

1 A bill to be entitled
 2 An act relating to clerks of the court; transferring the
 3 Clerks of the Court Trust Fund to the Department of
 4 Revenue; amending s. 28.241, F.S.; revising distributions
 5 of filing fees for trial and appellate proceedings;
 6 amending s. 28.246, F.S.; conforming provisions relating
 7 to transfer of the Clerks of the Court Trust Fund;
 8 amending s. 28.35, F.S.; deleting provisions providing for
 9 housing the Florida Clerks of Court Operations Corporation
 10 within the Justice Administrative Commission, specifying
 11 the corporation as a budget entity of the commission, and
 12 specifying corporation employees as commission employees;
 13 revising membership of the corporation's executive
 14 council; exempting the corporation from certain
 15 provisions, policies, and decisions; revising duties of
 16 the corporation; amending s. 28.36, F.S.; revising
 17 requirements for a budget procedure for court-related
 18 functions of the clerks of the court; amending s. 28.37,
 19 F.S.; revising requirements for distribution of fines,
 20 fees, service charges, and court costs collected by clerks
 21 of the court; amending s. 28.43, F.S.; conforming
 22 provisions relating to transfer of the Clerks of the Court
 23 Trust Fund; amending s. 34.041, F.S.; revising
 24 requirements for distribution of certain filing fees
 25 collected by clerks of the court; requiring certain filing
 26 fees to be retained as fee income of the office of the
 27 clerk of the circuit court; amending s. 43.16, F.S.;
 28 deleting provisions including the Florida Clerks of Court

29 Operations Corporation under provisions relating to the
 30 Justice Administrative Commission; amending s. 110.205,
 31 F.S.; deleting the Florida Clerks of Court Operations
 32 Corporation from certain career service exempt positions
 33 provisions; amending s. 142.01, F.S.; conforming
 34 provisions relating to transfer of the Clerks of the Court
 35 Trust Fund; amending s. 213.131, F.S.; specifying creation
 36 of the Clerks of the Court Trust Fund within the
 37 Department of Revenue; providing for credit of certain
 38 funds to the trust fund; amending s. 216.011, F.S.;
 39 deleting a reference to the Florida Clerks of Court
 40 Operations Corporation as a state agency; providing an
 41 effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. The Clerks of the Court Trust Fund within the
 46 Justice Administrative Commission, FLAIR number 21-2-588, is
 47 transferred together with all balances in the fund to the
 48 Department of Revenue.

49 Section 2. Subsection (1) of section 28.241, Florida
 50 Statutes, is amended to read:

51 28.241 Filing fees for trial and appellate proceedings.—
 52 (1) (a) 1.a. Except as provided in sub-subparagraph b. and
 53 subparagraph 2., the party instituting any civil action, suit,
 54 or proceeding in the circuit court shall pay to the clerk of
 55 that court a filing fee of up to \$395 in all cases in which
 56 there are not more than five defendants and an additional filing

57 fee of up to \$2.50 for each defendant in excess of five. Of the
 58 first \$265 in filing fees, \$80 must be remitted by the clerk to
 59 the Department of Revenue for deposit into the General Revenue
 60 Fund, \$180 must be remitted to the Department of Revenue for
 61 deposit into the State Courts Revenue Trust Fund, \$5.00 ~~\$3.50~~
 62 must be remitted to the Department of Revenue for deposit into
 63 the Administrative Clerks of the Court Trust Fund within the
 64 Department of Financial Services ~~Justice Administrative~~
 65 ~~Commission~~ and used to fund the contract with the Florida Clerks
 66 of Court Operations Corporation created in s. 28.35, ~~and \$1.50~~
 67 ~~shall be remitted to the Department of Revenue for deposit into~~
 68 ~~the Administrative Trust Fund within the Department of Financial~~
 69 ~~Services to fund clerk budget reviews conducted by the~~
 70 ~~Department of Financial Services~~. The next \$15 of the filing fee
 71 collected shall be deposited in the state courts' Mediation and
 72 Arbitration Trust Fund. One third of any filing fees collected
 73 by the clerk of the circuit court in excess of \$100 shall be
 74 remitted to the Department of Revenue for deposit into the
 75 department's Clerks of the Court Trust Fund ~~within the Justice~~
 76 ~~Administrative Commission~~.

77 b. The party instituting any civil action, suit, or
 78 proceeding in the circuit court under chapter 39, chapter 61,
 79 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 80 753 shall pay to the clerk of that court a filing fee of up to
 81 \$295 in all cases in which there are not more than five
 82 defendants and an additional filing fee of up to \$2.50 for each
 83 defendant in excess of five. Of the first \$165 in filing fees,
 84 \$80 must be remitted by the clerk to the Department of Revenue

85 for deposit into the General Revenue Fund, \$80 must be remitted
 86 to the Department of Revenue for deposit into the State Courts
 87 Revenue Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the
 88 Department of Revenue for deposit into the Administrative Clerks
 89 ~~of the Court~~ Trust Fund within the Department of Financial
 90 Services ~~Justice Administrative Commission~~ and used to fund the
 91 contract with the Florida Clerks of Court Operations Corporation
 92 created in s. 28.35, ~~and \$1.50 shall be remitted to the~~
 93 ~~Department of Revenue for deposit into the Administrative Trust~~
 94 ~~Fund within the Department of Financial Services to fund clerk~~
 95 ~~budget reviews conducted by the Department of Financial~~
 96 ~~Services~~. The next \$15 of the filing fee collected shall be
 97 deposited in the state courts' Mediation and Arbitration Trust
 98 Fund.

99 c. An additional filing fee of \$4 shall be paid to the
 100 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 101 for deposit into the Court Education Trust Fund and shall remit
 102 50 cents to the Department of Revenue for deposit into the
 103 department's Clerks of the Court Trust Fund ~~within the Justice~~
 104 ~~Administrative Commission~~ to fund clerk education. An additional
 105 filing fee of up to \$18 shall be paid by the party seeking each
 106 severance that is granted. The clerk may impose an additional
 107 filing fee of up to \$85 for all proceedings of garnishment,
 108 attachment, replevin, and distress. Postal charges incurred by
 109 the clerk of the circuit court in making service by certified or
 110 registered mail on defendants or other parties shall be paid by
 111 the party at whose instance service is made. No additional fees,
 112 charges, or costs shall be added to the filing fees imposed

113 | under this section, except as authorized in this section or by
 114 | general law.

115 | 2.a. Notwithstanding the fees prescribed in subparagraph
 116 | 1., a party instituting a civil action in circuit court relating
 117 | to real property or mortgage foreclosure shall pay a graduated
 118 | filing fee based on the value of the claim.

119 | b. A party shall estimate in writing the amount in
 120 | controversy of the claim upon filing the action. For purposes of
 121 | this subparagraph, the value of a mortgage foreclosure action is
 122 | based upon the principal due on the note secured by the
 123 | mortgage, plus interest owed on the note and any moneys advanced
 124 | by the lender for property taxes, insurance, and other advances
 125 | secured by the mortgage, at the time of filing the foreclosure.
 126 | The value shall also include the value of any tax certificates
 127 | related to the property. In stating the value of a mortgage
 128 | foreclosure claim, a party shall declare in writing the total
 129 | value of the claim, as well as the individual elements of the
 130 | value as prescribed in this sub-subparagraph.

131 | c. In its order providing for the final disposition of the
 132 | matter, the court shall identify the actual value of the claim.
 133 | The clerk shall adjust the filing fee if there is a difference
 134 | between the estimated amount in controversy and the actual value
 135 | of the claim and collect any additional filing fee owed or
 136 | provide a refund of excess filing fee paid.

137 | d. The party shall pay a filing fee of:

138 | (I) Three hundred and ninety-five dollars in all cases in
 139 | which the value of the claim is \$50,000 or less and in which
 140 | there are not more than five defendants. The party shall pay an

141 additional filing fee of up to \$2.50 for each defendant in
 142 excess of five. Of the first \$265 in filing fees, \$80 must be
 143 remitted by the clerk to the Department of Revenue for deposit
 144 into the General Revenue Fund, \$180 must be remitted to the
 145 Department of Revenue for deposit into the State Courts Revenue
 146 Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the Department of
 147 Revenue for deposit into the Administrative Clerks of the Court
 148 Trust Fund within the Department of Financial Services Justice
 149 ~~Administrative Commission~~ and used to fund the contract with the
 150 Florida Clerks of Court Operations Corporation created in s.
 151 28.35, and ~~\$1.50~~ shall be remitted to the Department of Revenue
 152 for deposit into the ~~Administrative Trust Fund within the~~
 153 ~~Department of Financial Services to fund clerk budget reviews~~
 154 ~~conducted by the Department of Financial Services~~. The next \$15
 155 of the filing fee collected shall be deposited in the state
 156 courts' Mediation and Arbitration Trust Fund;

157 (II) Nine hundred dollars in all cases in which the value
 158 of the claim is more than \$50,000 but less than \$250,000 and in
 159 which there are not more than five defendants. The party shall
 160 pay an additional filing fee of up to \$2.50 for each defendant
 161 in excess of five. Of the first \$770 in filing fees, \$80 must be
 162 remitted by the clerk to the Department of Revenue for deposit
 163 into the General Revenue Fund, \$685 must be remitted to the
 164 Department of Revenue for deposit into the State Courts Revenue
 165 Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the Department of
 166 Revenue for deposit into the Administrative Clerks of the Court
 167 Trust Fund within the Department of Financial Services Justice
 168 ~~Administrative Commission~~ and used to fund the contract with the

169 Florida Clerks of Court Operations Corporation described in s.
 170 28.35, ~~and \$1.50 shall be remitted to the Department of Revenue~~
 171 ~~for deposit into the Administrative Trust Fund within the~~
 172 ~~Department of Financial Services to fund clerk budget reviews~~
 173 ~~conducted by the Department of Financial Services.~~ The next \$15
 174 of the filing fee collected shall be deposited in the state
 175 courts' Mediation and Arbitration Trust Fund; or

176 (III) One thousand nine hundred dollars in all cases in
 177 which the value of the claim is \$250,000 or more and in which
 178 there are not more than five defendants. The party shall pay an
 179 additional filing fee of up to \$2.50 for each defendant in
 180 excess of five. Of the first \$1,770 in filing fees, \$80 must be
 181 remitted by the clerk to the Department of Revenue for deposit
 182 into the General Revenue Fund, \$1,685 must be remitted to the
 183 Department of Revenue for deposit into the State Courts Revenue
 184 Trust Fund, \$5.00 ~~\$3.50~~ must be remitted to the Department of
 185 Revenue for deposit into the Administrative Clerks of the Court
 186 Trust Fund within the Department of Financial Services ~~Justice~~
 187 ~~Administrative Commission~~ to fund the contract with the Florida
 188 Clerks of Court Operations Corporation created in s. 28.35, ~~and~~
 189 ~~\$1.50 shall be remitted to the Department of Revenue for deposit~~
 190 ~~into the Administrative Trust Fund within the Department of~~
 191 ~~Financial Services to fund clerk budget reviews conducted by the~~
 192 ~~Department of Financial Services.~~ The next \$15 of the filing fee
 193 collected shall be deposited in the state courts' Mediation and
 194 Arbitration Trust Fund.

195 e. An additional filing fee of \$4 shall be paid to the
 196 clerk. The clerk shall remit \$3.50 to the Department of Revenue

197 for deposit into the Court Education Trust Fund and shall remit
 198 50 cents to the Department of Revenue for deposit into the
 199 department's Clerks of the Court Trust Fund ~~within the Justice~~
 200 ~~Administrative Commission~~ to fund clerk education. An additional
 201 filing fee of up to \$18 shall be paid by the party seeking each
 202 severance that is granted. The clerk may impose an additional
 203 filing fee of up to \$85 for all proceedings of garnishment,
 204 attachment, replevin, and distress. Postal charges incurred by
 205 the clerk of the circuit court in making service by certified or
 206 registered mail on defendants or other parties shall be paid by
 207 the party at whose instance service is made. No additional fees,
 208 charges, or costs shall be added to the filing fees imposed
 209 under this section, except as authorized in this section or by
 210 general law.

211 (b) A party reopening any civil action, suit, or
 212 proceeding in the circuit court shall pay to the clerk of court
 213 a filing fee set by the clerk in an amount not to exceed \$50.
 214 For purposes of this section, a case is reopened when a case
 215 previously reported as disposed of is resubmitted to a court and
 216 includes petitions for modification of a final judgment of
 217 dissolution. A party is exempt from paying the fee for any of
 218 the following:

- 219 1. A writ of garnishment;
- 220 2. A writ of replevin;
- 221 3. A distress writ;
- 222 4. A writ of attachment;
- 223 5. A motion for rehearing filed within 10 days;
- 224 6. A motion for attorney's fees filed within 30 days after

225 entry of a judgment or final order;

226 7. A motion for dismissal filed after a mediation

227 agreement has been filed;

228 8. A disposition of personal property without

229 administration;

230 9. Any probate case prior to the discharge of a personal

231 representative;

232 10. Any guardianship pleading prior to discharge;

233 11. Any mental health pleading;

234 12. Motions to withdraw by attorneys;

235 13. Motions exclusively for the enforcement of child

236 support orders;

237 14. A petition for credit of child support;

238 15. A Notice of Intent to Relocate and any order issuing

239 as a result of an uncontested relocation;

240 16. Stipulations;

241 17. Responsive pleadings; or

242 18. Cases in which there is no initial filing fee.

243 (c)1. A party in addition to a party described in sub-

244 subparagraph (a)1.a. who files a pleading in an original civil

245 action in circuit court for affirmative relief by cross-claim,

246 counterclaim, counterpetition, or third-party complaint shall

247 pay the clerk of court a fee of \$395. A party in addition to a

248 party described in sub-subparagraph (a)1.b. who files a pleading

249 in an original civil action in circuit court for affirmative

250 relief by cross-claim, counterclaim, counterpetition, or third-

251 party complaint shall pay the clerk of court a fee of \$295. The

252 clerk shall remit the fee to the Department of Revenue for

253 deposit into the General Revenue Fund.

254 2. A party in addition to a party described in
 255 subparagraph (a)2. who files a pleading in an original civil
 256 action in circuit court for affirmative relief by cross-claim,
 257 counterclaim, counterpetition, or third-party complaint shall
 258 pay the clerk of court a graduated fee of:

259 a. Three hundred and ninety-five dollars in all cases in
 260 which the value of the pleading is \$50,000 or less;

261 b. Nine hundred dollars in all cases in which the value of
 262 the pleading is more than \$50,000 but less than \$250,000; or

263 c. One thousand nine hundred dollars in all cases in which
 264 the value of the pleading is \$250,000 or more.

265

266 The clerk shall remit the fees collected under this subparagraph
 267 to the Department of Revenue for deposit into the General
 268 Revenue Fund, except that the clerk shall remit \$100 of the fee
 269 collected under sub-subparagraph a., \$605 of the fee collected
 270 under sub-subparagraph b., and \$1,605 of the fee collected under
 271 sub-subparagraph c. to the Department of Revenue for deposit
 272 into the State Courts Revenue Trust Fund.

273 (d) The clerk of court shall collect a service charge of
 274 \$10 for issuing a summons. The clerk shall assess the fee
 275 against the party seeking to have the summons issued.

276 Section 3. Paragraph (b) of subsection (5) of section
 277 28.246, Florida Statutes, is amended to read:

278 28.246 Payment of court-related fees, charges, and costs;
 279 partial payments; distribution of funds.—

280 (5) When receiving partial payment of fees, service

281 charges, court costs, and fines, clerks shall distribute funds
 282 according to the following order of priority:

283 (b) That portion of fees, service charges, court costs,
 284 and fines which are required to be retained by the clerk of the
 285 court or deposited into the Clerks of the Court Trust Fund
 286 within the Department of Revenue ~~Justice Administrative~~
 287 ~~Commission~~.

288
 289 To offset processing costs, clerks may impose either a per-month
 290 service charge pursuant to s. 28.24(26) (b) or a one-time
 291 administrative processing service charge at the inception of the
 292 payment plan pursuant to s. 28.24(26) (c).

293 Section 4. Section 28.35, Florida Statutes, is amended to
 294 read:

295 28.35 Florida Clerks of Court Operations Corporation.—

296 (1) (a) The Florida Clerks of Court Operations Corporation
 297 is created as a public corporation organized to perform the
 298 functions specified in this section ~~and s. 28.36 and shall be~~
 299 ~~administratively housed within the Justice Administrative~~
 300 ~~Commission. The corporation shall be a budget entity within the~~
 301 ~~Justice Administrative Commission, and its employees shall be~~
 302 ~~considered state employees. The corporation is not subject to~~
 303 ~~control, supervision, or direction by the Justice Administrative~~
 304 ~~Commission in the performance of its duties, but the employees~~
 305 ~~of the corporation shall be governed by the classification plan~~
 306 ~~and salary and benefits plan of the Justice Administrative~~
 307 ~~Commission. The classification plan must have a separate chapter~~
 308 ~~for the corporation.~~ All clerks of the circuit court shall be

309 members of the corporation and hold their position and authority
 310 in an ex officio capacity. The functions assigned to the
 311 corporation shall be performed by an executive council pursuant
 312 to the plan of operation approved by the members.

313 (b) The executive council shall be composed of eight
 314 clerks of the court elected by the clerks of the courts for a
 315 term of 2 years, with two clerks from counties with a population
 316 of fewer than 100,000, two clerks from counties with a
 317 population of at least 100,000 but fewer than 500,000, two
 318 clerks from counties with a population of at least 500,000 but
 319 fewer than 1 million, and two clerks from counties with a
 320 population of more than 1 million. ~~The executive council shall~~
 321 ~~also include, as ex officio members, a designee of the President~~
 322 ~~of the Senate and a designee of the Speaker of the House of~~
 323 ~~Representatives. The Chief Justice of the Supreme Court shall~~
 324 ~~designate one additional member to represent the state courts~~
 325 ~~system.~~

326 (c) The corporation shall be considered a political
 327 subdivision of the state and shall be exempt from the corporate
 328 income tax. The corporation is not subject to the procurement
 329 provisions of chapter 287, and policies and decisions of the
 330 corporation relating to incurring debt, levying assessments, and
 331 the sale, issuance, continuation, terms, and claims under
 332 policies of the corporation, and all services relating to such
 333 provisions, policies, and decisions, are not subject to the
 334 provisions of chapter 120.

335 (d) The functions assigned to the corporation under this
 336 section and ss. 28.36 and 28.37 are considered to be for a valid

337 public purpose.

338 (2) The duties of the corporation shall include the

339 following:

340 (a) Adopting a plan of operation.

341 (b) Conducting the election of directors as required in

342 paragraph (1) (a).

343 (c) Recommending to the Legislature changes in the various

344 court-related fines, fees, service charges, and court costs

345 established by law to ensure reasonable and adequate funding of

346 the clerks of the court in the performance of their court-

347 related functions.

348 (d) Pursuant to contract with the Chief Financial Officer,

349 establishing a process for the review and certification of

350 proposed court-related budgets submitted by clerks of the court

351 for completeness and compliance with this section and ss. 28.36

352 and 28.37. Such process shall be designed and be sufficiently

353 detailed to permit independent verification and validation of

354 the budget certification. The contract shall specify the process

355 to be used in determining compliance by the corporation with

356 this section and ss. 28.36 and 28.37.

357 ~~(e)-(d)~~ Developing and certifying a uniform system of

358 performance measures and applicable performance standards for

359 the functions specified in paragraph ~~(4)-(3)~~(a) and ~~the service~~

360 ~~unit costs required in s. 28.36 and measures~~ for clerk

361 performance in meeting the performance standards. These measures

362 and standards shall be designed to facilitate an objective

363 determination of the performance of each clerk in accordance

364 with minimum standards for fiscal management, operational

365 efficiency, and effective collection of fines, fees, service
 366 charges, and court costs. ~~The corporation shall develop the~~
 367 ~~performance measures and performance standards in consultation~~
 368 ~~with the Legislature and the Supreme Court. The Legislature may~~
 369 ~~modify the clerk performance measures and performance standards~~
 370 ~~in legislation implementing the General Appropriations Act or~~
 371 ~~other law.~~ When the corporation finds a clerk has not met the
 372 performance standards, the corporation shall identify the nature
 373 of each deficiency and any corrective action recommended and
 374 taken by the affected clerk of the court. ~~The corporation shall~~
 375 ~~notify the Legislature and the Supreme Court of any clerk not~~
 376 ~~meeting performance standards and provide a copy of any~~
 377 ~~corrective action plans.~~

378 (f) ~~(e)~~ Reviewing and certifying proposed budgets submitted
 379 by clerks of the court using the process approved by the Chief
 380 Financial Officer pursuant to paragraph (d) for the purpose of
 381 making the certification in paragraph (3) (a). As part of this
 382 process, the corporation shall: ~~pursuant to s. 28.36.~~

383 1. Calculate the maximum authorized annual budget pursuant
 384 to the requirements of s. 28.36.

385 2. Identify those proposed budgets exceeding the maximum
 386 annual budget pursuant to s. 28.36(5) for the standard list of
 387 court-related functions specified in paragraph (4) (a).

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

391 4. Identify those clerks projected to have court-related
 392 revenues insufficient to fund their anticipated court-related

393 expenditures.

394 (g) ~~(f)~~ Developing and conducting clerk education programs.

395 (h) ~~(g)~~ Publishing a uniform schedule of actual fees,
 396 service charges, and costs charged by a clerk of the court
 397 pursuant to general law.

398 (3) (a) The corporation shall certify to the President of
 399 the Senate, the Speaker of the House of Representatives, the
 400 Chief Financial Officer, and the Department of Revenue by
 401 October 15 of each year, the amount of the proposed budget
 402 certified for each clerk; the revenue projection supporting each
 403 clerk's budget; each clerk eligible to retain some or all of the
 404 state's share of fines, fees, service charges, and costs; the
 405 amount to be paid to each clerk from the Clerks of the Court
 406 Trust Fund within the Department of Revenue; the performance
 407 measures and standards approved by the corporation for each
 408 clerk; and the performance of each clerk in meeting the
 409 performance standards.

410 (b) Prior to December 1 of each year, the Chief Financial
 411 Officer shall review the certifications made by the corporation
 412 for the purpose of determining compliance with the approved
 413 process and report his or her findings to the President of the
 414 Senate, the Speaker of the House of Representatives, and the
 415 Department of Revenue. To determine compliance with such
 416 process, the Chief Financial Officer may examine the budgets
 417 submitted to the corporation by the clerks.

418 (4) ~~(3)~~ (a) The list of court-related functions that clerks
 419 may fund from filing fees, service charges, court costs, and
 420 fines is perform ~~are~~ limited to those functions expressly

421 authorized by law or court rule. Those functions include the
 422 following: case maintenance; records management; court
 423 preparation and attendance; processing the assignment,
 424 reopening, and reassignment of cases; processing of appeals;
 425 collection and distribution of fines, fees, service charges, and
 426 court costs; processing of bond forfeiture payments; payment of
 427 jurors and witnesses; payment of expenses for meals or lodging
 428 provided to jurors; data collection and reporting; processing of
 429 jurors; determinations of indigent status; and reasonable
 430 administrative support costs to enable the clerk of the court to
 431 carry out these court-related functions.

432 (b) The list of functions that clerks may not fund from
 433 filing fees, service charges, court costs, and fines includes
 434 ~~state appropriations include:~~

- 435 1. Those functions not specified within paragraph (a).
- 436 2. Functions assigned by administrative orders which are
 437 not required for the clerk to perform the functions in paragraph
 438 (a).
- 439 3. Enhanced levels of service which are not required for
 440 the clerk to perform the functions in paragraph (a).
- 441 4. Functions identified as local requirements in law or
 442 local optional programs.

443 ~~(5)-(4)~~ The corporation shall ~~prepare a legislative budget~~
 444 ~~request for the resources necessary to perform its duties,~~
 445 ~~submit the request pursuant to chapter 216, and be funded~~
 446 pursuant to a contract with the Chief Financial Officer. Funds
 447 shall be provided to the Chief Financial Officer for such
 448 purpose as appropriated by general law. Such funds shall be

449 available to the corporation for the performance of the duties
 450 and responsibilities as set forth in this section ~~as a budget~~
 451 ~~entity in the General Appropriations Act.~~ The corporation may
 452 hire staff and pay other expenses from such funds ~~state~~
 453 ~~appropriations~~ as necessary to perform the official duties and
 454 responsibilities of the corporation as described in this section
 455 ~~by law.~~

456 (6) ~~(5)~~ (a) The corporation shall submit an annual audited
 457 financial statement to the Auditor General in a form and manner
 458 prescribed by the Auditor General. The Auditor General shall
 459 conduct an annual audit of the operations of the corporation,
 460 including the use of funds and compliance with the provisions of
 461 this section and ss. 28.36 and 28.37.

462 (b) Certified public accountants conducting audits of
 463 counties pursuant to s. 218.39 shall report, as part of the
 464 audit, whether or not the clerks of the courts have complied
 465 with the budgets certified by the corporation pursuant to the
 466 budget review process pursuant to contract with the Chief
 467 Financial Officer and with the performance standards developed
 468 and certified pursuant to this section ~~requirements of this~~
 469 ~~section and s. 28.36. In addition, each clerk of court shall~~
 470 ~~forward a copy of the portion of the financial audit relating to~~
 471 ~~the court-related duties of the clerk of court to the Supreme~~
 472 ~~Court.~~ The Auditor General shall develop a compliance supplement
 473 for the audit of compliance with the budgets and applicable
 474 performance standards certified by the corporation.

475 Section 5. Section 28.36, Florida Statutes, is amended to
 476 read:

477 28.36 Budget procedure.—There is established a budget
 478 procedure ~~for preparing budget requests for funding~~ for the
 479 court-related functions of the clerks of the court.

480 (1) Only those functions on the standard list developed
 481 pursuant to s. 28.35(4) (a) may be funded from fees, service
 482 charges, court costs, and fines retained by the clerks of the
 483 court. A clerk may not use fees, service charges, court costs,
 484 and fines in excess of the maximum budget amounts established in
 485 subsection (5). ~~Each clerk of court shall prepare a budget~~
 486 ~~request for the last quarter of the county fiscal year and the~~
 487 ~~first three quarters of the next county fiscal year. The~~
 488 ~~proposed budget shall be prepared, summarized, and submitted by~~
 489 ~~the clerk in each county to the Florida Clerks of Court~~
 490 ~~Operations Corporation in the manner and form prescribed by the~~
 491 ~~corporation to meet the requirements of law. Each clerk shall~~
 492 ~~forward a copy of his or her budget request to the Supreme~~
 493 ~~Court. The budget requests must be provided to the corporation~~
 494 ~~by October 1 of each year.~~

495 (2) For each state fiscal year beginning July 1, 2010, and
 496 for each county fiscal year ending September 30 thereafter, each
 497 clerk of the court shall prepare a budget relating solely to the
 498 performance of the standard list of court-related functions
 499 pursuant to s. 28.35(4) (a). ~~Each clerk shall include in his or~~
 500 ~~her budget request a projection of the amount of court-related~~
 501 ~~fees, service charges, and any other court-related clerk fees~~
 502 ~~which will be collected during the proposed budget period. If~~
 503 ~~the corporation determines that the proposed budget is limited~~
 504 ~~to the standard list of court-related functions in s.~~

505 28.35(4)~~(3)~~(a) and the projected court-related revenues are less
 506 than the proposed budget, the clerk shall increase all fees,
 507 service charges, and any other court-related clerk fees and
 508 charges to the maximum amounts specified by law or the amount
 509 necessary to resolve the deficit, whichever is less.

510 (3) Each proposed budget shall further conform to the
 511 following requirements ~~clerk shall include in his or her budget~~
 512 ~~request the number of personnel and the proposed budget for each~~
 513 ~~of the following core services:~~

514 (a) On or before August 15 of each fiscal year, the
 515 proposed budget shall be prepared, summarized, and submitted by
 516 the clerk in each county to the corporation in the manner and
 517 form prescribed by the corporation. The proposed budget must
 518 provide detailed information on the anticipated revenues
 519 available and expenditures necessary for the performance of the
 520 standard list of court-related functions of the clerk's office
 521 developed pursuant to s. 28.35(4) (a) for the county fiscal year
 522 beginning the following October 1 ~~Case processing.~~

523 (b) The proposed budget must be balanced, such that the
 524 total of the estimated revenues available must equal or exceed
 525 the total of the anticipated expenditures. Such revenues include
 526 cash balances brought forward from the prior fiscal period;
 527 revenue projected to be received from fees, service charges,
 528 court costs, and fines for court-related functions during the
 529 fiscal period covered by the budget; and supplemental revenue
 530 that may be requested pursuant to subsection (4). The
 531 anticipated expenditures must be itemized as required by the
 532 corporation, pursuant to contract with the Chief Financial

533 Officer ~~Financial processing.~~

534 (c) The proposed budget may include a contingency reserve
 535 not to exceed 10 percent of the total budget, provided that, in
 536 the aggregate, the proposed budget does not exceed the limits
 537 prescribed in subsection (5) Jury management.

538 ~~(d) Information and reporting.~~

539
 540 ~~Central administrative costs shall be allocated among the core-~~
 541 ~~services categories.~~

542 (4) If a clerk of the court estimates that available funds
 543 plus projected revenues from fines, fees, service charges, and
 544 costs for court-related services are insufficient to meet the
 545 anticipated expenditures for the standard list of court-related
 546 functions in s. 28.35(4) (a) performed by his or her office, the
 547 clerk must report the revenue deficit to the corporation in the
 548 manner and form prescribed by the corporation pursuant to
 549 contract with the Chief Financial Officer. The corporation shall
 550 verify that the proposed budget is limited to the standard list
 551 of court-related functions in s. 28.35(4) (a).

552 (a) If the corporation verifies that the proposed budget
 553 is limited to the standard list of court-related functions in s.
 554 28.35(4) (a) and a revenue deficit is projected, a clerk seeking
 555 to retain revenues pursuant to this subsection shall increase
 556 all fees, service charges, and any other court-related clerk
 557 fees and charges to the maximum amounts specified by law or the
 558 amount necessary to resolve the deficit, whichever is less. If,
 559 after increasing fees, service charges, and any other court-
 560 related clerk fees and charges to the maximum amounts specified

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561 by law, a revenue deficit is still projected, the corporation
562 shall, pursuant to the terms of the contract with the Chief
563 Financial Officer, certify a revenue deficit and notify the
564 Department of Revenue that the clerk is authorized to retain
565 revenues, in an amount necessary to fully fund the projected
566 revenue deficit, which he or she would otherwise be required to
567 remit to the Department of Revenue for deposit into the
568 department's Clerks of the Court Trust Fund pursuant to s.
569 28.37. If a revenue deficit is projected for that clerk after
570 retaining all of the projected collections from the court-
571 related fines, fees, service charges, and costs, the Department
572 of Revenue shall certify the amount of the revenue deficit
573 amount to the Executive Office of the Governor and request
574 release authority for funds appropriated for this purpose from
575 the department's Clerks of the Court Trust Fund. Notwithstanding
576 the provisions of s. 216.192 relating to the release of funds,
577 the Executive Office of the Governor may approve the release of
578 funds appropriated to resolve projected revenue deficits in
579 accordance with the notice, review, and objection procedures set
580 forth in s. 216.177 and shall provide notice to the Chief
581 Financial Officer. The Department of Revenue shall request
582 monthly distributions from the Chief Financial Officer in equal
583 amounts to each clerk certified to have a revenue deficit, in
584 accordance with the releases approved by the Governor.

585 (b) If the Chief Financial Officer finds the court-related
586 budget proposed by a clerk includes functions not included in
587 the standard list of court-related functions in s. 28.35(4)(a),
588 the Chief Financial Officer shall notify the clerk of the amount

589 of the proposed budget not eligible to be funded from fines,
 590 fees, service charges, and costs for court-related functions and
 591 shall identify appropriate corrective measures to ensure budget
 592 integrity. The clerk shall immediately discontinue all
 593 ineligible expenditures of court-related funds for non-court-
 594 related functions and reimburse the Clerks of the Court Trust
 595 Fund for any previously ineligible expenditures made for non-
 596 court-related functions, and shall implement any corrective
 597 actions identified by the Chief Financial Officer. ~~The budget~~
 598 ~~request must identify the service units to be provided within~~
 599 ~~each core service. The service units shall be developed by the~~
 600 ~~corporation, in consultation with the Supreme Court, the Chief~~
 601 ~~Financial Officer, and the appropriations committees of the~~
 602 ~~Senate and the House of Representatives.~~

603 (5) (a) The Legislative Budget Commission may approve
 604 increases to the maximum annual budgets approved for individual
 605 clerks of the court pursuant to this section for court-related
 606 functions, if:

607 1. The additional funding is necessary to pay the cost of
 608 performing new or additional functions required by changes in
 609 law or court rule. Before the Legislative Budget Commission may
 610 approve an increase in the maximum annual budget of any clerk
 611 under this paragraph, the corporation must provide the
 612 Legislative Budget Commission with a statement of the impact of
 613 the proposed budget changes on state revenues and evidence that
 614 the respective clerk of the court is meeting or exceeding the
 615 established performance standards for measures on the fiscal
 616 management, operational efficiency, and effective collection of

617 finest, fees, service charges, and court costs; or
 618 2. The additional funding is necessary to pay the cost of
 619 supporting increases in the number of judges or magistrates
 620 authorized by the Legislature. Before the Legislative Budget
 621 Commission may approve an increase in the maximum annual budget
 622 of any clerk under this paragraph, the corporation must provide
 623 the Legislative Budget Commission with a statement of the impact
 624 of the proposed budget changes on state revenues; evidence that
 625 the respective clerk of the court is meeting or exceeding the
 626 established performance standards for measures on the fiscal
 627 management, operational efficiency, and effective collection of
 628 finest, fees, service charges, and court costs; and a proposed
 629 staffing model, including the cost and number of staff necessary
 630 to support each new judge or magistrate.

631 (b) The total amount of increases approved by the
 632 Legislative Budget Commission for each county fiscal year shall
 633 not exceed an amount equal to 2 percent of the maximum annual
 634 budgets approved pursuant to this section for all clerks, in the
 635 aggregate, for that same county fiscal year. The budget request
 636 must propose a unit cost for each service unit. The corporation
 637 shall provide a copy of each clerk's budget request to the
 638 Supreme Court.

639 (6) The corporation may submit proposed legislation to the
 640 Governor, the President of the Senate, and the Speaker of the
 641 House of Representatives no later than November 1 in any year
 642 for approval of clerk budget request amounts exceeding the
 643 restrictions in this section for the following October 1. If
 644 proposed legislation is recommended, the corporation shall also

645 submit supporting justification with sufficient detail to
 646 identify the specific proposed expenditures that would cause the
 647 limitations to be exceeded for each affected clerk and the
 648 estimated fiscal impact on state revenues. ~~The corporation shall~~
 649 ~~review each individual clerk's prior-year expenditures,~~
 650 ~~projected revenue, proposed unit costs, and the proposed budget~~
 651 ~~for each of the core services categories. The corporation shall~~
 652 ~~compare each clerk's prior-year expenditures and unit costs for~~
 653 ~~core services with a peer group of clerks' offices having a~~
 654 ~~population of a similar size and a similar number of case~~
 655 ~~filings. If the corporation finds that the expenditures, unit~~
 656 ~~costs, or proposed budget of a clerk is significantly higher~~
 657 ~~than those of clerks in that clerk's peer group, the corporation~~
 658 ~~shall require the clerk to submit documentation justifying the~~
 659 ~~difference in each core services category. Justification for~~
 660 ~~higher expenditures may include, but is not limited to,~~
 661 ~~collective bargaining agreements, county civil service~~
 662 ~~agreements, and the number and distribution of courthouses~~
 663 ~~served by the clerk. If the expenditures and unit costs are not~~
 664 ~~justified, the corporation shall recommend a reduction in the~~
 665 ~~funding for that core services category in the budget request to~~
 666 ~~an amount similar to the peer group of clerks or to an amount~~
 667 ~~that the corporation determines is justified.~~

668 ~~(7) The corporation shall complete its review and~~
 669 ~~adjustments to the clerks' budget requests and make its~~
 670 ~~recommendations to the Legislature and the Supreme Court by~~
 671 ~~December 1 each year.~~

672 ~~(8) The Chief Financial Officer shall review the proposed~~

673 ~~unit costs associated with each clerk of court's budget request~~
 674 ~~and make recommendations to the Legislature. The Chief Financial~~
 675 ~~Officer may conduct any audit of the corporation or a clerk of~~
 676 ~~court as authorized by law. The Chief Justice of the Supreme~~
 677 ~~Court may request an audit of the corporation or any clerk of~~
 678 ~~court by the Chief Financial Officer.~~

679 ~~(9) The Legislature shall appropriate the total amount for~~
 680 ~~the budgets of the clerks in the General Appropriations Act. The~~
 681 ~~Legislature may reject or modify any or all of the unit costs~~
 682 ~~recommended by the corporation. If the Legislature does not~~
 683 ~~specify the unit costs in the General Appropriations Act or~~
 684 ~~other law, the unit costs recommended by the corporation shall~~
 685 ~~be the official unit costs for that budget period.~~

686 ~~(10) For the 2009-2010 fiscal year, the corporation shall~~
 687 ~~release appropriations in an amount equal to one twelfth of each~~
 688 ~~clerk's approved budget each month. The statewide total~~
 689 ~~appropriation for the 2009-2010 fiscal year shall be set in the~~
 690 ~~General Appropriations Act. The corporation shall determine the~~
 691 ~~amount of each clerk of court budget, but the statewide total of~~
 692 ~~such amounts may not exceed the amount listed in the General~~
 693 ~~Appropriations Act. Beginning in the 2010-2011 fiscal year, the~~
 694 ~~corporation shall release appropriations to each clerk~~
 695 ~~quarterly. The amount of the release shall be based on the prior~~
 696 ~~quarter's performance of service units identified in the four~~
 697 ~~core services and the established unit costs for each clerk.~~

698 ~~(11) The corporation may submit proposed legislation to~~
 699 ~~the Governor, the President of the Senate, and the Speaker of~~
 700 ~~the House of Representatives relating to the preparation of~~

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701 ~~budget requests of the clerks of court.~~

702 Section 6. Section 28.37, Florida Statutes, is amended to
703 read:

704 28.37 Fines, fees, service charges, and costs remitted to
705 the state.—

706 (1) Pursuant to s. 14(b), Art. V of the State
707 Constitution, selected salaries, costs, and expenses of the
708 state courts system and court-related functions shall be funded
709 from a portion of the revenues derived from statutory fines,
710 fees, service charges, and costs collected by the clerks of the
711 court.

712 (2) Beginning July 1, 2010, except as otherwise provided
713 in ss. 28.241 and 34.041, one-third of all fines, fees, service
714 charges, and court costs collected by the clerks of the court
715 during the prior month for the performance of court-related
716 functions shall be remitted to the Department of Revenue for
717 deposit into the department's Clerks of the Court Trust Fund.
718 Such collections do not include funding received for the
719 operation of the Title IV-D child support collections and
720 disbursement program. The clerk of the court shall remit the
721 revenues collected during the prior month due to the state on or
722 before the 20th day of each month. The Department of Revenue
723 shall make a monthly transfer to the General Revenue Fund of the
724 funds in the department's Clerks of the Court Trust Fund that
725 are not needed to resolve clerk of the court revenue deficits,
726 as specified in s. 28.36.

727 (3) Beginning January 1, 2010, and each January 1
728 thereafter for the preceding county fiscal year of October 1

729 through September 30, the clerk of the court shall remit to the
 730 Department of Revenue for deposit in the General Revenue Fund
 731 the cumulative excess of all fines, fees, service charges, and
 732 court costs retained by the clerks of the court, plus any funds
 733 received by the clerks of the court from the department's Clerk
 734 of the Court Trust Fund under s. 28.36(4) (a), that exceed the
 735 amount needed to meet the approved budget amounts established
 736 under s. 28.36.

737 (4) The Department of Revenue shall collect any funds that
 738 the Florida Clerks of Court Operations Corporation determines
 739 upon investigation were due on January 1 but not remitted to the
 740 department. Except as otherwise provided in ss. 28.241 and
 741 34.041, all court-related fines, fees, service charges, and
 742 costs are considered state funds and shall be remitted by the
 743 clerk to the Department of Revenue for deposit into the Clerks
 744 of the Court Trust Fund within the Justice Administrative
 745 Commission. However, 10 percent of all court-related fines
 746 collected by the clerk shall be deposited into the clerk's
 747 Public Records Modernization Trust Fund to be used exclusively
 748 for additional clerk court-related operational needs and program
 749 enhancements.

750 Section 7. Subsection (1) of section 28.43, Florida
 751 Statutes, is amended to read:

752 28.43 Adoption of rules relating to ss. 28.35, 28.36, and
 753 28.37.—

754 (1) The Department of Revenue may adopt rules necessary to
 755 carry out its responsibilities in ss. 28.35, 28.36, and 28.37.
 756 The rules shall include forms and procedures for transferring

757 funds from the clerks of the court to the Clerks of the Court
 758 Trust Fund within the Department of Revenue ~~Justice~~
 759 ~~Administrative Commission~~.

760 Section 8. Paragraph (b) of subsection (1) of section
 761 34.041, Florida Statutes, is amended to read:

762 34.041 Filing fees.—

763 (1)

764 (b) The first \$80 of the filing fee collected under
 765 subparagraph (a)4. shall be remitted to the Department of
 766 Revenue for deposit into the General Revenue Fund. The next \$15
 767 of the filing fee collected under subparagraph (a)4., and the
 768 first \$10 of the filing fee collected under subparagraph (a)7.,
 769 shall be deposited in the state courts' Mediation and
 770 Arbitration Trust Fund. One-third of any filing fees collected
 771 by the clerk under this section in excess of the first \$95
 772 collected under subparagraph (a)4. shall be remitted to the
 773 Department of Revenue for deposit into the department's Clerks
 774 of the Court Trust Fund. An additional filing fee of \$4 shall be
 775 paid to the clerk. The clerk shall transfer \$3.50 to the
 776 Department of Revenue for deposit into the Court Education Trust
 777 Fund and shall transfer 50 cents to the Department of Revenue
 778 for deposit into the department's Clerks of the Court Trust Fund
 779 ~~within the Justice Administrative Commission~~ to fund clerk
 780 education. Postal charges incurred by the clerk of the county
 781 court in making service by mail on defendants or other parties
 782 shall be paid by the party at whose instance service is made.
 783 Except as provided herein, filing fees and service charges for
 784 performing duties of the clerk relating to the county court

785 shall be as provided in ss. 28.24 and 28.241. Except as
 786 otherwise provided herein, all filing fees shall be retained as
 787 fee income of the office of the clerk of the circuit court
 788 ~~remitted to the Department of Revenue for deposit into the~~
 789 ~~Clerks of the Court Trust Fund within the Justice Administrative~~
 790 ~~Commission~~. Filing fees imposed by this section may not be added
 791 to any penalty imposed by chapter 316 or chapter 318.

792 Section 9. Subsection (5) of section 43.16, Florida
 793 Statutes, is amended to read:

794 43.16 Justice Administrative Commission; membership,
 795 powers and duties.—

796 (5) The duties of the commission shall include, but not be
 797 limited to, the following:

798 (a) The maintenance of a central state office for
 799 administrative services and assistance when possible to and on
 800 behalf of the state attorneys and public defenders of Florida,
 801 the capital collateral regional counsel of Florida, the criminal
 802 conflict and civil regional counsel, and the Guardian Ad Litem
 803 Program, ~~and the Florida Clerks of Court Operations Corporation.~~

804 (b) Each state attorney, public defender, criminal
 805 conflict and civil regional counsel, and the Guardian Ad Litem
 806 Program, ~~and the Florida Clerks of Court Operations Corporation~~
 807 shall continue to prepare necessary budgets, vouchers that
 808 represent valid claims for reimbursement by the state for
 809 authorized expenses, and other things incidental to the proper
 810 administrative operation of the office, such as revenue
 811 transmittals to the Chief Financial Officer and automated
 812 systems plans, but will forward same to the commission for

813 recording and submission to the proper state officer. However,
 814 when requested by a state attorney, a public defender, a
 815 criminal conflict and civil regional counsel, or the Guardian Ad
 816 Litem Program, the commission will either assist in the
 817 preparation of budget requests, voucher schedules, and other
 818 forms and reports or accomplish the entire project involved.

819 Section 10. Paragraph (x) of subsection (2) of section
 820 110.205, Florida Statutes, is amended to read:

821 110.205 Career service; exemptions.—

822 (2) EXEMPT POSITIONS.—The exempt positions that are not
 823 covered by this part include the following:

824 (x) All officers and employees of the Justice
 825 Administrative Commission, Office of the State Attorney, Office
 826 of the Public Defender, regional offices of capital collateral
 827 counsel, offices of criminal conflict and civil regional
 828 counsel, and Statewide Guardian Ad Litem Office, including the
 829 circuit guardian ad litem programs ~~and the Florida Clerks of~~
 830 ~~Court Operations Corporation.~~

831 Section 11. Subsections (2) and (3) of section 142.01,
 832 Florida Statutes, are amended to read:

833 142.01 Fine and forfeiture fund; disposition of revenue;
 834 clerk of the circuit court.—

835 ~~(2) All revenues received by the clerk in the fine and~~
 836 ~~forfeiture fund from court-related fees, fines, costs, and~~
 837 ~~service charges are considered state funds and shall be remitted~~
 838 ~~monthly to the Department of Revenue for deposit into the Clerks~~
 839 ~~of the Court Trust Fund within the Justice Administrative~~
 840 ~~Commission.~~

841 (2)~~(3)~~ Notwithstanding the provisions of this section, all
 842 fines and forfeitures arising from operation of the provisions
 843 of s. 318.1215 shall be disbursed in accordance with that
 844 section.

845 Section 12. Section 213.131, Florida Statutes, is amended
 846 to read:

847 213.131 Clerks of the Court Trust Fund within the
 848 Department of Revenue ~~Justice Administrative Commission.~~—The
 849 Clerks of the Court Trust Fund is created within the Department
 850 of Revenue ~~Justice Administrative Commission.~~ Funds received by
 851 the department from the clerks of court shall be credited to the
 852 trust fund as provided in chapter 2001-122, Laws of Florida, to
 853 be used for the purposes set forth in that act.

854 Section 13. Paragraph (qq) of subsection (1) of section
 855 216.011, Florida Statutes, is amended to read:

856 216.011 Definitions.—

857 (1) For the purpose of fiscal affairs of the state,
 858 appropriations acts, legislative budgets, and approved budgets,
 859 each of the following terms has the meaning indicated:

860 (qq) "State agency" or "agency" means any official,
 861 officer, commission, board, authority, council, committee, or
 862 department of the executive branch of state government. For
 863 purposes of this chapter and chapter 215, "state agency" or
 864 "agency" includes, but is not limited to, state attorneys,
 865 public defenders, criminal conflict and civil regional counsel,
 866 capital collateral regional counsel, ~~the Florida Clerks of Court~~
 867 ~~Operations Corporation,~~ the Justice Administrative Commission,
 868 the Florida Housing Finance Corporation, and the Florida Public

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869 Service Commission. Solely for the purposes of implementing s.
870 19(h), Art. III of the State Constitution, the terms "state
871 agency" or "agency" include the judicial branch.

872 Section 14. This act shall take effect July 1, 2010.