

LINKS

MEDIA COVERAGE

- ▶ [News clips](#)
- ▶ [TV/ Radio](#)

THE BILLS

- ▶ [HB1121](#)
- ▶ [SB2108](#)

MORE INFORMATION

- ▶ [Timeline of events](#)
- ▶ [Myth vs. Facts](#)

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2009 Legislative focus

House Bill 1121 • Senate Bill 2108

Accountability, Performance and Transparency

In 2002, while preparing for the implementation of Florida Statute Article V, Revision 7, which dramatically affected how clerks and judges were funded, the Court sought legislative authority to take over the duties of the Clerk. This initiative resulted in the Legislature urging the courts and clerks to resolve the debate once and for all, regarding the roles and responsibilities of both the Clerk and the Court Administrator.

A workgroup was formed, and the result was a document that delineated the roles of courts and the Clerk. The transcripts of the Senate Appropriations Subcommittee hearing, dated March 20, 2003, reflects Judge Belvin Perry Jr., speaking on behalf of the workgroup, reported to the legislature that the issues were resolved, and that there was no duplication of duties.

Then, in September of 2004, the following was reported in the Florida Bar News:

"The Bar Board of Governors has asked the Rules of Judicial Administration Committee to modify a proposed rule about the circuit chief judge oversight of court clerks before it is submitted to the Supreme Court. At stake are suggested revisions to Rules of

Judicial Administration 2.050 intended to clarify the relationship between courts and clerks in the wake of Revision 7 Art. V of the state Constitution. The constitutional amendment went into effect July 1 and transferred most of the funding of trial courts from the counties to the state."

The article goes on to say: *"Critics of the proposed rule amendment, including some state lawmakers, said the committee was overstepping its bounds and giving chief judges too much say in court clerk operations. They also said a state law already set out the relationship. Board member Dude Phelan said Judges have been quick to defend separation of powers to protect the courts, and they have to understand how it works the other way. I think that we, together with the court, owe it to intellectual honesty to stand up for the principles of separation of powers when it pinches our toes, rather than just when it feels good."* Following the implementation of Revision 7, the clerks asked the Chief Justice to designate a circuit judge to participate in a judicial relations committee sponsored by the Florida Court Clerks, recognizing that meeting the needs of the Court was very important to Florida clerks. (Cont. pg 2)



When will this senseless conflict end?

"House Bill 1121 and Senate Bill 2108 seeks to transfer the court-related duties of the elected Clerk of the Court to the appointed Court Administrator. These two bills were introduced as part of the ongoing efforts of the Court to control the Clerk, assume the responsibilities of the office and take charge of the revenues collected by the Clerk. This change is ill-advised."

Accountability, Performance and Transparency

(Continued from Page 1)

The following respected organizations have publicly opposed the passage of HB1121 and/or SB2108:

- [Florida Association of Court Clerks](#)
- [Florida Government Finance Officer's Association](#)
- [Florida Public Defender's Association](#)
- [Florida Prosecuting Attorney Association](#)
- [Florida Sheriff's Association](#)
- [Common Cause](#)
- [Manasota League of Cities](#)

During the next four-year period, none of the concerns recently voiced were raised.

On December 16, 2008, the President of the Florida Association of Court Clerks wrote to Senator Victor Crist, Chair of the Committee on Criminal and Civil Justice Appropriations, and expressed support for an adequately funded judiciary.

Legislative session 2009, we're back to the same song, second verse.

Only this time, rather than pushing for control of the Clerks, the effort is to wipe them out.

Insinuating that Clerks' spending grew at a faster rate than the Court during a financial crisis got the attention of many in the legislature. Fortunately, since these allegations, the numbers have been audited and I am pleased to report that the rate of spending grew less for the Clerks than the Courts.

Clerks are accountable.

I have heard accountability, performance and transparency as the reasons for this proposed legislation, so I want to leave you with these facts: Clerks report to internal auditors, external auditors, the Auditor General, and the Department of Financial Services. Clerks have performance measures which are set statewide, and many Clerks exceed the state standard, as I do. Clerks' budgets comply with Florida law, and are approved in a publicly-noticed hearing, then sent through two layers of state government: the Legislative

Budget Commission, and the Department of Financial Services. If this doesn't speak to performance, accountability, and transparency—I am not sure what would.

Clerks did not cause this financial crisis, and it is absurd to say that their budgets have not been affected by this crisis. This year, revenue shortfalls for clerks are projected to be 10 to 39 percent statewide.

The proposal would be more expensive and less transparent. Clerks around the state have terminated staff, furloughed staff, and are now trying to identify how to minimize the effect that will be brought on by continued cuts. Anyone who knows even just a little about the responsibilities of the office of the Clerk knows that a transition of this magnitude would be disruptive and costly. The cost-savings realized by sharing expenses in the Recorder's office and the Comptroller's office would be lost. For our constituents, our efforts should be towards working together to deliver the best possible service in these difficult times, not wasting time and money fighting amongst ourselves.

This said, I once again extend the olive branch—in the hope that we can end this senseless conflict.

—Karen E. Rushing

"To Meet the Needs and Exceed the Expectations of Those We Serve, in Fulfilling Our Constitutional Obligations"
—Mission Statement of the Clerk of the Circuit Court and County Comptroller, Sarasota

The Florida Constitution clearly states:

"There shall be in each county a Clerk of the Circuit Court who shall be selected pursuant to the provisions of Article VIII section 1."

Article V, Section 16



REGARDING ACCOUNTABILITY

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