

1 A bill to be entitled
2 An act relating to clerks of the circuit court;
3 amending s. 11.90, F.S.; removing duties of the
4 Legislative Budget Commission regarding budgets of the
5 Florida Clerks of Court Operations Corporation and the
6 clerks of the court; amending s. 28.35, F.S.; revising
7 duties of the corporation; prohibiting the total
8 combined proposed budgets of clerks of the court from
9 exceeding specified limits; requiring the corporation
10 to provide an annual report to the Governor,
11 Legislature, and chairs of the legislative
12 appropriations committees regarding court operations
13 and budgets; deleting duties of the commission in
14 considering budgets of the clerks of the court;
15 revising the list of court-related functions that
16 clerks of the court may fund from filing fees, service
17 charges, costs, and fines; requiring the Criminal
18 Justice Estimating Conference to evaluate fiscal
19 impact of certain changes to court rules or
20 administrative orders; specifying procedures for
21 transferring certain funds to implement changes to
22 court orders or administrative rules; amending s.
23 28.36, F.S.; authorizing the corporation to amend
24 budgets of the clerks of the court; amending s. 40.24,
25 F.S.; transferring the responsibility of paying jurors

26 | from clerks of the court to the state; amending s.
27 | 40.29, F.S.; requiring clerks of the circuit court to
28 | forward quarterly estimates of funds necessary for
29 | certain jury-related costs to the commission; revising
30 | procedures governing the payment of due-process
31 | service-related costs; amending s. 40.31, F.S.;
32 | authorizing the commission to apportion
33 | appropriations, and requiring the Chief Financial
34 | Officer to issue a warrant to pay apportioned amounts,
35 | to counties for jury-related expenses; providing
36 | procedures for clerks of the court to follow if the
37 | apportioned amounts are insufficient to pay all jury-
38 | related expenses; amending s. 40.32, F.S.; removing a
39 | provision regarding funding of jury-related costs to
40 | conform to changes made by the act; amending s. 40.33,
41 | F.S.; authorizing clerks of the circuit court to
42 | request from the commission additional funds to pay
43 | jury-related expenses in the event of a deficiency;
44 | amending s. 40.34, F.S.; requiring clerks of the court
45 | to provide for payroll in triplicate for the payment
46 | of jurors; specifying information to be included in
47 | such payroll; amending s. 216.136, F.S.; requiring the
48 | Criminal Justice Estimating Conference to evaluate
49 | certain changes to court rules or administrative
50 | orders; providing an effective date.

51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75

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

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

11.90 Legislative Budget Commission.—

(6) The commission has ~~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.

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

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

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

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

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

28.35 Florida Clerks of Court Operations Corporation.—

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

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

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

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

2. Prepare a cost comparison of similarly situated clerks of the court, based on county population and numbers of filings, using the standard list of court-related functions specified in

101 paragraph (3) (a).

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

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

116 5. Identify those clerks projected to have court-related
 117 revenues insufficient to fund their anticipated court-related
 118 expenditures.

119 6. Use revenue estimates based on the official estimate
 120 for funds accruing to the clerks of the court made by the
 121 Revenue Estimating Conference. The total combined proposed
 122 budgets of the clerks of the court may not exceed the revenue
 123 estimates established by the most recent Revenue Estimating
 124 Conference.

125 7. Identify ~~and report~~ pay and benefit increases in any

126 proposed clerk budget, including, but not limited to, cost of
127 living increases, merit increases, and bonuses.

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

131 9. Identify ~~and report~~ the budget of any clerk which
132 exceeds the average budget of similarly situated clerks by more
133 than 10 percent.

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

151 ~~budget. If the Legislative Budget Commission fails to approve or~~
152 ~~amend and approve the corporation's budget or the clerks'~~
153 ~~combined budgets before October 1, the clerk shall continue to~~
154 ~~perform the court-related functions based upon the clerk's~~
155 ~~budget for the previous county fiscal year.~~

156 (3) (a) The list of court-related functions that clerks may
157 fund from filing fees, service charges, costs, and fines is
158 limited to those functions expressly authorized by law or court
159 rule. Those functions include the following: case maintenance;
160 records management; court preparation and attendance; processing
161 the assignment, reopening, and reassignment of cases; processing
162 of appeals; collection and distribution of fines, fees, service
163 charges, and court costs; processing of bond forfeiture
164 payments; ~~payment of jurors and witnesses; payment of expenses~~
165 ~~for meals or lodging provided to jurors;~~ data collection and
166 reporting; ~~processing of jurors;~~ determinations of indigent
167 status; and paying reasonable administrative support costs to
168 enable the clerk of the court to carry out these court-related
169 functions. However, changes to court rules or administrative
170 orders that require increased expenditures by the clerks of the
171 court must be evaluated for fiscal impact by the Criminal
172 Justice Estimating Conference. The Criminal Justice Estimating
173 Conference must project a 3-year cost for the changes to the
174 court rules or administrative orders. Upon completion of the
175 forecast, the state courts system shall transfer sufficient

176 funds to the Department of Revenue for deposit into the Clerks
177 of the Court Trust Fund to cover implementation costs of such
178 changes. If funding transfers are necessary, the state courts
179 system shall request that an appropriation category titled
180 "Transfer to the Clerks of the Court Trust Fund" be established
181 and shall submit budget amendments to transfer the funds to the
182 Clerks of the Court Trust Fund. Notwithstanding chapter 216,
183 such amendments do not require the approval of the Legislative
184 Budget Commission but are subject to the notice, review, and
185 objection procedures in s. 216.177.

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

- 189 1. Those functions not specified within paragraph (a).
- 190 2. Functions assigned by administrative orders which are
191 not required for the clerk to perform the functions in paragraph
192 (a).
- 193 3. Enhanced levels of service which are not required for
194 the clerk to perform the functions in paragraph (a).
- 195 4. Functions identified as local requirements in law or
196 local optional programs.
- 197 5. New or additional functions required by changes in
198 court rules or administrative orders that require additional
199 expenditures by the clerks of the court.

200 Section 3. Paragraph (a) of subsection (2) and subsection

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

202 28.36 Budget procedure.—There is established a budget
203 procedure for the court-related functions of the clerks of the
204 court.

205 (2) Each proposed budget shall further conform to the
206 following requirements:

207 (a) On or before June 1 ~~of each year beginning in 2014,~~
208 the proposed budget shall be prepared, summarized, and submitted
209 by the clerk in each county to the Florida Clerks of Court
210 Operations Corporation in the manner and form prescribed by the
211 corporation. The proposed budget must provide detailed
212 information on the anticipated revenues available and
213 expenditures necessary for the performance of the court-related
214 functions listed in s. 28.35(3)(a) of the clerk's office for the
215 county fiscal year beginning October 1.

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

220 (a) The additional budget authority is necessary to pay
221 the cost of performing new or additional functions required by
222 changes in law or court rule as funded by the state courts
223 system; or

224 (b) The additional budget authority is necessary to pay
225 the cost of supporting increases in the number of judges or

HB 7051

2017

226 magistrates authorized by the Legislature.

227 Section 4. Paragraph (a) of subsection (3) and subsections
228 (4) and (5) of section 40.24, Florida Statutes, are amended to
229 read:

230 40.24 Compensation and reimbursement policy.—

231 (3) (a) Jurors who are regularly employed and who continue
232 to receive regular wages while serving as a juror are not
233 entitled to receive compensation from the state ~~clerk of the~~
234 ~~circuit court~~ for the first 3 days of juror service.

235 (4) Each juror who serves more than 3 days is entitled to
236 be paid by the state ~~clerk of the circuit court~~ for the fourth
237 day of service and each day thereafter at the rate of \$30 per
238 day of service.

239 (5) Jurors are not entitled to additional reimbursement by
240 the state ~~clerk of the circuit court~~ for travel or other out-of-
241 pocket expenses.

242 Section 5. Subsections (1), (3), and (4) of section 40.29,
243 Florida Statutes, are amended to read:

244 40.29 Payment of due-process costs.—

245 (1) (a) Each clerk of the circuit court, on behalf of the
246 state attorney, private court-appointed counsel, the public
247 defender, and the criminal conflict and civil regional counsel,
248 shall forward to the Justice Administrative Commission, by
249 county, a quarterly estimate of funds necessary to pay for
250 ordinary witnesses, including, but not limited to, witnesses in

251 civil traffic cases and witnesses of the state attorney, the
252 public defender, criminal conflict and civil regional counsel,
253 private court-appointed counsel, and persons determined to be
254 indigent for costs. Each quarter of the state fiscal year, the
255 commission, based upon the estimates, shall advance funds to
256 each clerk to pay for these ordinary witnesses from state funds
257 specifically appropriated for the payment of ordinary witnesses.

258 (b) Each clerk of the circuit court shall forward to the
259 Justice Administrative Commission a quarterly estimate of funds
260 necessary to compensate jurors for their service, to provide
261 jurors with meals and lodging, and for personnel costs related
262 to jury management.

263 (3) Upon receipt of the funds from the Chief Financial
264 Officer, the clerk of the court shall pay all invoices approved
265 and submitted by the state attorney, the public defender, the
266 clerk of the court, criminal conflict and civil regional
267 counsel, and private court-appointed counsel for the items
268 enumerated in subsection (1).

269 (4) After review for compliance with applicable rates and
270 requirements, the Justice Administrative Commission shall pay
271 all due-process service-related ~~due process service-related~~
272 invoices, except those enumerated in subsection (1), approved
273 and submitted by the state attorney, the public defender, the
274 clerk of the court, criminal conflict and civil regional
275 counsel, or private court-appointed counsel in accordance with

HB 7051

2017

276 | the applicable requirements of ss. 29.005, 29.006, and 29.007.

277 | Section 6. Section 40.31, Florida Statutes, is amended to
 278 | read:

279 | 40.31 Justice Administrative Commission may apportion
 280 | appropriation.—

281 | (1) If the Justice Administrative Commission believes ~~has~~
 282 | ~~reason to believe~~ that the amount appropriated by the
 283 | Legislature is insufficient to meet the expenses of witnesses
 284 | during the remaining part of the state fiscal year, the
 285 | commission may apportion the money in the treasury for that
 286 | purpose among the several counties, basing such apportionment
 287 | upon the amount expended for the payment of witnesses in each
 288 | county during the prior fiscal year. In such case, each county
 289 | shall be paid by warrant, issued by the Chief Financial Officer,
 290 | only the amount so apportioned to each county, and, when the
 291 | amount so apportioned is insufficient to pay in full all the
 292 | witnesses during a quarterly fiscal period, the clerk of the
 293 | court shall apportion the money received pro rata among the
 294 | witnesses entitled to pay and shall give to each witness a
 295 | certificate of the amount of compensation still due, which
 296 | certificate shall be held by the commission as other demands
 297 | against the state.

298 | (2) If the Justice Administrative Commission believes that
 299 | the amount appropriated by the Legislature is insufficient to
 300 | pay jurors for their service or to provide jurors with meals and

301 lodging during the remaining part of the state fiscal year, the
 302 commission may apportion the money in the treasury for that
 303 purpose among the counties, basing such apportionment upon the
 304 amount expended for such purposes in each county during the
 305 prior fiscal year. In such case, the Chief Financial Officer
 306 shall issue a warrant to pay only the apportioned amount that is
 307 due to each county. If the amount so apportioned is insufficient
 308 to pay in full all jury-related expenses during a quarterly
 309 fiscal period, the clerk of the court shall:

- 310 (a) Pay jurors entitled to pay before reimbursing any
- 311 other jury-related expenses described in this subsection; and
- 312 (b) Apportion the money received pro rata among the jurors
- 313 entitled to pay and give each juror a certificate of the amount
- 314 of compensation still due, which certificate shall be held by
- 315 the commission as other demands against the state.

316 Section 7. Subsection (3) of section 40.32, Florida
 317 Statutes, is renumbered as subsection (2), and subsections (1)
 318 and (2) of that section are amended to read:

319 40.32 Clerks to disburse money; payments to jurors and
 320 witnesses.—

321 (1) All moneys drawn from the treasury under ~~the~~
 322 ~~provisions of~~ this chapter by the clerk of the court shall be
 323 disbursed by the clerk of the court as far as needed in payment
 324 of jurors and witnesses, except for expert witnesses paid under
 325 a contract or other professional services agreement pursuant to

HB 7051

2017

326 ss. 29.004, 29.005, 29.006, and 29.007, for the legal
327 compensation for service during the quarterly fiscal period for
328 which the moneys were drawn and for no other purposes.

329 ~~(2) The payment of jurors and the payment of expenses for~~
330 ~~meals and lodging for jurors under the provisions of this~~
331 ~~chapter are court-related functions that the clerk of the court~~
332 ~~shall fund from filing fees, service charges, court costs, and~~
333 ~~finer.~~

334 Section 8. Section 40.33, Florida Statutes, is amended to
335 read:

336 40.33 Deficiency.—If the funds required for payment of the
337 items enumerated in s. 40.29(1) in any county during a quarterly
338 fiscal period exceeds the amount of the funds provided pursuant
339 to s. 40.29(3), the state attorney, public defender, clerk of
340 the circuit court, or criminal conflict and civil regional
341 counsel, as applicable, shall make a further request upon the
342 Justice Administrative Commission for the items enumerated in s.
343 40.29(1) for the amount necessary to allow for full payment.

344 Section 9. Subsections (1) and (3) of section 40.34,
345 Florida Statutes, are amended to read:

346 40.34 Clerks to make triplicate payroll.—

347 (1) The clerk of the court shall make out a payroll in
348 triplicate for the payment of jurors and witnesses, which
349 payroll shall contain:

350 (a) The name of each juror and witness entitled to be paid

HB 7051

2017

351 with state funds.~~†~~

352 (b) The number of days for which the jurors and witnesses
353 are entitled to be paid.~~†~~

354 (c) The number of miles traveled by each juror and
355 witness.~~†~~ and

356 (d) The total compensation each juror and witness is
357 entitled to receive.

358 (3) Compensation paid to a juror or witness shall be
359 attested as provided in s. 40.32. The payroll shall be approved
360 by the signature of the clerk, or his or her deputy, except for
361 the payroll as to jurors or witnesses appearing before the state
362 attorney, which payroll shall be approved by the signature of
363 the state attorney or an assistant state attorney.

364 Section 10. Paragraph (d) is added to subsection (5) of
365 section 216.136, Florida Statutes, to read:

366 216.136 Consensus estimating conferences; duties and
367 principals.—

368 (5) CRIMINAL JUSTICE ESTIMATING CONFERENCE.—The Criminal
369 Justice Estimating Conference shall:

370 (d) Evaluate the fiscal impact of changes to court rules
371 or administrative orders that require increased expenditures by
372 the clerks of the court, as set forth in s. 28.35(3)(a). The
373 evaluation must forecast a 3-year cost for the changes to court
374 rules or administrative orders.

375 Section 11. This act shall take effect July 1, 2017.