerks to compensate jurors, pay for meals or lodging for jurors, and pay jury-related personnel costs. Since 2016, the Legislature has provided \$11.7 million from General Revenue to cover the projected costs of managing the jury process.<sup>8</sup> The funds are released quarterly. Before 2008, jury costs were funded by the Legislature through the Office of the State Court Administrator.<sup>9</sup>

The process established in s. 40.29, F.S., for clerks to submit information to the JAC to request funding has been modified slightly from statute by agreement between the clerks and the CCOC. The process is as follows:

- (1) Each clerk of the circuit court forwards to the CCOC a *quarterly estimate* of funds needed to compensate jurors, pay for meals or lodging, and personnel and other costs related to jury management for the *upcoming* quarter. Each clerk must include a signed and dated certification letter by the 10th of the month immediately before the beginning of the requested quarter.
- (2) The CCOC reviews the quarterly requests and determines a funding allocation for each of the 67 clerks, then forwards the funding estimate to the JAC for its review.
- (3) The JAC reviews the funding estimate for the individual counties, determines that the funds are available for the upcoming quarterly funding allocation from General Revenue, and sends the information to the Division of Financial Services for pre-imburement payments to each clerk.

Pursuant to s. 40.29(5), F.S., if the JAC believes the amount appropriated by the Legislature is not sufficient to meet the costs for the remainder of the state fiscal year, the JAC may apportion funds appropriated in the General Appropriations Act (GAA) among the counties. The apportionment is based upon the amount expended for those purposes in each county during the previous fiscal year. The Chief Financial Officer will then issue the appropriate apportioned

<sup>6</sup> Section 28.35(2)(c), (d), (e), and (f), F.S.

<sup>7</sup> Section 28.35(2)(f), F.S.

<sup>8</sup> For the 2019 appropriation, see ch. 2019-115, s. 4, Laws of Fla., Specific Appropriation 770 (Reimbursement of Expenditures Related to Circuit and County Juries Required by Statute from General Revenue Fund . . . \$11,700,000).

<sup>9</sup> Section 40.31, F.S. (2007).

amount to each county. The statute further provides that the clerks are responsible for any compensation costs that exceed the funding provided in the GAA. However, the JAC reports that the CCOC has never requested more than the \$11.7 million allocation provided by the Legislature.<sup>10</sup>

### **Clerks of the Court Trust Fund**

The Legislature created the Clerks of the Court Trust Fund in 2001<sup>11</sup> within the Department of Revenue (DOR). The Trust Fund was transferred to the JAC in 2009 when the clerks' budget was placed in the state budget process. The Trust Fund was transferred back to the Department of Revenue in 2013 when the clerks' budget was removed from the GAA.<sup>12</sup> The Trust Fund exists as a one sentence item in the statutes with no mention of a purpose.

According to the CCOC, the Trust Fund is used as a repository for funds from counties that have a projected revenue surplus. Section 28.37(2), F.S., provides that, since November 1, 2013, all fines, fees, service charges, and costs that are collected by the clerks for the previous month which exceed one-twelfth of the clerks' total budget for performing court-related functions must be remitted to DOR for deposit into the Clerks of the Court Trust Fund. Those funds are distributed by DOR to clerks in counties that have a projected revenue deficit. The CCOC also uses the Trust Fund to annually reconcile the clerks' expenditures. In the reconciliation process at the end of the year, a clerk's total revenues are compared to total expenditures. Some clerks will receive additional money to meet expenses, and other clerks will be required to return money because he or she had a surplus of revenue after covering expenses.

### **III. Effect of Proposed Changes:**

The bill makes two significant changes to the process by which clerks receive funds for the jury management process. Notably, the bill removes the responsibility for paying jury management costs from the JAC and assigns that responsibility to the Department of Revenue. Consistent with that change, the JAC will no longer provide oversight and management of the funds to the counties. That oversight responsibility will be assumed by CCOC. Additionally, the current practice under which clerks receive *pre-imburements* for their costs is changed and the clerks will receive *reimbursements* for the costs they have incurred.

### **Clerks of the Court Trust Fund**

The Clerks of the Court Trust Fund is established in statute as a depository for the portion of the fines, fees, service, charges, and costs that are collected by the clerks which exceed one-twelfth of the individual clerks' total budget. Additional funds that may be deposited in the Trust Fund are revenues designated for that purpose by statute, funds appropriated by the Legislature, and grants from public or private entities.

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<sup>10</sup> Telephone interview with Cris Martinez and Greg Cowan, Justice Administrative Commission, in Tallahassee, Fla. (Dec. 4, 2019.)

<sup>11</sup> Section 213.131, F.S.

<sup>12</sup> Florida Clerks of Court Operations Corporation, *supra*, note 3.

***Excess Funds and Reconciliation***

The funds collected in a month that exceed one-twelfth of the clerks' total budget are designated solely for the purpose of providing funds to clerks who project a revenue deficit. The CCOC must conduct an end-of-year reconciliation in which it reviews a clerk's total revenues and compares that figure to the total expenditures to guarantee that clerks receive the approved budget amounts.

***The New Procedure***Department of Revenue

The bill requires the Department of Revenue to deposit into the Clerks of the Court Trust Fund the funds appropriated to the clerks in the General Appropriations Act to cover the compensation of jurors, payment for meals and lodging for jurors, and payment for jury-related personnel and operational costs as provided in the General Appropriations Act.

Clerks

The clerks are required to submit a request for *reimbursement* to the CCOC within 30 days after each quarter ends. They must attest to their actual costs to compensate jurors, to pay for meals and lodging provided to jurors, and to pay for jury-related personnel and operational costs.

CCOC

The CCOC must then review the request for reimbursement to make certain that the costs are reasonable and directly related to jury management. After completing their review tasks, the CCOC must forward to the Department of Revenue the amount necessary to reimburse each clerk. As in current law, the clerks remain responsible for any compensation costs that exceed the funding provided in the GAA.

The bill takes effect July 1, 2020.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will remove clerk oversight responsibilities from the JAC which will reduce its workload as far as clerk responsibilities are concerned. There will also be a workload reduction for the clerks who will no longer be required to submit the four quarterly estimate forms to the CCOC. Finally, the CCOC's workload will be reduced because it will not be receiving forms four times each year from the 67 clerks.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 40.29 and 213.131.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.