

Memorandum

Date: March 26, 2024

To: Levy County Board of County Commissioners (“Board”)

From: Nicolle Shalley, County Attorney, with input and assistance from Wilbur Dean, County Coordinator; Ali Tretheway, Procurement Coordinator; and Jacqueline Martin, Human Resources Director (“County Staff”)

Re: Agenda Item for April 2, 2024 Regular Meeting - Options for County FY24-25 Budget Preparation

Chapter 129, Florida Statutes, requires the Board of County Commissioners to annually prepare and adopt a balanced County Budget. This process must occur within a strict statutory timeframe (June through September) in order for property taxes to be levied. Per Section 129.025, Florida Statutes, the Board of County Commissioners is to designate a county budget officer to carry out the “Budget Duties” set forth in Chapter 129. If the Board does not designate a different officer, the Clerk of the Circuit Court must serve as the County Budget Officer. The statute also clarifies that the duties of County Budget Officer do not fall within the Clerk’s constitutional responsibilities of auditor and custodian of county funds (the “Finance Duties”).

Based on information from the Florida Association of Counties, the vast majority of Florida Counties have designated a Board of County Commissioners employee as the County Budget Officer.

In Resolution Number 2017-015 adopted by the Board on May 15, 2017 (and still in effect), the Board designated the Clerk of the Court to serve as the County Budget Officer. The Board may designate a different County Budget Officer by adoption of a subsequent resolution.

At the March 5, 2024 Regular Meeting, the County Coordinator placed an item on the agenda for the Board to consider options for preparation of the County’s FY24-25 Budget with the resignation of the Finance Director from the Office of the Clerk. At that meeting, the Board directed County Staff to review all options and return to the Board at its April 2nd Meeting so the Board could determine how best to proceed.

On March 12, 2024, the Chair of the Board and the County Attorney had a productive meeting with the Clerk to discuss options for preparation of the FY24-25 Budget.

At the March 18, 2024 Regular Meeting, the Board adopted the “FY2025 Budget Process” calendar establishing the critical timeline for adoption of the Budget.

As requested by the Board, based on research and discussions with the Clerk, outside counsel for labor and employment law and the former Clerk's Finance Director, County Staff offers the below options for FY24-25 Budget preparation to assist the Board in making an informed decision on how to proceed. The Clerk is amenable to whichever option the Board chooses. And, of course, the Board may consider and request staff to research any other option that Commissioners may offer.

Option 1 - Clerk hire a Budget Officer. The Clerk posted and advertised a Budget Officer/Manager position on March 11, 2024 with a close date of April 2, 2024. As of the date of this Memo, applications have been received and the Clerk is proceeding with interviews. Concerns with this option are qualified candidates (which is frequently a challenge in filling County positions) and, if one is hired, they would begin work with little time to become familiar with the County's operations and budget and would be expected to meet the critical dates in the adopted Budget Calendar. It is noted that, even if the Board assumes the Budget Duties, the Clerk will proceed with a hiring to handle the Clerk's remaining Finance Duties.

Board Action Required to Implement Option 1: If the Board selects this Option, until such time as the position is filled, County staff would continue to work with staff assigned by the Clerk to follow the critical path and ensure a Budget is prepared and adopted. The Clerk has stated he will work on this Option and continue to serve as the County Budget Officer, if that is what the Board chooses.

Option 2 - Existing Clerk Finance staff to prepare Budget, supplemented by outside assistance. The Clerk has two staff members, experienced with Budget Duties, who could be assigned to preparation of the Budget. In addition, the Clerk contacted the Florida Clerks and Comptrollers Association and his counterparts in nearby Counties to inquire about assistance with preparation of the County's Budget and he received offers of assistance. Concerns with this option are the Clerk's Finance staff are few (like many County offices) and have other Finance Duties and assistance from other Counties, at the time they too are preparing their budget, may not be enough.

Board Action Required to Implement Option 2: If the Board selects this Option, County staff would continue to work with staff assigned by the Clerk (and outside assistance, if any) to follow the critical path and ensure a Budget is prepared and adopted. The Clerk has stated he will work on this Option and continue to serve as the County Budget Officer, if that is what the Board chooses.

Option 3 - Board to contract with an independent contractor (an outside person or entity) for Budget Officer services. Generally, the Board can obtain professional services by contracting with an independent contractor. However, staff was unable to find an example of a County contracting with an outside person or entity to serve as the County Budget Officer, nor any legal authority for doing so. This is likely because these services are integral to the operation of the County, require a great deal of input from County Departments, involve access to and use of specific County software in order prepare the Budget and interface with other County financial functions - none of which lends itself to being handled by an independent contractor.

Board Action Required to Implement Option 3: Not a viable option, no action required.

Option 4 - Board hire a County Budget Officer.

- a. **Permanent Position:** As noted above, most Florida Counties have a full-time employee (that reports either directly to the Board or to the County Manager) whose duties include serving as the County Budget Officer. The concern with this option is lack of time for County staff to research this model, report back to the Board, create a job description and complete a hiring process at this point in the FY24-25 Budget Calendar timeline.

Board Action Required to Implement Option 4a: Not a viable option at this time, given time constraints, but Board may wish to direct County staff to research and report back on implementing this option in the near future.

- b. **Temporary Position:** Policy Number 209 in the County's adopted Personnel Policies and Procedures allows the County to employ temporary employees for a specified, limited period (generally 6 months or less.) Such an employee can be an executive/professional whose terms of temporary employment are established by contract. The concern with this option is that it is not a permanent solution; however, it could get the County through the preparation and final adoption of the FY24-25 Budget in September.

Board Action Required to Implement Option 4b: The Board would need to adopt a resolution designating a County employee as the County Budget Officer (since the current Resolution designates the Clerk) and enter into an employment contract with a temporary employee to serve in that capacity. For this option, the County Attorney has prepared a resolution and a temporary employment contract (reviewed by the County's outside labor and employment law counsel) to employ the former Clerk's Finance Director from April 3 to September 30 to serve as the County Budget Officer for purposes of preparation of the FY24-25 Budget and other necessary Budget Duties. Both documents are in the back-up to this agenda item. In addition, County staff will need to coordinate with the Clerk and his staff regarding the needed files and ADG access to move the Budget Duties (not the Clerk's Constitutional Finance Duties) to the Board.

Fiscal/staffing considerations: There is a vacant FTE in the Clerk's Office with the resignation of the Finance Director. With Option 1, that FTE would be filled. With Option 2, there would be FTE savings, but an increased burden on existing County and Clerk staff. With Option 4a, an FTE would be created on the Board side for Budget Duties and an FTE would remain on the Clerk side for Finance Duties. With Option 4b, a budget amendment would be necessary to transfer funds to pay the temporary employee and an FTE would remain on the Clerk side for Finance Duties. None of the Options result in the County "double paying" for Budget Duties.