



CHIEF FINANCIAL OFFICER  
**JIMMY PATRONIS**  
STATE OF FLORIDA

October 25, 2018

The Honorable Don Barbee  
Clerk of Circuit Court  
Hernando County  
20 North Main Street  
Brooksville, Florida 34601

Dear Mr. Barbee:

We completed our Article V Clerk of the Circuit Court Expenditure Compliance Audit in accordance with Florida Statutes. Enclosed is a copy of our final report.

We appreciate your advanced preparation for our audit and the courtesy extended to our team. We look forward to working with your office in the future.

Please contact Kim Holland at (850) 413-5700 or [kim.holland@myfloridacfo.com](mailto:kim.holland@myfloridacfo.com) if you have any questions.

Sincerely,

  
MM/jp

Enclosure

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

Mark Merry • Assistant Director

Division of Accounting and Auditing

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**JIMMY PATRONIS  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA**

Florida Department of Financial Services

**HERNANDO COUNTY  
CLERK OF THE CIRCUIT COURT  
COMPLIANCE AUDIT**

**Report No. 2018-30  
October 4, 2018**

**SUMMARY**

The Department of Financial Services (DFS) has completed an audit of the Hernando County Clerk of the Circuit Court.<sup>1</sup> The auditors sampled court-related administrative and payroll expenditure accounts and transactions to determine whether, in making such expenditures, the Clerk's office complied with applicable State laws.<sup>2</sup> The sampled Clerk's office administrative and payroll expenditures generally complied with applicable State laws, and funds were expended for allowable court-related costs. However, as further described in the Observations and Recommendations section, we noted:

- In five (5) instances, the expenditures had been improperly allocated as court-related costs, or were not authorized of record as being a reasonable administrative support cost.
- The Clerk's office should adhere to the salary requirements according to Chapter 145, F.S. and the Florida Legislature's Office of Economic and Demographic Research (EDR).

**BACKGROUND**

In 2013, the Florida Legislature passed legislation that removed the Clerks of the Circuit Courts from the State appropriations process.<sup>3</sup> The 2013 legislation requires that all court-related functions must be funded from filing fees, service charges, costs and fines retained by the Clerks. That portion of all fines, fees, service charges, and costs collected by the Clerks for the previous month that exceeds one-twelfth (1/12) of a Clerk's total budget must be remitted to the State. Those funds are deposited into the State of Florida's Clerk of the Court Trust Fund. For those Clerks who collect less than their approved budgets, the shortage is disbursed from the Clerks of the Court Trust Fund. In addition, the DFS' role was changed to providing audits of only the Clerks' court-related expenditures.

The organization that governs the Clerks, the Florida Clerks of Court Operations Corporation (CCOC), was initially formed to review and certify proposed budgets from each Clerk. In 2017, the Florida Legislature passed new legislation<sup>4</sup> giving the CCOC the duty of approving the proposed budgets submitted by the Clerks of the Circuit Courts as required by State law.<sup>5</sup> The 2017 legislation provides that the CCOC must ensure that the total combined budgets of the Clerks of the Circuit Courts do not exceed the total estimated revenues available for court-related expenditures as determined by the most recent Revenue Estimating Conference.

<sup>1</sup>Section 34.031, Florida Statutes.

<sup>2</sup>Sections 28.35(3)(a) and 28.37(5), Florida Statutes.

<sup>3</sup>Chapter 2013-44, Laws of Florida.

<sup>4</sup>Chapter 2017-126, Laws of Florida.

<sup>5</sup>Section 28.36, Florida Statutes.

The Chief Financial Officer has contracted with the CCOC to establish a process for auditing the court-related expenditures of the individual Clerks pursuant to State law.<sup>6</sup> The audits are conducted by the DFS Bureau of Auditing, Article V section. It is the practice of the Department to conduct these audits every three to five years.

## SCOPE

The audit of the Hernando County Clerk of the Circuit Court's Office covered County Fiscal Year (CFY) 15-16, CFY 16-17, and CFY 17-18 (through June 30, 2018). The audit included both a desk review for analysis and sample selection and an on-site visit for review of supporting documentation.

## OBJECTIVES & METHODOLOGIES

The following objectives have been established for the audit of court-related expenditures:

- Evaluate whether court-related expenditures were in compliance with State laws.<sup>7</sup>
- Evaluate whether court-related expenditures were properly authorized, recorded and supported.
- Evaluate whether the Clerk used other funding sources (from the County or any of the 10% of fines from the Modernization Trust Fund (TF)) to subsidize the court-related budget and/or expenditures (prior to July 1, 2017).
- Evaluate whether expenditures were within the budgeted appropriations.
- Evaluate the accuracy and completeness of expenditures reported on the Clerk of Court Expenditure and Collections Report.
- Evaluate whether the Clerk's salary and total payroll costs were within the applicable caps established by the Florida Legislature's Office of Economic and Demographic Research.
- Evaluate the Clerk's methodology for allocating payroll costs between court and non-court related functions.

Our audit included an examination of accounts, records and the sampling of various court-related transactions related to administrative and payroll expenditures.

Table 1 shows the court-related budgeted and actual expenditures for each fiscal year reviewed.

| <b>Year</b>      | <b>Budgeted</b> | <b>Actual</b>            |
|------------------|-----------------|--------------------------|
| <b>CFY 15-16</b> | \$3,060,617     | \$3,002,529              |
| <b>CFY 16-17</b> | \$3,120,493     | \$2,720,295              |
| <b>CFY 17-18</b> | \$3,091,748     | \$2,142,805 <sup>8</sup> |

The Hernando County Clerk of the Circuit Court serves a population of 179,503.<sup>9</sup>

The budgeted growth from October 2015 through September 2018 was 1.02%.

<sup>6</sup>Section 28.35(2)(c), Florida Statutes.

<sup>7</sup>Sections 28.35(3)(a) and 28.37(5), Florida Statutes.

<sup>8</sup>Actual through June 30, 2018.

<sup>9</sup>The Florida Legislature's Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2017-2018, September 2017.

Table 2 reflects the budgeted and actual full-time equivalent (FTE) positions, who charge either all or a portion of employee time to court-related duties. The budgeted number of FTEs includes vacant positions. The actual number of FTEs includes only filled positions.

| <b>Table 2</b>   |                      |                     |
|------------------|----------------------|---------------------|
| <b>Year</b>      | <b>Budgeted FTEs</b> | <b>Actual FTEs</b>  |
| <b>CFY 15-16</b> | 69.95                | 64.00               |
| <b>CFY 16-17</b> | 74.42                | 67.00               |
| <b>CFY 17-18</b> | 64.10                | 62.90 <sup>10</sup> |

The budgeted FTEs decreased by -8.36% for the period October 2015 through September 2018.

## OBSERVATIONS AND RECOMMENDATIONS

Section 28.35(3)(a), Florida Statutes (F.S.), outlines the list of court-related functions that Clerks may fund from filing fees, service charges, costs, and fines and 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 (before July 1, 2017); payment of expenses for meals or lodging provided to jurors (before July 1, 2017); data collection and reporting; processing of jurors (before July 1, 2017); determinations of indigent status; and paying reasonable administrative support costs to enable the Clerk of the court to carry out these court-related functions.

The list of court-related functions that Clerks may not fund from filing fees, service charges, costs, and fines include:

- Those functions not specified above,
- Functions assigned by administrative orders which are not required for the Clerk to perform the functions above,
- Enhanced levels of service which are not required for the Clerk to perform the functions above, and
- Functions identified as local requirements in law or local optional programs.

Section 29.008(1)(f)1, and 2, F.S., requires counties to fund the cost of communications services which include wireless communications, cellular telephones, facsimile equipment, all computer networks, systems and equipment, including computer hardware and software, modems, printers, wiring, network connections, and maintenance.

During our testing of the Clerk's office administrative and payroll expenditures, we noted five (5) instances in which the expenditures, contrary to statutory guidance, had been allocated as court-related costs, or were not authorized of record as being a reasonable administrative support cost.

- Although counties are required to fund the costs of communications services, we noted an expenditure in CFY 15-16 for \$332 for the purchase of a facsimile machine that was improperly charged to the court-related cost centers.
- In CFY 15-16, an expenditure in the amount of \$172 for an imprinted table cover embroidered with the Clerk logo for Clerk events.

<sup>10</sup>Actual through June 30, 2018.



- In CFY 17-18, an expenditure in the amount of \$116 for an advertisement in *The Scene Magazine* to promote the Spring Hill satellite office. The Clerk's office stated that these costs were for outreach to promote its services.
- In CFY 17-18, an expenditure in the amount of \$743 for an advertisement in the First United Methodist Church bulletin to promote the Spring Hill satellite office. The Clerk's office stated that these costs were for outreach to promote its services.

We recommend the Clerk's office allocate as court-related expenditures only those costs considered reasonable administrative support costs to enable the Clerk's office to carry out its court-related functions.

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- Section 29.008(1)(f)1, F.S., requires the county to fund the cost of communication services, including cellular telephones. During our testing of payroll court-related expenditures, we noted that five (5) Clerk's office employees were being paid \$25 every pay period as a cell phone stipend. The total of these expenditures for CFY 15-16, CFY 16-17, and CFY 17-18 was \$5,150.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to Section 28.35(3)(a), F.S.

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Section 145.051, F.S., outlines the amount that each Clerk of the Circuit Court may receive as salary based on the population of his or her county. These salaries are calculated by the EDR according to the formula outlined in Section 145.051, F.S. and published annually. The Statute allows for an additional \$2,000 per year special qualification salary for each Clerk of the Circuit Court who has met the certification requirements established by the Supreme Court.

During our testing of the Clerk's salary for CFY 16-17, we noted the Clerk's salary to be \$229 more than the salary cap amount indicated in the EDR.

We recommend the Clerk's office adhere to the salary cap as stated in Section 145.051, F.S. and the EDR.



## Don Barbee Jr.

Clerk of Circuit Court & Comptroller, Hernando County FL  
Department of Financial Services  
20 N. Main Street, Room 230 Brooksville FL, 34601  
(352) 540-6788

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October 22, 2018

Mr. Jim Parker, CPA  
Department of Financial Services  
Division of Accounting and Auditing  
200 East Gaines Street  
Tallahassee, FL 32399

Re: Response to DFS Drafted Report of October 4, 2018

Mr. Parker:

We would like to thank you and your staff for the professionalism demonstrated during their latest review of our Article V expenses. It was a pleasure working with all of you.

Today October 18, 2018, we are in receipt of your Compliance Audit Report dated October 4, 2018 and have prepared the following responses to the six Observations and Recommendations.

- 1) CFY 15-16 for \$332.00 for the purchase of a facsimile machine that was improperly charged to the court related cost centers, per FS Section 29.008(1)(f)1 and 2.

*Response: We concur with the recommendation.*

- 2) CFY 15-16 for \$172.00 for the imprinted table cover embroidered with the new Clerk logo for Clerk events, per FS Section 29.008(1)(f)1 and 2.

*Response: We concur with the recommendation.*

- 3) CFY 17-18 for \$116.00 for an advertisement in The Scene Magazine to promote the Spring Hill satellite office, per FS Section 29.008(1)(f)1 and 2.

*Response: We concur with the recommendation.*



## Don Barbee Jr.

Clerk of Circuit Court & Comptroller, Hernando County FL  
Department of Financial Services  
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- 4) CFY 17-18 for \$743.00 for an advertisement in the First United Methodist Bulletin to promote the Spring Hill satellite office, per FS Section 29.008(1)(f)1 and 2.

*Response: We concur with the recommendation.*

- 5) Section 29.008(1)(f)1, F.S., requires the county to fund the cost of communication services, including cellular telephones. We recommend the Clerk's office ensure that its court-related expenditures are allowable according to section 28.35(3)(a), FS

*Response: We concur with the recommendation.*

- 6) Section 145.051, F.S., outlines the amount that each Clerk of the Circuit Court may receive as salary based on population of his or her county. These salaries are calculated by the EDR according to the formula outlined in Section 145.051, F.S. and published annually. We recommend the Clerk's office adhere to the salary cap as stated in Section 145.051, F.S.

*Response: The amount paid to the Clerk of Circuit Court and Comptroller was as required by Florida Statutes. In addition to that, the Clerk was provided a small stipend for cell phone allowance which we found to be less expensive than providing a cell phone purchased with office funds. This expense is a reasonable administrative support cost to enable the Clerk of Court to carry out court-related functions and will be documented as such going forward.*

Please let us know if you have any further questions.

Respectfully submitted,

Don Barbee, Jr.  
Clerk of Court & Comptroller  
Hernando County