

# FY10 Policy & Procedure Manual

## Clerk of the Circuit Court

|   |    |
|---|----|
| <i>Additional Positions</i> .....                       | 1  |
| <i>Appropriations for Clerks</i> .....                  | 1  |
| <i>Annual Audit</i> .....                               | 2  |
| <i>Career Development Program</i> .....                 | 3  |
| <i>Duties</i> .....                                     | 4  |
| <i>Electronic Filing of Real Property</i> .....         | 5  |
| <i>Excess Fee Revenue – Refunds to Localities</i> ..... | 6  |
| <i>Fines &amp; Fees</i> .....                           | 7  |
| <i>Fringe Benefits</i> .....                            | 8  |
| <i>Office Expenses</i> .....                            | 9  |
| <i>Professional Associations</i> .....                  | 10 |
| <i>Salary</i> .....                                     | 11 |
| <i>Sentencing Event Documents</i> .....                 | 12 |
| <i>Staffing Standards</i> .....                         | 13 |
| <i>Technology Trust Fund (TTF)</i> .....                | 15 |
| <i>TTF: \$4 Budgeting</i> .....                         | 16 |
| <i>TTF: \$1 Fund</i> .....                              | 17 |
| <i>TTF: Certifications</i> .....                        | 18 |
| <i>TTF: Equipment Surplus</i> .....                     | 19 |
| <i>TTF: Land Records</i> .....                          | 19 |
| <i>TTF: Purpose Code F Requests</i> .....               | 20 |
| <i>TTF: Redaction of Social Security Numbers</i> .....  | 21 |
| <i>TTF: Reimbursement of Expenditures</i> .....         | 22 |
| <i>TTF: Secure Remote Access (SRA)</i> .....            | 23 |
| <i>Temporary (Hourly-Wage) Employees</i> .....          | 24 |

# FY10 Policy & Procedure Manual

## Additional Positions

### Compensation Board Policy

**The 2009 General Assembly did not fund new positions for offices of Circuit Court Clerks in FY10 to address staffing standards.**

For more information regarding additional positions, see the section entitled **Staffing Standards**. See also the section entitled **Position Reallocation** in the general section of this manual.

## Appropriations for Clerks

### Compensation Board Policy

**Local governing bodies are required to appropriate funds for Clerks' offices in the same manner in which funds are appropriated for other Constitutional Officers.**

City Managers and County Administrators should be aware that since July 1, 1992, the Compensation Board has been reimbursing Clerks offices 100% of the budgeted amounts approved by the Board, whether or not the Clerk's office is in excess or deficiency status. Therefore, pursuant to § 15.2-520, Code of Virginia, local governments must appropriate funds for Clerks' offices as they do for other Constitutional Officers. Any questions regarding this issue should be directed to the Office of the Auditor of Public Accounts or the Executive Secretary of the Compensation Board.

### Code of Virginia § 15.2-520

No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriation resolutions. Funds appropriated for outstanding grants, however, may be carried over for one year without being reappropriated. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the unpaid obligation charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

# FY10 Policy & Procedure Manual

## 2009 Appropriation Act Item 74

1. 1. For audits of Clerks of the Circuit Court completed after July 1, 2004, the Auditor of Public Accounts shall report any internal control matter that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The Auditor of Public Accounts will also report on compliance with appropriate law and other financial matters of the Clerks' office.

2. For internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability, the Clerk shall provide the Auditor of Public Accounts a written corrective action plan to any such audit findings within 10 business days of the audit exit conference, which will state what actions the clerk will take to remediate the finding. The Clerk's response may also address the other matters in the report. During the next audit, the Auditor of Public Accounts shall determine and report if the Clerk has corrected the finding related to internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

3. Notwithstanding the provisions of Item 461, paragraph 1.1.a., the Compensation Board shall not provide any salary increase to any Circuit Court Clerk identified by the Auditor of Public Accounts who has not taken corrective action for the matters reported above.

## Annual Audit

### Compensation Board Policy

**The Auditor of Public Accounts conducts an annual audit of the Clerks' offices. The Auditor of Public Accounts shall report any internal control matters that could be reasonably expected to lead to loss of revenues or assets, or otherwise compromise fiscal accountability.**

The Clerk is required to provide the Auditor of Public Accounts (APA) a written corrective action plan to address any internal control matter identified in the audit report. The corrective action plan is due ten business days after the audit exit conference and must include actions the Clerk will take to remediate the findings. The APA shall determine and report if the Clerk has corrected the finding as part of the subsequent audit.

The Compensation Board will not fund a salary increase for a Circuit Court Clerk who does not correct an internal control matter identified by the APA as part of the subsequent audit.

# FY10 Policy & Procedure Manual

## Career Development Program

2009 Appropriation Act  
Item 74

J.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Circuit Court Clerks' Career Development Program.

K.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Deputy Clerks of the Circuit Courts' Career Development Program.

### Compensation Board Policy

**The Compensation Board has developed a Career Development Program for Clerks of the Circuit Court and Deputy Clerks.**

Language in the 2009 Appropriation Act provides for the implementation of career development programs (CDP) for Circuit Court Clerks and Deputy Circuit Court Clerks. However, the General Assembly provided no funding in FY10 for career development programs for Clerks and Deputy Clerks.

# FY10 Policy & Procedure Manual

## Duties

### Code of Virginia § 15.2-1634

The voters in every county and in each city which has a circuit court, shall elect for a term of eight years, a clerk of such court unless otherwise provided by general law or special act. He shall be clerk of the circuit court and may also be the clerk of the governing body if the governing body so designates. He shall exercise all the powers conferred and perform all the duties imposed upon such officers by general law and may perform such other duties, not inconsistent with his office, as may be requested of him by the governing body.

### § 17.1-242

The circuit court clerks shall have custody of and shall keep all books, records, maps and papers deposited in their offices as well as records stored in electronic format whether the storage media for such electronic records are on premises or elsewhere.

### **Compensation Board Policy**

**The Clerk provides a variety of services for the Circuit Court of the locality.**

**The local governing body may request performance of other duties consistent with that of a Circuit Court Clerk.**

Unlike other Constitutional Officers, the Circuit Court Clerk is elected for a term of eight years. The office of the Clerk of the Circuit Court dates from 1619. From those early days until the present, the Clerk's duties have changed significantly. In § 17.1-275, Code of Virginia, the duty of a Clerk involves a variety of services, including, but not limited to, the:

- Recording and indexing of books, maps, and plats;
- Appointing of a trustee or guardian and qualifying of a notary public;
- Issuing of a marriage license and other licenses;
- Making out of a bond, a garnishment or attachment proceeding;
- Annexing of the seal of the court on a certificate;
- Disposition for a felony or misdemeanor conviction;
- Certificate of completion for traffic school or driver improvement school;
- Filing of a plaintiff counterclaim, petition, confession, summons for interrogation, subpoena, or habeas corpus proceeding;
- Docketing and indexing of a judgment from any other court;
- Filing of a change of name, adoption, chancery causes, separation or divorce decree;
- Issuing of a duplicate driver's license;
- Registration of resident and nonresident property owner;
- Indexing of a will, financing and termination statements, security interest, and execution; and
- Courthouse construction or renovation, nonprofit legal aid program for the poor, and public law libraries.

The Code of Virginia, § 17.1-242, requires the Circuit Court Clerk be responsible for all books, records, maps, and papers deposited in their offices as well as records stored in electronic format whether the storage media is on the premises or elsewhere.

## FY10 Policy & Procedure Manual

### Electronic Filing of Real Property

#### Code of Virginia § 17.1-258.3:1

A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.) and the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages. The clerk may charge a fee to be assessed for each instrument recorded electronically in an amount not to exceed \$5 per document. The fee shall be paid to the clerk's office and deposited by the clerk into a special nonreverting local fund to be used to cover operational expenses of such network or system. Operational expenses of such network or system shall include, but not be limited to, computer support, maintenance, enhancements, upgrades, and replacements, and consulting services. The clerk shall enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein.

#### Compensation Board Policy

**The Uniform Real Property Electronic Recording Act allows Clerks of the Circuit Court to accept land records filed electronically.**

The Uniform Real Property Electronic Recording Act, §§ 55-142.10 - 55-142.15, Code of Virginia, defines land records documents as any writing authorized by law to be recorded, whether made on paper or in electronic format, which the clerk records affecting title to real property. Electronically filed and recorded land records and electronic signatures and notarizations are as valid as the paper version. Any Clerk who implements an eRecording system must be in compliance with standards established by the Virginia Information Technologies Agency (VITA). Any Clerk of the Circuit Court who accepts electronic land records for recording shall continue to accept paper land records and shall place entries for both types of land records in the same indices. The Clerk may convert paper records into electronic form. Any fee or tax that a Clerk is authorized to collect may be collected electronically.

# FY10 Policy & Procedure Manual

## Excess Fee Revenue – Refunds to Localities

### Code of Virginia

#### § 17.1-283 (excerpt)

A. Every clerk of a court of record, except the Clerks of the Supreme Court and the Court of Appeals, shall file monthly with the Compensation Board a full and accurate statement showing all such fees, allowances, commissions, salaries or other compensation or emolument of office, derived from the Commonwealth or any political subdivision thereof, or from any other source whatever, collected or received by him.

#### § 17.1-285 (excerpt)

A. The Commonwealth shall be entitled to one-third of the excess fees collected by clerks as required to be reported under § [17.1-283](#) and the governing body of the county or city shall be entitled to two-thirds of the excess fees collected unless otherwise provided by law. The Compensation Board shall determine on an annual basis by June 30 of each year the methods by which excess fees shall be disbursed.

#### 2009 Appropriations Act General Provisions § 3-5.13

Notwithstanding §§ [15.2-540](#), [15.2-639](#), [15.2-848](#), [17.1-285](#), and any other provision of law general or special, effective July 1, 2009, the Commonwealth shall be entitled to two-thirds of the excess fees collected by the clerks of the circuit courts as required to be reported un § [17.1-283](#). In making the calculation of excess fees required by this paragraph the Compensation Board shall exclude courts in the thirty-first judicial circuit, but pay them in accordance with § [17.1-285](#).

### Compensation Board Policy

**The Compensation Board processes refunds of excess fee revenue to localities as follows: on a monthly basis for localities in which Clerks' fee deposits to the Commonwealth exceed Compensation Board reimbursements every month; and on an annual basis for localities in which Clerks' fee deposits to the Commonwealth exceed Compensation Board reimbursements in aggregate over the fiscal year.**

Pursuant to §§17.1-283 to 17.1-286, Code of Virginia, and Item 74 of the Appropriation Act, Clerks deposit all fees, allowances, and commissions to the state treasury, and report such amounts to the Compensation Board on a monthly basis. The Compensation Board utilizes these reports and expenditure data from locality reimbursements to determine excess fee amounts due each locality.

For localities where the Clerk is in "excess" status (i.e. fees deposited exceed the amount of the payroll and expense reimbursement to locality) every month of the preceding fiscal year, the locality will be refunded excess fee amounts on a monthly basis. For localities where the Clerk is in "excess" status for the year in total, but is not consistently in excess status each month, the locality will be refunded excess fee amounts annually, after verification of all deposits for the fiscal year has been made. In the event a locality begins a fiscal year receiving monthly refunds of excess fee revenue, but the Clerk's monthly fee deposits are reduced below reimbursement levels, monthly refunds will be discontinued and the locality will receive any remaining refunds of excess fee revenue on an annual basis.

Pursuant to § 3-5.13 of the 2009 Appropriations Act, beginning in FY10, the Compensation Board will process refunds of excess fee revenue at a ratio of one-third of excess fees to localities, leaving two-thirds of excess fees with the Commonwealth. An exception to this ratio applies to clerks serving the thirty-first judicial circuit, for which two-thirds of excess fees will be distributed to localities.

Beginning in FY10, fees, allowances and commissions will be directly reported into the Compensation Board's COIN system through an interface with the Virginia Supreme Court's Financial Management System. Circuit Court Clerks are required to verify and certify the accuracy of such data as a part of the monthly reimbursement request process.

# FY10 Policy & Procedure Manual

## Fines & Fees

### Code of Virginia § 19.2-349 (excerpt)

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth a monthly report of all fines, costs, forfeitures, and penalties which are delinquent more than 30 days, including court-ordered restitution, imposed in his court for violation of state law or local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

C. The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid.

### Compensation Board Policy

**The Clerk has 30 days to collect fines, costs, forfeitures, penalties, and restitution assessed within their court, after which time all delinquent accounts are transferred to the Commonwealth's Attorney.**

**As required by the General Assembly, the Compensation Board produces an annual report on the collection of fines, costs, forfeitures, penalties, and restitution.**

The Circuit Court Clerk collects on fines, costs, forfeitures, penalties, and restitution assessed within their court. If payment or a payment arrangement has not been made in 30 days, the account becomes delinquent. The Clerk makes a monthly report of all fines and fees that are more than 30 days delinquent. The Clerk turns the delinquent accounts over to the Commonwealth's Attorney for collection who chooses between several collection options.

The purpose of annual fines and fees reporting is to allow the Governor, the General Assembly, and other interested parties to track collections and collection efforts by county or city. The Fines and Fees Report attempts to explain data collection issues, such as local collection efforts, prior and current-year assessments and collections, variances in gross amount assessments, collection rates in excess of 100% and changes in collection methods.

Actions and recommendations are offered in the Fines and Fees report in order to increase the overall collection of fines and fees. An executive summary highlights statewide assessments and collections for Clerks and Commonwealth's Attorneys.

Annual Fines and Fees Reports are located on the Compensation Board web site at <http://www.scb.virginia.gov> under the Publications and Forms tab.

# FY10 Policy & Procedure Manual

## Fringe Benefits

### Compensation Board Policy

**The Compensation Board reimburses local governing bodies two-thirds of fringe benefits for Clerks and their Compensation Board-funded staff.**

2009 Appropriation Act,  
Item 76

D. 1. Compensation Board payments of, or reimbursements for, the employer paid contribution to the Virginia Retirement System, or any system offering like benefits, shall not exceed the Commonwealth's proportionate share of the following, whichever is less: (a) the actual retirement rate for the local constitutional officer's office or regional correctional facility as set by the Board of the Virginia Retirement System or (b) the employer rate established for the general classified workforce of the Commonwealth covered under the Virginia Retirement System.

2. The rate specified (above) shall exclude the cost of any early retirement program implemented by the Commonwealth.

3. Any employer paid contribution costs for rates exceeding those specified (above) shall be borne by the employer.

Code of Virginia  
§ 15.1-137 (excerpt)

B. In the case of contributions payable by the employer on behalf of any local officer, the Commonwealth shall reimburse the employer on the basis on which the Commonwealth shares or would share in the excess fees from the office.

Beginning in FY10, the Compensation Board reimburses two-thirds of fringe benefits based on approved salary amounts reimbursed. The rates for FY10 are:

- Virginia Retirement System (VRS) net contributions at the locality's employer share contribution rate, or 6.26%, whichever is less;
- FICA at 7.65% of the taxable portion of the salary for permanent positions and hourly wage employees; and
- VRS Group Life Insurance at 0.27%.

For more detailed information regarding benefits of Constitutional Officers, see the section entitled **Fringe Benefits** in the general section of this manual.

# FY10 Policy & Procedure Manual

## Office Expenses

### Code of Virginia § 15.2-1656

The governing body of each county and city shall, at the expense of the county or city, provide (i) suitable books and stationery, in addition to supplies furnished by the Commonwealth, for the use of clerks of all courts of record, together with appropriate cases and other furniture, for the safe and convenient keeping of all the books, documents and papers, in the custody of such officers; (ii) official seals for such officers; and (iii) such other office equipment and appliances as in their judgment may be reasonably necessary for the proper conduct of such offices.

### § 17.1-246

The cost incurred shall be certified by the court or, if so designated by the judge, the clerk, to the governing body of the county or city in whose clerk's office the books or records so bound, rebound, microfilmed, transcribed or digitally reproduced are on file, to be paid by such county or city.

### Compensation Board Policy

**The Compensation Board reimburses 100% of the budgeted amount for office expenses of Circuit Court Clerks.**

**The local governing body is also responsible for office expenses of the Clerk.**

Base budgets for office expenses are set at the same level as approved in the previous fiscal year (as adjusted though any base budget transfer requests during the fiscal year).

The Compensation Board reimburses for:

- Dues (VCCA, LGOC, and VALECO, for principal officer only);
- Internet access costs (line charges, ISP costs or locality service charges);
- Postage and mail box rental;
- Copy machine rental;
- Microfilming expense; and
- Meetings / mileage (maximum reimbursement of \$100 for VCCA, LGOC, and VALECO).

The local governing body is responsible for:

- Books and stationary used by Clerks of courts of record;
- Cases and other furniture for storage of books, documents, and court papers;
- Official seals for Clerks; and
- Office equipment and appliances reasonably necessary to carry out the duties of Clerks.

The Compensation Board does not reimburse for:

- Notary Seal, fees or application fee;
- Office space rent;
- Office supplies;
- Telephone equipment installation costs;
- Subscription to periodicals, newspapers, or Code of Virginia;
- Name tags, desk signs, or business cards;
- Cameras or office equipment;
- Chair mats or calculator maintenance contracts; and
- PC software.

Offices have provided with an allocation of office expense funding in FY10 based upon action by the 2009 General Assembly to allow for the use of \$1 million in Technology Trust Funds for general operating costs in Clerks' offices. These funds may not be transferred to any permanent personnel for salary costs. For offices that have office expense funding, those funds may be used to pay all or part of microfilming or indexing labor or product. The Compensation Board will reimburse expenses for indexing under the Supreme Court system or optical disk systems. Expenses incurred in microfilming previously bound record books are not reimbursable under this allowance.

## FY10 Policy & Procedure Manual

### Offices Expenses, continued

For more information regarding office expenses, see the section entitled **Professional Associations**. See also **Office Expenses** in the general section of this manual.

### Professional Associations

#### Compensation Board Policy

**Reimbursement for attendance at non-Compensation Board-sponsored training events, professional association meetings, or membership dues will not be provided as additional allowances, but are reimbursed through available office expense funds.**

The Compensation Board reimburses for:

- Virginia Court Clerks' Association (VCCA);
- Local Government Officials' Conference (LGOC); and
- Virginia Association of Local Elected Constitutional Officers (VALECO).

Only one Compensation Board-funded permanent employee per office may receive a maximum reimbursement of \$100 for VCCA, LGOC, and VALECO. VALECO dues are reimbursed for the principal officer only. Mileage expenses are included in the reimbursement for attendance at these events.

For more information regarding office expenses, see the section entitled **Office Expenses**. See also the sections entitled **Office Expenses** and **Professional Associations** in the general section of this manual.

# FY10 Policy & Procedure Manual

## 2009 Appropriation Act Item 74 (excerpt)

A. 1. The annual salaries of clerks of circuit courts shall be as hereinafter prescribed.

2. Whenever a clerk of a circuit court is such for a county and a city for two or more counties or cities, the aggregate population shall be the population for the purpose of arriving at the salary of the circuit court clerk.

## Salary

### Compensation Board Policy

**The Compensation Board reimburses 100% of the salaries of Clerks of the Circuit Court and their Compensation Board-funded staff.**

The annual salaries of Clerks are determined according to population estimates of the city or county in which they serve. The Compensation Board uses the aggregate population estimate to determine the salary of the Circuit Court Clerk who serves two or more localities. No funding is provided for performance-based pay increases for offices with performance evaluation plans in effect in their office.

The following are the population-based salaries for Clerks in FY10.

| <i>Population</i>  | <i>July 1, 2009 to<br/>June 30, 2010</i> |
|--------------------|--|
| Less than 10,000   | \$73,304                                 |
| 10,000 to 19,999   | \$90,326                                 |
| 20,000 to 39,999   | \$103,419                                |
| 40,000 to 69,999   | \$108,654                                |
| 70,000 to 99,999   | \$117,814                                |
| 100,000 to 174,999 | \$128,288                                |
| 175,000 to 249,999 | \$132,270                                |
| 250,000 or more    | \$136,146                                |

Salary scales of Circuit Court Clerks are located on the Compensation Board website under the Constitutional Officers Budgets and Salaries tab at <http://www.scb.virginia.gov/budgets.html>.

A history of the salary increases approved by the General Assembly is located on the Compensation Board website under the Constitutional Officers Budgets and Salaries tab at <http://www.scb.virginia.gov/budgets.html>.

## FY10 Policy &amp; Procedure Manual

## Sentencing Event Documents

2009 Appropriation Act  
Item 74

L. Upon request of the Attorney for the Commonwealth, the Clerk of the Circuit Court shall contemporaneously provide the Attorney for the Commonwealth copies of all documents provided to the Virginia Criminal Sentencing Commission pursuant to § 19.2-298.01 (E), Code of Virginia.

**Compensation Board Policy**

**Circuit Court Clerks must provide copies of all documents submitted to the Virginia Criminal Sentencing Commission to the Commonwealth's Attorney of the locality upon request.**

# FY10 Policy & Procedure Manual

2009 Appropriation Act  
Item 76 (excerpt)

F. Any new positions established in Item 76 of this act shall be allocated by the Compensation Board upon request of the constitutional officers in accordance with staffing standards and ranking methodologies approved by the Compensation Board.

## Staffing Standards

### Compensation Board Policy

**The Compensation Board uses staffing standards and a staffing methodology for allocating new positions in Clerks' offices.**

The workload elements included in these staffing standards were recommended by the Virginia Court Clerks' Association (VCCA) and approved by the Compensation Board and may not reflect all duties performed by the Clerk of the Circuit Court. Positions needed for each office are based only upon the duties and workload measure identified specifically in the staffing standards. Many Clerks of the Circuit Court perform additional duties at their discretion or provide other services not required by law. The number of Compensation Board-funded positions due in a specific office of the Clerk of the Circuit Court is based upon duties required by law to be performed by the Clerk of the Circuit Court, or duties that nearly all Clerks of the Circuit Court perform.

In determining the allocation of additional positions, the Compensation Board considers the following criteria:

1. The position (or positions) must be requested by the Clerk of the Circuit Court as part of the Compensation Board's annual budget request process.
2. The positions requested must perform only statutorily prescribed duties of the Clerk of the Circuit Court.
3. The Clerk's office must have an automated financial system and case management system online or have such systems scheduled for installation within the next 12 months.
4. Funds and positions must be appropriated by the General Assembly.
5. The Compensation Board will use the staffing methodology and weighted three-year average workload criteria, developed by the Staffing/Compensation Committee of the Virginia Court Clerks Association (VCCA), to determine the appropriate level of Compensation Board-funded staff support for each office requesting additional positions.
6. The Compensation Board shall determine the number of additional positions to be allocated to any one office based upon criteria 1-5, inclusive, and additional positions shall be allocated in the order of percentage of need. Offices with the highest percentage of need will receive positions first. The percentage of need is determined by calculating the percentage that the number of additional positions needed is to the total number of current positions.
7. Any office receiving a new position shall not have its hourly-wage funds reduced equivalent to the salary of the new position.

## FY10 Policy & Procedure Manual

### Staffing Standards, continued

Calendar year transaction data for each workload element is supplied by each of the Clerks' offices during the annual budget request process. To determine the hours worked, a three-year average of transactions is multiplied by the following weights developed in conjunction with the VCCA, which represent the median time per transaction reported to perform each type of workload transaction.

| <i>Workload Elements</i>    | <i>Weights</i> |
|-----------------------------|----------------|
| Criminal cases              | <b>8.59</b>    |
| Law cases                   | <b>2.31</b>    |
| Chancery cases              | <b>2.31</b>    |
| Wills and Estates           | <b>1.62</b>    |
| Deeds                       | <b>0.61</b>    |
| Marriage Licenses           | <b>0.66</b>    |
| Concealed handgun purchases | <b>0.64</b>    |
| Judgments                   | <b>0.44</b>    |
| Financing Statements        | <b>0.35</b>    |
| Game Licenses               | <b>.20</b>     |
| Fictitious Names            | <b>0.38</b>    |
| Notary qualified            | <b>0.39</b>    |
| Restitution                 | <b>0.46</b>    |

After determining the total weighted workload for each office, staff need is calculated by the following formula:

$$\text{Staff Need} = \text{Fixed Staff} + \frac{\text{Total Weighted Workload}}{\text{Variable Workload Factor}}$$

| Office Size based on Weighted Workload Hours |         |         | Fixed Staff | Variable Workload Factor |
|--|---------|---------|-------------|--------------------------|
| Small  | 0       | 11,999  | 2.50        | 3,500                    |
| Medium                                       | 12,000  | 59,999  | 3.00        |                          |
| Large  | 60,000  | 229,999 | 5.00        |                          |
| Super  | 230,000 | +       | 7.00        |                          |

The allocation of additional hourly-wage (part-time) funds is made using the same methodology.

Staffing standards for Circuit Court Clerks are located on the Compensation Board web site under the Constitutional Officers Budgets and Salaries tab at <http://www.scb.virginia.gov/budgets.html>.

## FY10 Policy & Procedure Manual

### Technology Trust Fund (TTF)

#### Code of Virginia § 17.1-279 (excerpt)

A. In addition to the fees otherwise authorized by this chapter, the clerk of each circuit court shall assess a \$5 fee, known as the "Technology Trust Fund Fee," in each civil action, upon each instrument to be recorded in the deed books, and upon each judgment to be docketed in the judgment lien docket book. Such fee shall be deposited by the State Treasurer into a trust fund. The State Treasurer shall maintain a record of such deposits.

#### Compensation Board Policy

**A primary purpose of the TTF fee is to generate funds for Clerks to automate land records and provide secure remote access to land records' images on or before July 1, 2008.**

**Annually in August, Clerks request to budget TTF monies in the current fiscal year or carryover TTF funds to a subsequent year.**

Annually in March, the Compensation Board provides to Clerks a TTF revenue estimate for the upcoming fiscal year as part of the annual budget estimates. The FY10 TTF Revenue Estimates by locality is located on the Compensation Board website at <http://www.scb.virginia.gov> under Constitutional Officers Budgets and Salaries, current year budget estimates. Choose your locality and then select "Clerks Technology Trust Fund Revenue Estimate".

In August, Clerks may budget some or all of their TTF \$4 available balance for equipment and services, or carryover TTF \$4 monies to a subsequent fiscal year. Budget requests from TTF cannot exceed deposits into the trust fund credited to that locality. Clerks may also request additional TTF \$4 monies mid-year (not to exceed their \$4 available balance).

Instructions for TTF budgeting are located in the FY10 TTF Budget Request Manual, available in late July 2009 and located at <http://www.scb.virginia.gov> under Land Records Technology.

The TTF FY09 financial statement, FY09 progress survey, FY10 certification for secure remote access, and FY10 \$4 and \$1 Fund budgets may be found in the FY09 TTF Progress Report, available December 1, 2009 and located the Compensation Board website at <http://www.scb.virginia.gov> under Land Records Technology.

# FY10 Policy & Procedure Manual

## TTF: \$4 Budgeting

### Code of Virginia § 17.1-279 (excerpt)

B. Four dollars of every \$5 fee shall be allocated by the Compensation Board from the trust fund for the purposes of: (i) developing and updating individual land records automation plans for individual circuit court clerks' offices; (ii) implementing automation plans to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth pursuant to § 17.1-294; (iii) obtaining and updating office automation and information technology equipment including software and conversion services; (iv) preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, land records consulting services, service contracts, redaction of social security numbers from land records, and system replacements or upgrades and (v) improving public access to court records. The Compensation Board in consultation with circuit court clerks and other users of court records shall develop and update policies governing the allocation of funds for these purposes. However, such funds shall not be used for personnel costs within the circuit court clerks' offices. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

### Compensation Board Policy

**The State Treasurer holds in trust TTF revenues, collected and deposited by each Clerk's office. The Compensation Board is responsible for allocation of TTF monies. Clerks make annual budget requests to the Compensation Board for technology equipment and services out of their TTF \$4 available balance.**

The \$4 portion of TTF collections are reserved for the purchase of equipment and services to modernize land records and provide secure remote access in respective Clerks' offices. The Code of Virginia provides six purposes for use of TTF moneys in § 17.1-279. The purpose codes (taken directly from the Code of Virginia) are:

- Bi Developing and updating individual land records automation plans for individual Circuit Court Clerks' offices;
- Bii Implementing automation plans to modernize land records in individual Circuit Court Clerks' offices and provide secure remote access to land records throughout the Commonwealth;
- Biii Obtaining and updating office automation and information technology equipment including software and conversion services;
- Biv Preserving, maintaining, and enhancing court records, including but not limited to, the costs of repairs, maintenance, land records consulting services, service contracts, redaction of social security numbers from land records, and system replacements or upgrades;
- Bv Improving public access to court records; and
- F Automation and technology improvements in his/her office that are not related to land records.

In order to request \$4 monies, the Clerk must submit to the Compensation Board a written certification that the proposed technology improvements of his/her land records provided secure remote access to land records' images on or before July 1, 2008. This certification is built into the TTF COIN budgeting process.

# FY10 Policy & Procedure Manual

## TTF: \$1 Fund

### Code of Virginia § 17.1-279 (excerpt)

C. The remaining \$1 of each such fee may be allocated by the Compensation Board from the trust fund (i) for the purposes of funding studies to develop and update individual land-records automation plans, and (ii) for the purposes enumerated in subsection B to implement the plan to modernize land records in individual circuit court clerks' offices and provide secure remote access to land records throughout the Commonwealth. The allocations pursuant to this subsection may give priority to those individual clerks' offices whose deposits into the trust fund would not be sufficient to implement its modernization plan. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

### Compensation Board Policy

**The State Treasurer holds in trust TTF revenues, collected and deposited by each Clerk's office. The Compensation Board is responsible for allocation of TTF monies. Clerks whose deposits into the trust fund would not be sufficient to implement technology automation are given priority by the Compensation Board in \$1 funding approvals.**

The Code of Virginia allows priority for allocation of \$1 funds to individual Clerks' offices whose deposits into the TTF (\$4 available balance) are not sufficient to implement its modernization plan.

In order to request \$1 Fund monies, the Clerk must submit to the Compensation Board a written certification that the proposed technology improvements of his/her land records provided secure remote access to land records' images on or before July 1, 2008. This certification is built into the TTF COIN budgeting process.

The \$1 Fund is not available to Clerks who make a Purpose Code F request (areas of the court not related to land records) from their \$4 available balance.

# FY10 Policy & Procedure Manual

## TTF: Certifications

### Code of Virginia

#### § 17.1-279 (excerpt)

B. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

D. 1. Secure remote access to land records shall be by paid subscription service through individual circuit court clerk's offices pursuant to § [17.1-276](#), or through designated application service providers. Compliance with secure remote access standards developed by the Virginia Information Technologies Agency pursuant to § [17.1-294](#) shall be certified by the individual circuit court clerks' offices to the Compensation Board. Nothing in this section shall prohibit the Compensation Board from allocating trust fund money to individual circuit court clerks' offices for the purpose of complying with such secure remote access standards or redaction of social security numbers from land records.

### Compensation Board Policy

**Every Clerk must certify to whether or not they are currently providing secure remote access to land records and compliance with VITA's security standard to land records.**

Every Clerk must submit to the Compensation Board a written certification that the technology improvements proposed in his/her TTF budget provided secure remote access to land records on or before July 1, 2008. This certification is built into the TTF COIN budgeting process.

Each Clerk must also certify compliance with the security standards developed by the Virginia Information Technologies Agency (VITA) to the Compensation Board. The *Security Standards for Remote Access to Court Documents on Court-Controlled Websites (ITRM Security SEC503-02)*, dated March 28, 2005, located at [http://www.vita.virginia.gov/docs/psg/Rem\\_Accs\\_Docs\\_on\\_Crt-Contrd\\_Webs-revision1.pdf](http://www.vita.virginia.gov/docs/psg/Rem_Accs_Docs_on_Crt-Contrd_Webs-revision1.pdf).

## FY10 Policy & Procedure Manual

### TTF: Equipment Surplus

#### Compensation Board Policy

**Any proceeds derived from the sale of surplus equipment purchased by Technology Trust Fund (TTF) funds are kept locally, but must be used to offset any reimbursement request for TTF expenditures.**

When new or replacement equipment is purchased using TTF funding, the Clerk may only request reimbursement from the Compensation Board for the net amount (cost of new equipment minus proceeds of the surplus equipment).

### TTF: Land Records

#### Compensation Board Policy

**Technology improvements of land records, including the provision of secure remote access of electronic land records, is a priority of the Technology Trust Fund.**

The Compensation Board considers land records to be:

- Deeds and deeds of trust;
- Plats and maps;
- Judgments and liens;
- Financing statements; and
- Wills and fiduciary.

Types of court records not related to land records (Purpose Code F) are:

- Marriage licenses;
- Civil case records and management systems;
- Criminal case records and management systems; and
- Jury management systems.

#### Code of Virginia § 17.1-292 (excerpt)

B. Land records means any writing authorized by law to be recorded on paper or in electronic format that the clerk records affecting title to real property, including but not limited to instruments, orders, or any other writings recorded under this title.

#### § 17.1-295 (excerpt)

Electronic recording of land records means the networks or systems maintained by a clerk of the circuit court, or the clerk's designated application services providers, for the submittal of instruments for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ [55-142.10](#) et seq.) and the provisions of Article 2.1 (§ [55-66.8](#) et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages.

Public access means that the clerk of the circuit court has made available to subscribers that are other than governmental agencies, secure remote access to land records maintained by the clerk in accordance with § [17.1-294](#).

## FY10 Policy & Procedure Manual

### TTF: Purpose Code F Requests

#### Code of Virginia § 17.1-279 (excerpt)

F. If a circuit court clerk provides secure remote access to land records on or before July 1, 2008, then that clerk may apply to the Compensation Board for an allocation from the Technology Trust Fund for automation and technology improvements in his office that are not related to land records. If such an application includes automation or technology improvements that would require an interface with the case management system or the financial management system operated and maintained by the Executive Secretary of the Supreme Court for the purpose of providing electronic information to state agencies in accordance with § [17.1-502](#), the circuit court clerk, or the court's designated application service provider, shall certify to the Compensation Board that such automation or technology improvements will comply with the security and data standards of the systems operated and maintained by the Executive Secretary of the Supreme Court. Such request shall not exceed the deposits into the trust fund credited to that locality.

#### Compensation Board Policy

**If a Clerk has provided secure remote access to land records, that Clerk may use TTF moneys for automation and technology improvements in his/her office that are not related to land records.**

If a Clerk has certified to currently providing secure remote access, that Clerk may make an equipment and/or services request from TTF for automation and technology improvements in his office that are not related to land records.

These other requests may not exceed the deposits into the fund credited to that locality; therefore, Purpose Code F requests may only be funded through \$4 money. The \$1 Fund may not finance Purpose Code F requests. If a Clerk makes a Purpose Code F request from their \$4 available balance the \$1 Fund is not available to them for the entire fiscal year.

The Code of Virginia, § 17.1-502, The Executive Secretary of the Supreme Court shall be the administrator of the circuit court system, which shall include responsibility for the operation and maintenance of a case management system and financial management system, and related technology improvements, that the Executive Secretary shall deem necessary for the administration of the circuit court system. The Executive Secretary shall permit an interface with the case management system, financial management system, and related technology improvements for the purpose of providing electronic information to state agencies, upon request of any circuit court that uses automation or technology improvements provided by a private vendor or the locality. The circuit court clerk and the clerk's designated application service provider shall comply with the security and data standards established by the Executive Secretary for any such interface between a case management or financial management system operated by a circuit court clerk and the systems of the Executive Secretary. The costs of designing, implementing, and maintaining any such interface with the systems of the Executive Secretary shall be the responsibility of the circuit court clerk. Any expenses incurred within the office of the Executive Secretary, not to exceed \$104,280, related to the operation and maintenance of such interfaces with the case management system and financial management system shall be reimbursed through the Technology Trust Fund established pursuant to subsection A of § [17.1-279](#). The Executive Secretary shall assist the chief judges in the performance of their administrative duties. He may employ such staff and other assistants, from state funds appropriated to him for the purpose, as may be necessary to carry out his duties, and may secure such office space as may be requisite, to be located in an appropriate place to be selected by the Executive Secretary.

# FY10 Policy & Procedure Manual

## TTF: Redaction of Social Security Numbers

### Code of Virginia § 17.1-279 (excerpt)

D. 2. If a circuit court clerk proceeds to accelerate the redaction of social security numbers from land records using local funds, the clerk may request reimbursement for such expenditures from the Technology Trust Fund in accordance with clause (iv) of subsection B to provide reimbursement to the locality for advancing such funds in the fiscal year in which such local expenditures are incurred.

### § 17.1-294 (excerpt)

B. 1. Beginning July 1, 2012, any land record made available to subscribers via secure remote access may contain only the last four digits of the social security number of any party.  
 2. However, the original land record maintained by the clerk may contain a social security number if otherwise provided by law, but that original record shall not be made available via secure remote access unless it complies with this section.  
 3. Except in cases where the original record is required by law to contain a social security number, the attorney or party who prepares or submits the land record for recordation has the responsibility for ensuring that the social security number has been removed from the writing prior to the instrument's being submitted for recordation.

### Compensation Board Policy

**Redaction of social security numbers from electronic land records shall be completed by July 1, 2012.**

The Compensation Board follows redaction recommendations from the Methods for the Redaction of Social Security Numbers from Electronic Land Record Documents Report (October 2006) by the VITA Redaction Workgroup.

1. Method. The recommended redaction method the OCR (Optical Character Recognition) software plus one manual review by a trained technician who provides a quality control measure. The Compensation Board has termed this method: OCR + 1X. This method applies to both back-file (historical) redaction and day-forward redaction.
2. Cost. The estimated average cost of OCR + 1X method of redaction is 4 cents or less per image. The same cost applies to day-forward redaction services.
3. Accuracy. The Workgroup applied a 95% or better accuracy rate for the OCR + 1X redaction method. Ask your redaction vendor to guarantee an accuracy rate for the OCR + 1X redaction method.
4. Span of Years. Back-file redaction covers the period of January 1935 to the present.
5. Flagged Images. Ask your vendor if the manual review is applied to only flagged images or if every image is reviewed by the human eye.
6. Copies versus Originals. Redaction should never result in the permanent removal of text from the original document, only copies (images) of original documents.
7. Sub-Contracts and Out-Sourcing. Ask if the redaction services are sub-contracted out or out-sourced to a foreign company or a company operating outside the U.S.

The Code of Virginia, § 17.1-294, includes an enactment clause in reference to the redaction of social security numbers:

That any clerk of a circuit court may engage a vendor to redact social security numbers from all land records made available via secure remote access pursuant to § 17.1-294 of the Code of Virginia, using a software redaction system, for records beginning January 1, 1935, to the date of the redaction, and that the redaction shall be completed on or before July 1, 2012.

## FY10 Policy & Procedure Manual

### TTF: Reimbursement of Expenditures

#### Code of Virginia § 15.2-827

No money shall be drawn from the county treasury, nor shall any obligation for the expenditure of money be incurred, except in pursuance of a legally enacted appropriation resolution, or legally enacted supplement thereto passed by the board. Accounts shall be kept for each item of appropriation made by the board. Each such account shall show in detail the appropriation made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account, properly chargeable, sufficient to meet the obligation entailed by contract, agreement or order.

#### § 15.2-1636.13 (excerpt)

A. The expenses and other allowances of office within the limits fixed by the Board shall be paid monthly on the submission of satisfactory evidence that such expenses and other allowances were actually incurred. All counties and cities shall pay the entire amount of such salaries, expenses, and other allowances and, upon notification to the Board, the Commonwealth shall reimburse all such counties and cities for the Commonwealth's proportionate share of such salaries, compensation, benefits under § 51.1-1387, and other expense allowances.

#### Compensation Board Policy

**TTF is a reimbursement system. The Clerk makes the purchase; the local government pays the expenditure and only then does the Clerk seek reimbursement for the locality from the Compensation Board.**

TTF is no different than your monthly office expenses reimbursement process. The Code of Virginia provides that the local governing body must first appropriate all funds for expenditure, the expense is incurred, the locality pays the expenditure and then reimbursement is requested from the Commonwealth, in that order. A Clerk may not receive reimbursement for budgeted funds before actually incurring the expense of those purchases.

Upon making a reimbursement request in COIN, the Clerk must certify that expenditures listed are those actually incurred in the conduct of official business of the Clerk of the court for the month rendered and that invoices covering these expenditures have been submitted to the Board of Supervisors or their authorized agent for payment. The locality representative must also certify that expenditures have been verified and approved by the Board of Supervisors or authorized for payment.

## FY10 Policy & Procedure Manual

### TTF: Secure Remote Access (SRA)

#### Code of Virginia § 17.1-279 (excerpt)

D.3. Every circuit court clerk shall provide secure remote access to land records pursuant to § 17.1-294 on or before July 1, 2008.

B. and C. The Compensation Board policies governing the allocation of funds shall require that a clerk submit to the Compensation Board a written certification that the clerk's proposed technology improvements of his land records will provide secure remote access to those land records on or before July 1, 2008.

#### § 17.1-294 (excerpt)

A. No circuit court clerk shall provide secure remote access to any land record that does not comply with the provisions of this section and the secure remote access standards developed by the Virginia Information Technologies Agency in consultation with the circuit court clerks, the Executive Secretary of the Supreme Court, the Compensation Board, and user of land and other court records.

D. The circuit court clerk of any jurisdiction shall be immune from suit arising from any acts or omissions relating to providing secure remote access to land records pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.

#### Compensation Board Policy

**The 2007 General Assembly set the deadline for Circuit Court Clerks to provide SRA to land records on or before July 1, 2008.**

**Clerks must submit to the Compensation Board a written certification that the Clerk's proposed technology improvements of his land records provided SRA to those land records on or before July 1, 2008.**

The Code of Virginia, § 17.1-295, defines SRA as public access by electronic means on a network or system to land records maintained by the clerk of the circuit court or the clerk's designated application service providers, in compliance with the Secure Remote Access Standards developed by the Virginia Information Technologies Agency.

Subscriber is defined as any person who has entered into a subscriber agreement with the clerk of the circuit court authorizing the subscriber to have SRA to land records maintained by the clerk or the clerk's designated application services providers. If the subscriber is an entity with more than one person who will use the network or system to access land records maintained by the clerk, or the clerk's designated application services providers, each individual user shall execute a subscriber agreement and obtain a separate "user id" and "password" from the clerk. The subscriber is responsible for the fees due under this title and the proper use of the SRA system pursuant to the subscriber agreement, applicable Virginia law, and Secure Remote Access Standards developed by the Virginia Information Technologies Agency.

Clerks must provide an annual written certification of SRA to the Compensation Board. When a Clerk certifies to providing SRA, ALL of the following is true:

- The Clerk's technology vendor has established a website or system in compliance with the security standards established by the Virginia Information Technologies Agency (VITA) for the purpose of providing SRA to land records' images.
- The Clerk has established a process whereby the public (non-governmental entity or individual) may register for subscription to SRA, and if approved by the Clerk, sign a subscription agreement, may pay a subscription fee and receive a security password(s) for remote access to electronic land records.
- The Clerk has accepted / is willing to accept public subscribers to SRA.
- The Clerk has made the public aware of the availability of SRA to land records (as appropriate).

The Code of Virginia, § 20121.03, gives authority to the Clerk to reject any petition, pleading, motion, agreement, order, or decree for recordation as a land record that does not comply with the provisions of this section.

## FY10 Policy & Procedure Manual

### Temporary (Hourly-Wage) Employees

#### Compensation Board Policy

**The Compensation Board reimburses 100% of the budgeted amount for salaries of temporary (hourly-wage) employees of Circuit Court Clerks.**

Base budgets for temporary (hourly-wage) employee salaries are set at the same level as approved in the previous fiscal year (as adjusted through any base budget transfer requests during the fiscal year).