



EDITORIAL: Court Clerks Offices Serve Essential Public Function

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An unnecessary legislative battle is brewing between two groups that should be natural allies - Florida's judges and popularly elected clerks of the circuit courts.

Two legislators and a number of chief judges, on the pretext of studying efficiencies, saving money and providing "meaningful" oversight, would transfer court-related services performed by the clerks "to the state court system."

Presumably that means the Office of State Courts Administrator and the administrators of the 20 judicial circuits would assume those duties. But while there are good reasons to make sure the clerks offices run efficiently and to seek new sources of revenue for the judicial system, especially in these dire economic times, this looks more like a power grab than anything else.

There is no evidence that clerks are mishandling funds. And the clerk's office is directly accountable to voters.

It's true that the judicial branch - the third branch of government - has not always been funded properly, and it and its partners - state attorney and public defender offices - need a dedicated funding source so that they are not beholden to the whims of lawmakers.

Supreme Court Chief Justice Peggy Quince praised the Legislature for establishing a State Courts Revenue Trust Fund during the special session in January and shielding the courts from the 4 percent cuts affecting the rest of the budget. She wants lawmakers to take another look at the source of revenue for the trust fund. She quite understandably wants money from user fees to fund the trust rather than judge-imposed fines that might create the impression of "cash register justice."

Still, there's no rational reason to change an operations system long answerable to the people of Florida.

Hillsborough Chief Judge Manuel Menendez Jr. supports exploring the transfer of duties. As he puts it, the courts have to defend every line in their budgets and the clerks do not. He wants to see them subjected to the same scrutiny.

Hillsborough Clerk Pat Frank says she would welcome it. Hers is arguably the best run office in the state. But she already has oversight. The Department of Revenue contracts with the Clerk of Court Operations Corp. to evaluate the budgets of Florida's 67 clerks.

Rather than throw the clerks to the wolves, the Legislature would be better off examining how Frank and other clerks collect money for and remit it to the court system and specified trust funds. In fact, Frank has returned some \$21.5 million to the state since taking over the office in 2005 even though she had the authority to spend \$14.5 million as she saw fit.

Granted, some clerks have made questionable decisions. Broward County's clerk, Howard Forman, gave out bonuses even as employees of the state attorney's office there were placed on furlough. The bonuses may have been a legal expenditure for work well done, but it wasn't smart.

Frank says she could have done the same thing and justified it as a one-time expenditure, but more than a year ago she could foresee the financial calamity coming our way, so she resisted spending all she could.

The judges also complain that clerks' budgets have grown by 33 percent statewide since 2005 while the court system's budget has only grown 13 percent. A more telling comparison is of expenditures. With county funding included, the state courts' total funding has increased 38.5 percent while the clerks' funding has increased 26.5 percent.

So there is scant evidence the clerks are unnecessarily draining dollars.

Frank agrees with Menendez that it is a pain to have to go before lawmakers and beg for funding. She knows it has to frustrate judges, state attorneys and public defenders. But she observes, rightly, that the Legislature, along with the chief financial officer, set up the clerks' offices to run as they do today.

She also asserts lawmakers would do well to take a hard look at counties where the clerk is operating at a deficit. It's understandable that smaller, fiscally constrained counties that do not collect the fees or fines in substantial amounts would have to be subsidized by the state. But also running in the red are counties such as Pinellas, Pasco and Palm Beach - hardly poor.

But lawmakers can review spending policies without gutting the elected clerk's role, which includes maintaining records, keeping evidence and transferring funds.

It's hard to believe there would be much public support for having a chief judge chosen by fellow judges in charge of the money. Chief judges, with a narrow courthouse perspective, are far more likely to be indifferent to public concerns than clerks.

Before lawmakers abolish this constitutional office, lawmakers should, at the very least, let the people vote on it. That's the check on independent clerks.