

**Constitution Revision Commission
Local Government Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: CS/P 55

Relating to: JUDICIARY, Funding

Introducer(s): Judicial Committee and Commissioner Kruppenbacher

Article/Section affected:

Date: January 23, 2018

	REFERENCE	ACTION
1.	<u>JU</u>	<u>Fav/CS</u>
2.	<u>LO</u>	<u>Pre-meeting</u>

I. SUMMARY:

The Proposal amends Section 14 of Article V to require the legislature to provide funding sufficient to offset the Clerks costs in providing services in criminal and other court cases in which the parties do not pay fees and costs.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Constitution proscribes how the offices of the Clerks of Court are funded when they are performing court-related functions. It requires that Clerks' court-related functions be funded by filing fees, service charges, and costs, as provided by general law.¹ However, the Legislature must provide adequate and appropriate supplemental funding to offset costs for performing court-related functions where the state or federal constitution preclude the imposition of filing fees in an amount determined by the legislature.² Certain case types are filed and processed by the Clerks without the payment of any fees or cost being imposed or collected.³ Criminal, domestic violence, juvenile, and other filing fees and costs are waived for parties who are determined indigent.⁴ Those costs are offset by excess revenues derived from traffic cases which require less

¹ Art. V, § 14, Fla. Const.

² Id.

³ Comments from the Clerks of Circuit Courts on file with the CRC

⁴ Id.

resources, however those cases have been declining.⁵ Clerks across the state have seen a cumulative budget reduction of over \$62 million since 2012.⁶

B. EFFECT OF PROPOSED CHANGES:

This proposed amendment requires that the legislature provide, by law, funding for the payment of all filing fees, services charges and other costs for judicial proceedings in criminal and other cases where the parties do not pay filing fees.

The proposal requires that the clerks of the courts submit a collective annual budget for performing court-related functions to the legislature that includes any projected deficit. Should the legislature fail to address any deficits or shortfalls in revenue for court related services, the clerks of courts may file an appeal by petitioning the governor and cabinet for a budget hearing. Should the governor and cabinet determine the existence of a revenue deficit, they may recommend additional funding from the legislature from unobligated moneys in the state treasury. However, this would not be a mandate.

C. FISCAL IMPACT:

Indeterminate negative fiscal impact.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

The Judicial Committee amended the proposal removing the requirement that clerks of courts submit a cumulative budget to the legislature, as well as removing process for clerks of courts to petition the governor and cabinet to hold a hearing and determine the amount of any budget deficit and request relief from the legislature on behalf of the clerks from unobligated money in the state treasury.

B. Amendments:

The Judicial committee adopted amendment barcode: 369424

C. Technical Deficiencies:

None.

D. Related Issues:

None.

⁵ Id.

⁶ Id.