

**COURT AND CLERK COMPARATIVE VIEWS  
ABOUT ARTICLE V BUDGETING (February 19, 2009 draft)**

<p style="text-align: center;"><b>COURT CONTENTIONS</b></p>	<p style="text-align: center;"><b>CLERK BUDGET REALITIES</b> (details available to document these “realities”)</p>
<p><b>1. CLERK BUDGETS GREW BY 33% WHILE AVERAGE STATE BUDGETS GREW BY <u>13%</u> OVER THE LAST FOUR YEARS.</b></p>	<p><b>REALITY 1: ACTUAL CLERK SPENDING GREW BY <u>13.7%</u> OVER THE LAST 4 YEARS.</b></p>
<p><b>2. IF LIMITED TO 13% GROWTH, CLERKS WOULD HAVE HAD A BUDGET OF \$ <u>465.5</u> MILLION INSTEAD OF \$ 539.2 MILLION IN FY 2008-09.</b></p>	<p><b>REALITY 2: CURRENT FY 2008-09 SPENDING PROJECTIONS = \$ <u>448</u> MIL.</b></p> <p>CLERK BUDGETS ARE SET BY LAW AND ARE BASED ON REVENUE COLLECTIONS. IF THERE ARE REVENUE SHORTFALLS, SPENDING AUTHORITY GOES DOWN and EXPENDITURES ARE FORCED TO GO DOWN IN FY 2008-09. SPENDING CUTS <b>COULD BE APPROXIMATELY 20%</b> STATEWIDE.</p>
<p><b>3. BECAUSE THE CLERKS DO NOT GO THROUGH THE APPROPRIATIONS PROCESS, THEY ARE:</b></p> <p><b><u>NOT ACCOUNTABLE</u></b></p> <p><b><u>NOR DO THEY HAVE TO TAKE BUDGET CUTS.</u></b></p>	<p><b>REALITY 3: <u>CLERK BUDGETING IS VERY STRUCTURED IN LAW, IS HIGHLY ACCOUNTABLE AND FACES 20% CUTS.</u></b></p> <ol style="list-style-type: none"> <li>1. THE CLERKS OF COURT OPERATIONS CORP. ADMINISTERS A HIGHLY PROFESSIONAL AND STATE APPROVED BUDGET PROCESS.</li> <li>2. THE AUDITOR GENERAL REVIEWS CLERKS’ BUDGETS ANNUALLY.</li> <li>3. THE DEPT. OF FINANCIAL SERVICES OVERSEES AND REVIEWS CLERK BUDGETS.</li> <li>4. THE LEGISLATIVE BUDGET COMMISSION APPROVES SPENDING CAP AMENDMENTS TO STAFF NEW JUDGE POSITIONS/MANDATES.</li> <li>5. SPENDING CUTS ARE ESTIMATED AT - 20% AND BUDGETS WILL BE REDUCED DUE TO MODEL SET BY LEGISLATURE.</li> </ol>
<p><b>4. CLERKS’ BUDGETS HAVE MORE BUDGET FLEXIBILITY THAN OTHER STATE ENTITIES.</b></p>	<p><b>REALITY 4: CLERKS OFTEN MUST MANAGE BUDGET CHANGES QUICKLY DUE TO:</b></p> <ol style="list-style-type: none"> <li>1. CASE WORKLOAD CHANGES OVERWHICH THEY HAVE NO CONTROL.</li> <li>2. COURT PERFORMANCE NEEDS (staffing/timely).</li> <li>3. REVENUE SHORTFALLS WHICH DECREASE THEIR BUDGET SPENDING AUTHORITY DURING A FISCAL YEAR = IMMEDIATE CUTS.</li> </ol>

# CLERK OF THE COURTS ARTICLE V BUDGETING

## COURT VS. CLERK VIEWS

(February 19, 2009 draft)

<b>Court Contentions</b>	<b>Clerk Budget Realities</b>
<p><b>1. CLERK BUDGETS GREW BY 33%</b> between FY 2004-05 and FY 2008-09</p> <p><b>WHILE THE STATE BUDGET ON AVERAGE AND <u>COURT BUDGET GREW BY AN AVERAGE OF 13%.</u></b></p>	<p><b>REALITY 1:</b> <b>Actual cumulative growth in spending = 13.7%</b> <b>not 33% since FY 2004-05</b></p> <p>Actual spending appropriately informs the Legislature of budget impacts of Clerks' operations in support of the courts. Unspent budgeted funds return to the state's General Revenue Fund.</p> <p>Facts:</p> <ol style="list-style-type: none"><li>1. Five (5) Clerk actual expenses in FY 2007-08 were LESS THAN their expenditures in FY 2004-05</li><li>2. Twenty (20) Clerk expenditures between FY 2004-05 and FY 2005-06 grew by LESS THAN 13%.</li><li>3. About 5% of the 13.7% cumulative growth was the result of: about 2 % is related to supporting new judgeships (110 over 2 years: FY 2004-05 and FY 2005-06), about 1 % is related to requirements to assume responsibilities to cover all juror expenses in each Clerk's budget. And approximately 2% is related to implementing "Collection Programs."</li><li>4. The Legislature appropriated about \$ 4.7 million (1%) for special requests in Miami-Dade and Hillsborough Clerks' Offices.</li></ol> <p><b>THE CLERKS' FTE STORY</b></p> <ol style="list-style-type: none"><li>1. In FY 2004-05 the FTEs in the Approved Budget for court related duties were 8,568. In FY 2008-09 there were 9,645 FTEs. This is a 13 % growth.</li><li>2. Over 4% of this 13% growth in FTEs is a result of 275 FTEs being added to support the additional appropriated 110 judgeships in FY 2004-05 and FY 2005-06.</li><li>3. About 9% of the 13% relates to the over 11% increase in criminal and civil court "case processing" workload and increases in work related to issuing financial receipts, summoning and paying significantly more jurors and creating a sophisticated Article V budgeting and reporting process to assure audit assurances and accountability to the Legislature.</li></ol>

**2. CLERKS' CURRENT FY 2008-09 BUDGET IS \$ 83 MILLION HIGHER THAN IT WOULD HAVE BEEN HAD IT BEEN LIMITED TO A CUMULATIVE 13% GROWTH BETWEEN FY 2004-05 AND FY 2008-09.**

**THE CLERKS' BUDGET IN FY 2008-09**

**SHOULD BE \$ 456.5 MILLION**

**NOT \$ 539 MILLION**

\*difference between \$ 539 million the Clerks' budgeted in FY 2008-09 = 33% more than in FY 2004-05 and \$ 456.5 million that would have been budgeted if Clerks' budgets had grown by only 13% during those years.

**REALITY 2:  
Current spending FY 2008-09 estimate:  
\$ 448 million  
not the \$ 539 million  
in the Approved Budget.**

**FACTS:**

**CLERK SPENDING AUTHORITY IS CAPPED BASED ON REVENUE COLLECTION ESTIMATES.**

**FOR CLERKS, REVENUE SHORTFALLS  
AUTOMATICALLY REDUCE SPENDING AUTHORITY.**

**IN FY 2008-09, THERE IS A  
PROJECTED REVENUE SHORTFALL  
FROM \$ 550 MILLION TO \$ 464 MILLION IN REALITY**

**= A LIKELY 15.6 % REVENUE SHORTFALL  
( \$ 550 MILLION DOWN TO \$ 464 MILLION )**

**SPENDING COULD BE ABOUT 20%  
(\$ 448 MIL.) BELOW THE ORIGINAL  
APPROVED BUDGET (\$ 539)**

**Logic:** Based on Oct-Dec. 2008 actual spending:  
spending trend for FY 2008-09: \$ 461 million  
Minus funds not likely to be spent: 13 million (3%)  
= likely total spending in FY 2008-09: \$ 448 million

Comparing the projected \$ 448 million in actual spending with the Approved budget authority of \$ 539 million, the Clerks' total budget authority in reduction is 20.3%.

**PROJECTIONS:**

**CLERKS ESTIMATE REVENUE COLLECTIONS WILL  
FALL BY \$ 75 MILLION: FROM \$ 550 BUDGETED TO  
\$464 MILLION**

Logic: Current annualized estimate of revenues  
collected through Dec. 31: \$ 497 million  
Minus likely losses from 12A 8 million  
Balance 489 million  
Minus likely impact of fewer cases  
due to 1790 & 12A fee/fine increases 5 mil. (-1%)  
Balance 484 million

Minus a drop in foreclosure revenues  
(June-Sept '09)/rescue package 10 mil. (2%)  
Balance 474 million

Minus impact of worsening economy  
(worse before gets better in '09) 10 million (2%)

**Balance \$ 464 million  
(covers above spending trend of: \$ 461 million)**

	<p><b>CURRENT REVENUE ESTIMATES (Oct, '08 – Jan. 2009)</b></p> <ol style="list-style-type: none"> <li>1. Actual UTC numbers, annualized, indicate a potential for 18% fewer traffic tickets in FY 2008-09 compared to FY 2007-08.</li> <li>2. Non-traffic civil revenues show a shortfall.</li> <li>3. Criminal ct. related revenues show a shortfall.</li> </ol>
<p><b>3. CLERKS DO NOT GO THROUGH THE APPROPRIATIONS PROCESS, THEREFORE THEY ARE NOT ACCOUNTABLE NOR ARE THEY REQUIRED TO TAKE BUDGET CUTS LIKE THE REST OF STATE GOVERNMENT FUNDED BY GENERAL REVENUES.</b></p>	<p><b>REALITY 3. CLERKS ARE NOT IN THE APPROPRIATIONS PROCESS, BECAUSE THE LAW SET UP A “BUSINESS BUDGETING MODEL” THAT MAKES CLERKS LIVE WITHIN THEIR MEANS =</b></p> <p>IF THERE ARE MORE CASES THAT PRODUCE MORE REVENUES, THEN THE INCREASED WORKLOAD COSTS CAN BE COVERED BY THE INCREASED REVENUES.</p> <p>IF CASES PRODUCING REVENUES GO DOWN AND LESS REVENUES ARE COLLECTED, THEN CLERKS SPENDING AUTHORITY IS CUT ACCORDINGLY, YET COSTS MAY NOT GO DOWN AS MUCH.</p> <p>PLUS: in comparison, State agency spending is not “capped” automatically based on a revenue formula. The Courts, for instance, were reduced by 1.25% vs. a larger % for other state funded entities based on Legislative Appropriations action.</p> <p>PLUS, unlike state agencies</p> <ol style="list-style-type: none"> <li>1. The Clerks of the Court Operations Corporation (CCOC) is set up in law to create and use a professional budgeting process, approve budgets, certify budgets to the State, analyze budgeted revenues, expenditures, workloads and performance results, administer a Trust Fund and be audited by the Auditor General’s Office annually.</li> <li>2. All Clerks’ budgets are reviewed annually by the Auditor General at the statewide level. Required by statute.</li> <li>3. There is routine Dept. of Financial Services oversight and guidance of all CCOC and Clerks’ Office budget processes &amp; results.</li> </ol> <p>Spending Cap adjustments for staffing new judgeships and new Clerk service mandates authorized by the Legislature must go through the Leg. Budget Commission.</p>

**4. CLERKS ARE ALLOWED TO MANAGE THEIR OFFICES WITHOUT LEGISLATIVE REQUIREMENTS.**

**REALITY 4. THE LEGISLATURE & STATE LAW SET UP THE FOLLOWING REQUIREMENTS & ACCOUNTABILITY FOR CLERKS:**

CLERK BUDGETS HAVE A SET “SPENDING CAP”.

CLERK BUDGETS ARE TO BE FUNDED THROUGH LOCAL REVENUES AND/OR THE CLERK OPERATIONS TRUST FUND...NOT WITH GENERAL REVENUES.

CLERKS MUST HAVE SET PERFORMANCE STANDARDS AND ROUTINELY REPORT ON ACHIEVEMENT LEVELS.

CLERKS WILL HAVE ACTIVE CCOC AND CLERK BUDGET OVERSIGHT BY THE DEPT. OF FINANCIAL SERVICES

THERE WILL BE ANNUAL REVIEWS OF ALL 67 CLERKS OFFICE BUDGETS BY THE AUDITOR GENERAL’S OFFICE.

CLERKS CANNOT INCREASE A SPENDING CAP WITHOUT APPROVAL FROM THE LEGISLATIVE BUDGET COMMISSION. (for newly appropriated judgeships and for newly mandated Clerk services)

CLERKS FUND INDEPENDENT AUDITS OF THEIR OPERATIONS ALSO.

**PLUS: CLERKS MUST MANAGE ANNUAL WORKLOAD INCREASES WITHIN “CAPPED BUDGETS”**

Actual new cases and defendants (not including re-opens)

	Civil	Criminal	Total	(% change)
<b>FY 2004-05:</b>	<b>5,057,335</b>	<b>1,466,976</b>	<b>6,524,311</b>	
<b>FY 2005-06:</b>	5,314,900	1,514,183	6,829,083	+ 4.5%
<b>FY 2006-07:</b>	5,695,669	1,555,390	7,251,059	+ 6.2 %
:				
<b>FY 2007-08:</b>	6,078,944	1,496,881	7,575,825	+ 4.5 %
				In three years: + 15.2%
<b>FY 2008-09:</b>	(Oct-Dec '08 actual #s = negative trend for crim/civil cases)			

	<p><b>PLUS CLERK WORKLOADS INCLUDE:</b></p> <p><b>Issuing Financial Receipts:</b> 11,300,000 issued  <b>Summoning Jurors:</b> 2,000,000 summoned  <b>Paying Jurors Paid</b> 235,000 paid  <b>Complete required reports</b> 7,971 total FY</p>
	<p><b>PLUS:</b>  <b>CLERKS' <u>MUST</u> ROUTINELY FIND EFFICIENCIES <u>AND INCREASE STAFF PRODUCTIVITY</u> because:</b></p> <p>During the last four years, some or all Clerks have absorbed functions without budget support, including, but not limited to the following:</p> <ol style="list-style-type: none"> <li>1. <u>Services where Clerks received a one time Approved Budget "cap" /dollar adjustment</u> for a service that does not have revenues associated with it. If costs rise in future budget years the Clerk could have to absorb them because there are not revenues generated because of them (e.g. juror expenses are not covered by an off-setting revenue and indigent determination and pro se services/expenses have no off-setting revenues to cover increased costs in the future = no "revenue based budget model" relief.</li> <li>2. Most Clerks' Offices have increased their costs to contract with <u>Collection agents or set up collection programs</u> to increase revenue collection rates to the benefit of a revenue-based budget process and increase the surplus going to the State.</li> <li>3. Clerks have instituted rigorous and extensive budgeting system requirements without expenditure cap adjustments.</li> <li>4. Many Clerks absorbed requirements to staff new judgeship positions appropriated by the Legislature without expenditure cap increases: <ul style="list-style-type: none"> <li>FY 2005-06: (55 new judge positions appropriated) <ul style="list-style-type: none"> <li>58 counties were affected</li> <li>25 requested additional cap \$ (LBC)</li> <li>33 did not (saved about \$ 5 million)</li> </ul> </li> <li>FY 2006-07 (55 new judge positions appropriated) <ul style="list-style-type: none"> <li>29 counties were affected</li> <li>12 requested additional cap \$ (LBC)</li> <li>17 is not (saved about \$ 3,000,000)</li> </ul> </li> </ul> </li> </ol>

	<p><b>PLUS: CLERKS CONTINUALLY FOCUS ON MEETING PERFORMANCE STANDARDS...AND ROUTINELY REPORT PROGRESS.</b></p> <p><b>AND THE DEPARTMENT OF FINANCIAL SERVICES MONITORS AND ANALYZES CLERK PERFORMANCE</b></p> <p><b>CLERK REPORTS SHOW STEADY PROGRESS:</b></p> <ol style="list-style-type: none"> <li>1. Over the past four years, the number of Clerks' Offices that reach 90% of all timeliness standards for processing court cases went from 51 to 56 between FY 2005-06 and FY 2007-08.</li> <li>2. Over the past four years, the number of Clerks' Offices that reach 90% of all revenue collection rate standards went from 51 to 54 between Quarter 1 of FY 2006-07 and Quarter 3 of FY 2007-08.</li> <li>3. Clerks routinely send state government many reports critical to the state's understanding key information.</li> <li>4. Anticipate that 100% of Clerks' Offices provide 100% of juror payments within the standard of 20 days in FY 2008-09.</li> <li>5. Clerks administer juror needs to keep the court system running efficiently and timely.</li> </ol>
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**ALSO BE AWARE OF THE FACT THAT THE FOLLOWING ARE TRUE:**

1. **The size of a Clerk's Office will be affected differently by the revenue model for budgeting based on numerous factors such as county location, type of economy and economic conditions. There will be some Clerk's that show positive and some negative impacts under similar conditions.**
2. **Different Clerks' Offices will do the same function differently at different costs.**

# CLERK ANSWERS TO THE COURT'S CONTENTIONS ABOUT THE CLERK BUDGETING PROCESS

CCOC FEBRUARY 19, 2009 DRAFT

## 1. CLERKS ARE NOT ACCOUNTABLE LIKE STATE AGENCIES AND THE COURT SYSTEM.

When compared to most state agencies and the Court system, Clerks have more accountability factors:

<b>Courts</b>	<b>Clerks</b>
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- |     |   |  |
|-----|---|--|
| ___ | X | Report routinely on compliance with set performance standards approved by the state.   |
| ___ | X | Have budgets reviewed annually by Auditor General.   |
| ___ | X | Have routine Dept. of Financial Services oversight on budgets and performance measure compliance plus on-site visits to Clerks' Offices to analyze the budget. |
| ___ | X | Oversight on revenue projections by the Leg. Office of Economic & Demogr. Research.  |
| ___ | X | Management of Operations Trust Fund by the FL Department of Revenue  |
| ___ | X | Unable to amend budget "expenditure caps" without Leg. Budget Commission approval.   |
| ___ | X | Have Clerk's Office funded independent auditors review financial statements annually.  |
| ___ | X | Have Legislative staff overviews periodically.   |
| ___ | X | Are financially accountable. MUST cut spending if there is a revenue shortfall = Business Model.   |

## 2. CLERKS DO NOT HAVE TO ENDURE THE PAIN OF CUTTING BUDGETS LIKE COURTS AND THE REST OF STATE GOVERNMENT DOES DURING ECONOMIC DOWNTURNS.

During years when caseloads have increased and produced additional revenues, Clerks were able to increase their budget caps to cover the additional staffing requirements to support the courts when case workloads went up. During these same years a number of Clerks had to experience a budget cut if their revenues did not come in as projected.

During years such as FY 2008-09 when caseloads are falling and there is a corresponding shortfall in revenues from levels projected in the Clerks' Approved Budgets, budget cuts occur in almost all Clerk's offices:

**CLERKS MUST LIVE WITHIN THEIR REVENUE MEANS: PROJECTIONS FOR FY 2008-09 INDICATE A SPENDING CUT OF 20% IS LIKELY THIS YEAR.**

**Many staff have been furloughed, many positions have been cut and voluntary "off-days" have already been implemented in the first quarter of FY 2008-09. It is anticipated that further budget/FTE cuts will be a reality during the remainder of FY 2008-09.**

**Facts: 5 Clerks' Offices had less expenditures in FY 2007-08 than in FY 2004-05.**

**20 Clerks' Offices had budgets that grew less than the average growth of state budget between FY 2004-05 and FY 2008-09.**



### **3. CLERKS HAVE MORE FLEXIBILITY THAN COURTS TO ALTER SPENDING PRACTICES**

Clerks must be able to manage budget changes that can affect them during a fiscal year:

1. Clerks can face serious workload increases such as those brought about by a deluge of unexpected foreclosures. They must cover these costs within an expenditure capped budget.
2. Judges can ask for changes in staffing and other practices.
3. Clerks have no flexibility outside their “expenditure caps” – but they can switch budgeted positions to handle needed changes.
4. Clerks have changed spending at times to increase capacities to improve revenue collections (e.g. contract with a Collection Agent and/or implement new revenue collection procedures and programs; implement new requirements to administer the juror program; implement a Pro Se program.)

### **4. CLERKS CAN ADD BUDGET POSITIONS WITHOUT APPROVAL.**

Clerks document the number of FTEs in their office that do court work in their Approved Budget that provides the funds to staff the positions.....within a set “expenditure cap.” Salaries/benefits = 90% of typical Clerks budget.

Clerks cannot add positions if it would require spending at a level above their cap. If all positions are filled, it likely would be very difficult to add a position due to the expenditure cap.

Clerk budgets from one year to the next typically show FTE increases only if additional revenues are projected. This allows the Clerk to handle the additional new case workloads that typically accompanies new revenues.

### **5. CLERKS CAN INCREASE SALARIES WITHOUT LEGISLATIVE APPROVAL.**

Clerks do have the authority to provide salary increases or bonuses in lieu of the Legislature and allowed in law. Such raises incurred in one year, if put in place, may mean a cut in the next years if revenues do not come in as projected.

Clerks can only give salary increases / bonuses if Approved Budget revenue expectations materialize.

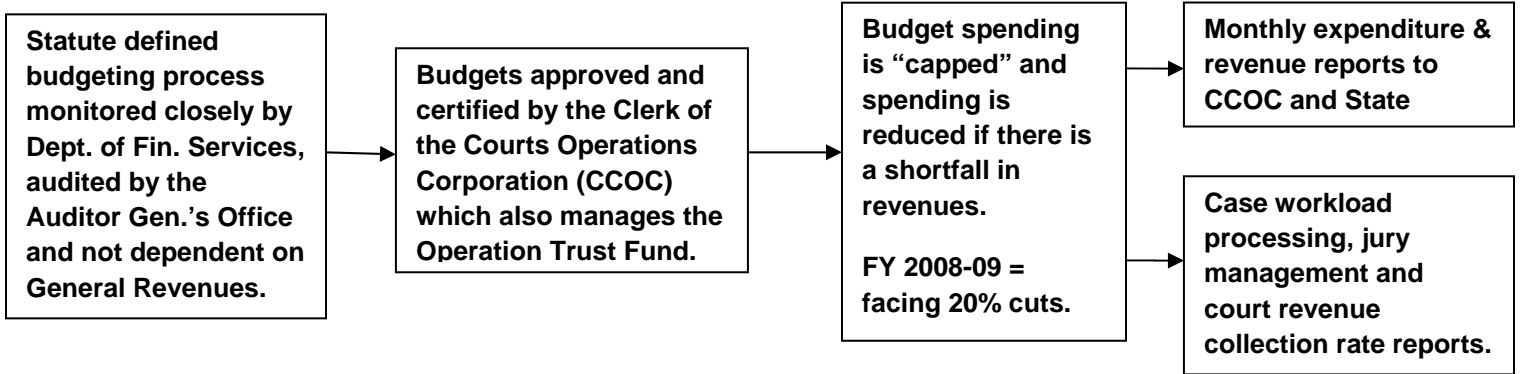
Clerks cannot give a salary/bonus increase unless it is possible within it formula derived “expenditure cap.”

A few Clerks are in a county system that is bound by a county labor contract.

# THE VALUE OF THE CLERK OF THE COURTS' ARTICLE V BUDGETING SERVICES TO THE STATE OF FLORIDA

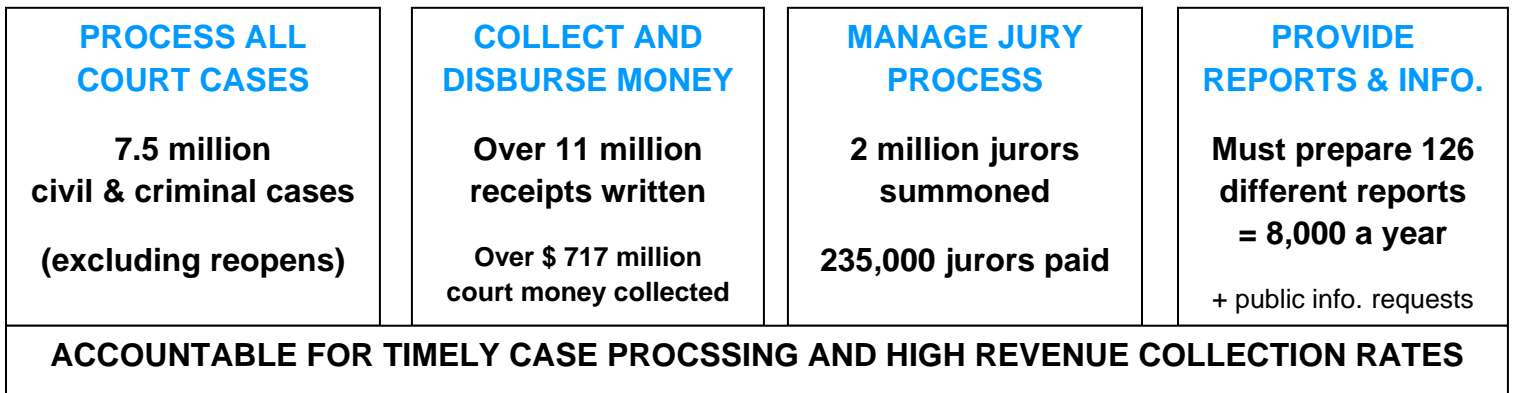
**February 19, 2009**

## 1. ART. V BUDGETING: A HIGHLY PROFESSIONAL, EFFICIENT AND ACCOUNTABLE PROCESS

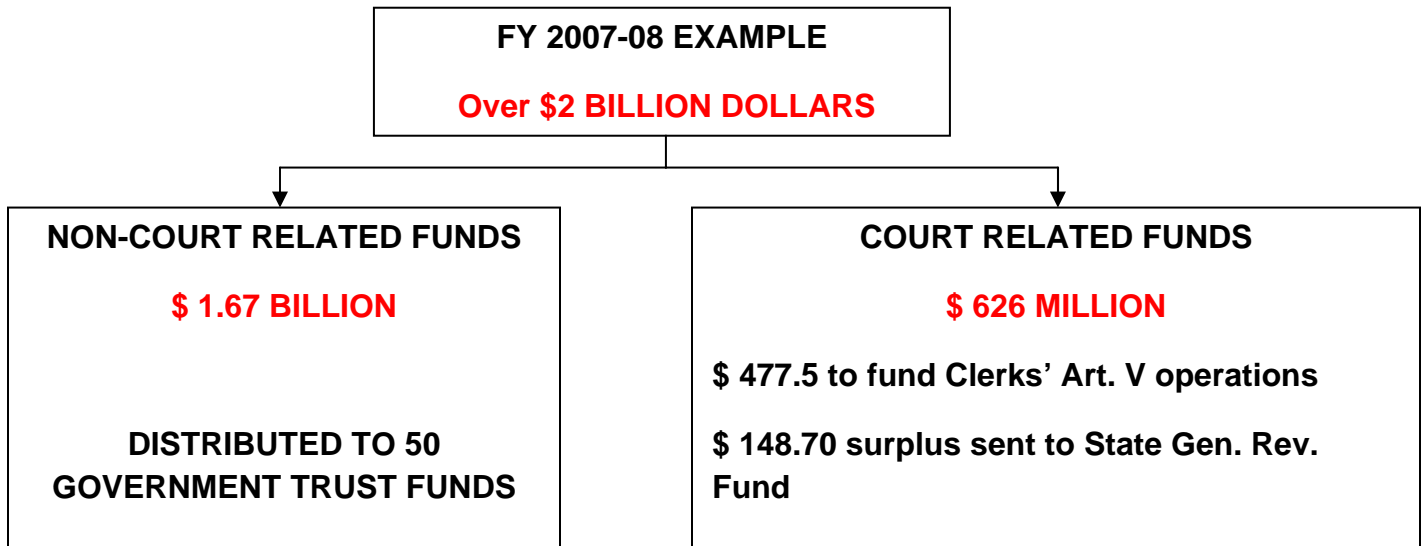


## 2. CLERKS DO A LOT OF WORK FOR FLORIDA'S COURT SYSTEM

HUNDREDS OF WORK ACTIVITIES AND TASKS ARE INVOLVED (See Clerk's Service "Framework")



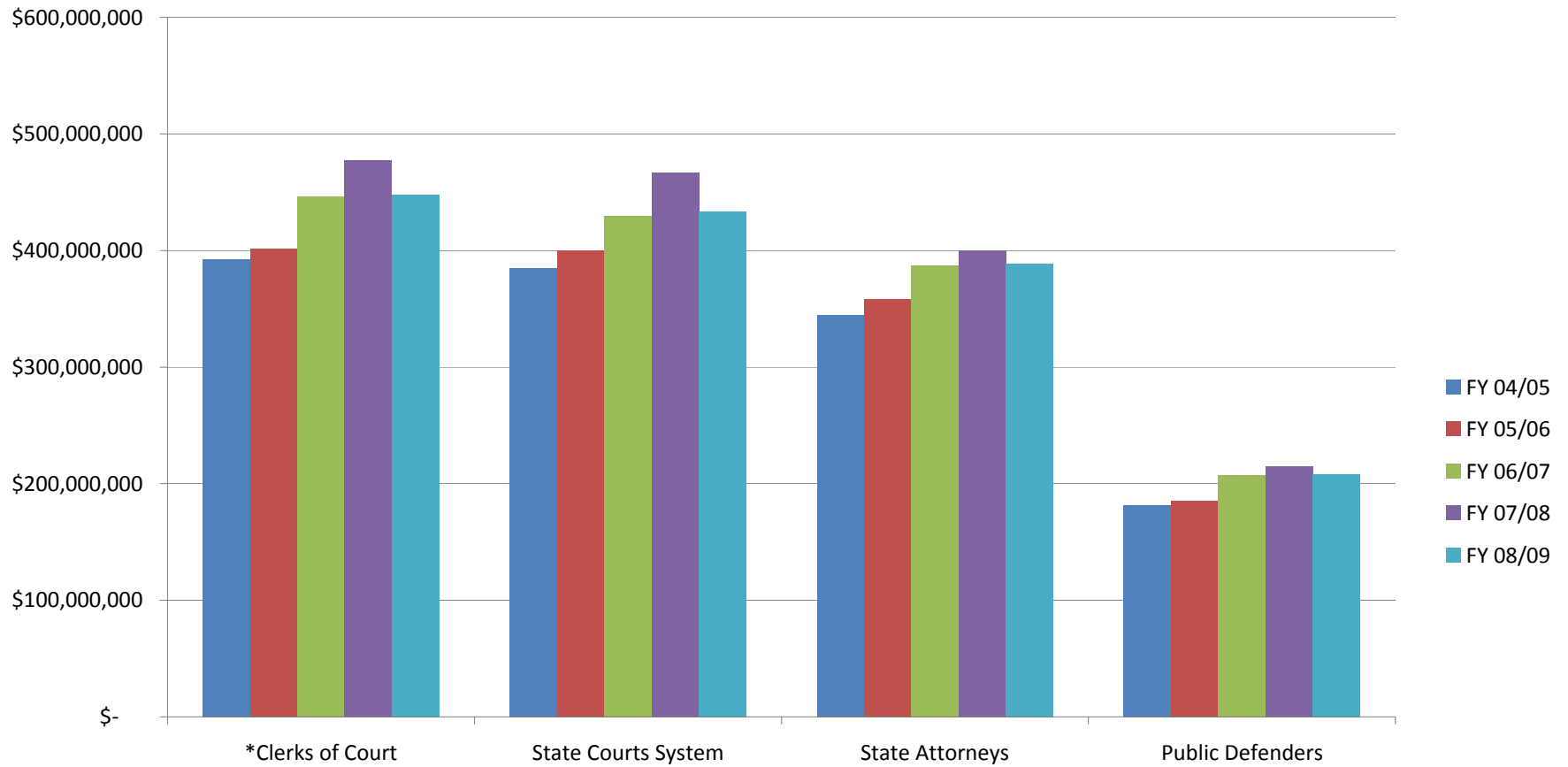
## 3. CLERKS ARE EXPERTS AT COLLECTING AND DISTRIBUTING MONEY TO THE STATE AND LOCAL INTERESTS AS DEFINED BY LAW.



# Total Budget Comparisons

## FY 2004/05 to FY 2008/09

(Note: Clerks = actual expenditures for 04/05 - 07/08 and projected expenditures for 08/09)



\*Created by the Clerks of Court Operations Corporation. The amounts for FY 04/05 thru FY 07/08 represents the actual Clerk Expenditures. The amount for FY 08/09 represents the projected expenditures due to revenue shortfalls. For details call (850) 386-2223.

Prepared by CCOC Staff. For information please contact CCOC at (850) 386-2223.