

STORAGE NAME: h1679.sa.doc
DATE: February 8, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1679 (PCB SA 02-16)
RELATING TO: Official Records
SPONSOR(S): Committee on State Administration and Representative(s) Brummer
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 5 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Clerks of the Circuit Courts are constitutionally elected officers. The Clerks record all instruments that are required or authorized by law to be officially recorded; e.g. deeds, judgments, marriage licenses, death certificates, and claims of lien. The purpose for recording a document in the official records is to put the public on notice as to its contents.

Clerks are required to provide Internet access to all official records by January 1, 2006. Approximately 19 Clerks have already done so. Complaints have been received regarding the Internet disclosure of information made confidential or exempt by law, as well as the disclosure of other sensitive, personal information. The Attorney General has stated that the Clerks must prevent the disclosure of information made confidential or exempt by law in both paper records obtained at the Clerk's office and in electronic records, yet the Clerks are still disclosing this information. Such disclosures raise concerns regarding a person's right to privacy; a person's security and safety; and a person's protection against identify theft. *The Judicial Management Council recommended a moratorium on electronic access to certain court records, which includes final judgments which are recorded in the official records.*

HB 1679 deletes the requirement that Clerks provide electronic access to official records on a publicly available Internet website, but does not prohibit them from doing so. HB 1679 does, however, expressly prohibit any Clerk from placing on a publicly available Internet website an image or copy of an official record if that image or copy is of a military discharge; death certificate; any document filed under chapter 61, F.S., or the Family Law Rules and Procedure; and any document filed under the laws of Florida or the Florida Probate Rules, related to probate and guardianship proceedings. HB 1679 requires any such records that were placed on the Internet prior to the effective date of this bill to be removed, and any affected person may petition the circuit court for an order directing compliance with this provision.

HB 1679 creates a 17-member Study Commission on Official Records. The Commission must address particular issues regarding official records, privacy, and public access, and must submit a report by January 1, 2003. Members are reimbursed for per diem and travel expenses.

HB 1679 does not appear to have a significant fiscal impact on state or local governments. Please see the "Fiscal Analysis and Economic Impact Statement" for further discussion.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill creates a new commission to study issues regarding official records, privacy, and public access.

B. PRESENT SITUATION:

Florida Constitution, Clerks of the Circuit Courts

Article V, Section 16, of the Florida Constitution provides for the Clerks of the Circuit Courts (Clerks). Clerks are selected pursuant to Article VIII, Section 1, of the Florida Constitution, which specifies that they are elected constitutional officers, chosen by the electors of each county. A Clerk serves for a term of four years. There may be a Clerk of the County Court if authorized by general or special law.

Chapter 28, F.S., Clerks of the Circuit Courts

Chapter 28, F.S., sets forth the duties and responsibilities of the Clerk. Section 28.222, F.S., states that the Clerk "shall be the recorder of all instruments¹ that he or she may be required or authorized by law to record in the county where he or she is Clerk." The Clerk is to record all instruments in

¹ Section 28.222(3), F.S., provides that instruments are:

- Deeds, leases, bills of sale, agreements, mortgages, notices or claims of lien, notices of levy, tax warrants, tax executions;
- Other instruments relating to the ownership, transfer, or encumbrance of or claims against real or personal property or any interest in it;
- Extensions, assignments, releases, cancellations, or satisfactions of mortgages and liens;
- Powers of attorney relating to any of the instruments;
- Notices of lis pendens;
- Judgments, including certified copies of judgments, entered by any court of this state or by a United States court having jurisdiction in this state and assignments, releases, and satisfactions of the judgments;
- That portion of a certificate of discharge, separation, or service which indicates the character of discharge, separation, or service of any citizen of this state with respect to the military, air, or naval forces of the United States;
- Notices of liens for taxes payable to the United States and other liens in favor of the United States, and certificates discharging, partially discharging, or releasing the liens, in accordance with the laws of the United States;
- Certified copies of petitions, with schedules omitted, commencing proceedings under the Bankruptcy Act of the United States, decrees of adjudication in the proceedings, and orders approving the bonds of trustees appointed in the proceedings; and
- certified copies of death certificates authorized for issuance by the Department of Health which exclude the information that is confidential under s. 382.008, and certified copies of death certificates issued by another state whether or not they exclude the information described as confidential in s. 382.008.

one general series called “official records.”² The Clerk must also maintain a general alphabetical index, direct and inverse, of all recorded instruments.

Official Records

The Florida Statutes require that certain documents be recorded with the Clerk’s office. The purpose for recording a document is to put the public on notice about a particular matter. For example, a deed regarding real property must be recorded with the Clerk’s office for proof and authentication of the transfer of the title to that property. Any claims of lien against a property must also be recorded. Other examples of documents that must be recorded with the Clerk’s office are: mortgages, notices of levy, tax executions, powers of attorney, judgments, military discharges, copies of bankruptcy petitions, marriage licenses, death certificates, and wills.³

All official records are public records. Public records, however, include not only official records but all executive, legislative, and judicial branch records.⁴

Public Records⁵ / Court Records

Chapter 119, F.S., governs agency⁶ held public records. Florida’s public records law requires that all state, county, and municipal records must be open for personal inspection and copying by any person. In order to protect, for example, certain personal information, the Florida Statutes contain numerous public records exemptions that prohibit or restrict the disclosure of certain information that appears in public records.

Public records also include court records.⁷ The Florida Supreme Court has recognized the growing concern of the misuse of personal information which is being disclosed in court records. The Florida Supreme Court directed the Judicial Management Council (JMC) to make recommendations in regards to balancing the public expectation of access to case information with the growing misuse of personal information.⁸ The JMC organized an ad hoc workgroup comprised of judges, a Clerk of Court representative, court administrators, attorneys, and a representative from the First Amendment Foundation. The JMC ad hoc workgroup recommended a moratorium on electronic

² Section 28.001, F.S., defines “official records” to mean “each instrument that the clerk of the circuit court is required or authorized to record in one general series called ‘Official Records’ as provided for in s. 28.222.”

³ Booklet (untitled) provided by the Leon County Clerk’s Office, January 7, 2002.

⁴ Art. I, s. 24(a), Fla. Const. , provides that “[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.”

⁵ Section 119.011(1), F.S., defines public records as “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁶ “Agency” is defined to mean “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” Section 119.011(2), F.S.

⁷ Art. I, s. 24(a), Fla. Const. Article I, Section 24(a) of the Florida Constitution guarantees public access to records of local governments and of the legislative, executive, and judicial branches of state government. The section clearly establishes a constitutional right to “inspect” or “copy” any public record and only authorizes the Legislature, by general law, to create exemptions.

⁸ Judicial Management Council of Florida, Privacy and Electronic Access to Court Records, Report and Recommendation, November 15, 2001.

access to certain court records until sufficient statewide policies are developed. The restriction should apply only to images of court records; indexes of such images as well as docket and case information should continue to be made available electronically.⁹

Although there are many public records exemptions that prevent disclosure of certain information contained in agency and judicial branch public records, there is nonetheless a growing concern regarding disclosure of personal information contained in such records, which is made easier and more efficient because of increased technological capabilities. One of the concerns that has arisen from the disclosure of personal information is the crime of identity theft.

Identity Theft

In July 2000, Governor Bush established a statewide Task Force on Privacy and Technology which was charged with looking at the crime of identity theft as it relates to privacy and the protection of personal information.¹⁰ As a result of the task force's work, legislation was passed which provides criminal penalties for any person who willfully and without authorization either fraudulently uses or possesses personal identification information concerning an individual without first obtaining consent from that individual. This legislation was amended in 2001 to expand the scope of protection against identity theft and to provide heightened penalties for a person who unlawfully uses public records information to commit an identity theft crime.¹¹

Recently, a statewide grand jury provided a number of recommendations to combat identity theft. One of the recommendations is to make exempt from disclosure all personal identifying information of citizens, including social security numbers, birth dates, driver license numbers, phone numbers, mother's maiden name, bank account numbers, and credit card numbers, unless the citizen consents to its release, a court order requires it, or a "compelling need" can be shown for its disclosure.¹² The grand jury stated:

We suggest that rather than assuming everything government collects is automatically a public record unless otherwise exempted, we believe the presumption should be reversed. **That is, private information collected from citizens should be presumed confidential and non-discloseable unless there is a statutory ground for its release.** We are not convinced that doing so would violate the spirit and intent of the First Amendment.¹³

Electronic Access to Official Records

The electronic disclosure on the Internet of official records by the Clerks has raised concerns because those records contain information made exempt from disclosure by law as well as other

⁹ *Id.* at 5. The JMC ad hoc workgroup also concluded: The Florida Supreme Court has a broad responsibility under the Florida Constitution for the administrative supervision of all courts, including setting policies regarding court records; the JMC should be directed to oversee development of statewide policy regarding electronic access to court records, and the JMC should create a committee for the purpose of addressing this issue; and the amended definitions for the terms "records of the judicial branch," "court records," and "administrative records," recommended by the Supreme Court Workgroup on Public Records to the Florida Supreme Court should be adopted.

¹⁰ According to the task force's report, identity theft is one of the fastest growing crimes in America, affecting nearly half a million people in 1998. Florida accounts for more reported complaints of identity theft to the Federal Trade Commission than any other state, with the exception of California and New York. Task Force on Privacy and Technology: Executive Summary of Policy Recommendations, 2000.

¹¹ Section 817.568, F.S.

¹² Statewide Grand Jury Report, Identity Theft in Florida, First Interim Report of the Sixteenth Statewide Grand Jury, Case No: SC 01-1095, January 10, 2002.

¹³ *Id.* at 13 (emphasis added).

sensitive, personal information. Some Clerks are also placing copies of court records on the Internet; that is, all of the papers filed in a court case.

The Attorney General of Florida issued a 1997 opinion in response to the question of whether or not the Clerk was required to remove from the official records the address of a law enforcement officer, who had made a special request pursuant to s. 119.07(3)(i), F.S.,¹⁴ to have his address kept exempt from public disclosure. The Attorney General clearly states that the Clerk must redact any confidential or exempt information from records released by the Clerk, including records released over the Internet:

Nothing in the Public Records Law or the statutes governing the duties of the Clerk authorizes the Clerk to alter or destroy Official Records. However, the statute does impose a duty on the Clerk to prevent the release of confidential material that may be contained in the Official Records. This would also be applicable when the Clerk is releasing copies of the Official Records by any means, such as via the Internet. Moreover, there is nothing that precludes the Clerk from altering reproductions of the Official Records to protect confidential information.¹⁵

The Legislature, during its 2000 legislative session, passed a bill, a Florida Association of Court Clerks' initiative, that became law¹⁶. This law was codified at section 28.2221, F.S., and requires Clerks¹⁷, by January 1, 2002, to provide, on a publicly available Internet website, a current index of documents recorded in the official records of the county beginning with those documents filed on or after January 1, 1990. By January 1, 2006, the Clerks are required to make available, "on the county's official records website", images of those official records that are indexed electronically.

To date, approximately 19 of the 67 Clerks, have made images of official records available on their official websites, and confidential or exempt information is not being redacted from these images.¹⁸ Additionally, confidential or exempt information is not being redacted in copies of official records that are provided over the counter.

The bill, as originally filed, required that

[e]ach county recorder shall contract with the Florida Association of Court Clerks to participate in and connect to the statewide official records website developed and operated by the Florida Association of Court Clerks.

The original bill also provided:

¹⁴ The exemption at s. 119.07(3)(i), F.S., is unique among most exemptions. It requires the affected person, for example, a law enforcement officer, to make a written request of an agency (other than the employing agency) to not have his or her personal information made public. The requirement that a request be made is necessary because agencies holding personal information regarding that law enforcement officer may not know that he or she is in fact a law enforcement officer.

¹⁵ Office of the Attorney General, State of Florida, Fla. AGO 97-67, September 25, 1997.

¹⁶ Section 2 of CS/CS/SB 1334, 3rd Engrossed.

¹⁷ The statutory language references "county recorder"; the county recorders, in all but two instances are Clerks of Court, so for consistency, this analysis refers to the county recorder as the Clerk.

¹⁸ Chart provided by staff of the Office of the Orange County Comptroller on January 17, 2002, by electronic transmission. Due to the large volume of official records received by the Clerks' offices, and the diversity of their content, it would be very time consuming to redact all confidential or exempt information from records reviewed by the Clerks. It would require that each record be carefully reviewed to determine what information contained therein has been made confidential or exempt by law. The ability to discern which public record exemptions were applicable – a daunting if not impossible task, except in certain circumstances; e.g., redacting social security numbers or other numbers or possibly redacting fields of information on certain standard-form records – would require appropriate software.

The Florida Association of Court Clerks, to support the development, maintenance, and operation of the statewide official records website, may charge a reasonable fee for access and use of the system and to make such other charges as appropriate for commercial use of the system. However, no fee or other charge will be made against a person who accesses the system for less than 1 hour per month.

The first provision requires the Clerks to contract with the Association of Court Clerks to establish a statewide official records website. The second provision allows charging of fees in excess of what Chapter 119, F.S., permits, which is "actual costs." This provision allows a private entity, the Florida Association of Court Clerks, to generate a profit from the sale of records recorded by and placed in databases by elected government officials, pursuant to a mandatory contract with the association.

The members of the House Committee on Utilities and Communications were concerned regarding the legality of requiring a constitutionally elected officer to contract with a private entity, the Florida Association of Court Clerks, and giving that association exclusive Internet rights over official records statewide. Additionally, the members were concerned about the fees the Association would be able to charge. Accordingly, the members removed the above quoted provisions from the bill.

Nonetheless, since that time, the Florida Association of Court Clerks in conjunction with the Association of Tax Collectors, and an on-line transaction company, (collectively known as the Local Government Internet Consortium) has established a website located at <myfloridacounty.com.> This website provides access to a number of counties' official records.¹⁹ The homepage asserts that it is the "Official Website for Local Government Services & Information." In addition, the home page carries the Office of the Governor's <MyFlorida.com> logo, which is an official trademark. The Consortium does not, however, have an agreement with the Office of the Governor authorizing use of the logo nor has the Consortium received authority as the "official website" for the dissemination of such records.²⁰

If a person chooses to order records from the Consortium's website, that person is charged, in addition to copying, certification, and mailing costs, a convenience fee of \$3.50,²¹ which goes to the Consortium. This Consortium proposed that the State Technology Office authorize the Consortium's website as its exclusive portal to local government records. The State Technology Office did not accept this proposal.²² Furthermore, it is unclear as to whether the State Technology Office has the authority to enter into such an agreement. Additionally, certain statutory and constitutional concerns might arise.²³

¹⁹ Seventeen counties' official records appear to be accessible through this website.

²⁰ Conference, Staff, Office of the Governor, 02/01/02.

²¹ Section 215.322(3)(b), F.S., allows an agency to charge a "convenience fee" if a agency or officer is accepting payment by credit card, charge card or debit card. However, the total amount of such convenience fees cannot exceed the total cost to the state agency. The Consortium—that is the Florida Association of Court Clerks and the Association of Tax Collectors—are private entities and thus not constrained by fee limits.

²² Telephone conference, Staff, STO, 01/31/02. STO staff raised the same concerns as were raised by members of the Committee on Utilities and Communications, who previously had not agreed to such exclusivity.

²³ Concerns regarding Art. 1, s. 24, Fla. Const., access; Ch. 119, F.S., fee provisions; confidential and exempt information being disseminated on an official website that the law requires not to be disseminated to the public, as confirmed by the Attorney General; and sole provider/competition in the marketplace issues. Also, if the Consortium is "acting on behalf of" the Clerks in this capacity, then, like the Clerks, the Consortium would be subject to the public records and public meetings laws that govern governmental officers. *See also*, s. 287.058(1)(c), F.S. (governing access to records made or received by a contractor in conjunction with a contract).

Privacy and Confidentiality Task Force

The Clerks have recognized the issues regarding privacy, the release of confidential or exempt information, and the public's right to access records. The Florida Association of Court Clerks and Comptrollers created a Privacy and Confidentiality Task Force which has been meeting since June 2001. To date, the Task Force recommends use of a universal information form which allows a person to request the redaction of confidential or exempt information contained in specifically listed documents.²⁴ The form idea was as a result of a court case wherein the Orange County Clerk was sued for revealing exempt information over the Internet regarding police.²⁵ The form must be notarized, and the requestor must list the book and page number of all the recorded documents that contain the exempt information the requestor seeks to have redacted from public disclosure. Some of the issues arising regarding the use of such a form are:

- The requestor is required to make repeated requests for redaction as he or she becomes aware of new documents recorded that contain confidential or exempt information;
- There is no independent verification done by the Clerk's office to verify that the person making the request is indeed the person's records that are being redacted;
- There is no independent verification done by the Clerk's office as to whether the records requested to be redacted are really made confidential or exempt from disclosure by law.
- People with greater knowledge regarding the law and official records will more likely take advantage of such a form than others who are less educated and less well-informed.

C. EFFECT OF PROPOSED CHANGES:

HB 1679 amends s. 28.2221, F.S., regarding electronic access to official records. Currently, this section of law states that the Legislature finds that a proper and legitimate state purpose is served in providing electronic access to official records. HB 1679 amends this section to include that a proper and legitimate state purpose is also served by preventing disclosure of records and information made exempt from public disclosure.

Current law requires that the Clerk in each county provide a current index of documents recorded in the official records on a publicly available Internet website by January 1, 2002, and by January 1, 2006, each Clerk must provide for electronic retrieval of images referenced in the index. HB 1679 limits the index to include grantor and grantee names, party names, date, book and page number, and type of record. HB 1679 deletes the requirement that each Clerk provide electronic retrieval of images of official records, but does not prohibit Clerks from doing so.

HB 1679 does prohibit any Clerk from placing an image or copy of an official record, or of any other public record, on a publicly available Internet website, if that copy or image is of a

- Military discharge;
- Death certificate;
- Documents filed under Chapter 61, Florida Statutes, or the Family Law Rules of Procedures, including pleadings, discovery, psychological evaluations, financial affidavits, and any order or judgments entered by the court; and

²⁴ Privacy Issues White Paper, Florida Association of Court Clerks Privacy Task Force, October 2001.

²⁵ Orange County Case No. CI 97-8581. The form resulted from a settlement agreement between the Orange County Comptroller and the Fraternal Order of Police. The Office of the Orange County Comptroller stated that a number of other Clerks' offices use such a form, though the exact number is unknown.

- Documents filed under the laws of Florida or the Florida Probate Rules, related to probate and guardianship proceedings.

HB 1679 requires that any of the above-described records placed on the Internet prior to the effective date of this act must be removed. Any affected person may petition the circuit court for an order directing compliance with this provision.

HB 1679 additionally creates a Study Commission (the Commission) on Official Records. The Commission is comprised of the following 17 individuals:

- Three persons appointed by the Speaker of the House of Representatives: one member of the House of Representatives, one person who represents a financial institution or credit industry, and one person who represents the real property title industry;
- Three persons appointed by the President of the Senate: one member of the Senate; one person who represents the broad, print, or broadcast media; and one person who represents the First Amendment Foundation;
- Six persons appointed by the Governor: two public citizens; one representative of the Florida Department of Law Enforcement; and three attorneys with extensive knowledge of Florida's public records, constitutional, and privacy laws, with one of these attorneys having additional expertise in the area of probate law, and one of these attorneys having additional expertise in the area of family law.
- Three persons appointed by the Chief Justice of the Supreme Court: a judge or justice from a circuit court and a judge or justice from the Supreme Court, and a person from an office of trial court administrators; and
- Two persons appointed by the Florida Association of Court Clerks and Comptrollers: one clerk and one deputy clerk.

The Governor must designate one of the three attorneys as chair of the Commission. Commission members serve without compensation, but are entitled to reimbursement for per diem and travel expenses. HB 1679 further directs that the Speaker of the House of Representatives and the President of the Senate must designate staff from within the Legislature to assist the Commission. The Commission must be appointed within 30 days after the passage of this legislation, and within 40 to 60 days after the passage of this legislation, the first meeting must be held and a co-chair elected. The Commission meets at the call of the chair, but no less frequently than every two months, and all meetings are to be held in Tallahassee. The Commission must address the following issues:

- How recent advances in remote electronic access, including Internet access, have affected the collection and dissemination of sensitive personal information;
- Should exempt information continue to be disclosed in official records available at the Clerk's office or through electronic means;
- If official records are not to contain exempt information, whose responsibility is it to ensure that such information be redacted from both past and future official records; what impediments exist to keeping such information exempt; and what changes to the law and/or practices and procedures need to occur in order to most effectively and efficiently keep such information out of official records.
- If official records are not to contain exempt information, how does the Legislature address the inclusion of such information in records of the judicial branch that are recorded in the official records;

- How to educate the public and the legal and business communities regarding the inclusion of unnecessary personal information in official records, and how to promote greater communication between all branches of government; and
- Should sanctions be created for what is placed in official records as well as for disclosing confidential or exempt information.

The Commission is to make recommendations concerning needed changes to current laws, procedures, and policies. The Commission must submit a final report to the Governor, the Chief Justice of the Supreme Court, the Speaker of the House of Representatives, and the President of the Senate by January 1, 2003. The Commission is terminated on June 30, 2003.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill creates a new commission whose members receive reimbursement for per diem and travel expenses. The cost of this commission for a one-year period is approximately \$19,000. This figure is reached by assuming that the commission will meet six times in the one-year period, and the meetings will last approximately two days.²⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²⁶ If approximately half of the commission members come from outside the Tallahassee area, the average roundtrip plane fare flying into Tallahassee from either central or south Florida is approximately \$200. (Roundtrip airfare into Tallahassee has been greatly reduced as of late. Roundtrip fares from Tampa can be as low as \$80, and from Miami, as low as \$120. However, assuming that fares may fluctuate depending on the season, a higher estimate was used.) Accordingly, \$200 x 8 members equals \$1600. The average hotel rate is \$100 per night, which is a total of \$800 for 8 members. Therefore, for each meeting, approximately \$2400 is needed to cover the travel and hotel expenses of members who live outside the Tallahassee area. All members, those who live in Tallahassee and those who do not, receive \$21 per day for food expenses pursuant to statute; \$42 x 17 members (two-day meeting) equals \$714. The total for one meeting is \$3,114, and multiplying this figure by six for the number of meetings equals \$18,684.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Florida Association of Court Clerks issued the following statement about HB 1679:

The Clerks of Court appreciate the purpose of the study commission and strongly support the inclusion of Clerks of Court on such a group . . . Instead of a wholesale removal of the records from the Internet, the association would support a requirement to block certain specified sensitive information from records, either by using and filing a separate attachment for certain sensitive information or using software to block specified information.²⁷

In response to this concern, the Committee on State Administration removed from this bill the language that prohibited Clerks from placing on the Internet any official records. Clerks are only prohibited from placing on a publicly available Internet website any copy or image of official records that fall under specific categories.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 30, 2002, the Committee on State Administration adopted one amendment. The amendment does not reinstate the requirement that Clerks place official records on a publicly available Internet website, but it does not prohibit them from doing so. However, the amendment prohibits Clerks

²⁷ Pursuant to an email received by committee staff of the Florida Association of Court Clerks on January 17, 2002.

STORAGE NAME: h1679.sa.doc

DATE: February 8, 2002

PAGE: 11

from placing on a publicly available Internet website an image or copy of an official record if that image or copy is of a

- Military discharge;
- Death certificate;
- Documents filed under Chapter 61, F.S., or the Family Law Rules of Procedure, including pleadings, discovery, psychological evaluations, financial affidavits, and any order or judgments entered by the court; and
- Documents filed under the laws of Florida or the Florida Probate Rules, related to probate and guardianship proceedings.

The amendment provides that any of the above described records that were placed on the Internet prior to the effective date of this act must be removed.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Staff Director:

Lauren Cyran, M.S.

J. Marleen Ahearn, Ph.D., J.D.