

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 967 Clerks of the Court

**SPONSOR(S):** Judiciary Committee, Civil Justice Subcommittee, Gregory

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N, As CS	Jones	Luczynski
2) Justice Appropriations Subcommittee	12 Y, 0 N	Smith	Gusky
3) Judiciary Committee	17 Y, 0 N, As CS	Jones	Luczynski

### SUMMARY ANALYSIS

The State Constitution establishes the office of the clerk of the circuit court in each of the state's 67 counties, and each clerk is elected to a 4-year term. The clerk of court is responsible for administering parts of the jury selection process, including the compensation of jurors.

Currently, the Legislature appropriates funds to the Justice Administrative Commission (JAC), which then distributes those funds to the clerks for the compensation of jurors for meals and lodging and other jury-related costs. The amount disbursed to each clerk for juror compensation is calculated based on an estimate of juror compensation costs to be incurred during the upcoming quarter.

CS/CS/HB 967 provides that clerks of court, instead of being paid upfront for their projected costs of compensating jurors, must submit a request for reimbursement to the Florida Clerks of Court Operations Corporation (CCOC) within 20 days after each quarter ends. Each clerk must attest to the actual costs to compensate jurors. The CCOC must review the requests and forward them to the JAC, which in turn submits a request for payment to the Chief Financial Officer.

The bill may have an indeterminate but insignificant fiscal impact on state and local governments.

The bill provides an effective date of July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Clerks of Court

The State Constitution establishes the office of the clerk of the circuit court in each of the state's 67 counties, and each clerk is elected to a 4-year term.<sup>1</sup> The clerk's duties may be divided by special or general law between two officers.<sup>2</sup>

All funding for the offices of the clerks of the circuit and county courts performing court-related functions is provided by filing fees for judicial proceedings and service charges for performing court-related functions.<sup>3</sup> The costs associated with the payment of jurors and the expenses for meals and lodging of jurors are court-related functions that the clerk of the court must fund from filing fees, service charges, court costs, and fines.<sup>4</sup>

In the event that revenue generated by filing fees and service charges is inadequate to fund the offices of the clerks to perform court-related functions, the state must provide, as determined by the legislature, adequate and appropriate supplemental funding from state revenues.<sup>5</sup>

While the chief judge of a judicial circuit has overall authority for oversight of the jury selection system, the clerk of court also has responsibilities relating to the jury process, including:

- Determining the qualifications of jurors;
- Creating lists of potential jurors for future summons;
- Issuing jury summons for prospective jurors;
- Reporting information related to jurors, including the costs associated with the jury process; and
- Compensating jurors.<sup>6</sup>

It is estimated that clerks of the court summon almost two million jurors statewide on an annual basis.<sup>7</sup>

##### Florida Clerks of Courts Corporation

In 2003, the Legislature created the Florida Clerks of Court Operations Corporation (CCOC).<sup>8</sup> All clerks of the circuit court are members of the CCOC, and the CCOC's duties are performed by an executive council composed of eight clerks 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>9</sup> The CCOC's tasks include:

- Recommending changes in the amounts of various court-related fines, fees, service charges, and costs established by law to ensure that 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;
- Contracting with the Department of Financial Services (DFS) for audit of the court-related expenditures of individual clerks; and

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<sup>1</sup> Art. VIII, s. 1(d), Fla. Const.

<sup>2</sup> *Id.*; art. V, s. 16, Fla. Const.

<sup>3</sup> Art. V, s. 14(b), Fla. Const.

<sup>4</sup> S. 40.32(2), F.S.

<sup>5</sup> Art. V, s. 14(b), Fla. Const.

<sup>6</sup> S. 40.001, F.S.

<sup>7</sup> Florida Clerks of Court Operations Corporation, Agency Analysis of 2020 Senate Bill 590, p. 1 (Dec. 2, 2019).

<sup>8</sup> Ch. 2003-402, Laws of Fla.

<sup>9</sup> S. 28.35, F.S.

- Approving the clerks' proposed budgets.<sup>10</sup>

When approving a clerk's proposed budget, 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 available for court-related expenditures, as determined by the most recent Revenue Estimating Conference; plus
- The total 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>11</sup>

### Budget Procedure for Payment of Jury Costs

The Justice Administrative Commission (JAC) receives funds from the Legislature and then provides those funds to the clerks to compensate jurors, pay for meals or lodging for jurors, and pay jury-related personnel costs.<sup>12</sup> Since 2016, the Legislature has provided \$11.7 million from General Revenue to cover the projected costs of managing the jury process.<sup>13</sup> The funds are released quarterly. Before 2008, jury costs were funded by the Legislature through the Office of the State Court Administrator.<sup>14</sup>

The current process for clerks to submit information to the JAC to request funding is as follows:

- Each clerk 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 tenth of the month immediately before the beginning of the requested quarter.
- 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.
- 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 DFS 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 on the amount expended for those purposes in each county during the previous fiscal year. The Chief Financial Officer then issues the appropriate apportioned 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.<sup>15</sup>

### **Effect of Proposed Changes**

CS/CS/HB 967 changes the process for allocating funds to the clerks of court for juror-related expenses from a “pre-imburement” system to a reimbursement system. Instead of being paid upfront for the projected costs of compensating jurors for the upcoming quarter, each clerk must submit a request for reimbursement to the CCOC within 20 days after each quarter ends. Each clerk must attest to the actual costs to compensate jurors, pay for meals and lodging for jurors, and pay for jury-related personnel costs. The CCOC must review the request for reimbursement to ensure the costs:

- Are reasonable;
- Are directly related to jury management; and
- Do not exceed the quarterly funds available.

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<sup>10</sup> S. 28.35(2), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> See s. 40.29(5), F.S.

<sup>13</sup> 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>14</sup> See s. 40.31, F.S. (2007).

<sup>15</sup> S. 40.29(5), F.S.

If the requested funds exceed the available funds, the CCOC must adjust the total amount requested to match the available funds before submitting the request to the JAC. The JAC must determine if the requested amount is available and submit a request for payment to the Chief Financial Officer.

The bill clarifies that the responsibility of the clerks of court extends to any compensation for jurors, including jury-related personnel costs exceeding GAA funding.

The bill provides an effective date of July 1, 2020.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 40.29, F.S., relating to payment of due-process costs.

**Section 2:** Provides an effective date of July 1, 2020.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill changes the process for juror compensation from a “pre-imburement” system to a reimbursement system, which means state funds will only pay for juror compensation costs actually incurred by the clerk. The bill may have an indeterminate, but likely insignificant, positive impact on state expenditures to the extent that actual costs for juror compensation are less than the amount provided for that purpose in the General Appropriations Act.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate, but likely insignificant, negative fiscal impact on local governments to the extent that actual costs for juror compensation exceed the amount provided for that purpose in the General Appropriations Act.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 22, 2020, the Civil Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Required the Justice Administrative Commission, not the Department of Revenue, to reimburse clerks of court for juror-related expenses.
- Removed trust fund purpose language.

On February 18, 2020, the Judiciary Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment removed language providing for reimbursement for "operational" juror-related costs.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.