



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

December 15, 2020

The Honorable Bill Kinsaul
Clerk of Circuit Court
Bay County
300 East 4th Street
Panama City, Florida 32401

Dear Mr. Kinsaul,

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 if you have any questions.

Sincerely,


Mark Merry
MM/jhf

Enclosure

FLORIDA DEPARTMENT OF FINANCIAL SERVICES
Mark Merry • Assistant Director
Division of Accounting and Auditing
200 East Gaines Street • Tallahassee, Florida 32399-0353 • Tel. 850-413-5510 • Fax. 850-413-5553
Email • mark.merry@myfloridacfo.com
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JIMMY PATRONIS
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

Florida Department of Financial Services

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

**Report No. 2020-60
December 15, 2020**

SUMMARY

The Department of Financial Services (DFS) has completed an audit of the Bay County Clerk of the Circuit Court.¹ 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.² 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 six (6) instances, the expenditures had been improperly allocated as court-related costs.
- Internal controls and procedures could be improved.
- Allocation methodologies for payroll and administrative expenditures could be improved.

BACKGROUND

In 2013, the Florida Legislature passed legislation that removed the Clerks of the Circuit Courts from the State appropriations process.³ 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 legislation⁴ giving the CCOC the duty of approving the proposed budgets submitted by the Clerks of the Circuit Courts as required by State law.⁵ 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.

¹Section 34.031, Florida Statutes.

²Sections 28.35(3)(a) and 29.008, Florida Statutes.

³Chapter 2013-44, Laws of Florida.

⁴Chapter 2017-126, Laws of Florida.

⁵Section 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.⁶ 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 Bay County Clerk of the Circuit Court’s Office covered County Fiscal Year (CFY) 17-18, CFY 18-19, and CFY 19-20 (through June 30, 2020). The audit consisted of a desk review that included an analysis of sample selection with 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.⁷
- Evaluate whether court-related expenditures were properly authorized, recorded, and supported.
- 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.

Source: CCOC Budget Letter and Expenditure and Collection (EC) reports. CFY 17-18, CFY 18-19, and CFY 19-20 do not include juror expenditures.

Table 1

Year	Budgeted	Actual
CFY 17-18	\$3,266,194	\$3,266,194
CFY 18-19	\$3,390,963	\$3,390,963
CFY 19-20	\$3,663,308	\$2,648,036 ⁸

The Bay County Clerk of the Circuit Court serves a population of 167,283.⁹

The budgeted growth from October 2017 through September 2020 was 12.16%.

⁶Section 28.35(2)(e), Florida Statutes.

⁷Sections 28.35(3)(a) and 29.008, Florida Statutes.

⁸Actual through June 30, 2020.

⁹The Florida Legislature’s Office of Economic and Demographic Research Report Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2020-2021, September 2020.

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.

Table 2

Year	Budgeted FTEs	Actual FTEs
CFY 17-18	62.14	59.40
CFY 18-19	63.00	61.29
CFY 19-20	62.62	57.86

The budgeted FTEs increased by 0.77% for the period October 2017 through September 2020.

OBSERVATIONS AND RECOMMENDATIONS

Section (s.) 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; data collection and reporting; 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.

Financial Reporting and Recording

Unallowable Expenditures

During our testing of the Clerk’s office administrative expenditures, we noted one (1) instance in which the expenditure, contrary to statutory guidance, had been allocated as a court cost, or was not authorized of record as a reasonable administrative support cost.

- In CFY 18-19, the Clerk’s office purchased a subscription to the Wall Street Journal for \$143 allocating \$93 to the State.

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

County Funding

Section 29.008(1)(c), F.S., requires counties to fund the cost of maintenance which includes all reasonable and necessary costs of custodial and grounds keeping services and renovation and reconstruction as needed to accommodate functions for the circuit and county courts, the public defenders' offices, and state attorneys' offices and for performing the court-related functions of the offices of the clerks of the circuit and county court and for maintaining the facilities in a condition appropriate and safe for the use intended.

- In CFY 18-19, we noted an expenditure for carpet cleaning in the Criminal – Circuit Court area for \$125, allocated to the State.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to s. 29.008(1)(c), F.S.

Section 29.008(1)(a), F.S. states counties are required to fund the cost of facilities which include office space and appurtenant equipment and furnishings and structures for the offices of the Clerks of the Circuit Court. In addition, s. 29.008(1)(a)1, F.S., notes as of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, **and other public areas in courthouses and any other facility occupied by the courts**, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel.

- In CFY 19-20, the Clerk's office purchased a folding table for use by the public for \$217, allocating the total amount to the State.
- In CFY 18-19, we noted an expenditure for the relocating of the Juvenile department to the main courthouse for \$603. The total amount was allocated to the State.

We recommend the Clerk's office ensure that its court-related expenditures are allowable according to s. 29.008(1)(a), F.S.

Retirement gifts

Section 110.1245(3), F.S., states that a department head or officer is authorized to present a token of recognition to retiring state employees whose service with the state has been satisfactory. In recognition of an employee's service, such awards may not exceed \$100 each plus applicable taxes.

- In CFY 18-19, we noted one (1) expenditure for \$350 for a retirement gift.
- In CFY 19-20, we noted one (1) expenditure for \$210 for a retirement gift.

We recommend the Clerk's office ensure that expenditures for retirement gifts are within the allowable limit according to s. 110.1245(3), F.S.

Internal Controls

Payroll Authorization and Time Sheets

Best practices require that all employees' time and attendance and leave payout be properly documented, reviewed, and approved to ensure that employees are not compensated for time not worked, unauthorized absences or overpayment of leave payout. During our testing of fifteen (15) payroll expenditures, we noted the following:

- The Clerk's office was unable to locate five (5) time sheets and one (1) documentation of approval.
- One (1) employee leave payout was not properly calculated. The Clerk's office inadvertently overstated the leave payout, resulting in an overpayment of \$942.

We recommend that the Clerk's office maintain all time sheets and documentation of approvals that support the total number of hours worked each day. We also recommend controls are in place to ensure that under and overpayments are corrected/collected quickly and accurately.

Allocation Methodology

The allocation of full-time equivalents (FTEs) between court and non-court functions, should be based on an accumulation of relevant, sufficient, and reliable data and compared to subsequent actual data to determine the reliability of the estimate. The Clerk's office does not have a clear methodology for allocating payroll and administrative expenditures for employees who work on both court and non-court-related functions. Their current allocation methodology is based on needs of court and non-court FTEs. Upon inquiry, the Clerk's office was unable to provide supporting documentation for the actual time and effort the shared employees spent working on court-related vs. non-court-related functions.

Without an accurate basis for allocating costs, the Clerk's office has no assurance that the estimates used for charging salaries to the State or used for budgeting purposes are accurate or need to be revised for the next budget cycle.

As a best practice, we recommend the Clerk's office establish a method for sampling employees' time and effort between court-related and non-court related functions to ensure the allocation of payroll expenditures reflect an accurate appropriation of State funds. The methodology should include a basis for concluding whether the budgetary calculations are accurate. The Clerk's office may consider using a sampling method such as a time study, case file reporting, or guidance such as that found in Code of Federal Regulation (2 CFR 200), Appendix V.



BILL KINSAUL
CLERK OF COURT
& COMPTROLLER
BAY COUNTY

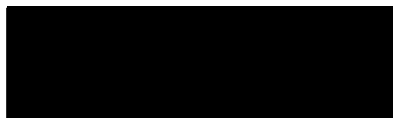
December 21, 2020

Mark Merry
Assistant Director
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399

Dear Mr. Merry,

We have received the final draft, report 2020-60, dated December 15, 2020, for Bay County Clerk of Circuit Court. We concur the review. We have begun implementation of best practices suggested going forward on the items specified.

Thank you –



Bill Kinsaul
Clerk of Court and Comptroller

