

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	5301	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Justice Appropriations Subcommittee and McBurney	115 Y's	0 N's
<b>COMPANION BILLS:</b>	(1512)	<b>GOVERNOR'S ACTION:</b>	Pending

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**SUMMARY ANALYSIS**

HB 5301 passed the House on May 3, 2013 as SB 1512. The bill makes conforming changes to the Fiscal Year 2013-14 General Appropriations Act (GAA) by making substantial changes to the clerks of court and the Clerks of Court Operations Corporation (Corporation) funding and operations.

The Legislature passed SB 2108 (Chapter 2009-06, Laws of Florida) during the 2009 legislative session. This bill substantially amended the statutory budget process and procedures for these entities, most notably by bringing the clerks and the Corporation into the state budget and appropriating their funds in the annual GAA.

The bill primarily removes the clerks of court and the Corporation from the state budget while restoring some budgetary functions and procedures in place in the statutes prior to the enactment of chapter 2009-06, Laws of Florida. The bill expands the role of the Legislative Budget Commission (LBC) by creating oversight and accountability in the clerks' budget process.

Under current law, the Clerks of Court Trust Fund (COCTF) is assessed an eight percent general revenue service charge each fiscal year, however, the trust fund has not been able to pay the service charge in full since coming into the legislative budget process. This bill will cause a loss to the General Revenue Fund due to the non-assessment of the eight percent general revenue service charge. This equates to a \$33.8 million loss according to the February 2013 Article V Revenue Estimating Conference. The bill also redirects certain filing fees from the General Revenue Fund to clerks' revenues.

Since the inception of the clerks being in the GAA, \$162.0 million of state funds have been appropriated to the clerks of court; of which \$16.6 million in nonrecurring general revenue is appropriated in the 2013-14 GAA to fund the clerk's current year deficit and GR service charge.

The bill redirects \$80 of Circuit Other, Circuit Foreclosure, and County Civil filing fees from the General Revenue Fund to clerks' revenues and exempts the COCTF from the GR Service Charge; this is estimated to generate \$80.5 million in revenue. Based on this estimate, it is projected that the clerks will be adequately funded to carry out their duties as required by law.

The net fiscal impact of this bill is estimated to be approximately \$445 million in reduced trust fund appropriations and a recurring net \$55.5 million negative impact to general as reflected in the FY 2013-14 General Appropriations Act.

Subject to the Governor's veto powers, the effective date of this bill is July, 1 2013, except as otherwise provided.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

Generally, this bill reverses many of the changes made in SB 2108 (Chapter 2009-06, Laws of Florida) during the 2009 legislative session relating to the budgets of the clerks of court, but expands the role of the LBC by creating oversight and accountability in the clerks' budget process. Specifically, the bill:

- Transfers the Clerks of the Court Trust Fund to the Department of Revenue, and transfers fund balances.
- Redirects Circuit Other, Circuit Foreclosure, and County Civil filing fees from the General Revenue Fund to clerks' revenues.
- Redirects the current \$5.00 split of the filing fee collected for trial and appellate proceedings, \$1 to the Department of Financial Services for performing clerk audits and the \$4 to the Corporation for operations funding.
- Removes the provisions describing the Corporation as a "state agency" or "agency".
- Removes the provisions that administratively housed the Corporation within the Justice Administrative Commission and their staff as state employees.
- Allows the Corporation to continue to participate in FRS, as they did prior to 2009.
- Provides that each month the clerk shall submit a portion of filing fees collected in the prior month that is in excess of one-twelfth of the clerk's total budget to DOR for deposit into the department's Clerks of Court Trust Fund.
- Changes references for deposits from the Justice Administrative Commission to the Department of Revenue.
- Provides for the deposit of excess revenue over the amount needed to meet the authorized budget amounts to be transferred from the Department of Revenue to the General Revenue Fund each January, unless the official estimate for funds accruing to the clerks made by the Revenue Estimating Conference for the current fiscal year or the next fiscal year included in the estimate is less than the cumulative amount of authorized budgets from the clerks for the current fiscal year.
- Requires the clerks of court to submit annual budget requests to the Corporation.
- Requires the Corporation to submit their annual budget requests and each of the clerks' annual budget requests to the Legislative Budget Commission.
- Authorizes the LBC to review, approve, disapprove or amend and approve both the Corporations' and the clerks of court budgets by October 1 of each year.
- Authorizes the LBC to consider the workload and expense data submitted by the Corporation.
- Defines workload measures and workload performance standards.
- Requires the Corporation to contract with DFS for audits of court-related budgets of individual clerks.
- Requires the Corporation to base its revenue estimates on the official Revenue Estimating Conference estimate.
- Outlines the budget procedures for calculating the clerks' budget, and the mechanism for counties with projected revenue deficits to request for additional funds from the COCTF.
- Removes the provisions requiring the clerks to submit a budget based on core services and unit costs.
- Allows for the collections made in June 2013 to be effected by the bill and not current law.
- Provides that the clerks and the Corporation are permitted to spend an amount of collected revenues for the period beginning July 1, 2013 and ending September 30, 2013.
- Provides that the clerks and the Corporation are permitted to spend an amount of collected revenues for the county fiscal year beginning October 1, 2013 and ending September 30, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See "fiscal comments" section.

#### 2. Expenditures:

See "fiscal comments" section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See "fiscal comments" section.

#### 2. Expenditures:

See "fiscal comments" section.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill will have a recurring net \$55.5 million negative impact to general revenue (\$47.5 million in redirected revenues, plus \$33 million from the general revenue service charge exemption, less \$25 million in recurring General Revenue currently appropriated to the clerks). However, the state will no longer bear the responsibility of addressing routine operating deficits of the Clerk of Court Trust Fund. Since the inception of the clerks being in the 2009-10 GAA, \$145.4 million of state funds have been appropriated to the clerks of court and the 2013-14 GAA appropriates \$16.6 million in nonrecurring general revenue to fund the clerk's current year deficit and GR service charge.

The 2010 Legislature transferred \$18.6 million from the State Courts Revenue Trust Fund to the Clerks of Court Trust Fund to pay a portion of the eight percent general revenue service charge for Fiscal Year 2009-10. The 2011 Legislature appropriated \$44.2 million in nonrecurring general revenue to pay the GR service charge and to cover the COCTF deficit for FY 2010-11. The 2012 Legislature appropriated \$57.6 million in nonrecurring general revenue in the 2012-13 GAA to cover the COCTF deficit and to pay the GR service charge. The 2012 Legislature also appropriated \$25 million in recurring general revenue to offset a projected COCTF deficit. However, the clerks of court are experiencing a current year deficit.

The bill removes the funding for the clerks of court and Clerks of Court Operations Corporation from the General Appropriations Act and redirects all revenue from the Clerks of Court Trust Fund in the Justice Administrative Commission to the Department of Revenue. Removing these entities from the budget reduces state trust fund expenditures by \$445 million. The bill exempts the COCTF from being assessed the 8% GR service charge payable to the General Revenue Fund based on the revenue

collected in the trust fund. The February 2013 Article V Revenue Estimating Conference projected the trust fund will generate approximately \$423.1 million in revenue for Fiscal Year 2012-2013 and \$422.3 for Fiscal Year 2013-14. The loss of the general revenue service charge is estimated to be \$33.8 million.

The bill redirects \$80 of Circuit Other, Circuit Foreclosure, and County Civil filing fees from general revenue to the clerks' revenues and exempts the COCTF from the GR Service Charge; this is estimated to generate \$80.5 million for the clerks. Based on this estimate, it is projected that the clerks will be adequately funded to carry out their duties as required by law.

The bill outlines the process for calculating the clerks' budget, collecting revenue and submitting these funds to the Department of Revenue after expenditures have been satisfied. The remaining funds are then transferred from the Clerks of Court Trust Fund to the General Revenue Fund.