

Bills define clerks' role as county auditors

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A bill has been introduced in Tallahassee that would spell out the role of county clerks as independent auditors following a court fight in Collier County about the clerk's watchdog duties.

The bills (HB399 and SB640) would guarantee clerks have the power to review county spending and serve as a check on county commissions. Clerks say they have always had this duty and the legislation would make the power explicit.



Sharon Bock

The bills would define county clerks as the local auditor and require them to submit annual reports on county finances.

State Rep. Michael Grant, R-Port Charlotte, a House sponsor, said the legislation ensures clerks have "the statutory authority to do their jobs" as custodians of taxpayers' money.

"It doesn't give clerks any additional power, and it doesn't take away any power from the board of county commissioners," Grant said. He said the bill has the support of all 67 county clerks in Florida.

However, not all the clerks will be affected by the bill, according to Beth Allman, spokeswoman for Florida Association of Court Clerks and Comptrollers. Seven different counties — including Miami-Dade and Broward — have adopted other audit arrangements. Two counties, Palm Beach and Hillsborough, split that role with the county.

In Broward County, the county auditor holds that role and reports to the county commission. Broward Clerk of Courts Howard Forman said he supports the bill even though he would not be directly affected by it. In Miami-Dade, the audits are conducted by a commission auditor, an inspector general and an audit and management services department.

Grant said he took up the bill after Collier Clerk of Courts Dwight Brock sued the county government over an allegedly secret account containing \$21,000 for a fire department. Brock claims he should have overseen this money and began to investigate other county accounts. The county countersued, saying he couldn't audit money already spent or search for more accounts.

In August, a judge ruled the clerk did not have the authority to audit spent money. The judge also ruled clerks could not audit accounts without county authorization. Brock has taken his case to the 2nd District Court of Appeal.

Palm Beach Clerk and Comptroller Sharon Bock said the legislation is needed to ensure a system of checks and balances at the county level. She said the Collier County case upset the tradition of allowing clerks to perform audits.

Bock has been an aggressive advocate for audit oversight by the clerks and the careful investment of public funds. She recently sent out a thick memo to Palm Beach county officials called "Clerk & Comptroller: Auditor Role."

Unlike other local clerks, she oversees a stable of people who invest the county's money. Bock also ordered the withdrawal of \$60,000 of the county's money from a local government fund in Tallahassee that contained bad subprime securities. Bock has said she doesn't plan to reinvest in the pool until it becomes stable.

She noted the position of public spending monitor can be tenuous but said the conflict between Collier's commission and clerk is particularly acrimonious.

"There has always been tension and friction between the county and our office, just like there's friction between the state Legislature and the governor's office or between Congress and the president," Bock said. "Democracy is designed to create tension, and the tension is designed to protect the taxpayers."

Ben Wilcox, executive director of Common Cause Florida and a supporter of the bills, said other counties could adopt the Collier County Commission's position and refuse to allow audits by clerks if the legislation fails. If that happened, there would be "a great deal of danger."

County commissions "doing audits of their own spending would be like the fox guarding the henhouse," Wilcox said. "This is not a case of the county commission versus the clerk. It's really the issue of the need for an independent watchdog of taxpayers. It's basic checks and balances."

The Florida Association of Counties said the legislation does not provide a foolproof means of providing accountability on county spending.

Cragin Mosteller, a spokeswoman for the association, said counties and clerks already decide how finances are going to be audited. She said it is important to ensure local governments have an oversight mechanism to ensure fiscal responsibility and fraud-free operations, but the association doesn't believe the bill is the correct mechanism.

"Our concern is that you're setting in stone the ability of the person who writes the checks to audit themselves," Mosteller said. She said the organization is opposed to the bill.

The House version passed the Committee on Urban and Local Affairs on Wednesday. Grant said he is optimistic the bill will become a law.

"I don't know how anyone could vote against a bill that ensures that taxpayers' money is spent the way taxpayers expect it to be spent," he said. "If someone is out there [who opposes it], they probably won't be re-elected."

Senate sponsors Steve Oelrich, R-Gainesville, and Victor Crist, R-Tampa, did not return calls for comment by deadline.

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