



# FLORIDA GOVERNMENT FINANCE OFFICERS ASSOCIATION, INC.

Since 1937

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March 19, 2009

Senator Lee Constantine, Chairperson  
Committee on Judiciary  
515 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Re: SB2108 (companion HB1121)

Dear Senator Constantine,

The Florida Government Finance Officers Association (FGFOA) is a statewide association that serves more than 2,700 government finance professionals from state, county and city governments, special districts and private firms. We are a unique resource for legislators providing our expertise for analysis of pending legislation regarding issues related to governmental finance.

The FGFOA does not support SB2108, because this legislation would remove the constitutionally established checks and balances over court records and related functions. The public benefits from the separation of powers between Clerks and the judiciary related to court record preservation and case processing. Transferring these functions to court administrators who are appointed by and report to judges creates an inherent conflict of interest.

Public records and files should remain in the custody of an independent custodian who answers directly to the citizens of Florida. Preservation of case files and court records should not be handled by employees of judges who preside over the cases. The importance of the separation of powers was demonstrated when the Florida Legislature adopted Article V, making the Clerks self-sustaining entities.

It has been said that Clerk budgets have grown by 33% over the last four years, while the average state budget has grown by 13%. Actual Clerk spending has grown by 13.7% over the last four years. In addition, since Clerk budgets are based on a "business model", if case loads produce additional revenues, increased workload costs are covered by the additional revenues and any surplus is ultimately returned to the State. If case loads produce fewer revenues, then spending must be reduced.

It has also been said that since Clerks do not go through the normal appropriations process, their budgets are not accountable to the public or the Legislature. In fact, Clerk budgets are very structured in law, highly accountable and are subject to budget cuts and oversight. Clerks have the following mandated oversights:

- Clerk budgets have spending caps
- Clerk budgets are not funded with general tax revenues
- Clerks must establish performance standards and report on performance results
- The Clerk of Court Operations Corporation approves all Clerk budgets
- The Department of Financial Services provides oversight of all Clerks
- The Auditor General performs annual reviews of the Clerk
- Spending increases must be approved by the Legislative Budget Commission
- Clerks must undergo independent financial audits

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The FGFOA strongly believes that the separately created Constitutional Office of Clerk of the Circuit Court should remain the custodian of court records in order to maintain an independent system of checks and balances. Legislation w3ould be supported that sets aside a responsible share of excess Clerk funds to support the judiciary system.

We greatly appreciate your time and your consideration of this request. If you have any questions or would like additional information, please contact FGFOA Legislative Committee Chairperson, Kim Adams at [kadams@largo.com](mailto:kadams@largo.com) or 727-587-6747.

Sincerely,

*Linda Davidson*

Linda Davidson  
FGFOA President