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DRAFT Agenda Revenue Enhancement/Funding Model Committee

Date: October 2, 2017

Time: 2:30 pm EDT

Location: Phone Conference Call. Please dial in at (904) 512-0115, Code 412463.

1. Discuss and approve potential Funding Options. (Note: There is an expectation that a recommendation be available for the October 10, 2017 CCOC Executive Council meeting.)
2. Other

Committee Members: Tiffany Moore Russell, Orange County, Chair; Jess Irby, Alachua; Angel Colonnese, Manatee; Hunter Conrad, St. Johns; Paula O'Neil, Pasco; and Harvey Ruvin, Miami-Dade.



Our Mission:

As a governmental organization created by the Legislature, we evaluate Clerks' court-related budgetary needs, and recommend the fair and equitable allocation of resources needed to sustain court operations.

FLORIDA CCOC

Clerks of Court

Operations Corporation



Funding Continuity Action Plan Recommendations

**Revenue Enhancement/New Funding Model
Committee**

Honorable Tiffany Moore Russell – Chair

Draft 3

September 29, 2017

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Background

“SECTION 14 Florida Constitution (b) *all funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c), shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, the state shall provide, as determined by the legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.”*

Section 1:

Guiding Principles

- (1) Redirect revenues currently collected by Clerks.
- (2) Revenues would be redirected from State General Revenue and not impact state and local trust funds.
- (3) Revenues need to support a 3% annual budget increase for a 5-year period to incrementally stabilize Clerk budgets.
- (4) A menu of revenue options would be included in the plan and prioritized.

Section 2:

Menu of *Funding Options to Adequately Fund Clerks Court-Related Functions*

Options	Annual Revenue Estimate	Priority
<ul style="list-style-type: none"> Redirect Ch. 2008-111 revenue from State GR <ul style="list-style-type: none"> Holland & Knight items (5 items) All other Electronic Sale Fee (s.45.035(3), F.S.) – amend wording to clarify that Clerks collect \$70 <u>each time</u> a sale is reset rather than the current interpretation that fee is only allowed once on case 	<p>\$35m - \$37m \$25m</p> <p># foreclosure sales x xx% (approx. cases that get reset)</p>	<p>1</p> <p>1</p>
<p>Reimbursement from State GR or other state oversight agency</p> <ul style="list-style-type: none"> Jury actual costs (wages/operating, per diem and meals) Domestic violence, repeat violence, dating violence, sexual violence, and stalking (\$50 funding per case from GR – not to be taken away from the DV shelters) Felony Case Cost Reimbursement (WWM is approx. \$300/case) Civil Indigency Cases Cost Reimbursement 8% Administrative Fee for collecting and remitting court fees on behalf of State GR and State agencies (excluding court TFs) to the State DOR 	<p>Amount > \$11.7m</p> <p>CCOC 86,738 cases x \$50 = \$4.3m</p> <p>CFY16 Outputs 256,256 felony cases x \$300 = \$76.9m less CFY16 EC Clerk felony revenue \$17.8m = \$59.1m</p> <p>CCOC \$6.5m</p> <p>CFY16 State distributions (GR + State TFs) = \$248.4m x 8% = \$19.9m</p>	<p>1</p> <p>1</p> <p>1</p> <p>1</p>
Other Options		
Enhanced Collection Enforcement Mechanisms	Indeterminate	
<p>Benefits increases</p> <ul style="list-style-type: none"> Provide funding for increased FRS costs in conjunction with state agencies on an approved FTE basis Provide funding for increased health insurance at the percentage increase provided to state agencies on an approved FTE basis 	CCOC calculates using approved FTEs	
<p>Cash flow</p> <ul style="list-style-type: none"> Exclude Trust Fund from sweep into state GR Allow Clerks to retain a reserve of 3% - 5% 	Indeterminate positive \$10m - \$20m	

Description of Options

- 1) (a) Ch. 2008-111, LOF (SB 1790) authorized the Clerks of Court to collect fines, fees, court costs and service charges in 73 separate sections of Florida Statutes and remit these funds to State General Revenue. Prior to 2008, these revenues would have been retained locally by the Clerks to offset costs of performing court-related functions. Any excess revenues above approved budgets were remitted to the State.

Recommend the revenues collected by the Clerks per Ch. 2008-111, LOF be redirected to the Clerks of Court Trust Fund and retained locally to offset costs of performing court-related functions.

- (b) Interpretation of the application of the electronic sale fee on foreclosure sales is not well defined. Recommend clarifying legislation to allow Clerks to charge each time a sale is reset.

- 2) Authorize the Clerks of Court to seek reimbursement from the Justice Administrative Commission (JAC) or other agency for performing the following court-related functions:

- a) Section 40.24, F.S. requires the Clerks to reimburse jurors for juror service. Prior to 2008 the State reimbursed the Clerks for actual costs. However, since 2008 the Clerks have paid these costs from their operating budgets.

Recommend authorizing Clerks to be reimbursed consistent with procedures prior to 2008. The State currently funds \$11.7m of these costs. This should not be a set amount; it should be based on the quarterly requests from Clerks with an annual true-up to ensure proper reimbursement and accounting for funds.

- b) Section 741.30(2) (a), F.S. states that, notwithstanding any other law, the clerk of the court may not assess a fee for filing a petition for protection against repeat violence, sexual violence, or dating violence. However, subject to legislative appropriation, the clerk of the court may, each quarter, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection issued by the court under this section at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay the law enforcement agency serving the injunction the fee requested by law enforcement agency; however, this fee may not exceed \$20.

Recommend authorizing a reimbursement for the Clerk of \$50 per case filed. The additional \$10 is to cover the Clerk's additional costs since 2002 when the initial reimbursement was authorized. Also, recommend the request for reimbursement be submitted to the JAC consistent with other court cost reimbursements. This service charge does not include law enforcement agency costs.

It should also be noted that this reimbursement should be additional funding for this activity on a statewide basis. It should not reduce funds already allocated to other agencies or shelters within the state who perform related/ancillary duties. This request is to be funded from State GR.

- c) State agencies do not pay a filing fee for cases they file or for any copies or other services Clerks perform for them in the course of court-related activities. The average WWM for a circuit criminal case is approximately \$300/case.

Recommend reimbursement from the state through an annual appropriation based on estimated filings for the year under budget or using an historical average of past filings. Agencies would also be required to pay for copies and other services at the statutory rates set for all other customers in s. 28.24, F.S.

Responsibility for collecting amounts owed on these cases will remain with the Clerks. Performance standards currently in place, as well as certifications of minimal collections efforts by Clerks are to be maintained and monitored for compliance.

- d) Applicants who file civil cases, particularly dissolutions of marriage, and are determined to be indigent are not required to pay the statutory filing fees associated with the various case types being filed.

Recommend the State reimburse Clerks for the lost filing fee revenue to cover adequate costs for services rendered.

- e) The state Department of Revenue (DOR) charges an 8% administrative fee for receiving and disbursing funds on behalf of other state agencies.

Recommend the State reimburse Clerks for handling all fines, fees, service charges and court costs collected for the state court system and remitted to the State DOR. The recommendation is to only collect this fee from funds remitted to the State GR and other state agencies or non-court trust fund recipients not related to the core court system (exclude State Courts TF, State Attorney TF and Public Defender TF).

- 3) Recommend seeking authorization for enhanced collection enforcement mechanisms. Some of these enforcement mechanisms were also recommended by the CCOC Revenue Enhancement Committee in 2010 and recommendations made to the Legislature by the National Center for State Courts in the November 2012 "Study of the Effectiveness of Collections in the Florida Courts."

- (a) Amend s. 28.35, F.S. to specify that the Clerks of Court are charged with the responsibility for collecting all court costs, fines and fees imposed by the courts as authorized in statutes including collection schedules, determinations of community service and other related collection activities. The CCOC will develop procedures and best practices in consultation with the Courts and the Clerks.

- (b) Currently Florida Statutes authorize the Clerks of Court to notify the Florida Department of Highway Safety and Motor Vehicles (DHSMV) to withhold a driver's license for nonpayment of court-related fines and fees. Authorizing the Clerks to notify DHSMV to withhold renewal of vehicle and boating registrations for failure to pay court related fines and fees would provide additional enforcement mechanisms that could be used annually when renewing vehicles. It is recommended that this enforcement mechanism apply to CF, MM, CT, TR, CO, MO, and IN case types.
- (c) Recommend authorizing Clerks of Court to notify the Department of Professional Business Regulations (DPBR) to withhold renewing of professional and commercial licenses for non-payment of court-related fines and fees.
- (d) Section 443.051(3) (c), F.S. requires the Agency for Workforce Innovation to review court records that disclose the individuals who owe child support to intercept unemployment compensation. Recommend extending this authorization to Clerks to permit the intercept of unemployment compensation paid to defendants who owe court costs, fines, and fees.
- (e) Amend s. 24.115, F.S. by adding (b) if the state owed debt is comprised of criminal costs and fines, the Lottery Department shall review court records through the Comprehensive Case Information Systems (CCIS) as referenced in s. 28.24, to identify defendants who owe such outstanding debts.

4) Benefits increases

All state agencies, including those in the court system (judiciary, public defenders and state attorneys), receive automatic budget authority increases for changes in FRS and health insurance costs.

Recommend the state fund these increases at a similar amount based on what state agencies receive. This would be allocated to Clerks on an approved FTE basis.

5) Cash Flow

a. Amend statutory Trust Fund sweep process

Section 28.37 (3), F.S. requires the Department of Revenue to transfer from the Clerks of Court Trust Fund to the General Revenue Fund the cumulative excess of all fines, fees, service charges, and costs submitted by the clerks of court pursuant to subsection (2).

State Trust Funds are not required to be swept annually. Recommend the sweep process for the Clerks of Court Trust Fund be consistent with State administered trust funds.

b. Clerks Reserve Fund

As is common for most, if not all, government agencies, an operating reserve of 3% - 5% is considered good accounting policy. These funds are used for emergency purposes (i.e., natural disasters) or to assist with budgetary funding issues.

Section 3

Recommend Redirected Funds July 2018

- Redirect the following court-related revenue from State General Revenue to the Clerk's Trust Fund beginning July 1, 2015. Ch. 2008-111 LOF comprises of 73 sections of statutes. These individual statutes can be compiled into four revenue sources: (1) s. 316.193, (2) s. 28.241(1) (d), (3) s. 318.18, F.S. and (4) all other (**Est. \$12.5 million quarterly**).
- Domestic Violence and related case types - \$40 is already in statute with legislative approval. Modifying this statute and providing an additional \$10 per case will help cover costs in this area (**Est. \$1.33 million quarterly**). (This is to be provided from GR and not be taken away from the DV shelters.)
- Felony Filing Fee Reimbursement - \$300 per case is the average weighted workload measure for this case type. If approved, any Clerk fees collected on these cases would be remitted to State GR since the filing fee would cover costs (**Est. \$14.8 million quarterly**).
- Civil Indigency Filing Fee Reimbursement – Filing fee amount requested ranges from \$135 for County Civil, \$175 for PMH, and \$195 for Family, Dependency and Circuit Civil (**Est. 1.6 million quarterly**).