

CHAPTER 2017-126

Senate Bill No. 2506

An act relating to clerks of the court; amending s. 11.90, F.S.; removing duties of the Legislative Budget Commission regarding budgets of the Florida Clerks of Court Operations Corporation and the clerks of the court; amending s. 28.241, F.S.; requiring that certain filing fees for trial and appellate proceedings be deposited into clerks of the circuit court fine and forfeiture funds, rather than into the General Revenue Fund; amending s. 28.35, F.S.; revising duties of the corporation; prohibiting the total combined proposed budgets of clerks of the court from exceeding specified limits; requiring the corporation to provide an annual report to the Governor, Legislature, and chairs of the legislative appropriations committees regarding court operations and budgets; deleting duties of the commission in considering budgets of the clerks of the court; amending s. 28.36, F.S.; authorizing the corporation to amend budgets of the clerks of the court; amending s. 28.37, F.S.; revising the fund into which certain fines collected by the clerk are to be deposited; amending s. 40.29, F.S.; requiring the Justice Administrative Commission to provide funds to the clerks of court for certain jury-related costs; requiring the clerks of court and the corporation to submit quarterly estimates of certain expenses to the commission; providing the procedure for securing such funds and distributing them to the clerks; providing for the apportionment of costs if funds appropriated by the Legislature are estimated to be insufficient to pay all amounts requested; requiring the clerks of court to pay amounts in excess of appropriated amounts; amending s. 45.035, F.S.; revising a provision for the payment of a service charge for electronic sales; amending s. 775.083, F.S.; deleting a provision requiring a clerk to remit certain fines under a specified circumstance to the Department of Revenue; providing an effective date.

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

Section 1. Subsection (6) of section 11.90, Florida Statutes, is amended to read:

11.90 Legislative Budget Commission.—

(6) The commission has ~~shall have~~ the power and duty to:

(a) Review and approve or disapprove budget amendments recommended by the Governor or the Chief Justice of the Supreme Court as provided in chapter 216.

(b) Develop the long-range financial outlook described in s. 19, Art. III of the State Constitution.

~~(e) Review and approve, disapprove, or amend and approve the budget of the Florida Clerks of Court Operations Corporation.~~

~~(d) Review and approve, disapprove, or amend and approve the total combined budgets of the clerks of the court or the budget of any individual clerk of the court for court-related functions. As part of this review, the commission shall consider the workload and expense data submitted pursuant to s. 28.35.~~

~~(c)~~(e) Exercise all other powers and perform any other duties prescribed by the Legislature.

Section 2. Paragraph (c) of subsection (1) and subsection (2) of section 28.241, Florida Statutes, are amended to read:

28.241 Filing fees for trial and appellate proceedings.—

(1) Filing fees are due at the time a party files a pleading to initiate a proceeding or files a pleading for relief. Reopen fees are due at the time a party files a pleading to reopen a proceeding if at least 90 days have elapsed since the filing of a final order or final judgment with the clerk. If a fee is not paid upon the filing of the pleading as required under this section, the clerk shall pursue collection of the fee pursuant to s. 28.246.

(c)1. A party in addition to a party described in sub-subparagraph (a)1.a. who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, counterpetition, or third-party complaint shall pay the clerk of court a fee of \$395. A party in addition to a party described in sub-subparagraph (a)1.b. who files a pleading in an original civil action in circuit court for affirmative relief by cross-claim, counterclaim, counterpetition, or third-party complaint shall pay the clerk of court a fee of \$295. The clerk shall deposit ~~remit~~ the fee ~~to the Department of Revenue for deposit into the~~ fine and forfeiture fund established pursuant to s. 142.01 General Revenue Fund.

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

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

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

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

The clerk shall deposit ~~remit~~ the fees collected under this subparagraph to the Department of Revenue for deposit into the fine and forfeiture fund established pursuant to s. 142.01 General Revenue Fund.

(2) Upon the institution of any appellate proceeding from any lower court to the circuit court of any such county, including appeals filed by a county or municipality as provided in s. 34.041(5), or from the circuit court to an appellate court of the state, the clerk shall charge and collect from the party or parties instituting such appellate proceedings a filing fee not to exceed \$280 for filing a notice of appeal from the county court to the circuit court and, in addition to the filing fee required under s. 25.241 or s. 35.22, \$100 for filing a notice of appeal from the circuit court to the district court of appeal or to the Supreme Court. If the party is determined to be indigent, the clerk shall defer payment of the fee. ~~The clerk shall remit the first \$80 to the Department of Revenue for deposit into the General Revenue Fund.~~

Section 3. Paragraphs (a), (f), and (h) of subsection (2) and subsection (3) of section 28.35, Florida Statutes, are amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(2) The duties of the corporation shall include the following:

(a) Adopting a plan of operation including a detailed budget for the corporation.

(f) Approving the Reviewing, certifying, and recommending proposed budgets submitted by clerks of the court pursuant to s. 28.36. The corporation must ensure that the total combined budgets of the clerks of the court do not exceed the total estimated revenues available for court-related expenditures as determined by the most recent Revenue Estimating Conference. The corporation may amend any individual clerk of the court budget to ensure compliance with this paragraph and must consider performance measures, workload performance standards, workload measures, and expense data before modifying the budget. As part of this process, the corporation shall:

1. Calculate the minimum amount of revenue necessary for each clerk of the court to efficiently perform the list of court-related functions specified in paragraph (3)(a). The corporation shall apply the workload measures appropriate for determining the individual level of review required to fund the clerk's budget.

2. Prepare a cost comparison of similarly situated clerks of the court, based on county population and numbers of filings, using the standard list of court-related functions specified in paragraph (3)(a).

3. Conduct an annual base budget review and an annual budget exercise examining the total budget of each clerk of the court. The review shall examine revenues from all sources, expenses of court-related functions, and expenses of noncourt-related functions as necessary to determine that court-

related revenues are not being used for noncourt-related purposes. The review and exercise shall identify potential targeted budget reductions in the percentage amount provided in Schedule VIII-B of the state's previous year's legislative budget instructions, as referenced in s. 216.023(3), or an equivalent schedule or instruction as may be adopted by the Legislature.

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

5. Identify those clerks projected to have court-related revenues insufficient to fund their anticipated court-related expenditures.

6. Use revenue estimates based on the official estimate for funds accruing to the clerks of the court made by the Revenue Estimating Conference. The total combined budgets of the clerks of the court may not exceed the revenue estimates established by the most recent Revenue Estimating Conference.

7. ~~Identify and report~~ pay and benefit increases in any proposed clerk budget, including, but not limited to, cost of living increases, merit increases, and bonuses.

8. ~~Identify~~ Provide detailed explanation for increases in anticipated expenditures in any clerk budget that exceeds the current year budget by more than 3 percent.

9. ~~Identify and report~~ the budget of any clerk which exceeds the average budget of similarly situated clerks by more than 10 percent.

(h) ~~Preparing and submitting a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees by January 1 of each year on the operations and activities of the corporation and detailing the budget development for the clerks of the court and the end-of-year reconciliation of actual expenditures versus projected expenditures for each clerk of court. Beginning August 1, 2014, and each August 1 thereafter, submitting to the Legislative Budget Commission, as provided in s. 11.90, its proposed budget and the information described in paragraph (f), as well as the proposed budgets for each clerk of the court. Before October 1 of each year beginning in 2014, the Legislative Budget Commission shall consider the submitted budgets and shall approve, disapprove, or amend and approve the corporation's budget and shall approve, disapprove, or amend and approve the total of the clerks' combined budgets or any individual clerk's budget. If the Legislative Budget Commission fails to approve or amend and approve the corporation's budget or the clerks' combined budgets before October 1, the clerk shall continue to perform the court-related functions based upon the clerk's budget for the previous county fiscal year.~~

(3)(a) The list of court-related functions that clerks may fund from filing fees, service charges, costs, and fines is limited to those functions expressly authorized by law or court rule. Those functions include the following: case maintenance; records management; court preparation and attendance; processing the assignment, reopening, and reassignment of cases; processing of appeals; collection and distribution of fines, fees, service charges, and court costs; processing of bond forfeiture payments; ~~payment of jurors and witnesses; payment of expenses for meals or lodging provided to jurors; data collection and reporting; processing of jurors;~~ determinations of indigent status; and paying reasonable administrative support costs to enable the clerk of the court to carry out these court-related functions.

(b) The list of court-related functions that clerks may not fund from filing fees, service charges, costs, and fines includes:

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

Section 4. Paragraph (a) of subsection (2) and subsection (4) of section 28.36, Florida Statutes, are amended to read:

28.36 Budget procedure.—There is established a budget procedure for the court-related functions of the clerks of the court.

(2) Each proposed budget shall further conform to the following requirements:

(a) ~~On or before June 1 of each year beginning in 2014,~~ the proposed budget shall be prepared, summarized, and submitted by the clerk in each county to the Florida Clerks of Court Operations Corporation in the manner and form prescribed by the corporation. The proposed budget must provide detailed information on the anticipated revenues available and expenditures necessary for the performance of the court-related functions listed in s. 28.35(3)(a) of the clerk’s office for the county fiscal year beginning October 1.

(4) The corporation ~~Legislative Budget Commission~~ may approve increases or decreases to the previously authorized budgets approved for individual clerks of the court pursuant to s. 28.35 for court-related functions, if:

(a) The additional budget authority is necessary to pay the cost of performing new or additional functions required by changes in law or court rule; or

(b) The additional budget authority is necessary to pay the cost of supporting increases in the number of judges or magistrates authorized by the Legislature.

Section 5. Subsection (5) of section 28.37, Florida Statutes, is amended to read:

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

(5) Ten percent of all court-related fines collected by the clerk, except for penalties or fines distributed to counties or municipalities under s. 316.0083(1)(b)3. or s. 318.18(15)(a), shall be deposited into the fine and forfeiture clerk's Public Records Modernization Trust fund to be used exclusively for additional clerk court-related functions, as provided in s. 28.35(3)(a) ~~operational needs and program enhancements~~.

Section 6. Subsection (5) is added to section 40.29, Florida Statutes, to read:

40.29 Payment of due-process costs.—

(5) The Justice Administrative Commission shall provide funds to the clerks of the court to compensate jurors, to pay for meals or lodging provided to jurors, and to pay for jury-related personnel costs as provided in this section. Each clerk of the court shall forward to the Justice Administrative Commission a quarterly estimate of funds necessary to compensate jurors and pay for meals or lodging provided to jurors during the upcoming quarter. The Florida Clerks of Court Operations Corporation shall forward to the Justice Administrative Commission a quarterly estimate of the amount necessary to reimburse each clerk of the court for its personnel and other costs related to jury management. Upon receipt of such estimates, the Justice Administrative Commission shall determine the amount deemed necessary for payment to the clerks of the court during the upcoming quarter and submit a request for payment to the Chief Financial Officer. If the Justice Administrative Commission believes that the amount appropriated by the Legislature is insufficient to meet such costs during the remaining part of the state fiscal year, the commission may apportion the funds appropriated in the General Appropriations Act for those purposes among the several counties, basing the apportionment upon the amount expended for such purposes in each county during the prior fiscal year, in which case, the Chief Financial Officer shall issue the appropriate apportioned amount by warrant to each county. The clerks of the court are responsible for any compensation to jurors, for payments for meals or lodging provided to jurors, and for jury-related personnel costs that exceed the funding provided in the General Appropriations Act for these purposes.

Section 7. Subsection (3) of section 45.035, Florida Statutes, is amended to read:

45.035 Clerk's fees.—In addition to other fees or service charges authorized by law, the clerk shall receive service charges related to the judicial sales procedure set forth in ss. 45.031-45.034 and this section:

(3) If the sale is conducted by electronic means, as provided in s. 45.031(10), the clerk shall receive an additional service charge not to exceed \$70 for services in conducting or contracting for the electronic sale, which service charge shall be assessed as costs and paid when filing for an electronic sale date by the winning bidder. If the clerk requires advance electronic deposits to secure the right to bid, such deposits shall not be subject to the fee under s. 28.24(10). The portion of an advance deposit from a winning bidder required by s. 45.031(3) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10).

Section 8. Subsection (1) of section 775.083, Florida Statutes, is amended to read:

775.083 Fines.—

(1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a noncriminal violation may be sentenced to pay a fine. Fines for designated crimes and for noncriminal violations shall not exceed:

- (a) \$15,000, when the conviction is of a life felony.
- (b) \$10,000, when the conviction is of a felony of the first or second degree.
- (c) \$5,000, when the conviction is of a felony of the third degree.
- (d) \$1,000, when the conviction is of a misdemeanor of the first degree.
- (e) \$500, when the conviction is of a misdemeanor of the second degree or a noncriminal violation.
- (f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
- (g) Any higher amount specifically authorized by statute.

Fines imposed in this subsection shall be deposited by the clerk of the court in the fine and forfeiture fund established pursuant to s. 142.01, ~~except that the clerk shall remit fines imposed when adjudication is withheld to the Department of Revenue for deposit in the General Revenue Fund.~~ If a defendant is unable to pay a fine, the court may defer payment of the fine to a date certain. As used in this subsection, the term “convicted” or “conviction”

means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

Section 9. This act shall take effect upon becoming a law.

Approved by the Governor June 16, 2017.

Filed in Office Secretary of State June 16, 2017.