



CCOC

FLORIDA CLERKS OF COURT OPERATIONS CORPORATION

JD Peacock, II
OKALOOSA COUNTY
EXECUTIVE COUNCIL CHAIR

Jeffrey R. Smith, CPA, CGMA
INDIAN RIVER COUNTY
VICE-CHAIR

Tiffany Moore Russell, Esq.
ORANGE COUNTY
SECRETARY/TREASURER

STACY BUTTERFIELD, CPA
POLK COUNTY

JOHN CRAWFORD
NASSAU COUNTY

TODD NEWTON
GILCHRIST COUNTY

LAURA E. ROTH
VOLUSIA COUNTY

HARVEY RUVIN, ESQ.
MIAMI-DADE COUNTY

RON FICARROTTA
13TH JUDICIAL CIRCUIT JUDGE
SUPREME COURT APPOINTEE

NIKKI ALVAREZ-SOWLES, ESQ.
PASCO COUNTY
SENATE APPOINTEE

KEN BURKE, CPA
PINELLAS COUNTY
HOUSE APPOINTEE

JOHN DEW
EXECUTIVE DIRECTOR

FIRM OF BOYD AND DURANT
GENERAL COUNSEL

2560-102 BARRINGTON CIRCLE | TALLAHASSEE, FLORIDA 32308 | PHONE 850.386.2223 | FAX 850.386.2224 | WWW.FLCCOC.ORG

Minutes of April 5, 2021, CCOC Budget Committee Meeting

Approved by the Budget Committee at their meeting on May 17, 2021.

The Budget Committee of the Clerk of Courts Operation Corporation (CCOC) held a meeting via WebEx on April 5, 2021. An agenda and materials were distributed in advance of the meeting and posted on the CCOC website. Provided below is a summary of staff notes from the meeting. Staff notes document committee action, not to be a complete record of committee discussions. All motions adopted by the committee are in **bold** text. All CCOC staff action items based on committee direction are in red and **bold** text.

1. Agenda Item 1 – Call to Order and Introduction

The meeting was called to order by Clerk JD Peacock, Chair of the Budget Committee. Marleni Bruner, CCOC Senior Budget Manager, called the roll.

Present for the meeting conference call: Clerk JD Peacock, Clerk Jeff Smith, Clerk Ken Burke, Clerk Pam Childers, Clerk Gary Cooney, Clerk Brenda Forman, Clerk Tara Green, Clerk Carla Hand, Clerk Bill Kinsaul, Clerk Tiffany Moore Russell, Clerk Don Spencer, Clerk Carolyn Timmann, Clerk Angela Vick

Absent from meeting conference call: Clerk Tom Bexley, Clerk Stacy Butterfield, Clerk John Crawford, Clerk Greg Godwin, Clerk Kellie Rhoades

2. Agenda Item 2 – Approve Agenda

A motion was made to adopt the agenda by Clerk Timmann and seconded by Clerk Vick. Clerk Peacock asked if there were any questions regarding the agenda. There were none. **The agenda was adopted by consent.**

3. Agenda Item 3 – Approve Minutes from March 8, 2021 Meeting

Clerk Peacock asked if anyone had any questions regarding the March 8, 2021, Budget Committee Meeting minutes. There were none. Clerk Peacock then asked if anyone would entertain a motion to approve the minutes.

Clerk Timmann motioned to adopt the minutes, which Clerk Cooney seconded. The motion was adopted by consent.

4. Agenda Item 4 – Legal Opinion

Clerk Peacock explained that at the previous meeting, committee members requested a legal opinion from the General Counsel on the clerks' ability to utilize dollars in the current fiscal year from cumulative excess that at the end of this year to aid the clerks with existing budgetary concerns. Clerk Peacock explained that the legal opinion provided by Mr. Rob Boyd and is in the meeting packet. Clerk Peacock opened up the floor for any questions they may have of Mr. Boyd.

Clerk Burke stated that when there is a lack of revenue, the budget is cut. He stated that to him, there is no authority in statute that the budget is cut. Clerk Burke stated that when the revenues are in excess, clerks should have the opportunity to do something with that money. Clerk Burke stated that if the REC is wrong in their estimate, there should be the authority to spend the excess. Clerk Burke asked for clarification.

Mr. Rob Boyd responded that as far as the reduction in funds, it is standard accounting, and they did not look into that as part of the request for this legal opinion. If excess funds were on hand, the legal opinion would be a bit different as submitted. He stated that the challenge in this scenario is that the excess funds are still being estimated. The question was, could the estimated funds be used, but the real question, according to Mr. Boyd, was when those funds could be realized. They are not money in the bank yet. They can be used in the next fiscal year as an actual.

Clerk Burke did not feel that this answered his question as he wanted to know the legal authority was to cut budgets. He stated that he is predicting that the excess estimate will be able to be used, but if clerks are predicated on cutting budgets, they should increase their budgets if the estimate comes in higher.

Clerk Peacock explained that he has taken this issue from an accounting perspective, taking in the timing of state fiscal year and county fiscal year no legal, and how to work from an accounting practice. He did not recall any conversation regarding legal authority when having to make mid-year cuts in the past. He stated that if the money is not there, it is not able to be spent. He explained that the question was whether clerks could spend the estimated excess revenue for the future in the current fiscal year, and the legal opinion stated there was no legal support to do that.

Clerk Peacock asked if Mr. Jason Welty, CCOC Budget and Communications Director, had any comments to add from the staff. Mr. Welty stated that he did not have anything to add and that the legal opinion was in line with what legislative staff discussed with CCOC staff months ago.

Clerk Burke stated that the bottom line was when the REC underestimates the revenue, they limit the clerks, and when the REC overestimates the revenue, then

clerks have to cut. Clerk Peacock stated that he recognizes there are some incentives built into the system that our legislative team is working to adjust.

Clerk Smith wanted to know if the legislative team has addressed this issue or if they would be working on it in the future. Clerk Peacock stated that as the CCOC Chair, he has had offline conversations about this but has not directed the Legislative Committee chair to take formal action. Clerk Timmann was called on, and she explained that this issue has been brought up repeatedly and will continue to do so regarding if we have to take the loss when it goes under, why do we not have the benefit when it goes over. She also stated that using this legal opinion, we can ask what would have to change so this wouldn't be the case. She stated the legal opinion was nice to have. She also stated that Mr. Welty has had these ongoing conversations as well with legislative staff and will continue to do so.

Clerk Peacock reminded everyone that one of the legislative goals of this year was to obtain a reserve, and once that issue is across the finish line, then the details can be locked down. Other issues like when is the revenue estimate from the REC that locks the clerks in; is it in July or November? Clerk Peacock acknowledged that legal opinion was requested and presented for the Budget Committee. At the next Executive Council meeting, he will share the request and delivery of the legal opinion.

5. Agenda Item 5 – Budget Workplan Update

Clerk Peacock explained that the next agenda item was related to the Budget Workplan. He stated that things had to be fluid due to COVID-19 impacts and legislative action. Actions will be locked in tighter once session ends, and we know some of the things we have to work with. He would like the committee to adopt the things they can control, like the Committee's work on the Base Budget and adjustments from the various topics and statewide issues the committee feels are essential. Clerk Peacock explained that the timeline is from April to May to work on those things as presented in the packet. Clerk Peacock explained that the Base Budget exercise will be adopted at the next meeting in May, but the issues and forms will be approved today. The draft of the base budget will be worked on today and formally adopted in May. Clerk Peacock noted that other issues and dollar amounts relating to individual county statewide issues are due in June via the Budget Issue form, in addition to non-statewide issues a county requests funding for. The budget training will occur in May.

Clerk Peacock stated that in June, budget requests will be reviewed, and decisions will be made as a Committee on which ones should be adopted. He stated that last year, only FRS was adopted. Clerk Peacock then stated that the July REC revenue amount would be released, and a committee-approved expenditure budget would be adopted, and the revenue-limited budget would be applied. Clerk Peacock asked for questions regarding the timeline. Seeing none, he moved to Agenda Item 5, Attachment 2, the budget procedure, which he noted as a strong starting point.

Clerk Peacock explained that the clerks will start with the committee-approved expenditure budget, not the requested budget or the revenue-limited budget. Clerk Peacock explained that the reason for starting there is because last year, the committee did the work to determine what the appropriate funding level would be. The amount had to be reduced by the estimated revenue, which was not based on operational logic but the funds that are available. Clerk Peacock continued that statewide funding issues as approved by the committee would be applied, examples under #2 that will be discussed in the meeting, followed by an adopted base budget. Clerk Peacock explained that by June 1, requests for additional issues, their response to statewide issues, revenue projections, and clerk certification letters would be collected.

Finally, in #5, 6, & 7, the expenditure budget will be approved, and then in July, it will be balanced to available revenues. Clerk Peacock stated that this was the goal for the budget procedure for this year. He asked if there were any questions. There were none.

Clerk Peacock then moved to Attachment 4, where he explained the template in-depth but mentioned that the same logic would be used as last year. Clerk Peacock identified an error in Column F, "CFY 2021-22 Expenditure Budget (Committee Approved)." It should read, "CFY 2020-21 Expenditure Budget (Committee Approved)." Clerk Timmann asked for clarification on Column E, and Jason Welty explained that it was a formula error. Clerk Peacock stated that he misses working in person to catch these kinds of mistakes. This document is a draft, and that cleanup will be made.

A question came through chat regarding when the spreadsheet was sent out, and Clerk Peacock responded that the spreadsheet is being viewed during this meeting, but the only thing sent out was a pdf contained in the packet. Clerk Smith asked for clarification on Column G on Mr. Welty's sample. Mr. Welty explained that the vacancy issue was from last year, and random numbers were used to show how it would work. Clerk Smith also questioned if the 180-day vacancy issue would be kept in light of COVID-19, and he believed that clerks should respond and then state if they are vacant due to the pandemic.

Clerk Burke asked if Clerk Peacock was asking the committee to make policy decisions today. Clerk Peacock stated that no, he was not looking for a final decision but want ideas and direction to give the counties. If there are any statewide issues that the committee wants to look at to make a formal decision on them later. Clerk Burke stated that he did not know if it was enough time to review the packet coming off a holiday weekend, and he also missed meeting in person. He agreed that it needs to be pointed out that this is a starting point and that there is no pressure that these are final decisions. Clerk Peacock stated that this will not be adopted until the next meeting. Clerk Burke suggested that the next meeting be in person in May. Clerk Peacock explained that he wants to say some may have the vaccine by then if they want and be willing to meet in person.

Clerk Green suggested considering lifting the 180-day policy due to the reduction a lot of counties took, through attrition or furlough. Clerk Green stated that the backlog of cases coming through are the focus for clerks, along with compliance. Clerk Green explained that constituents should be on the road working and driving. Clerk Peacock agreed.

Clerk Timmann stated that to add to the 180-day issue, budget issues are primary, but trying to hire during closures is very challenging. She explained that in this case, it should be strongly considered because of the budget and difficulty hiring. Clerk Vick agreed, stating that there should be a lot of considerations given to the current environment and situation due to the last year.

Clerk Vick also asked whether the new judges assigned would be the same as if the legislature appropriate funding for additional judges to help with the backlog of cases due to COVID-19 since one is permanent and one is temporary. Clerk Peacock stated that his initial thought is that statewide new judges is for statutorily created new judges. He stated that the Pandemic Recovery Plan, the backlog of cases, is a separate issue and would have a separate funding source. Jason Welty agreed and also stated that as this spreadsheet is built, columns with non-recurring amounts will be added. That way, next year, the one-time funding for pandemic-related items will be removed. Clerk Vick said that it is important to keep everyone on the same page and able to follow as we loop back through what happens next year.

Clerk Moore Russell suggested pausing the 180-day issue. Clerk Peacock stated that he supports removing that as an item. He stated that although it is a state policy, it should not be applied this year. Clerk Miller stated that a total and complete budget should be put in place so that clerks can hire a full staff.

Clerk Peacock explained that the 2021 Budget approved was \$448 M, and the revenue was \$410 M based on the REC projection. The REC creates this number, not calculating what clerks need to operate fully but on revenue projections of certain case types. Clerk Peacock explained that there is no tie to workload, and as this is a zero-sum game, all clerks have to share the same pot of money. Clerk Miller stated that her staff is so skeletal and exhausted. Clerk Peacock stated that he hopes clerks can get there.

Clerk Green asked if a formal motion was wanted. Clerk Peacock stated that it is okay to remove this item if there was full consent, and if any objection were present, there would be a vote. He then asked if there were any other statewide reduction issues. There were none.

Clerk Smith stated that the minimum wage is going to \$10 and should be kept on the spreadsheet for discussion purposes. Clerk Burke explained that TCBC puts a price tag on new duties and requests funding from the legislature. There is a mandate for drive license reinstatement events which is costly, and he explained that he doubts the legislature will fund the clerks for everything they mandate. Clerk Burke explained that

the clerks should calculate their costs. He specifically mentioned the Data Transparency initiative, the UCR initiative, a bill regarding payment plans, and the costs need to be identified. Plus, regular items such as FRS increase, health insurance increase, then dealing with minimum wage and its effects. Any new duties need to be quantified. The legislature does not remove duties from the clerks. Clerk Peacock stated that some of these costs would be trailing once the mandate is put into effect.

Clerk Green agreed, stating that clerks are constantly asked to do additional duties and rarely get the compensation to perform the duties. Clerks stand at the ready to perform all essential services, but the challenge is that for the judiciary, it is an ask. For clerks, any new fee requires a two-thirds vote or funding for a no-fee case/service.

Clerk Moore Russell asked if Clerk Peacock is proposing that the CCOC would automatically fund clerks for the constitutional minimum wage increase as they go through each stage. Clerk Peacock clarified that these columns are to capture the costs, and then the Budget Committee will decide if they will include the issue in the base budget. Clerk Moore Russell wondered how many clerks are already beyond the \$10 to be competitive would they submit a request on behalf of for funding purposes. Clerk Peacock explained that this would be statutorily required in this column and a different issue for anything beyond that.

Clerk Timmann wanted to go back to the fiscal impact of new mandates and state that responsibilities and costs are all present in the clerks' fiscal analysis that is submitted during session. She stated that it would be interesting to update a final report after session and have that data for the Budget Committee. Clerk Peacock stated he thought it is a great idea.

Clerk Kinsaul stated that he is opposed to bucket amounts for minimum wage and even for reductions. He stated that for offices that are already at \$15 per hour minimum, they wouldn't receive any additional funding for this issue, and money will be taken from them to fund those who are not already at \$15 per hour. He prefers that it be done by cost per case only. Clerk Peacock stated that his points are well taken. He understands but does not know how it would work statewide, as he likes the idea of using case counts for distribution but doesn't know if we are there yet. There will be a time for additional conversation for the Case Counting Workgroup. Clerk Alvarez-Sowles stated that her office is not at \$15 per hour, but the Senate Appropriations Committee released their budget, and they are bringing their minimum wage up to \$13 per hour. She asked if clerks are looking to follow suit with the state. Clerk Peacock stated that it was an interesting thought to consider.

Clerk Peacock asked if anyone had objections to including FRS increases in this spreadsheet. With no objections, it would stay on the list. Clerk Burke stated that these are only to see the figures, but it is not an approval of the issue. He wants to see the impact of this but does not want to approve it today.

Clerk Peacock then mentioned to the recurring statutory new judges if it is funded. Jason Welty explained that 1 FTE per judge at county average FTE cost is sufficient. Clerk Peacock asked if there was any opposition to keeping that on the spreadsheet. Mr. Welty said the issue is currently to fund the twelve new judges they created last year and an additional four new judges for this year. Clerk Burke asked if the JA was also funded. Mr. Welty said yes, the administrative support for the new judges was also funded. Clerk Burke explained that if clerks are going to have a formula like this, they should include clerk support when the legislature funds a new judge. He explained that CCOC does not receive extra funding from the legislature for new judges. Clerk Peacock agreed it was a great concept but a broader issue to receive an appropriation. Mr. Welty and the CCOC team will make sure to reach out to impacted counties for the issue.

Regarding the \$15 per hour pay wage increase, Clerk Peacock explained that we heard Clerk Kinsaul's comments. He stated that he believed this column should only be what the statutory minimum is, which is \$10 per hour. Compression issues are not considered beyond the constitutional requirement. Clerk Moore Russell requested that it remain as a column so everyone can see the impacts but does not think everyone should pay for the increase of others. Clerk Peacock suggested it be used as an information-gathering tool and can be used next year as part of the legislative request. Mr. Welty explained that based on the Operational Budget, there are only twenty-four positions at less than \$10 per hour statewide. Some of the positions were student positions, and the hours worked could have been miscalculated. He does not expect much in that column.

Clerk Peacock stated that clerks could request as many issues as they would like. Clerk Burke stated that state mandates should be included. Clerk Peacock stated that details about state mandates would be added on another tab. The committee can then decide which ones to fund this year. Clerk Peacock suggested we do sampling for a statewide amount but does not want to add the extra work to clerks. That may be a statewide cost that can be calculated and estimated for each county. Clerk Peacock also states that he anticipates that between FCCC and CCOC, the information at a statewide level may already be there, then apply a formula to allocate it to each county. Clerk Timmann said that we could expand on the final analysis of the bill that passed and apply that to each county. Clerk Green agreed the data is probably there. Clerk Peacock stated that mandates are a potential statewide enhancement but will not be collected at the county level. Mr. Welty agreed that the work could be done but may take some time.

Clerk Kinzel had comments regarding her low level of pay and significantly reduced budget over the years. Clerk Peacock stated that management decisions are up to each clerk, as in his office, he will cut a position to increase the pay of others but recognize the concerns are valid statewide.

6. Agenda Item 6 – Budget Forms

Marleni Bruner explained the budget forms referenced in the meeting packet. Mrs. Bruner explained that forms are done and included in this packet unless there are changes. This includes the Budget Issue form, the Revenue Projection form, and the Clerk Certification letter. Instructions will be updated and available to clerks prior to budget training.

7. Agenda Item 7 – Budget Training

A time and date will be selected by CCOC staff and sent out at a later date.

8. Agenda Item 8 – Other Business

Clerk Vick wanted to thank CCOC staff and clerks that will be coming to the New Clerk Academy next week.

Clerk Peacock stated that the next meeting would be held in person with a WebEx option in May. He would like to have a quorum present if possible. The original date selected was May 13th from 2 – 4 PM. Clerk Peacock stated that if there are changes to make an in-person meeting work, everyone will be notified. He noted the Executive Council meeting on June 28th at conference. Clerk Peacock explained that if the base budget is constructed by June 1, the clerks are in good shape.

Clerk Peacock recognized retiring employees Kathryn Farynowski and Douglas Isabelle and asked for any farewell comments.

The meeting adjourned at 4:15 PM.
