

**MINUTES  
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION  
EXECUTIVE COUNCIL- ORGANIZATIONAL MEETING  
TUESDAY, JULY 15, 2008  
TAMPA, FLORIDA**

Mr. Forman called the July 15, 2008 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 11:00 am. He welcomed members and guests. Members of the Executive Council present were the Honorable Howard Forman, Honorable Richard Weiss, Honorable Marsha Ewing, Honorable Bob Inzer, and Honorable Harvey Ruvin. Honorable John Crawford, Honorable Charlie Green, and Honorable Tim Sanders were present by telephone.

**AGENDA**

Ms. Ewing moved approval of the Agenda. Seconded by Mr. Green, the motion passed unanimously.

**SWEARING IN OF COUNCIL MEMBERS**

Ms. Pat Frank, Clerk of Court – Hillsborough County, administered the Oath of Office to the incoming members of the Executive Council. She congratulated those who were elected to the Council and stated that it is wise of the membership to return the incumbents to office. This, combined with the efforts of other strong members of the organization, should be a good omen for the Corporation. She then administered the Oath of Office.

**ELECTION OF OFFICERS**

Mr. Boyd conducted the election of the Chair of the Executive Council. Mr. Green nominated Mr. Forman. Mr. Ruvin seconded the nomination. There were no other nominations. Mr. Forman was unanimously elected as Chair.

Mr. Forman conducted the elections for Vice-Chairman and Secretary-Treasurer. Mr. Weiss nominated Mr. Ruvin for Vice-Chair with Mr. Inzer seconding the nomination. There were no other nominations. Mr. Ruvin was unanimously elected as Vice-Chair. Mr. Ruvin nominated Mr. Weiss as Secretary-Treasurer. Mr. Inzer seconded the nomination. There were no other nominations. Mr. Weiss was elected unanimously.

**JUROR EXPENSE FUNDING**

Mr. Dew reported that the Legislature, through CS/SB 1790, provided that the Corporation may approve up to \$1,188,184 for the period of July 1, 2008 through September 30, 2008 for expenses related to jurors. This includes the per diem as well as

the meals and lodging. CCOC distributed a memo to Clerks asking for information as to how much they would need to request for this expense for these three months. We discovered that if we took the actual projected expenditure authority for this expense based on OSCA's data for calendar year 2007, the cost excluding meals and lodging equals the amount provided by the Legislature. Adding meals and lodging costs would exceed authority provided by the Legislature. Therefore, to assure each Clerk has sufficient budget capability CCOC staff contacted some of the larger counties to ask if their office, for this one quarter, would be able financially to handle juror expenses with no additional budget authority to cover them. Both Dade County and Palm Beach County felt they would be able to manage juror expenses with no additional budget authority. In addition, Broward said they would be able to manage juror expenses with \$30,000 less than what OSCA had earmarked for Broward. Because of this we were able to allocate what Clerks felt they would need and still have a reserve of approximately \$147,000. The reserve will be used to cover unexpected expenses if needed.

Mr. Dew provided a chart showing the Juror Payment Projections and budget impact for each of the sixty-seven counties for the quarter July 1, 2008 through September 30, 2008. Unlike the methodology used by OSCA where Clerks were made whole if expenses exceeded projections, Mr. Dew said these dollars will be put in each Clerk's budget and will be used for rebasing purposes. If a county has an expensive trial requiring a county to exceed their budget authority, the Clerk might need to find dollars elsewhere in their budget to fund those juror expenses. To help protect the impact for small counties, we chose the quarter when they expended the greatest amount and used that amount for this quarter. This doesn't mean that they'll necessarily expend all of those dollars which means the dollars will ultimately be returned to the state at settle-up. While this process will help small counties, it only works because of the efforts of Broward, Dade, and Palm Beach Counties. These three counties may not be able to do this for future quarters but it will get us through this one quarter.

Mr. Dew distributed a two-page form excerpted from the DRAFT CFO / FCCOC Contract. The two-page list of deliverables includes one related to this issue. On page 2 of this document, note "Item #22 – The Corporation shall deliver to the CFO a transition plan for the implementation of payment by each individual Clerk of Court from his other current revenues of the costs for juror expense and juror meals and lodging beginning July 1, 2008. The transition plan shall take into account that no additional State appropriations are available to cover the payment by individual Clerks of such juror-related costs and expenses during this period. The transition plan shall identify each individual Clerk of Court who is unable to accommodate the payment of juror expense and juror meals and lodging during the last quarter of FY 2007-2008 because of insufficient spending authority in his or her approved FY 2007-2008 budget caused by its budget cap. The transition plan shall propose equitable adjustments to the approved budget caps of any such Clerk, including any deficit Clerk, necessary to allow payment of foreseeable juror-related costs and expenses from current revenues. Any adjustment shall be based on available data with respect to costs previously incurred for juror-related expenses in the relevant county. All adjustments to individual budget caps proposed by the transition plan must not exceed an aggregate total of \$1,188,184."

Mr. Dew noted that the chart attached could be the CCOC transition plan and he would provide this to DFS. This same methodology will be utilized each quarter. Mr. Dew asked the Executive Council to approve the contractual language in Item 22 and to approve the distribution of dollars to each of the sixty-five Clerks. If the distribution methodology is approved, CCOC staff will send each of the sixty-five Clerks a new certification letter stating that their budget cap has been increased and by how much. If a Clerk needs dollars because they cannot fund juror expenses from their fines, fees, court costs, and service charges, he said the CCOC staff we will contact the Department of Revenue to ensure that those monies are provided accordingly.

Mr. Green noted that CCOC allocated \$42,000 for Lee County but he believes they will actually need closer to \$47,000. Mr. Dew responded that issues such as this are the reason it's so important to have the \$147,000 in reserve. He also noted that, to enable CCOC to be certain Clerks were funded adequately, Clerks would have to submit a quarterly report to CCOC as was done with OSCA. He further suggested that Mr. Green, after two months, could bring this back to the Council in September and ask the Council to increase his cap at that point after having two months worth of jury expense information. He allowed that Mr. Green may be correct to say that this may not be enough and if it is not the CCOC can use some of the reserve set aside to resolve this issue.

Mr. Green moved approval of the new contractual language for Item 22 between the CCOC and CFO and the distribution of dollars as presented at the meeting today. Mr. Inzer seconded the motion which passed unanimously.

Mr. Dew also spoke about Item 23 of the CFO / FCCOC contract deliverables arising from SB 1790, increased fees. The Legislature has already allocated the dollars they expect to receive from the increased fees and they will need to know if the dollars are not coming in as projected so they can make adjustments in their budget to cover any shortfall. DFS has proposed the following language be added to our current contract: "The Corporation shall deliver to the CFO a quarterly report form that will account for all new revenues generated by increased fees (\$121 million annually) per SB 1790. The quarterly report by county should reflect approximately \$30 million in revenues and will provide a detailed explanation by county for revenues not received as projected."

Mr. Dew said it is expected that CCOC staff will determine what new revenue information can be obtained from information reported by the Clerks to the Department of Revenue, what detailed information legislative staff may need, and then create a reporting form for Clerks to complete on a quarterly basis and submit to the CCOC office.

Mr. Inzer stated that there is concern among Clerks as to whether to record the new dollars as a revenue or a liability and notes some ambiguity with regard to the legislation. He suggested that if the Council can get an Attorney General's opinion, this will help Clerks deal with outside auditors who might question the methodology they'll be employing. Mr. Boyd reported that CCOC staff has planned a meeting with representation from CCOC, FACC, DFS, and Legislative staff to discuss such concerns. He had hoped to have the meeting last week, but that could not be worked out. He agreed that we need to square the legislative intent with what is considered to be reasonable and acceptable accounting practices. This is what is to be addressed at that meeting. Mr.

Boyd said he was hopeful we will be able to resolve the issue without having to seek the Attorney General's opinion.

Mr. Inzer moved that the Council accept the revised contractual language proposed by the CFO that requires the CCOC to collect quarterly information from Clerks on new revenues and report to DFS. The motion was seconded by Mr. Ruvin. The motion passed unanimously.

## **ARTICLE V AND SB 1790**

Mr. Skip Burnside from the Florida Legislative Office of Economic and Demographic Research discussed the process EDR uses for estimating revenues and how Article V fits into that.

Florida is, by our Constitution, a balanced budget state. We do not have deficit spending. We do have bonding to fund specific projects, but a cap is set on bonds. Unlike the federal government, we can't borrow to fund our budget. Section 216.134, FS established the process for developing the official estimate of revenue available to the Legislature to appropriate for the upcoming fiscal year.

Article V revenues are forecast in July and August each year and updated in November and March for the current and next three fiscal year periods. In addition a long term ten-year forecast is prepared annually. Revenues are monitored continuously through reports provided to EDR by the Florida DFS and DOR at least twice monthly. EDR also communicates with CCOC staff at least monthly and usually more often. On a monthly basis EDR compares estimated to actual receipts. If revenues do not come in as expected, EDR must prepare a report explaining why.

Article V revenues are estimated in three categories: 1) Filing fee revenues and 2) end of local fiscal year Clerks' account revenues (settle up fees) go directly into General Revenue, and the remainder of the monies are remitted through the 3) CCOC Clearing Trust Fund transfer revenues. He presented that since 03-04, which represented only one quarter of revenues, the Clerks have remitted \$.8 million (03-04), \$45.9 million (04-05), \$87.5 million (05-06), \$103.9 million (06-07), and \$113.5 million (07-08) to the state's general revenue.

EDR is also responsible for doing Impact Analysis of proposed legislation. The methodology used for impact analysis is the same as that used for revenue estimating. EDR worked very closely with the FACC and the Department of Highway Safety and Motor Vehicles to estimate the impact on state revenues resulting from the passage of SB 1790. Without SB 1790, the budget would not have balanced.

The annualized estimate for FY 08-09 is \$149.5 million, of which \$131.9 million is expected to be deposited into the State General Revenue Fund and be monitored by EDR. The projected cash to be realized in the State General Revenue Fund as a result of SB 1790 for FY 08-09, taking a collection lag into account, is \$121million.

Mr. Dew reported that CCOC will provide DFS with data related to SB 1790 in October and asked if this would allow enough time before EDR meets in November. Mr. Burnside said that it would. He stated that EDR will be tracking monthly and will use the CCOC report as a reconciliation report.

Mr. Dew said that he understands that a 4% hold back is required by state agencies because revenues came in below projections for April, May, and June. He

asked Mr. Burnside if there might be a special session should July and August revenues also not meet projections. Mr. Burnside stated that he has not heard anything about a special session. He believes that if anything occurs, it will not happen before the organizational session in November.

Mr. Inzer asked Mr. Burnside if a shift in purchases from taxable items to tax exempt items has contributed to the decline in sales tax revenues. Mr. Burnside allowed that he does not work with sales tax and does not know the answer to Mr. Inzer's question. Mr. Inzer followed with a question about the affect of decreasing sales tax revenues on the state reserves. Mr. Burnside stated that the reserves are indeed decreasing but further stated that there is a cap on that decrease. Once the cap is met, the legislature will need to convene to handle the situation. He noted that the first thing to fall off was doc stamps, followed by sales tax on building products, followed by sales tax on those items for homes (e.g. large screen TV's), and then cars and other products. Mr. Inzer asked if there is a correlation between increased internet sales and decreased sales tax revenues. Mr. Burnside said he is not aware of any correlation.

Mr. Burke asked if we can post Mr. Burnside's presentation on our website. Mr. Dew said that we would do so.

#### OTHER

Mr. Forman noted that at our next meeting we will discuss new committee appointments. He stated that we would like to expand committees if there are Clerks who would like to serve.

The meeting was adjourned at 12:10 pm