

**MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
TUESDAY, JANUARY 27, 2009
SAN DESTIN, FLORIDA**

Mr. Forman called the January 27, 2009 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 1:00 pm CST (2:00 pm EST). He welcomed members and guests. Members of the Executive Council present were the Honorable Howard Forman, Honorable Bob Inzer, Honorable John Crawford, Honorable Marsha Ewing, and Honorable Tim Sanders. Honorable Richard Weiss and Honorable Harvey Ruvlin attended telephonically.

Mr. Dew announced that the conference call would be monitored and explained the method for a participant to notify staff that he/she wishes to ask a question or make a comment.

Mr. Dew further noted that the meeting packet is on our website, www.flccoc.org. The pages are numbered and page numbers are noted on the Agenda.

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Mr. Forman requested a motion to approve the Minutes for the November 18, 2008 and January 7, 2009 meetings as distributed. Ms. Ewing so moved and Mr. Sanders seconded the motion. The motion passed unanimously.

FINANCIAL REPORT

Mr. Weiss reported that after the first six months of the fiscal year, we are well within the budget having expended only 29% overall. Additionally, having expended only 33%, we are well within the budget for Education. We began November 1st with a balance of \$543,468.77 and finished December 31st with a balance of \$529,537.64. Mr. Weiss moved approval of the Financial Report. Mr. Inzer seconded the motion which passed unanimously.

COMMITTEE REPORTS

Finance and Budget

Mr. Weiss reported that the Finance and Budget Committee met January 15th. It was a productive meeting. Mr. Weiss requested that Mr. Dew give a more in depth discussion of what was accomplished at the meeting.

Mr. Dew reported that the committee reviewed a BAR from Escambia County. The committee moved the BAR forward pending staff review to evaluate whether the Trust Fund can remain solvent if all Clerks employed the 2% decreased revenue

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Approved at April 13, 2009 EC Meeting

methodology. Staff's review will be presented later in the meeting when the Escambia BAR is discussed.

The Committee also requested staff be prepared to discuss the revenue issue with special attention to the most recent revenue data and revenue trends. December revenues have come in and will be discussed later in this meeting.

The Committee also requested staff provide information on recently passed Senate Bill 12A. We will provide that information at today's meeting.

Mr. Weiss had requested CCOC staff to provide the total amount Clerks have remitted to the state. Mr. Culp reported that in FY0708, Clerks remitted approximately \$161.68 million to the state's General Revenue. These dollars came from filing fees, Trust Fund sweeps, annual surplus remittance, and SB1790 revenues. Mr. Culp received information from the Department of Revenue noting that almost \$2.3 billion was sent to the state from Clerks' offices in FY07/08. Mr. Dew noted that Mr. Weiss requested staff continue to track this information on a monthly basis.

Performance Measures

Ms. Ewing noted that she has no report at this time. Mr. Dew thanked Clerk staff for turning in their Performance Measures data timely. Ms. Daws reported that the only Performance Measures report submitted to date for county fiscal year 08/09 is Collections. She noted that assessment and collections are down not only for the latest quarter but that we've been seeing a drop in collections over the past three quarters. Mr. Inzer noted that he has seen a 46% increase over last year in suspensions for people not paying civil traffic assessments.

Personnel

Mr. Sanders reported that CCOC has two new staff members. Melissa Garrett has filled the vacant Communication and Budget Analyst position. Russ Duncan is working as OPS staff to aid Clerks and Clerk staff with collections.

Mr. Sanders also reported that the Lanigan and Associates recently concluded their FY07/08 financial audit and the Auditor General is preparing to begin the FY07/08 audit.

Legislative Committee

Mr. Inzer reported that the Legislative Committee met this morning. The committee discussed coordination with FACC's Legislative Committee. Mr. Ellspermann, Clerk of the Court from Marion County and Chair of the FACC Legislative Committee, joined the meeting by phone.

Mr. Culp reported that on Monday he emailed the finance staff in all Clerks' offices to request they estimate the potential court-related revenue impact of SB 12A on their office from February 1 through September 30. He asked that the information be submitted by Friday. To date twenty-one offices have responded. The combined impact estimated by those counties through September 30 is a \$2.8 million dollars loss of revenue to their offices.

Mr. Inzer expects the number to grow with more extensive reporting. Ms. Ewing feels that these numbers are not going to be representative as she feels withholds and assessing fines will continue to increase. Mr. Dew noted that the impact in Lake and Marion Counties was greater than in Hillsborough and Dade because in Hillsborough and Dade some judges who withheld adjudication did not assess a fine. Mr. Ruvin feels that when the judges benefit from withholding adjudication, we will see an increase in withholds.

Mr. Inzer noted that there are still questions pertaining to how to implement SB 12A. FACC staff is going to meet with DHSMV to discuss under what conditions, it is permissible to suspend a driver's license for failure to attend school. Also, under the scenario where someone pays an offender's ticket without the offender signing up for school but within thirty days the offender submits a school completion form, how will the Clerk handle the change in assessment. Conversely, when an offender pays a fine signing up for school but fails the school, how will the Clerk record this change of assessment.

Ms. Ewing asked, since this constitutes a change mid-year, will there be any assistance to help Clerks when revenues drop as a result of SB 12A. Mr. Forman suggested that we will be watching what happens in the regular session. He also stated that some Legislators who voted for the bill are expressing their misgivings about it now. Mr. Inzer noted that Clerks' expenditures must stay within the revenues they are collecting. Ms. Ewing responded that a number of Clerks are having difficulty doing that at this time. Mr. Inzer countered that we cannot count on relief coming in the regular session and that, if it does, it may have a future effective date as the state and judges have already counted those dollars as revenues for themselves. Mr. Dew noted that the Legislative Committee will be working with FACC in their efforts to discern what we may be able to do to help with this issue.

The Legislative Committee recommended we move forward with the \$295 counter-petition fee, the \$10 criminal investigative fee, and the \$25 assessment to continue with Hearing Officers that are part of the FACC's Legislative Committee package. Mr. Ruvin moved the recommendations forward and asked when we will see the glitch bill. Mr. Ellspermann answered that the glitch bill will be distributed tomorrow after Mr. Baggett provides an update to the full Association. Mr. Ellspermann further noted that Governor Crist just signed SB 12A. Ms. Ewing asked about the mandate for Collections Court. Mr. Forman stated that the Collections Court issue is not part of what we are moving forward. Mr. Inzer seconded Mr. Ruvin's motion which passed unanimously.

REVENUE ENHANCEMENT COMMITTEE

Mr. Weiss reported that Mr. Forman created the Revenue Enhancement Committee to develop budget and revenue recommendations for Legislative consideration. The group's recommendations will be brought to the Executive Council for approval before being proposed to the Legislature. As Chair, Mr. Weiss is adding staff members from offices around the state to the committee. He hopes to have a committee meeting by the end of February.

EXECUTIVE COUNCIL SPECIAL ELECTION

Mr. Weiss provided an update on the Special Election to fill the Executive Council vacancy resulting from Mr. Green's resignation. Ballots were mailed to all Clerks January 20, 2009 with a date certain of midnight, February 13 for returning completed ballots. Counties eligible for the position are Brevard, Duval, Lee, Pinellas, Polk, and Volusia. Ballots will be opened February 27 at 3:00 p.m. at the offices of Lanigan & Associates. Results will be announced that day.

DFS CONTRACT

Mr. Sanders was charged with developing language to resolve the issue of vehicle expenditures language in the new DFS contract. Current language provides that Clerks will not be authorized to use dollars from their court-related FY 09-10 budget for "vehicles, repairs, and fuel" expenditures. Mr. Sanders presented proposed guidelines to the Executive Council. Staff noted that they have not had the opportunity to share the guidelines with CFO staff prior to this meeting. To summarize, when a Clerk has offices throughout the county and is required to travel to these remote offices in performance of his/her duties, it would be "permissible to use filing fees, service charges, court costs, and fines to pay for transportation as required for the Clerk to fulfill such functions and duties. Such transportation costs must only include reasonable costs incurred in purchasing and operating vehicles to the extent the use of such vehicles, as paid for by (court revenues) were limited to the costs incurred in the Clerk's fulfilling the functions and duties set forth in s. 28.35(4) (a), F.S. If any vehicle purchased is not used exclusively for these functions and duties, then only that portion of the cost of purchase and operation which can be allocated to these functions and duties may be paid for using court revenues." The language further stated that the allocation of these expenses must be done by the overhead cost allocation calculation as outlined in the budget instructions.

Mr. Boyd stated that they are a good set of guidelines and it is his hope that they will help resolve this issue. He stated that DFS has no problems with the court-related mileage and the travel voucher system but may still have a difficult time with purchasing and / or leasing of vehicles. The guidelines provide a good model. We will discuss these guidelines with DFS to see if all or parts of the guidelines will be acceptable to them. The plan is to ask DFS to moderate the prohibition regarding vehicle usage. DFS has received the memo and guidelines but we have not met with them.

Mr. Sanders moved approval of his report as presented. Mr. Inzer seconded the motion which was passed unanimously.

REVENUE TRENDS AND IMPACT

Mr. Robertson delivered a presentation of current economic trends and their affect on Clerks' budgets. Revenues are showing signs of serious decline through December 2008. When we reviewed October and November data, there was an average 16% decline in revenues. Adding December's data, we found this decline decreased slightly to an average 13% decline. This is still high.

Reviewing October and November data further, we noted that only two Clerks' offices experienced positive revenue growth, sixteen were in decline between 0% and 10%, twenty-nine between 10% and 20% decline, and twenty offices at a greater than 20% decline. Adding December's data, we found six counties with positive growth, thirteen between 0% and 10%, thirty-four between 10% and 20%, and fourteen with greater than 20% decline. Four of these offices experiencing a greater than 30% decline.

The range of revenues runs from fourteen percent positive to thirty-seven percent negative. Analyzing the size of counties with the degree of decline, we found that for the three months 28% of the offices experiencing a less than 10% decline were small counties. Seventy-two percent of offices experiencing between 10% and 37% decline were small counties. Smaller offices are being hit disproportionately.

As to why revenues are falling, we identified three areas of concern: 1) economic conditions, 2) the state budget situation, and 3) the local budget situation. Unemployment has risen and is predicted to reach between nine and ten percent in the state of Florida over the next year. Personal income is declining. As for housing, we still have a great surplus of homes. This combined with lowered assessments and fewer homes on the tax rolls, adds to the economic burden locally and throughout the state. There are increased numbers of business failures and continued tight credit. Travel and tourism is also down.

We are not likely to see an upturn in the economy until sometime in 2010. As a result, we are seeing decreased numbers of civil filings and possibly more criminal cases. It is becoming increasingly more difficult for Clerk staff to meet the timeliness and collections rate performance measures. The state budget has not escaped this decline. There is every indication that the continued decline in revenues will continue.

During the 2008 Legislative Session, SB 1790 increased fees and fines but diverted them directly to General Revenue which did not help the Clerk's budget process.

Looking at the 2009 Special Legislative Session, budgets were cut approximately 4% across most state agencies. The courts were cut only 1.2%. However Highway Patrol was cut and this will cause a decrease in citations, a big source of Clerk revenues. The extent of the impact of SB 12A has not been fully determined.

Looking to the 2009 Regular Session, the state is facing an approximate \$3.8 billion dollar budget problem. This includes both budget shortfalls and requirements to fund contractual obligations such as Medicaid. Legislators are looking at various options to raise the dollars. Cutting 8% of all general revenues could amount to \$1 billion. A \$1 per pack cigarette tax could raise \$1 billion but given that the federal government recently raised the taxes by \$.62 / pack, this is not likely to happen in Florida. Eliminating tax exemptions could raise approximately \$1 billion. And a one-cent sales tax increase could raise approximately \$3 billion. All of these measures will affect Clerks' collections and Clerks' budgets.

Local governments have lost approximately 20% of their revenues over the last couple of years. The tax rolls are currently being appraised down. Local government is also experiencing decreasing sales tax dollars. As with the Highway Patrol, fewer citations are being written as officers are being diverted to other more critical duties.

The bottom line is that managing and monitoring the budgets becomes more important every month. It will be important to monitor the impact of economic changes. We are also looking for ways to generate revenues. The more revenues a Clerk brings in,

the less impact he/she will feel when it comes to rebasing. It's very important for Clerks to share Best Practices. Additionally, we need to understand the economic factors when it comes to projecting revenues for next year. It is important to predict as accurately as possible because the operations of the office depend on that accuracy.

Mr. Forman noted several problems. With the high rate of foreclosures came the demand to hire more people to handle the increased processing workload. With the high rate of unemployment came the issue of people's inability to pay their bills to include fines. And fewer tickets are issued as police officers sympathize with the public during hard times. Initially, it appeared that criminal cases were increasing, but now even those are decreasing.

Mr. Green is concerned that many counties don't 'work' their tourist tax. He feels that this is a good source of uncollected revenues that the state should pursue. He would also like for the state to look more closely at collection practices as regards sales tax. Mr. Green said that our dollars are state dollars and an improved state economy would benefit everyone immensely.

Mr. Dew noted one calculation correction on the revenues data distributed. Mr. Weiss reminded Clerks as we look to budget preparation for FY 09-10 to be careful not to budget too heavily on foreclosure revenues. Mr. Inzer further reminded the group about 'lag factor', that Clerks may have collected the dollars this year but may have much of the work to do next year when revenues are down.

BUDGET EDUCATION TRAINING

Mr. Dew reported that CCOC staff has conducted several Budget Education Training programs. To demonstrate the benefits of a BET, an overview of the Escambia and Bradford County BET's is included in today's packet. CCOC staff has met with the Clerks and their staff in Bradford, Escambia, Santa Rosa, and Glades Counties. Trips are currently being scheduled for Gadsden, Putnam and Martin Counties. Mr. Dew noted that before staff visits a Clerk's office, they spend a week or two discussing variables particular to that county – local economy, history with regard revenues and expenditures, cases data, and performance measures data. We are asking Clerks to be prepared to discuss measures they've taken to both handle the revenue shortfall and to enhance revenues and increase collections. Using this data, staff develops recommendations for the Clerk and delineates what CCOC can do to help. The sharing of ideas is beneficial for both Clerk staff and for CCOC staff.

Ms. Mary Johnson, Clerk of Court for Santa Rosa County, reported that traffic tickets are down and criminal cases have increased. CCOC staff conducted a BET for Santa Rosa County which Ms. Johnson stated was very productive. She was afforded the opportunity to share the situation in Santa Rosa and what her office is doing to conserve revenues and increase collections. While CCOC staff is quick to say that the BET can't solve all of the problems associated with decreased revenues and that things may still get worse, she feels that CCOC staff gave her realistic suggestions. Mr. Dew noted that he was very impressed with the staff in Santa Rosa and with all they are doing to help keep the office running as efficiently as possible under the circumstances provided by today's economy. By the end of the day they were able to develop a specific plan for increasing

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revenues to the extent possible and determine the level of expenditures Santa Rosa can realistically expect for the rest of this fiscal year. Ms. Johnson added that although it's still difficult, they were able to develop survival skills to help meet the challenges. She recommends the program for other Clerks in need of help.

Mr. Inzer noted that Clerks are not using all that's available to them. He would like for us to research opportunities like the \$18 fee for reinstatement, the reopens fee and its application. Mr. Dew noted that we are looking at all ways to enhance revenues for Clerks and welcomes suggestions. We are learning from each other and sharing information and suggestions.

CCOC staff had the opportunity to meet and work with Mr. Flint and his staff in Glades County. Mr. Robertson gave an overview of the BET done for Glades County, a small county with 9.77 staff and budget of \$556,000. Glades is facing a potential revenue decrease of 26.5% by year's end. Mr. Robertson reported that they discussed with staff a number of options for revenue enhancement beyond civil traffic. These include getting juror dollars during the year, looking at expanding D-6 eligibility beyond civil traffic, and setting up payment plans. Citations will most likely remain down until Glades gets more officers later this year. We also looked at spending patterns and discussed options such as giving compensatory time rather than paying overtime, instituting strict spending policies, cross-training staff, and using pre-printed forms. To their credit, they are planning so that they will be able to survive within their revenue trends prediction. Mr. Dew noted that these recommendations are equivalent to taking a budget cut. Although Glades' budget is \$556,000, they will have to survive with approximately \$416,000.

BUDGET AMENDMENT REQUESTS

Escambia County

Escambia County is asking to use the 2% revenue shortfall policy. They are requesting \$145,188 from the Trust Fund. The Trust Fund has sufficient dollars to make that transfer. Mr. Culp reported that he and Mr. Robertson traveled to Escambia County to meet with staff. Escambia staff is doing an excellent job of trying to handle the revenue shortfall. The Finance and Budget Committee approved this request at their January 15 meeting and it is being forwarded to the Council for its approval. Mr. Inzer moved approval of the BAR for Escambia County. Mr. Ruvin seconded the motion.

Mr. Weiss, Finance and Budget Committee Chair stated that before the committee would approve the BAR, they requested a review of the Trust Fund to determine whether there would be sufficient dollars in the Trust Fund to accommodate this 2% revenue shortfall policy should all Clerks make this request. Mr. Dew stated that staff did look at the Trust Fund. If all counties employed the 2% rule, the cost would be approximately \$12 million. Deficit Clerks may utilize their SB 1790 dollars as approved under the CFO memorandum. Staff then looked at applying the 2% rule for those surplus counties whose revenues are at least ten percent below projections. The impact on the Trust Fund decreased to \$2.6 million. We have \$4 million as of early January, so we have sufficient dollars. The BAR passed unanimously.

Santa Rosa County

Santa Rosa's requested that their budget authority be increased to their lawful budget expenditure cap. If the Council approves this request the Santa Rosa Clerk's office would be approved to keep up to \$299,462 from SB 1790 fees. Mr. Sanders moved approval of the BAR. Mr. Crawford seconded the motion which passed unanimously.

JUROR EXPENSES

Mr. Dew presented this quarter's budget increases to offset juror expenses. SB 1790 changed the process Clerks used for getting dollars to pay juror expenses. The current process provides that each Clerk's budget is increased to offset the juror expenses. Each quarter we have approved a budget increase for each Clerk based on expenditures for the previous three months or in the case of small counties, the largest quarterly expenditure in the three years of data we have. We have provided data for what each county spent for juror expenses this past quarter, what has been requested for this coming quarter, and CCOC's recommended increase in budget authority for each Clerk. Once again, he thanked Dade and Palm Beach Counties for foregoing an increase in their budgets for juror expenses. This is the third quarter they have not requested an increase for juror expenses leaving approximately \$200,000 to help cover other counties. CCOC is recommending increasing sixty-five Clerks' budgets by an aggregate amount of \$1,024,639 for January, February, and March 2009. This is below what was available to be distributed, leaving a balance of \$163,544.56. This reserve is held in case a Clerk has an unusual juror expense and needs extra help. Staff did notice an overpayment to a couple of Clerks in the previous quarter due to our methodology counting meals and lodging expenses twice. Resolution is being made this quarter by decreasing these Clerk's budget authority by the amount of the overpayment.

Mr. Sanders moved approval of the juror expense budget authority presented today. The motion was seconded by Mr. Crawford and passed unanimously. Mr. Dew stated that next week we will send to each Clerk a Budget Certification Letter reflecting the change to his/her budget. He also requested that revenue challenged counties needing dollars contact our office.

TRUST FUND UPDATE

Mr. Culp reported that DOR is making monthly sweeps of the Trust Fund. Since the beginning the state fiscal year 2008-2009, they have swept approximately \$22 million from the Trust Fund to General Revenue. The latest sweep leaves a balance of \$3,974,596 in the Trust Fund to begin January 2009.

Historically \$5 million has been left in the Trust Fund after a sweep to allow for emergencies. CCOC staff contacted DOR staff after the latest sweep and DOR indicated they would be aware and sensitive to the Clerks Trust Fund leaving a \$5 million balance for emergencies.

In 08-09 we certified forty offices as surplus offices scheduled to remit dollars to the Trust Fund on a monthly basis as revenues allow. In November six budgeted surplus

offices could not remit any dollars to the Trust Fund. In December eight surplus offices could not send any dollars to the Trust Fund and seventeen could make only a partial payment. Dollars are coming into the Trust Fund at a slower pace. This can affect the solvency of the Trust Fund which could affect the revenue-challenged Clerks and the State of Florida. Staff has alerted DOR to the potential problems.

OTHER

Mr. Forman adjourned the meeting at 3:40 pm.