

MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
WEDNESDAY, October 10, 2017 2:00 PM EDT
EXECUTIVE COUNCIL MEETING
Orlando, Florida

The October 10, 2017 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) was called to order by Executive Council Chair Ken Burke at approximately 2:00 PM (EDT). Roll call was taken by Executive Council Secretary/Treasurer Tara Green. Council Members present were the Honorable Ken Burke, Honorable Stacy Butterfield, Honorable Tara Green, Honorable Sharon Bock, Honorable John Crawford, Honorable Pat Frank, Honorable Todd Newton, Honorable Ron Ficarrota and Honorable Paula S. O'Neil. Honorable Jeff Smith and Honorable Kyle Hudson did not join the meeting. Clerk Green stated that there was a quorum. All others in the room introduced themselves. Chair Burke asked Clerk John Crawford to give an invocation.

Clerk Newton made a motion to accept the Agenda. It was seconded by Clerk Butterfield. The vote was taken and the motion passed unanimously.

SECRETARY/TREASURER'S REPORT

Clerk Green provided the August 31st Minutes of the Executive Council Meeting for approval. Chair Burke asked if there were any corrections or additions. Hearing none, the motion was made by Clerk Frank and the second by Clerk Crawford to accept the minutes as presented. The vote was taken and the motion passed unanimously.

Clerk Green continued with the Treasurer's report noting that CCOC was well within their budget through 11 months of county fiscal year 16/17. One thing that might be looked at for next year's budget is that we under estimated slightly the expenditures needed in the "retirement, benefits, workers' compensation, and other" category. This is mainly due to higher than expected health insurance costs. Clerk Bock made a motion to accept the Treasurer's Report. Clerk Newton seconded it. Vote was taken and passed unanimously.

The last item for discussion was about the Florida Legislature approving raises for all State employees in October. This was passed in the Legislative session in the amount of \$1000 or \$1400 for each employee based on the circumstances of the employees. CCOC employees that meet the same criteria as the State employees would be getting the same pay raises as State employees. She also stated that she would like to present to the Council for consideration the withdrawing at this time the pay raise to the CCOC Executive Director in order to do a more extensive review of his current pay range. A recent independent study of the CCOC office showed in June of this year that he is currently paid well below the average salary in the public sector in Leon county for an Executive Director. Clerk Green made a motion to mirror the state pay raise with the exclusion of the Executive Director. Clerk Butterfield seconded the motion. Chair

Burke asked if there was any discussion. Clerk Crawford asked what the dollar amount would be. Clerk Green stated it would be approximately \$7,800.00 in total for all seven employees. This amount excludes \$1000 for the Executive Director. Vote was taken and the motion passed unanimously.

BUDGET COMMITTEE

Clerk Butterfield began by stating that the Budget Committee met August 23, 2017 to recommend the budgets for the Clerks for the fiscal year 17-18 and that recommendation was presented to and approved by the Council on August 31, 2017. She referred to 16-17 and gave an update since the year is complete. The Trust Fund for 16-17 is being finalized with all the reports with the September report due October 20, 2017. The disbursements to the funded Clerks for July, August and September still have not occurred. CCOC staff has been working with the Governor's Office of Policy and Budget to obtain the release authority so that those dollars can be sent out. On October 16, the 14-day period will end. Chair Burke asked Clerk Butterfield to explain what must happen to get the money to the Clerks. Clerk Butterfield began at the beginning of the fiscal year when CCOC recalculates the amount each Clerk is owed or will be sending to the Trust Fund (Funded and Depository Clerks). These figures are sent to each Clerk in their budget certification letter. Next, the CCOC staff sends to the Department of Revenue (DOR) the amount that is calculated to be sent out to the funded Clerks monthly. The CCOC Trust Fund is appropriated in the General Appropriation Act in what is called an under reserved category and that is based on the revenue estimates from the Revenue Estimating Conference (REC). The REC meeting was at the end of July. Then DOR must request a budget amendment from the Governor's office to move the authority out of the reserve into an operating category. This requires a 14-day budget amendment. When the authority is then in an operating account, DOR must also appropriate a release authority. Therefore, state budgeting general revenue is released quarterly. Most state trust funds are released 100% at the beginning of the year which is not the case for the Clerks TF. DOR must verify that actual dollars are in the Trust Fund before they can make any monthly transfers to the Clerks. That is why it is important that the depository Clerks send in their money. Then the CCOC sends a request to DOR's General Tax Administration program where they verify that there are sufficient dollars in the Trust Fund That program sends the request to DOR's Office of Financial Management which is their Executive Budget office. It is received and processed by an analyst. Then it is approved by a manager, before it is sent to the Chief of Staff for approval. Once all these levels of review happen, then the budget amendment is formally submitted to the Office of Policy and Budget (OPB) in the Governor's office. It can take a couple of weeks to get through all those channels. Once OPB has it, the amendment goes through a technical review in the budget management unit before being sent to an analyst in the policy area that oversees the general government unit which processes it and sends it for approval by the Budget Chief and the Policy Coordinator. It is sent back to Budget Management unit for a final technical review before being sent to the Deputy Budget Chief who briefs the Director of OPB on the amendment. If there are any questions or edits, then it goes back to DOR, etc. It can take a couple of more weeks to get through this process. Once OPB finally agrees on the budget amendment, then it is officially put on legislative consultation. That consultation is a 14-day

period. The 14-day clock starts and now there is a date that is set as to when the amendment comes off consultation. The date for this last quarter is October 16th which is for the July, August and September distribution. This can take 1-2 business days to draft, submit and process. Once it is all processed, the Clerks receive their funds. To get through all that it can take a couple of months. So, for the Clerks who have been asking when are we going to get our money or why we have not received our money, there is the answer. Chair Burke stated that this process needs to be streamlined. He referred this process to the CCOC Legislative Committee to figure out a solution to recommend. Both administrative code and statute need to be addressed. Clerk Frank asked that the Legislative Committee look at where this process started. Chair Burke asked that Clerk Timmann and her committee to look into Clerk Frank's concern if there is a motion that passes. Clerk Green made the motion for the Legislative Committee to look into the process. Clerk Bock seconded the motion. There was no discussion. Vote was taken and the motion passed unanimously.

Clerk Butterfield continued with her report on 16-17. The money is in the Trust Fund to finish out the year and ready to be released to those Clerks. When the final EC report comes in from all the Clerks, the staff will be making the calculations for the settle-up. Some Clerks will be due additional money because of the settle-up at the end of the year; some Clerks will need to send in additional money to the Trust Fund. The settle-up calculations will be finalized and we are asking that Clerks that need to send in money to please do so and not wait until January.

Clerk Butterfield moved on to the CFY 17-18. As a result of the Clerks' Budget cap, which is set in Statute by the REC, the amount is \$409.4 million. This is the number CCOC is allocated out to all Clerks. This is not close to filling the needs of the Clerks, which was \$461 million. Also, the \$409 million is down 2.99% from the \$422 million given the Clerks to operate in 16-17. In addition, there are fewer funded Clerks and that is a result of Senate Bill 2506 which transferred the 10% now into the Trust Fund. The amount that is projected to be sent in by depository Clerks is less than the amount of what is projected to be sent out to the funded Clerks. That is because there is expected to be some carry-over from the Trust Fund from 16-17 to 17-18. However, those calculations were made before Hurricane Irma. With Hurricane Irma, the Clerks are going to experience a fiscal impact on the Trust Fund. There is a survey that is out to each Clerk's office for the Clerks to give us your estimate of the fiscal impact. There is an expected loss and before we have the individual Clerks' numbers, there is an estimate from statewide data a loss of approximately \$8.6 million. Now the \$409.4 million is closer to \$400 million. Chair Burke asked that every Clerk work on the survey and get it back to the CCOC. He noted that this is revenue lost. Traffic citations diminished tremendously during the hurricane timeframe. Citations are critical to pay Clerks' criminal and nonpaying operations. The money from the citations will not be made up. This is lost revenue for the Clerks to carry out their judicial functions. Chair Burke stated that the Clerks are looking at the Legislature for assistance. Clerk Butterfield asked the Clerks if the survey could be in by October 20, instead of November 1. Chair Burke agreed and said an email would be sent out also.

Clerk Butterfield had one action item that needed to be brought before the Council. This action item is the Budget Forms. There have been changes to the forms as a result to legislation last year and information that has been approved upon. Clerk Butterfield made a motion to approve and adopt the eleven budget forms that are listed in the packet and authorize the Budget Committee Chair to work with staff on any moderate modifications. Clerk Crawford seconded the

motion. There was no discussion and the vote was taken. The motion passed unanimously. This ended the Budget Committee report.

Next was a brief update on the jury funding by Clerk Vick. She stated that she and CCOC staff have been going through a process over the last couple of months trying to determine what the end of the year true up would look like. Basically, the \$11.7 million funding that is provided by the Legislature was from July 1, 2016 to June 30, 2017. At the end of this period, there was a small balance left over but some Clerks had not received sufficient funding for all of their reported juror program costs. Mr. Dew worked with staff from the Legislature, the Department of Revenue and Justice Administrative Commission and finally arrived at a resolution process for Clerks to retain surplus funds and allocate additional funds back to the Clerks that needed them to be made whole for SFY 16/17. Clerk Vick noted that if there were any questions to call her or Mr. Dew. Chair Burke stated that he is not sure why the JAC is handling this jury money for the Clerks. They are not really set up to handle this and properly belongs under the CCOC and would relieve the problems of the distribution of the jury money. Chair Burke entertained a motion to have the Legislative Committee look into possible legislation that would transfer this responsibility to the CCOC from the JAC. Clerk Frank made the motion with Clerk Butterfield seconding. There was no discussion and the vote was taken. The motion passed unanimously.

PIE COMMITTEE

Clerk Green began her PIE Committee report with updates. She noted that there has been an interest in providing another collections summit for the Clerks and staff. This is an effort to share new and innovative ways for collections in the Clerks' offices, best practices and the opportunity for Clerks to share success stories. A survey was sent out and a good response was received. Fifty counties said that they would be participating. The dates for the summit have been set for November 7 and 8 in Orlando at the Rosen Plaza on International Drive. Agenda items thus far include common court collection issues, looking at a toolbox to improve collection efforts, in-house collection programs, etc. She encouraged offices to send participants.

Clerk Green next updated the Council in the progress of Phase 2 of the Framework project. A group of staff members from Clerk's offices have been working on this project for over two years. There are some sub workgroups which is the basis of the deliverables. Clerk Green highlighted three specific updates because they are the ones that are underway. First is the costing project and the intent of this workgroup is to try to figure out a way that we can cost out the Clerks services in their offices. This has gone into Phase 2 costing these services. The focus has been methodology and a pilot with six counties. Citrus, Hernando, Clay, Brevard, Palm Beach and Polk. All are in the process of collecting and submitting their data. The focus was on cases in family court, mental health, domestic violence and indigent cases. The hope is as this methodology is proven out, we will have a better read on the cost to Clerks as we process these cases for which they do not receive any revenue. This will help with the Clerks' story of why additional money is needed to provide these services.

The second update is a workgroup that is looking at the court service revenue streams. This is looking at what the Clerks receive as revenue based for the service areas. The group is identifying what it costs the Clerks to work certain cases they do not get revenue and the ones the Clerks do get revenue and what is that revenue. These two projects are well underway and would like to have revenue stream done by the end of October.

The third group to update had their first meeting last week. They are looking at the performance measures and their validity and relevancy of the measures of today. Clerk Green challenged them to measure quantity and quality. The Clerks may hit a number, but the quality is dropping drastically. Clerk Green thinks that is very important and needs to be captured. Chair Burke asked if there were any questions for Clerk Green. There were none.

Clerk Green then presented on the action item of needing approval for the Quarter 2 Performance Measures Report. The highlights from the January through March were that 11 counties met or exceeded measures which means the remaining 65 counties had at least one action plan and collectively there were 169 action plans. The impacts of fewer staff and lack of funding are being seen. There were some errors on collection and those are being corrected. The Quarter 2 report shows more accurate expected rates. The increase in action plans is due to external reasons. The criminal court collection continues to be a challenge with 65% of the action plans. On the timeliness, 36 of the 69 or 52% of the action plans were system conversions. This is because of the case count project. This should rectify itself in the next quarter. Clerk Green moved that the Council accept the Quarter 2 Performance Measures and action plans with Palm Beach's action plans to be added so the report can be posted on the website. Seconded by Clerk Crawford. Clerk Frank began a discussion on the measuring performance by quality. Clerks are reluctant to bring this up. She would like to see looking at things differently. She noted her office and felt if we look at way we handle the employees and that would tell of the quality. Clerk Green asked if she was trying to tie employee performance to a quality measure. Clerk Frank said she thinks we have to. She just wanted to start this as a conversation without any recommendations, but she feels that this needs to be looked at. Clerk Green noted that this is one of the biggest challenges that this group has is how to properly measure the quality of the work that we provide and the quality of the services we provide. As we continually cut staff, your training is going to suffer, your performance is going to suffer and the quality of service is going to suffer. Chair Burke noted that there are 1800 fewer employees than in 2004 and this translates to mistakes are going to be made. Clerk Green followed by saying these stories need to be told on the premise that mechanisms on the front end from training to quality control and quality review have to be in place in order to prevent those things and that when they do happen the Clerks know that the right controls were in place. Clerk Butterfield noted that it is good to have management philosophy, but the Clerks' do not have the resources to operate their offices. Clerk Green said that it is the goal of that team is to do a better job at defining those measures so we can see those impacts. There was a motion and a second previously made. Vote was taken and the motion passed unanimously.

REQUIREMENT FOR CCOC ANNUAL REPORT TO LEGISLATURE

Chair Burke noted that the CCOC is now charged under Statute under Senate Bill 2506 to prepare and submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chairs of the Legislative Appropriations Committees by January 1st of each year on the operation activities of the corporation detailing the budget development of the Clerks of Court and the end of the year reconciliation of actual expenditures versus projected expenditures for each Clerk of Court. This is a statutory obligation that CCOC needs to fulfill. Chair Burke asked that Clerk Butterfield be tasked to head up this process with the help of her staff and a committee of Clerk Green, Clerk Bock, and Chair Burke. Clerk Crawford made a motion in support of Chair Burke's recommendation. Clerk Newton seconded the motion. Chair Burke asked if there was any discussion. Hearing none a vote was taken and passed unanimously.

REVENUE ENAHANCMENT/FUNDING MODEL COMMITTEE

Chair Burke noted that the CCOC has a duty and a responsibility to make recommendations as to how to fulfill our responsibilities and insure there is adequate funding to do so. He stated that this is extremely important responsibility and we have to communicate this to the Governor, to the Speaker, to the Senate President, to the two Appropriations Chairs, to the two subcommittee Appropriation Chairs that handle our matters. They must know that this is what we are doing in fulfillment of our statutory obligation. He therefore activated the Revenue Enhancement Committee and appointed Clerk Moore-Russell as the Chair. He further asked the Committee to examine new funding models since the previous models have not assured proper funding.

Clerk Russell reported that the committee had their initial meeting in September in Orlando. She thanked members Clerk O'Neil, Clerk Conrad, Clerk Ruvin, and Clerk Irby for serving on the committee with her. Much of the first meeting was used to first educate the members on the history of funding Clerks' budgets and in particular the change in the process from local to state responsibility in 2004 due to the revision to Article V of the State Constitution, and the many changes since required by the legislature. There was also much discussion on all the different ideas that they had heard from other Clerks and staff on how to improve the funding model.

After the September meeting they heard from Chair Burke that due to Hurricane Irma that there would potentially be a revenue shortfall impacting the current fiscal year budget which meant the Committee's recommendations for funding sources are needed sooner than later. The Committee therefore met again on October 2nd and it was the recommendation of the committee to take a previously created CCOC revenue options document to update and amend and provide new proposals to recommend to the CCOC Legislative Committee to make up the Clerks' deficits. The committee voted on the document and it was provided to the CCOC Legislative Committee for their review. The Legislative Committee met and made some slight revisions to the revenue options document. Clerk Burke asked that Clerk Russell and Clerk Timmann provide a summary of the report jointly for the Council members.

Clerk Timmann and Clerk Russell began going through the report. Clerk Timmann started with the background. She stated that this is an ongoing project. The goal was to go ahead and start moving this report forward to the Legislature, however she wants to make sure that everyone understands that this is not a completed project. So, if anyone has any ideas to please pass that along so we can continue adding to the report. This is not a closed report, but we also want to go ahead and move it forward so we have something to start working on.

Chair Burke asked if this report gives us the funds necessary to support a needs-based budget. Clerk Timmann said yes and noted that this report provides a full menu of revenue options. These options have a lot of flexibility to the policymakers and to ourselves.

Clerk Timmann and Clerk Russell spoke of the options given in the report. The report was posted on the CCOC website as well as copies were handed out to the Executive Council members present. The description of the options was found on page 4, 5 and 6. Clerk Russell noted that the options were not prioritized because her committee wanted to give the Legislative Committee the flexibility to determine which options they think they can move forward with.

Clerk Russell went over in detail each of the five options for receiving additional funds. Clerk Russell then spoke about other options include enhanced collection enforcement mechanisms, provision for increased FRS costs, and provision for increased health insurance. Clerk Newton was recognized and stated that this is an important part in what we are asking. FRS costs and health insurance go up each year and other agencies receive increases to cover those costs. As our revenues are decreasing, the costs of our benefits continue to rise. Clerk Butterfield agreed with Clerk Newton. She noted that state agencies budgets do not contain the increases. The increases are funded from outside. The Clerks' budgets must fund the increases within their budgets. She wanted to clarify that any increases would be done using the same methodology for increases as state agencies. The last option is that Clerks would be allowed to have a 3-5% reserve. The Clerks do not have a reserve for emergencies. As an example, the impact of Hurricane Irma on revenues will mean Clerks will not have sufficient dollars to support their approved budgets in CFY 17/18 without seeking help from the Legislature.

Clerk Russell concluded that these are the options that have been presented to the Legislative Committee that will be now be presenting to the Council today. The Committee will be meeting again later in the year and will be talking about future models for ten years down the road. In ten years, what is the Clerk's model going to look like for revenue. These discussions will be part of our future meetings. Chair Burke entertained a motion that this report is our statutory fulfillment of our obligation with the understanding that the actual wording will be left to the Legislative Committee and there will be an accompanying memo which will be signed by him and Clerk Timmann as the Legislative Committee Chair to be put forth to the Legislative leaders and the Governor. Clerk Green made the motion with a second by Clerk Crawford. Chair Burke asked if there was any discussion. The discussion was started by Clerk Crawford. He wanted to thank all that had worked on this. Clerk Russell said that the thanks go to the CCOC staff and the Clerks who have helped to build this document. The group now just added to what was created in the past. Chair Burke thanked Clerk Russell for her leadership. The question was asked who would retain the 5% reserve. Clerk Russell said it would be her opinion that it would be housed at the CCOC. Chair Burke noted there these recommendations are still just concepts and the details

would be worked out during the process. The overall concept of the recommendations is to make sure the Clerks get reimbursed for the work they do. There was no more discussion and the vote was taken. The motion passed unanimously.

LEGISLATIVE REPORT

Clerk Timmann began her report by going over some of the activities of the Legislative Committee. They have had two meetings since September 22nd. This included the organization meeting preparing for the 2018 Legislative session. We refer to our statutory responsibilities as I did at the beginning of the conversation. We asked that all the members of the CCOC Legislative Committee provide information of their availability during committee meetings and then doing the same for session to make sure that we know which clerks are available to be either on deck or on call to assist with responding to any issues that arise during committees and session including direct questions and requests for information by legislative staff and Legislators as well as just being able to be on hand to provide expert information on the CCOC's roles. The Committee is working closely with the FCCC on this to make sure that we are working in tandem to provide the most efficient responses possible. Most Clerks have responded and will follow up with those who have not. The Committee talked about the process for handling fiscal impact bill analyses as we did last year. That worked very well and I must reach out and applaud all the finance staff out in the Clerks' offices. The process has already started as bills are being filed. We are looking at them independently to see right away if we think there might be an impact to Clerks as well as responding to Legislature for analyses. If there are any policy implications, we make sure to coordinate with the FCCC side as well so we are speaking with one voice and have all the experts at the table to provide that information. If you have any idea on projects, committee projects, please pass those along. Also, we received an update from Clerk Green on the PIE Committee. It seems like every time we are at a committee meetings or speaking to Legislators the issue continues to come up on how much does our actual work cost. The work that her committee is doing is really playing into everything that we are being asked about and now we are being able to have real responses. Clerk Timmann feels that is making a significant change. The Legislators care about the actual cost. We established a workgroup led by Clerk Eaton to go ahead and start working through Senate Bill 2506 from last year. As we recognize with any big package, any bill there is always for some opportunities for some clarifications and some other options. She asked Clerk Eaton if he had anything to add. Clerk Eaton said they had had a conference call last week to get started. Some comments have come from Legislative staff. They also indicated that they felt that there was some clarification needed in Senate Bill 2506. So, if that bill is opened, we want to make sure we have the opportunity to step in and provide any improvements that are possible. As far as an action item, Clerk Timmann is asking for the formal approval for the process of bill fiscal analyses. The motion was made by Clerk Butterfield and seconded by Clerk Green. Chair Burke asked if there was any discussion. Hearing none, the vote was taken and passed unanimously. That was the end of her report and Chair Burke thanked her for her work.

TCBC REPORT

Chair Burke asked Judge Ficarrotta to give his report. He thanked Chair Burke and began his report noting that there is a Chief Judge Meeting coming up in Tallahassee in the next week or two. We have a conference call on our budget request soon. The TCBC is looking forward to session with the same trepidation as the Clerks. The Legislature expects us to work together. He was impressed with the report that Clerk Green and Clerk Timmann had put together regarding the data that has been all have collected. It is so important. The Legislators do not understand what the Clerks do and they do not understand what the Courts do. "You have to educate before you can advocate. He believes that the Clerks are headed in the right direction on that. He ended by stating that he looks forward to working with the Clerks. The Courts and the Clerks are in the same boat. Chair Burke thanked the Judge.

OTHER BUSINESS

Chair Burke noted that he and Mr. Dew meet administratively 9:00 AM every Monday morning by phone. We go over administrative matters. He appreciates this opportunity and it helps him be aware of the many projects the CCOC is working on as well as the budget issues Clerks are facing.

Clerk Green wanted to speak that during the CCIS meeting there was a discussion about establishing a more formal partnership with CCOC staff as it relates to the use of CCIS data elements and the workgroup that they have established. One is data, one is reporting, one is the data quality workgroup and the last is security. She recommended to officially assign somebody from CCOC staff to participate in these workgroup meetings so that as CCIS is to be enhanced and looked at, we are also including the needs of the CCOC from the data element perspective. Denise Bell will participate as an external staff member in a Clerk's office. I think it would probably be a good idea to have Doug Isabelle and Lisa Daws from the technical perspective to get involved. There was no need for an action item. All agree that is a good idea. Clerk Butterfield noted that the CCIS is a valuable source of data.

Clerk Green made a motion to adjourn. Seconded by Clerk Newton. Vote was taken and passed unanimously.