

**MINUTES
FLORIDA CLERKS OF COURT OPERATIONS CORPORATION
EXECUTIVE COUNCIL
MONDAY, MARCH 16, 2009
ORLANDO, FLORIDA**

Mr. Forman called the March 16, 2009 meeting of the Executive Council of the Florida Clerks of Court Operations Corporation (CCOC) to order at 9:00 am, EDT. 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 Tim Sanders. Honorable John Crawford and Honorable Harvey Ruvlin attended telephonically.

AGENDA

Mr. Forman asked for a motion to approve the Agenda. Mr. Weiss so moved. Mr. Ruvlin seconded the motion which passed unanimously.

INSTALLATION OF HONORABLE SCOTT ELLIS TO EXECUTIVE COUNCIL

Mr. Forman introduced Honorable Scott Ellis, Clerk of Court for Brevard County since January 2001 and elected by his peers to fill the vacancy created by Mr. Green's resignation from the Executive Council. Mr. Forman conducted Mr. Ellis' installation onto the Executive Council.

REVENUES

Mr. Dew reported that Clerk court-related revenues for FY 2008-2009 are not coming in as projected. Revenues for over sixty of the Clerks are below their budgeted revenue projections. The budgetary model under which we work states that revenues must come in for a Clerk to be authorized to spend up to his/her budget cap.

CCOC staff has reviewed the revenue numbers which as of the start of the meeting show that sixty-five of the sixty-seven Clerks are taking a budget reduction mainly due to less revenues coming in than projected. Mr. Dew warned that this may not be the last of the budget cuts if the decline in revenues continues. In the first four months of this fiscal year, fines from adjudications were included in Clerk revenue but this is no longer the case and therefore we may see even more of a revenue percentage drop than experienced that last few months. We do realize that with these reductions, Clerks' ability to provide services to their constituents may be decreased. This may create problems for the citizens of Florida, for judges, for attorneys, and others. We further recognize that Clerks may be less able to meet Performance Measure Standards.

Mr. Dew noted that the Proposed ABE Authority Adjustment Model (DRAFT) that is in front of the Council members at the meeting is also available to those listening in via phone on our website (www.flccoc.org). This spreadsheet is a DRAFT and has been revised over the past twenty-four hours. Several modifications were made this morning after several Clerks agreed to take an additional voluntary cut. Citrus agreed to take an additional .5%. Dixie agreed to a 5% cut, Holmes to 5%, Manatee to 3% and Pasco from 6.07% to 10%. The revised total is \$497,501,205.66, approximately an 8.1% reduction from the original budget. It should be noted that the average reduction taken by each clerk is approximately 13%.

Mr. Inzer asked if there were any Clerks with budgets of \$2.5 million or more who have not taken any reduction. Mr. Culp responded that there are only two counties who were not required to take a reduction because their revenues are above projections.

Mr. Inzer asked Mr. Boyd, CCOC General Counsel, if the Executive Council has the authority to reduce those two budgets even though they have not agreed to a reduction and their revenues don't require them to take a reduction. Mr. Boyd responded that we do have the authority. Mr. Inzer asked if, given the current environment, given the decrease in state revenues and court revenues, and given that all of the other Clerks have taken a reduction, do we want to reduce these two budgets as well. Mr. Weiss asked about the expenditure rate through February for the two counties. Mr. Culp reported that through January both counties are expending less than their approved budget.

The two counties whose revenues are above projections are Seminole County and Indian River County. Ms. Morse, Clerk of Court for Seminole County, attended this meeting telephonically. Mr. Dew asked if she felt Seminole County would be okay with a 3% reduction. She couldn't say that they would be okay but she understands that if she faced declining revenues, she could be forced to take a reduction at some point in time. Ms. Morse asked how the Council arrived at the 3% reduction they were requesting she take. It was explained that the average reduction for all counties is 13% and that Seminole and Indian River were asked to match the smallest reduction, 3%, which is only one fourth of the average reduction taken by a number of Clerks. Mr. Inzer moved that all counties medium and above be required to take a minimum 3% reduction. This would mean that both Seminole and Indian River Counties will be required to take a 3% reduction. Mr. Weiss seconded the motion. Expenditure trends show that both counties will be okay even with the 3% reduction.

Mr. Sanders asked if there might be a more scientific method to determine reductions. Small counties might have eight to ten employees. They start out in a hole and now they're taking a huge cut. Ms. Ewing agreed with Mr. Sanders. She feels that the urgency of reductions has forced us to act too quickly and this may not be the best method to determine reductions. She would like for us to look at what's been happening and look at the affects of these cuts on each county and then come together to try to find a better solution to the revenue issue. Mr. Weiss noted that the State has given us the methodology. And staff has presented the data supplied by each county. Unfortunately, this is the current economic situation. Ms. Ewing stated that she would prefer to table this motion until we can further study other methodologies and choose that methodology with the least impact.

Mr. Dew stated that the spreadsheet provides the revenue trends for each county. Maybe because a number of Clerks have stepped forward to take cuts larger than those

indicated by the scientific model perhaps the Corporation could be given the authority to help the small county clerks who are being forced by the methodology to take such big hits. We will discuss the Budget Education Training but the bottom line is there needs to be some money somewhere to help these Clerks. Maybe those dollars can come from the Clerks who have voluntarily taken reductions higher than what was mandated by their revenues. Mr. Dew said that most everyone agrees that something needs to be done to help these Clerks so they will be able to provide the services they are supposed to provide.

Mr. Forman called for the vote. The motion to require Seminole and Indian River Counties to take a 3% cut passed by a vote of 6-2 with Ms. Ewing and Mr. Sanders casting the dissenting votes.

Returning to the original task at hand, Mr. Sanders reminded the Council that when a small county Clerk is making staff cuts like what will be required, there is no one available to cover the newly vacated positions. We need to provide help for the small counties. He noted that the Legislature understands that there are fiscally constrained counties. And the Legislature has provided funds at times to help these counties. He asked if we can, as a body, form a fund to help small counties. Mr. Dew suggested that we have approximately \$1.1 million left from the juror expense. He suggested that perhaps the Corporation could look at using some of these dollars to help counties in the greatest need as a result of today's vote. This would mean that other Clerks would have to forego increases for juror expenses as Dade and Palm Beach have done over the past three quarters.

Ms. Ewing asked for clarification regarding counties that have historically been surplus counties. This year they may have projected little or no growth and they are below that. They began the year as a surplus county. They recognized early on that they were not going to meet projected revenues, so they've taken steps to make sure they can get through the year (lay-offs, furloughs, etc.). These counties have always sent dollars to the Trust Fund, sent monies to the state. Now these counties are being penalized even more. She has serious concerns about their ability to perform their duties. And she feels that we need to work for those counties as well as the small counties. Mr. Forman stated that we'll look at the affect on all counties. Ms. Ewing feels that if we continue in the direction we're moving today we may not be able to help later. Mr. Dew stated that the model is a scientific model wherein if revenues are down by 10%, expenditures are cut 10% whether the county is surplus or deficit.

Mr. Inzer remarked that we are a young organization in an evolutionary process. As we get more data, we need to use that data to support suggested changes to the model. He also reminded everyone that being designated 'surplus' or 'deficit' has no bearing on efficiency. He believes we should do an efficiency-based analysis looking at the cost of processing felony cases and civil cases in each county and then check for outliers. Those anomalies should be addressed. In order for us to be able to address the issues Ms. Ewing raised, we will have to request monies from the Legislature. Mr. Inzer does not believe the Legislature will give us discretionary authority to increase budgets unless they give us some responsibility to reduce those budgets for Clerks who may be considered less efficient. Then too, the outliers would have to be adjusted for factors such as having multiple offices or a requirement by a judge that the Clerk needs to be at every hearing. Ms. Ewing agreed with Mr. Inzer but said that when we're in the fray, it's just different.

Mr. Joe Gilliam, Clerk of Court for Gilchrist County, asked how the offset would work if, as in Gilchrist's case, he must take the 31.62% reduction. Mr. Dew stated that Gilchrist County is being reduced to \$466,000, so that's the total Gilchrist County can spend for the year. Gilchrist will still be receiving dollars from the Trust Fund, but this is a reduction in their expenditure authority because local revenues have not come in as projected. Mr. Gilliam asked if counties would still be able to a 2% BAR to offset revenue issues. Mr. Dew stated that this may not be available at this time because there are not enough dollars to support that.

Mr. Inzer moved approval of proposed budget cuts for sixty-seven counties as presented today. Mr. Weiss seconded the motion. The bottom line total for the sixty-seven budgets is \$497,056,255.71, a reduction totaling \$44,300,000. Mr. Dew thanked the counties that stepped forward to take additional cuts even though they weren't required to do so under this model.

Ms. Ewing asked if we know how many Clerks listened in to Friday's FACC Conference Call. Mr. Ellspermann said that no roll was taken. Ms. Ewing is concerned that Clerks who might not be aware of what is happening are going to be very surprised at the outcome of this meeting. Mr. Dew said he has been in contact with a number of the Clerks and we have advertised that the purpose of this meeting is to discuss budget reductions. Information was distributed to Clerks on two different occasions. While he can't say that every Clerk understands the issue completely, he hopes they have received all the materials sent them.

Mr. Sanders noted that some revenue data is YTD through January and some is YTD through February. He asked if it was helpful, could we use the February data. He did note that the data could indicate the need for further reductions. Mr. Sanders further stated that we put two counties at 3% but some counties are taking a less than 3% reduction.

Mr. Irby, Clerk of Court for Alachua County followed up with Mr. Sanders' comment suggesting that all counties be cut by a minimum of 3% but not greater than 15%. Mr. Inzer stated that taking a 30% reduction is a real problem but we don't have the authority to limit the reduction. Anything beyond using juror dollars would require legislative change or at least DFS involvement. Nothing in the current model will solve this problem. Mr. Irby suggested that perhaps we shouldn't take action on counties taking a hit over a specific threshold. Rather we should wait to act on those at the next meeting. Mr. Thurmond, Clerk of Court for Wakulla County stated that we have the authority to make all take at least a 3% reduction but we can't cap the reductions. He asked that we make all counties take at least a 3% cut. The counties that are currently taking a less than 3% cut are Walton (2.27%), Hernando (2.89%), Citrus (a voluntary .5%), and St Lucie (2.56%). Mr. Inzer noted that medium counties have more flexibility to deal with budget reductions. He made an amendment to the motion requiring these four counties to take a minimum reduction of 3%. The motion, seconded by Mr. Weiss, passed unanimously. This therefore provided that the total budget reduction for all 67 Clerks would now be set to \$497,038,273.46. Mr. Forman asked for a vote on the original motion to decrease all 67 Clerk's budgets as amended. The motion passed by a vote of 7-1 with Mr. Sanders casting the dissenting vote.

Mr. Weiss asked how much it would take to make whole those counties experiencing a 15% or greater reduction. Mr. Culp reported that to make the twenty-one

experiencing a 15% or greater shortfall whole would take a little over \$7.5 million. This included three counties that aren't considered small counties. If these three counties are eliminated, the total is slightly over \$4.2 million. If we include only those counties with a 20% or greater revenues shortfall, then it would take approximately \$2.5 million. Juror allocation is at \$1.188 million. Using those dollars would go a long way toward solving the small counties' problems related to this issue. Mr. Weiss asked if the LBC could play a part in helping counties taking the huge cuts. Mr. Dew noted that LBC authority relates only to new mandates and new judges and magistrates. Mr. Ellis believes it is critical that we fund rural / small counties. Revision 7 to Article V was passed because these counties were not able to fund their courts without state assistance. Mr. Dew noted that we have talked with Legislative staff about this and they agree that the amount of dollars is not huge in the scheme of things. We have asked for more authority and they have talked about tweaking the law to allow this. As we move forward, this will be an issue for us because this model has not worked for some of the smaller, more rural counties.

Mr. Weiss moved that between this meeting and the next staff continue to monitor revenues as they were used to create this model and if there is any adjustment that needs to be made they will bring it before the Executive Council. Ms Ewing seconded the motion which passed unanimously.

BET – Budget Education and Training

Mr. Robertson noted that as Mr. Culp pointed out, there are twenty-one Clerks taking a 15% or greater reduction from their expenditure authority. He has joined with CCOC staff to develop the BET program which he hopes will help enable Clerks to accommodate some of the reductions a little more easily. The program is designed to help minimize the impact of declining revenues and maximize the abilities of those within the office to live within these limitations. We have provided today a list of those twenty-one counties taking a greater than 15% cut, some of which are having one-third of their expenditure authority cut.

We have also provided a step-by-step over-view of our Budget Education and Training program. We look very closely at the history of the county's expenditures and their revenues, the history of their office workload, and the history of the performance standards and their ability to meet them. We then look at what we can do to help increase revenues and decrease costs and what we can do to help the office manage the workload while they are absorbing the financial loss. Lastly, we look at the performance, how we can help them maintain it as closely as possible to minimize any negative effect on the clients and on the court system. We are ready to support Clerks with Budget and Education Training.

Mr. Weiss feels that we need to concentrate on case management most especially in the small counties that are taking the huge cuts. We need to review case management with each Clerk. He further feels that it might be helpful for staff working in case management in larger counties to go to the smaller counties and share their expertise. Mr. Dew agreed that this is an excellent idea and said that CCOC will be happy to assist with its implementation. Mr. Ruvin offered his staff to help wherever needed. Mr. Sanders

suggested that we will need a blend of staff to accomplish this goal especially given that in small counties often one person manages multiple departments.

Mr. Ellis believes we will need to find some way to address the funding issues in rural counties. For counties with ten staff (or fewer), there are only so many efficiencies that can be accomplished. Mr. Weiss moved that we authorize CCOC staff to assemble this task force to help Clerks who need the help. Mr. Inzer seconded the motion. The motion carried unanimously.

There being no other business, Mr. Forman adjourned the meeting at 11:19 am.