



LEGISLATIVE COMMITTEE MEETING

January 17, 2023

Jeffrey R. Smith, CPA, CGMA
INDIAN RIVER COUNTY
EXECUTIVE COUNCIL CHAIR

Tiffany Moore Russell, ESQ.
ORANGE COUNTY
VICE-CHAIR

Laura E. Roth, ESQ.
VOLUSIA COUNTY
SECRETARY/TREASURER



JOHN DEW
EXECUTIVE DIRECTOR



FIRM OF BOYD AND DURANT
GENERAL COUNSEL

JD PEACOCK, II
OKALOOSA COUNTY

HARVEY RUVIN, ESQ.
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TODD NEWTON
GILCHRIST COUNTY

STACY BUTTERFIELD, CPA
POLK COUNTY

RON FICARROTTA
13TH JUDICIAL CIRCUIT JUDGE
SUPREME COURT APPOINTEE

KEN BURKE, CPA
PINELLAS COUNTY
HOUSE APPOINTEE

NIKKI ALVAREZ-SOWLES, ESQ.
PASCO COUNTY
SENATE APPOINTEE

JOHN CRAWFORD
NASSAU COUNTY

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

LEGISLATIVE COMMITTEE MEETING

January 17, 2023

Meeting: 2:00 PM – 3: 00 PM, Eastern

AC Marriott Hotel

801 S Gadsden St, Tallahassee, FL 32301

- 1) Call to Order and Approve Agenda..... Hon. Stacy Butterfield
- 2) Approve minutes from the 9/7/22 Meeting..... Jason L. Welty
- 3) Statutorily Required Funding Recommendations..... Jason L. Welty
- 4) Jury Funding Jason L. Welty
- 5) Other Business Hon. Stacy Butterfield

Committee Members: Stacy Butterfield (Polk), Chair, Joseph Abruzzo (Palm Beach), Barry Baker (Suwannee), Doug Chorvat, Jr. (Hernando), Angelina “Angel” M. Colonnese (Manatee), Gary J. Cooney (Lake), Nadia K. Daughtrey (DeSoto), Tara S. Green (Clay), J. K. “Jess” Irby (Alachua), Kevin Karnes (Lee), Crystal K. Kinzel (Collier), Kevin Madok (Monroe), Michelle R. Miller (Saint Lucie), Gwendolyn Marshall Knight (Leon), Victoria L. Rogers (Hardee), Clayton O. Rooks (Jackson), Laura E. Roth (Volusia), Rachel Sadoff (Brevard), Donald Spencer (Santa Rosa), Cindy Stuart (Hillsborough), Carolyn Timmann (Martin), Angela Vick (Citrus)

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.

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Minutes of September 7, 2022, CCOC Legislative Committee Meeting

Committee Action: Review and approve with amendments, as necessary.

The Legislative Committee of the Clerk of Courts Operation Corporation (CCOC) held a meeting via WebEx on September 7, 2022. An agenda and materials were distributed and posted on the CCOC website before the meeting. Provided below is a summary of staff notes from the meeting. These staff notes are designed to document committee action, not to be a complete record of committee discussions. All motions adopted by the committee are in **bold** text. All action items based on committee direction are in **red** and bold text.

1. Agenda Item 1 – Call to Order

Clerk Stacy Butterfield, Chair of the Legislative Committee, called the meeting to order at 1:00 PM. Marleni Bruner, CCOC Performance, Policy, & Education Director, called the roll.

Present for meeting [via WebEx]: Honorable Stacy Butterfield, Chair; Honorable Joseph Abruzzo; Honorable Nadia Daughtrey; Honorable Tara Green; Honorable Crystal Kinzel; Honorable Michelle Miller; Honorable Gwendolyn Marshall Knight; Honorable Victoria Rogers; Honorable Clay Rooks; Honorable Laura Roth; Honorable Rachel Sadoff; Honorable Donald Spencer; Honorable Cindy Stuart; Honorable Carolyn Timmann; Honorable Angela Vick

Present after roll call [via WebEx]: Honorable Doug Chorvat, Jr.

Absent from the meeting: Honorable Barry Baker, Honorable Tom Bexley, Honorable Angel Colonnese, Honorable Gary Cooney; Honorable Jess Irby; Honorable Kevin Karnes; Honorable Kevin Madok; Honorable Harvey Ruvin

2. Agenda Item 3 – Legislative Budget Request

At the initial roll call, a quorum was not present. Chair Butterfield requested that Agenda Item 3 be presented because it was informational only. This would give time for more members to join the call.

Chair Butterfield asked Jason Welty, CCOC Deputy Executive Director, to present. Mr. Welty explained that section 28.35(2)(i), Florida Statutes, requires the Clerks of Court Operations Corporation (CCOC) to annually prepare a budget request which provides the amount necessary for reimbursement of Baker Act, Marchman Act, and Sexually Violent Predators petitions and orders.

CCOC collects these subcase types on the monthly Output Report. To minimize the workload on clerks, CCOC will provide the Justice Administrative Commission (JAC) with each county's number of cases for the most recently completed fiscal year (CFY 2020-21). If the Legislature funds this issue during the 2023 Legislative Session, each county will receive the reimbursement in a quarterly distribution.

Clerk Green asked how much is the per petition amount, and Mr. Welty explained that the reimbursement was \$40. Each county can calculate its amount by taking its CFY 2020-21 numbers and multiplying them by \$40.

3. Agenda Item 4 – Recommended Changes to Fine & Fee Amounts and Distribution

Mr. Welty began by reviewing the contents of the memo for this item. Section 28.35(2)(c)1., Florida Statutes requires the Clerks of Court Operations Corporation (CCOC) to recommend to the Legislature changes in the amounts and distribution of the various court-related fines, fees, service charges, and costs established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

The CCOC Budget Committee reviewed the clerks' budgets and established a recurring Needs-Based Budget of \$481.2 million. Currently, the Revenue Estimating Conference projects \$441.0 million available to the clerks for the fiscal year.

The CCOC staff presented two options for review by the Legislative Committee: make changes to the distribution schedule or the amounts.

Option 1: Changes to the Distribution

Fines, fees, service charges, and court costs fund the services clerks provide to the public. The Legislature sets the fines, fees, service charges, and court costs and gives the clerks a percentage. As a result, some distribution tables are simple, and others can be complex.

Mr. Welty provided the example of the \$55 filing fee for small claims, which goes to four places. It's very simple and straightforward. The filing fee funds court-related services, such as court education, state revenue in the State Court Revenue Trust Fund, and the DFS Administrative Trust Fund, which funds the audits DFS performs on

your office every few years. The clerk retains the rest to fund the services that the clerk provides.

In comparison, a civil traffic citation distribution is substantially more complex. The total civil penalties, as shown in the memo, is \$198; however, it goes to 15 different places and gets split sometimes by individual dollar amounts and other times by percentage. In addition, there are several places where the civil traffic penalty goes to places without connection to the civil traffic case.

Chair Butterfield asked Marleni Bruner, CCOC Performance, Policy, & Education Director, to call the roll again. Upon having a quorum, Chair Butterfield asked Mr. Welty to continue explaining Agenda Item 4.

Mr. Welty provided attachments for the distribution of fines from civil traffic citations by the receiving trust fund, removing trust funds that were directly tied to the civil traffic infraction. These trust funds have little nexus between the traffic citation and the work necessary to process these citations; however, the Legislature created some fines to fund the public policies they wanted at the time. Therefore, if the public policy direction has changed, and the Legislature was to redistribute a portion of this funding from the current recipients to the clerks, it could adequately fund the clerks' Needs-Based Budget.

Chair Butterfield asked a few clarifying questions on the attachment Mr. Welty provided. He pointed out that the listed Clerk of Court Trust Fund was the \$25 turnpike fee, a pass-through amount immediately sent to the Department of Transportation Trust Fund. Mr. Welty left it on the chart for discussion purposes. He also pointed out that this recommendation wasn't to tell the Legislature exactly which trust funds to reevaluate but to provide them a list of the trust funds benefitting from a fee that could be used to benefit those doing the work to process the fee.

Clerk Green asked for further clarification on some of the items that were listed in the penalty breakout. Mr. Welty explained that those were additional items should an ordinance be in place. He also mentioned that other additions might be found in other areas of the distribution schedule, such as the Dory Slosberg fee.

Clerk Miller asked if this was an example of his suggestion to only look at speeding tickets or across the board for fines and fees. Mr. Welty explained that Option 1 was to consider making a recommendation to the legislature regarding the places that the funds are being distributed to and do not address dollar amounts. Option 2, which he will present momentarily, is a recommendation for changes to the dollar amounts of the fines and fees.

Clerk Vick asked if any CCOC recommendations overlap with the FCCC Legislative agenda. Chair Butterfield and Mr. Welty explained that this differs from the FCCC

Legislative Agenda. The information currently being presented is part of the statutory responsibility of the CCOC. Therefore, the FCCC team can take these recommendations as part of their agenda, or they can exist as a recommendation to the Legislature from CCOC.

Clerk Kinzel stated that the court facilities fee goes to courtrooms. She also stated that the framing of the message should be that the cost of doing the same job has increased due to inflation. She would like to present all options so that, eventually, something is chosen. Mr. Welty explained that he only included the fines and fees that do not go to the local county.

Chair Butterfield mentioned that Clerk Kinzel's second point was accurate. The amount collected by the clerks would be enough to fund themselves; however, they do not retain the revenue. Clerk Green also commented that this is a fundamental concept. It is not that the revenue isn't there; the distribution of that revenue is the problem. She also mentioned that the recommendation should consider the distribution's prioritization. The clerks who work on the ticket, collect the fees, and do all the casework should be the first to receive funding. Clerk Green is a proponent of looking at the distribution and the priority of receiving the funding so that the clerk's needs are taken care of regarding the distribution and the policy.

Clerk Miller stated that she has heard that the legislature is not inclined to raise fees; however, with the increase in inflation and the high cost of everything going up, now is the time to suggest raising fees. She would like it to be kept on the table to hopefully open the door to begin those discussions. Her recommendation would be to have a cost of living adjustment built in so it would adjust automatically.

Option 2 - Changes in the Amounts

Mr. Welty explained that the second option is to recommend increasing a particular fine or fee. In the packet, a suggestion is made for circuit civil and county civil cases. He states that this was not scientific but a means to begin the discussion. There may be some difference between filing fees for particular things, such as foreclosures, from another case type. In the attachments, Mr. Welty has provided an estimate of a 10% increase in the filing fee. The current fee is \$400, so a 10 percent increase would be an additional \$40 in circuit civil. County civil is \$300, so a 10 percent increase would be an additional \$30.

Using the prior year's case counts, multiplied by the increase, gives the total additional revenue that could be expected. For example, for CFY 2020-21, it would have been an increase of \$34.1 million; in CFY 2021-22, year to date, it would have been \$24.4 million.

Clerk Green stated that this might have a domino effect because the fundamental issue is inequitable distribution. She recommends presenting a more equitable distribution that is sustainable and suitable regardless of everything else. Then the

policy decisions can be made on that basis if the legislature doesn't feel that the sources in the distribution need more. Clerk Green stated that clerks are in a position where traffic tickets and other negative events fund their offices. No one wants to see more tickets written, and no one wants to see fees increased.

Clerk Miller said she liked Clerk Green's comments but feels it needs to be a little of both options. We need to try to increase the total amount coming to the clerks because her fear is that when looking at the distribution side, we will be taking it from somewhere. If it is not General Revenue, we are going up against someone else and may run into pushback.

Chair Butterfield thanked both for their comments. She reminded the committee that the statutory charge is to recommend changes to ensure reasonable and adequate funding. The CCOC does not lobby, so this is fulfilling the statutory responsibility. The recommendation can be adjusted. The recommendations would be to show the legislature that there is potential and let them choose.

Chair Butterfield asked Mr. Welty if there was a deadline to complete this report. Mr. Welty responded that there was no deadline. This meeting was scheduled for now because the Budget Committee has set its Needs-Based Budget. We have that number to compare to the REC number. So we now have the delta between the two to work from. Mr. Welty stated that he thought to write a report similar to the Funding Continuity Plan from previous years, which would include these options as recommendations to the legislature so they would have our input.

Chair Butterfields stated that the committee would plan its next meeting, and in the interim, Mr. Welty would work on this report. She asked if members had strong opinions on one option or if the committee should include both options.

Clerk Marshall Knight stated that she was in favor of raising the fees. She also asked Mr. Welty which path would be easier to adopt and which would have the least resistance. She told of a time when she took office, and the Mothers Against Drunk Driving were in her office because their trust fund had declined, and they thought the clerk was keeping the funds. It turned out to be from a reduced number of citations being written.

Mr. Welty stated that Clerk Marshall Knight was absolutely correct. He told her state agencies are no different and have called the CCOC asking the same questions. Both options have their areas of resistance. A fee increase would require two-thirds approval of the legislature, which is a more arduous threshold to cross.

Clerk Kinzel asked if Mr. Welty had pulled information on the trust funds or got a detail of how much of their trust fund they had expended. Mr. Welty replied that he has looked into a handful of the trust funds in the state system, particularly those we send less than \$100,000 annually. He examined them to see what that would do to their budget

by looking at their daily cash balances. State agencies spend their trust fund dollars before their General Revenue funds. Therefore, most state agencies utilize the majority, if not all, of the funding they receive from us. He stated that he did not look into non-profits that receive from the clerks because that is a trickier process. Clerk Kinzel stated that she looked at their 990 forms, and some had not even filed them when she was looking for them. She volunteered her staff to research any non-profits Mr. Welty could identify.

4. Agenda Item 1 – Approve Agenda

Clerk Kinzel made a motion to approve the agenda, which was seconded by Clerk Sadoff. With no objections, the motion was adopted by consent.

5. Agenda Item 2 – Approve Minutes from the 8/21/21 Meeting

A motion was made to approve the minutes by Clerk Sadoff and seconded by Clerk Vick. With no objections, the motion was adopted by consent.

6. Agenda Item 5 – Other Business

Discussion occurred regarding the timing for the final report to have time to go before the Executive Council is sent to the legislature. Chair Butterfield asked that everyone be on the lookout for further information.

Chair Butterfield stated that this was a public meeting and opened the floor to any comments. There were none. She thanked everyone for attending the meeting, knowing everyone was busy with tight schedules.

The meeting was adjourned at 2:02 PM.

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AGENDA ITEM 3

DATE: January 17, 2023
SUBJECT: Statutorily Required Funding Recommendations
COMMITTEE ACTION: Review and Approve the Adequate Funding Recommendations

OVERVIEW:

To ensure clerks are adequately funded, the Legislature authorizes the clerks to retain revenue from statutorily created fines, fees, service charges, court costs, penalties, and forfeitures. The Legislature also allows the clerks to retain Unspent Budgeted Funds (UBF) and shares half of the Cumulative Excess (CE) with the clerks. Additionally, the Legislature provides General Revenue funds to cover the costs of juror management and recently provided temporary funding to assist with the backlog of cases. These revenues form the basis of the clerk's budget.

Section 28.35(2)(c)1., Florida Statutes, requires the Clerks of Court Operations Corporation (CCOC) to recommend to the Legislature changes in the amounts and distribution of the various court-related fines, fees, service charges, and court costs established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

Reasonable and Adequate Funding

Current law does not define reasonable and adequate funding. CCOC defines reasonable and adequate funding as the amount approved by the CCOC Budget Committee during the budget request process and labels it as the "Needs-Based Budget." During the most recent budget development process, the Budget Committee established the clerks' CFY 2022-23 Needs-Based Budget of \$501.4 million. However, due to limited fines and fees revenue, this is almost \$28 million more than the actual clerks' budget of \$473.4 million. This \$28 million shortfall is what the clerks' legislative team is actively working to address with our partners in the Legislature.

This funding gap may continue to increase as inflation impacts the cost of living and staffing (the most significant portion of clerk costs). The Clerks' Pandemic Recovery Plan and the carry-

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forward juror funding were essential to help close this funding gap and are greatly appreciated. However, fixed costs such as salaries, health insurance, and Florida Retirement System (FRS) contributions continue to grow, and clerks are forced to absorb these costs.

Statutorily Required Funding Recommendations

To address its statutory duty, CCOC created a report to submit to the Legislature to address the changes in the amounts and distribution of the various court-related fines, fees, service charges, and court costs established by law to ensure reasonable and adequate funding of the clerks of the court.

Two Options: Changes to the Distribution or Changes in the Amounts

The attached report provides various options for the Legislature to consider, which fall into two categories:

Changes in the Amounts

The Legislature has not increased filing fees since 2008 and 2009. If the Legislature increases the filing fees for judicial proceedings, it could adequately fund the clerks' Needs-Based Budget.

Changes to the Distribution

Fines, fees, service charges, and court costs fund the services clerks provide to the public. The Legislature sets the fines, fees, service charges, and court costs and gives the clerks a percentage. As a result, some distribution tables are complex, and others are simple.

If the Legislature redistributes a portion of the funding from the current recipients to the clerks, it could adequately fund the clerks' Needs-Based Budget.

COMMITTEE ACTION: Review and Approve the Adequate Funding Recommendations

Recommend a solution to adequately fund the deficit between the revenue available and the recurring Needs-Based Budget.

LEAD STAFF: Jason L. Welty, CCOC Deputy Executive Director

ATTACHMENTS:

1. Statutorily Required Funding Recommendations



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STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

THE SERVICE OF THE CLERKS OF COURT

Clerks provide critical public safety and commerce services to the citizens of Florida. As an integral part of the justice system, clerks are responsible for managing and preserving judicial records and providing those records timely to the court for the administration of justice. However, revenues for providing these services are inadequate to meet the needs of the citizens they serve. For example, the current budget model depends on the traffic division to fund the criminal division, which puts public safety at risk as the number of traffic citations decreases across the state.

In recent years, there has been a substantial decrease in the number of traffic citations issued. The population is up, the economy is up, and the number of drivers is up, but traffic citations are down. This trend drives revenues that fund the clerks' public safety-related services down dramatically. The budget misalignment to workload is unsustainable and dangerous for the people clerks serve.

Effective and efficient criminal and civil justice systems are of the utmost concern to clerks. Clerks are contending with increasing requests for information from various stakeholders and the public. As a partner in the criminal justice system, the clerks serve judges, law enforcement, state attorneys, and public defenders and must provide timely and accurate data. The possibility of a criminal defendant being released inadvertently poses a significant risk to public safety; therefore, inadequate funding hinders the ability of clerks to continue to ensure the reliability and accuracy of the data.

CLERKS OF COURT FUNDING

The funding for the Clerks of Court is governed by the Florida Constitution and state statute. Maintaining adequately funded clerks to preserve Florida's judicial system is critical. Specifically, the Constitution states:

ARTICLE V, 14(b), Florida Constitution

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

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

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.

The Legislature created s. 28.37, F.S., to implement Article V, 14(b), which states:

28.37 Fines, fees, service charges, and costs remitted to the state.—

(1) Pursuant to s. 14(b), Art. V of the State Constitution, selected salaries, costs, and expenses of the state courts system and court-related functions shall be funded from a portion of the revenues derived from statutory fines, fees, service charges, and court costs collected by the clerks of the court and from adequate and appropriate supplemental funding from state revenues as appropriated by the Legislature.

To ensure clerks are adequately funded, the Legislature authorizes the clerks to retain revenue from statutorily created fines, fees, service charges, court costs, penalties, and forfeitures. The Legislature also allows the clerks to retain the Unspent Budgeted Funds (UBF) and shares half of the Cumulative Excess (CE) with the clerks. Additionally, the Legislature provides General Revenue funds to cover the costs of juror management and recently provided funding to assist with the backlog of cases. These revenues form the basis of the clerk's budget.

Section 28.35(2)(c)1., Florida Statutes, requires the Clerks of Court Operations Corporation (CCOC) to recommend to the Legislature changes in the amounts and distribution of the various court-related fines, fees, service charges, and court costs established by law to ensure reasonable and adequate funding of the clerks of the court in the performance of their court-related functions.

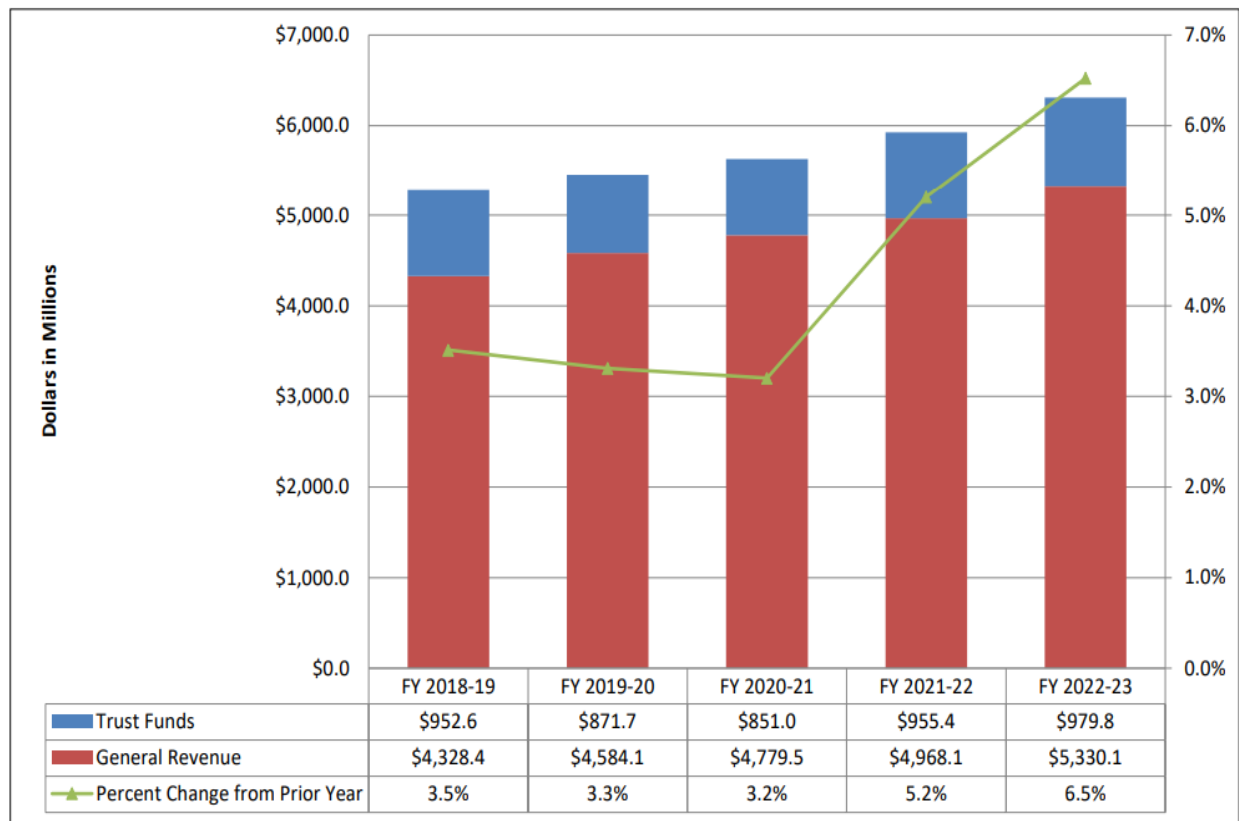
This report provides recommendations to meet the statutory requirements. It provides the Legislature with options to consider ensuring the clerks have reasonable and adequate funding to serve the judiciary and the public.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

REASONABLE AND ADEQUATE FUNDING

Current law does not define reasonable and adequate funding. To determine reasonable and adequate, CCOC compared the budget amounts of several judicial partners.

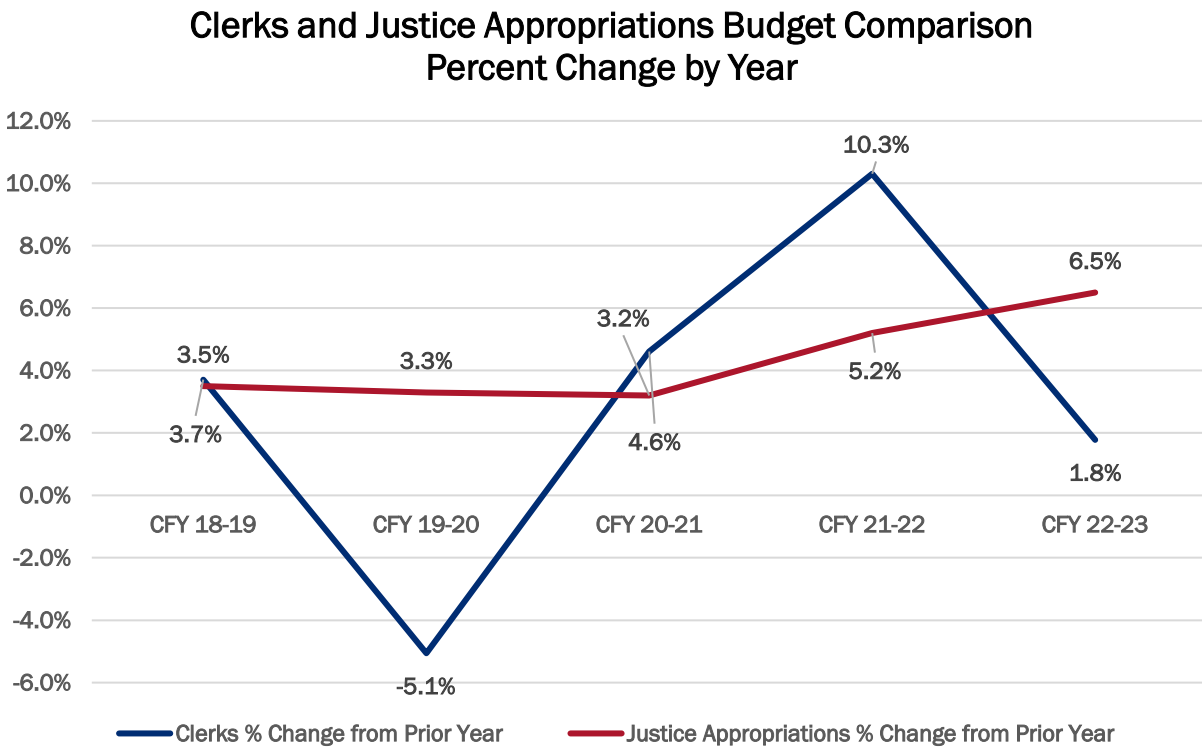
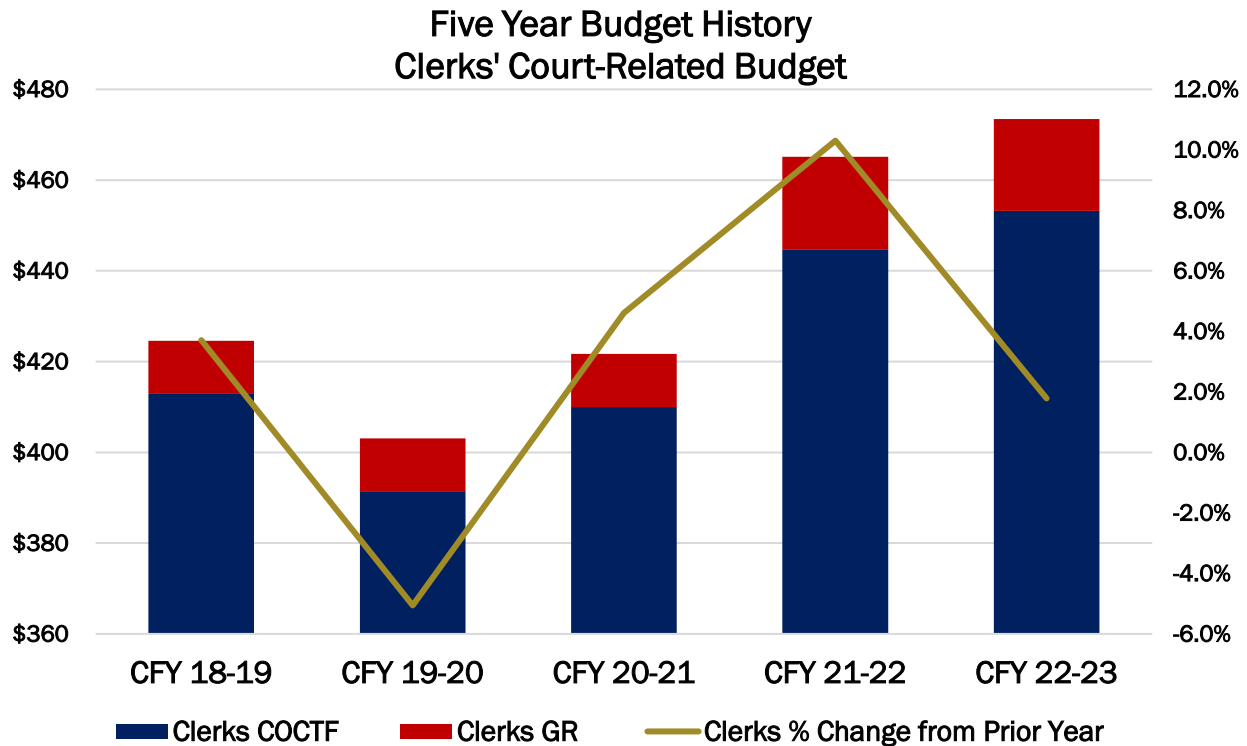
5-Year Funding History



This chart shows the five-year funding history of the agencies covered under the Justice Appropriations Subcommittee. These entities are the Department of Corrections, Florida Commission on Offender Review, Department of Juvenile Justice, Department of Law Enforcement, Justice Administrative Commission, State Court System, and Department of Legal Affairs / Office of the Attorney General.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

A similar look at the clerk funding history over the last five years:



STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

The Legislature provided stable increases to the Justice Appropriations entities, ranging between 3.2 percent and 3.5 percent per year, and more significant increases in the last two years with increases of 5.2 and 6.5 percent. This stability starkly contrasts the clerks funding history for the last five years, with increases as high as 10.3 percent and a reduction of 5.1 percent during CFY 2019-20.

CCOC defines reasonable and adequate funding as the amount approved by the CCOC Budget Committee during the budget request process and labels it as the “Needs-Based Budget.” During the most recent budget development process, the Budget Committee established the clerks’ CFY 2022-23 Needs-Based Budget of \$501.4 millionⁱⁱ. However, due to limited fines and fees revenue, this amount is almost \$28 million more than the actual clerks’ budget of \$473.4 million.

CCOC applied a “What-If” scenario to the clerks’ total budget using the Justice Appropriations’ percent increase to determine the reasonableness of the clerks’ Needs-Based Budget. For example, using the CFY 2018-19 budget authority, if the clerks’ budget increased by the same amount as the other justice entities, the CFY 2022-23 budget would be \$507.1 million.

Fiscal Year	Clerk Total Budget Authority	Clerks % Change from Prior Year	Justice Appropriations % Change from Prior Year	What-If Scenario
CFY 18-19	\$424,592,171			
CFY 19-20	\$403,113,777	-5.1%	3.3%	\$ 438,603,713
CFY 20-21	\$421,700,000	4.6%	3.2%	\$ 452,639,031
CFY 21-22	\$465,151,817	10.3%	5.2%	\$ 476,176,261
CFY 22-23	\$473,434,139	1.8%	6.5%	\$ 507,127,718

Using this What-If scenario, the clerks’ \$501.4 million Needs-Based Budget appears to align with the increases the Legislature provided to other justice-related entities.

The \$28 million funding gap may continue to increase as inflation impacts the cost of living and staffing (the most sizable portion of clerk costs). The Pandemic Recovery Plan and the carry-forward juror funding were essential to help close this funding gap and are greatly appreciated. However, these are nonrecurring revenues. In addition, fixed costs such as salaries, health insurance, and Florida Retirement System (FRS) contributions continue to grow, and clerks are forced to absorb these costs.

As personnel services constitute over 90 percent of clerk budgets, these increases in fixed costs leave the clerks with no choice but to reduce positions and services to absorb these increased costs. For example, over the last ten years, the Legislature raised employer contributions to the FRS by 43 percent to keep Florida’s retirement system financially sound. Additionally, health insurance rates have increased by almost 60 percentⁱⁱⁱ, and the Labor Consumer Price Index has increased by 22 percent over the last ten years^{iv}.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

The clerks' judicial partners, such as the State Attorneys, Public Defenders, and the Courts, have these annual increases in fixed costs appropriated in the General Appropriations Act (GAA) in Administered Funds. Additionally, these partners do not have to ask for these increases as part of the Legislative Budget Request (LBR) process. If the Legislature provides an increase, these agencies automatically receive the revenue to support the increase. The clerks do not receive Administered Funds.

Furthermore, when the cases of the clerk partners decrease, their budgets do not decrease because they are primarily funded with recurring General Revenue and are not dependent on the number of cases. However, since the current statute sets the clerks' budget on derived revenue, clerk budgets may decrease regardless of whether there is a proportional decrease in workload.

Given these factors, CCOC determines that the clerks' Needs-Based Budget of \$501.4 million is reasonable and adequate.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

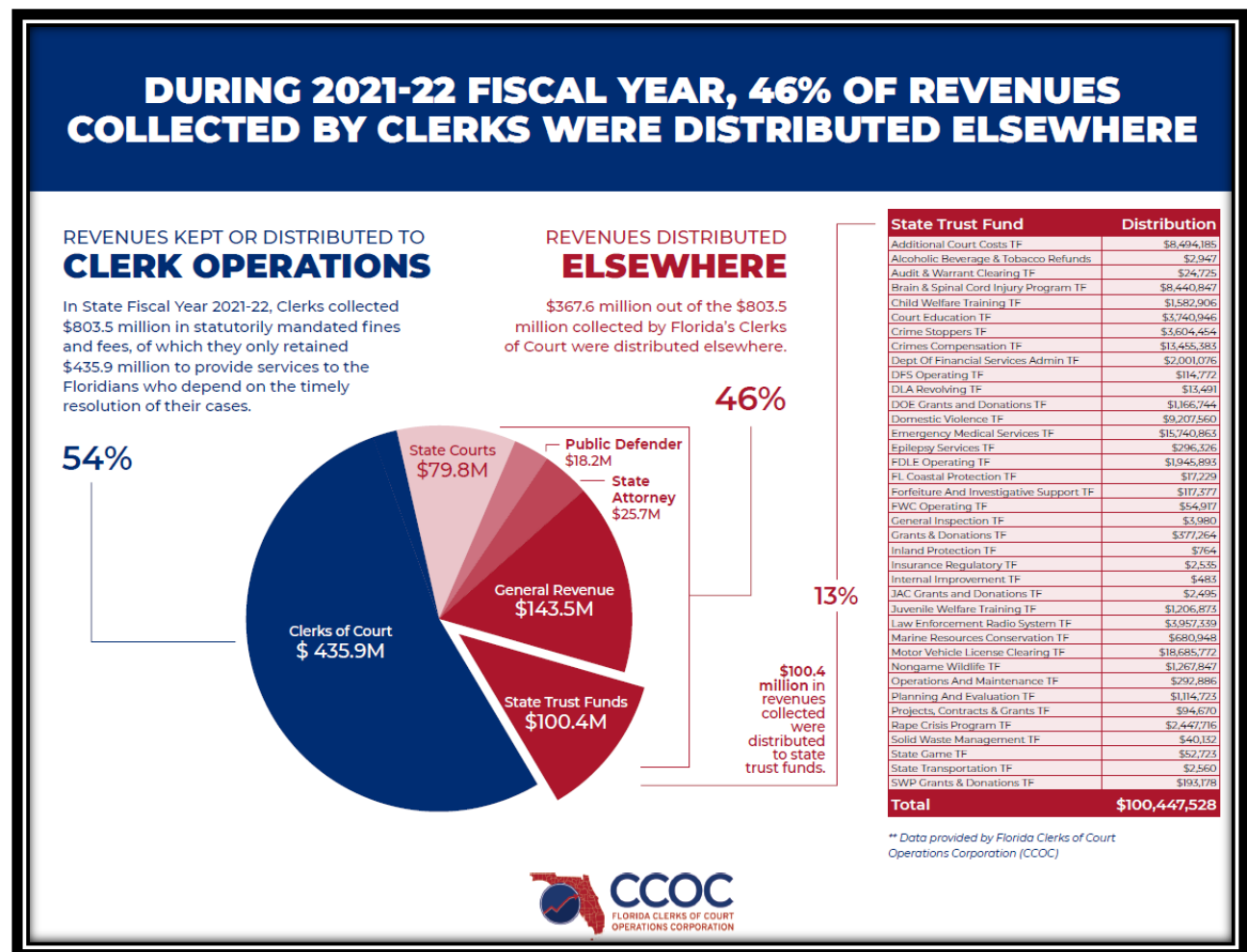
CHANGES TO THE DISTRIBUTION AND CHANGES IN THE AMOUNTS

Changes to the Distribution

Fines, fees, service charges, and court costs fund the services clerks provide to the public. The Legislature sets the fines, fees, service charges, and court costs and gives the clerks a percentage. As a result, some distribution tables are simple, and others are complex. If the Legislature redistributes a portion of the funding from the current recipients to the clerks, it could adequately fund the clerks' Needs-Based Budget.

Priority Recommendation: Allow Clerks to Retain a Portion of General Revenue Distribution

In SFY 2021-22, clerks collected \$803.5 million in statutorily mandated fines and fees and only retained \$435.9 million to provide services to the Floridians who depend on the timely resolution of their cases.



The pie chart and table show the distribution of the various fines and fees clerks collect and distribute to the state. In addition to these revenues, clerks collect revenue for county and municipal entities, which are not included.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

In SFY 2021-22, clerks sent \$143.5 million to the General Revenue fund. These funds come from various sources, such as the filing fees on foreclosure cases, administrative fees on civil traffic cases, and service charges for issuing summons.

Statute	General Revenue Amount and Description Collected by the Clerks
27.52(7)(b)	75% of any amount recovered by a state attorney for fraudulent indigency claims in criminal proceedings
28.101(1)(c)	\$37.50 charge for petitions for dissolution of marriage
28.24(13)(e)	\$4 additional service charge per page for recording, indexing, or filing, if the state becomes legally responsible for the costs of court-related technology need
28.241(1)(a)2.d.	\$195 in filing fees for circuit civil action relating to real property or mortgage foreclosure
28.241(1)(a)2.d.	\$700 in filing fees for circuit civil action relating to real property or mortgage foreclosure
28.241(1)(a)2.d.	\$930 in filing fees for circuit civil action relating to real property or mortgage foreclosure
34.041(1)(c)	\$295 counterclaim filing fee for county civil action
34.041(8)	\$100 fee for attorneys appearing pro hac vice in county court
57.082(7)b	75% of any amount recovered by the state attorney for fraudulent indigency claims in civil proceedings
316.0083(1)(b)3.b.	\$70 of the \$158 for violation of s. 316.074(1) or s. 316.075(1)(c)1.
318.18(15)(a)1.	Remaining \$30 of \$158 civil penalty for violation of ss. 316.075(1)(c)1 or 316.074(1)
318.21(2)(a)	20.6% of the remainder of civil penalties received pursuant to Ch. 318
501.2075	Up to a \$10,000 civil penalty is assessed against persons found to have committed deceptive and unfair trade practices
815.062(4)	In addition to any sanction imposed when a person is convicted of a violation of this section, the court shall impose a fine of twice the amount of the ransom
895.05(9)(a)	Money recovered for civil penalties under s. 895.03
901.43(3)(a)	\$1,000 per day civil penalty for publication or dissemination of booking photo, which may include attorney's fees and court costs
938.27(7)	Investigative costs recovered - Department of Agriculture & Consumer Services
Ch. 2008-111, Laws of Florida*	Additional revenue pursuant to Ch. 2008-111 L.O.F.
*The Legislature made multiple fee increases in Ch. 2008-111, L.O.F. The Department of Revenue (DOR) tracks those as one line in the revenue remittance system.	

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

CCOC recommends the Legislature change the distribution of fines, fees, service charges, and court costs for those revenues split between the clerk and the General Revenue fund.

In addition, while there are distributions to state and local trust funds, CCOC does not recommend redistributing these trust funds to the clerks. These funds usually serve a specific purpose, such as training or providing critical emergency services. In addition, the agencies receiving the revenue rely on these funds to provide the services necessary to implement the public policy established by the Legislature. Setting public policy is the Legislature's purview. Therefore, CCOC cannot recommend redistributing the funding from individual trust funds. However, CCOC recommends that the Legislature periodically review these funds' functions to determine if they align with the state's current public policy direction.

Some potential ideas for allowing clerks to keep revenue that currently goes to General Revenue include changing the statutory distribution of:

1. Foreclosure filing fees
2. Issuance of a summons service charge
3. Dissolution of marriage filing fees
4. Probate filing fees
5. Civil Traffic administration fee
6. County Civil crossclaim, counterclaim, counterpetition, or third-party complaint filing fees

In various combinations, these examples could provide enough revenue to fund the clerks' Needs-Based Budget and close the current \$28 million revenue gap.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

Changes in the Amounts

Florida's Constitution provides that all funding for the clerks performing court-related functions shall be provided by adequate and appropriate filing fees for judicial proceedings, service charges, and costs for performing court-related functions as required by general law.

The Legislature has not increased filing fees since 2008 and 2009. If the Legislature increases the filing fees for judicial proceedings, it could adequately fund the clerks' Needs-Based Budget.

The list of fines, fees, service charges, and court costs is lengthy. Many case types within a court division have a specific filing fee, such as foreclosures, which have three different filing fees depending on the amount being foreclosed. In addition, there are twenty-nine service charges explicitly contained in s. 28.24, F.S., and there are multiple statutory sections outlining court costs.

Therefore, like the recommendation on redistributing currently collected revenue, multiple options relating to the dollar amount of fines, fees, service charges, and court costs could provide clerks reasonable and adequate revenue.

1. Increase all filing fees and service charges by five percent in the first year and then continue annually at one percent until meeting the clerks' Needs-Based Budget.
2. Increase specific filing fees and automatically increase the fees based on the Consumer Price Index (CPI) to account for inflation.
3. Increase the service charges for technology needs to continue the modernization of the court system.
4. Increase the filing fees by 10 percent, allowing the clerk to retain the increase.
5. Setting a statutory 1 percent minimum of the allowable maximum for fines in criminal cases.
6. Prohibiting the waiving of the mandatory statutory penalties when a person is found guilty.
7. Modernize the statute to allow service charges for electronic processes.

These suggestions provide the Legislature with other methods to fund the clerks' Needs-Based Budget deficit.

STATUTORILY REQUIRED FUNDING RECOMMENDATIONS

Other Issues

While not explicitly outlined in s. 28.35, F.S., there are additional funding methods to ensure clerks have reasonable and adequate funding. These ideas include direct appropriations, like the recurring \$11.7 million for jury management and the \$6.25 million provided for the backlog of cases. Additionally, the Legislature could consider reimbursement for specific cases, such as Risk Protection Orders (RPOs) or indigency cases. There is statutory precedent for providing reimbursement, as Injunctions for Protection, Baker Act, and Marchman Act cases are currently authorized to be reimbursed by the Legislature to the clerks. Finally, as mentioned in the overview, one of the drivers for insufficient revenue is the ever-increasing fixed costs such as FRS. The Legislature should consider a methodology to include clerks in the Administered Funds process to provide these increases like how they are provided to the other judicial partners.

End Notes

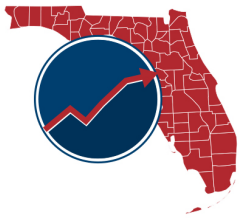
ⁱ House Justice Appropriations Subcommittee – Meeting Packet – Wednesday, January 4, 2023.

<https://myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&Committeed=3198&Session=2023&DocumentType=Meeting+Packets&FileName=jua+1-4-23.pdf>. Last accessed 1/13/23.

ⁱⁱ CFY 2022-23 Budget Development Spreadsheet – Needs-Based Budget tab. <https://flccoc.org/clerks-budget/>. Last accessed 1/13/2023.

ⁱⁱⁱ Health insurance price inflation since 2013. <https://www.in2013dollars.com/Health-insurance/price-inflation/2013-to-2022?amount=20>. Last accessed 1/14/2023.

^{iv} CPI Inflation Calculator. <https://data.bls.gov/cgi-bin/cpicalc.pl?cost1=50%2C000.00&year1=201301&year2=202201>. Last Accessed 1/14/2023.



AGENDA ITEM 4

DATE: January 17, 2023
SUBJECT: Jury Funding
COMMITTEE ACTION: Consider a Legislative Budget Request for Additional Recurring Jury Funding

OVERVIEW:

In SB 838 (2021), the Legislature changed the juror management funding process to a reimbursement model, replacing the current advance-and-reconciliation process. This change was effective as of July 1, 2021.

As a part of that process, CCOC tracks the quarterly amount necessary for jury reimbursement statewide. In the last five quarters, the reimbursement requests were \$3.2 million, \$3.1 million, \$3.4 million, \$3.8 million, and \$4.0 million. If the jury reimbursement requests remain elevated, there is a possibility the funding will run out. If clerks deplete the General Revenue, they must use their court-side revenue to cover jury expenditures.

For SFY 2022-23, the Legislature provided clerks with \$11.7 million recurring General Revenue and carried \$2.2 million forward from SFY 2021-22, for \$13.9 million total. The first quarter reimbursement was \$4 million. Forty-eight counties reported the second quarter expenditures, totaling \$2.3 million, with an estimated \$1.4 million yet to report. Through the first two quarters of the state fiscal year, clerks are on pace to spend \$15.4 million, \$1.5 million more than the current appropriation.

Given the increasing demand for jury reimbursement, the Legislative Committee should consider asking the Legislature for an increase.

COMMITTEE ACTION: Consider a Legislative Budget Request for Additional Recurring Jury Funding

LEAD STAFF: Jason L. Welty, Deputy Executive Director

ATTACHMENTS: None