

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB's 914 & 220

SPONSOR: Committee on Judiciary, Senator Kirkpatrick and Committee on Fiscal Policy

SUBJECT: Grant Proposals for Courthouse Facilities

DATE: April 9, 1999

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matthews</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This bill creates provisions authorizing the Department of Management Services to administer a statewide grants program to provide funding to counties with populations less than 75,000, for the acquisition, renovation and construction of courthouse facilities. It provides a process by which small counties may apply and obtain a grants award. It establishes a five-member grants review panel to review and make recommendations for such grants applications. It establishes criteria to be used by the review panel and the Department to review and make recommendations for projects.

The bill creates yet unnumbered sections of the Florida Statutes.

## II. Present Situation:

In 1972, despite substantial changes made to Article V of the Florida Constitution which set forth the new structure and the administration of the state court system, Article V did not expressly address the mechanism for funding, identify the types of costs that might be incurred, or state who would be responsible for costs in general. Consequently, funding for the court system has continued to be based on a combination of local, state, and federal sources.

Over the years, however, local governments have increasingly requested funding from the Florida Legislature on projects such as construction, renovation, and improvements to courthouse facilities which did not otherwise qualify for existing grant programs or trust funds. The Florida Legislature has allocated millions of dollars annually to governmental entities for these types of projects on an individual basis without a formal application and review process or specific criteria. In a 1998 interim project report by the Senate, it was determined that requests for funding of county courthouse renovations and repairs would lend themselves well to a grant application process. See Interim Project Report 98-51, *Development Grant Application Process for Economic Development Projects*, October 1998.

Specifically, the report identified four areas to consider in the establishment of a grant application and review process: 1) what entity should make the initial review and what entity should make the final recommendation to the Legislature (which may be one and the same), 2) match requirements, 3) criteria considerations, and 4) timing (application, review and recommendation). Generally, an entity involved in the grant review and recommendation, and the match requirements (e.g., in-kind services or assets) in a grant program will vary according to the nature of the program. The criteria for established grant programs are prescribed typically in agency rules although minimum guidelines are set statutorily. Finally, timing of the application and review process is generally coordinated with the timing of the decisions for appropriations.

The Florida Legislature also recently attempted to address, in part, the issue of funding for the operation of the state courts system and the judiciary when it enacted legislation creating the County Article V Trust Fund.<sup>1</sup> See Chapter 97-64, L.O.F. and Chapter 97-235, L.O.F. Section 25.402, F.S., states that the trust fund, to be administered by the Florida Supreme Court, is to provide funding to the counties for certain expenses they incur under Article V of the Florida Constitution. Specifically, it provides for the incremental shift of certain expenses from the counties to the state over a four-year period after which the percentages revert to those set in statute on June 30, 1997. From 1998 to 2002, the county courts are required to deposit increasing percentages of the various civil fines collected under chapter 318.21, F.S., into the County Article V Trust Fund while depositing decreasing percentages of those same fines into the state's General Revenue Fund, as follows:

Percentages of Civil Penalties To Be Paid into Trust Funds		
Effective Date	County Article V Trust Fund	General Revenue Trust Fund
7/1/98	5%	20%
7/1/99	10%	15%
7/1/00	15%	10%
7/1/01	20%	5%

Under the allocation and disbursement plan adopted by the Court for the administration of the trust fund, small counties (counties with populations less than 75,000) are to receive funds for, in order of priority: consulting or architectural studies related to the improvement of courthouse facilities, improvements related to ensuring compliance with the Americans with Disabilities Act and other federal or state requirements, other renovations, improvements in court security, and expert witness fees in criminal cases, court reporting and transcription costs in criminal cases, and costs associated with the appointment of special public defenders. See §25.402(1)(d)1., F.S. Counties with populations greater than 74,999 are to receive funds for more limited costs, unrelated to courthouse facilities construction or renovation. See §25.402(1)(d)2., F.S.

Additionally, since the creation of the trust fund, Article V of the Florida Constitution has been amended. In November 1998, Florida voters adopted a Constitution Revision Commission

---

<sup>1</sup>At the time this trust fund was created, the 1998 constitutional amendment to Article V of the Florida Constitution had not yet been adopted as discussed later in the analysis.

amendment to shift major costs of Florida's judicial system from the counties to the state. Section 14 of Article V now expressly addresses the issue of funding the judiciary and the state courts system. Counties and municipalities are not required to provide any funding for the state courts system, or the offices of the state attorneys, the public defenders, the court-appointed counsels, and the circuit court and county court clerks. However, counties are required to "*fund . . . the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.*" See Art. V, § 14, Fla. Const.

### III. Effect of Proposed Changes:

Subsection (1) defines "small counties" and "department."

The bill creates provisions relating to grant proposals to fund the acquisition, renovation or construction of county courthouse facilities. It authorizes the Department of Management Services to administer a statewide grants program for purposes of providing grants to small counties to fund acquisition, renovation or construction of county courthouse facilities. Small counties are defined to be counties with populations less than 75,000.

Subsection (2) establishes a 5-member grants review panel to review and make recommendations for awarding grants. Specifically, subsection (3) provides for the panel members to be appointed as follows: one member appointed each by the President of the Senate, by the Speaker of the House of Representatives, by the Chief Justice of the Florida Supreme Court, by the Florida Association of Court Clerks and Comptrollers, and by the Florida Association of Counties. Panel members must be from small counties, will serve for three-year terms and may not be reappointed for one year subsequent to the completion of a three-year term. To initiate staggered terms, initially the members appointed by the President of the Senate, the Speaker of the House of Representatives, and the Florida Association of Court Clerks and Comptrollers will serve only one-year terms. The appointments by the Chief Justice of the Supreme Court and the Florida Association of Counties will be for two-year terms. A vacancy is to be refilled in the same manner as the original appointment. A chairperson is to be elected from among the panel members to a one-year term subject to reelection.

Subsection (4) provides the process by which grant proposals are approved and funded. The panel is to review the applications and make recommendations to the Secretary of the Department of Management Services. In reviewing the applications, the Department and the panel are to consider:

- Whether the chief judge of the circuit recommends the project;
- Whether there are matching funds, either in-kind or cash, available for the project;
- Whether the project addresses, physical access and compliance with the Americans with Disabilities Act, fire safety, air quality, structural integrity, physical security, or compliance with court orders or state or federal construction requirements;
- Whether the county making the request has implemented a millage rate of 9 mills or more; and,
- Other criteria to facilitate the distribution of funds based on need.

The Department and the panel are to base recommended projects on the same level of funding as appropriated in the previous year.

Subsection (5) directs the Department of Management Services to submit a list, in order of priority of recommended grant proposal applications, to the Supreme Court by August 15 of each year. The list of projects is to be included in the legislative budget request for the Supreme Court without modification.

Subsection (6) provides that any project not funded must be resubmitted according to the deadline of the next grant cycle.

Subsection (7) directs the department to specify the process and procedures for submitting and reviewing the grant applications. Notice to submit applications must be published in the Florida Administrative Weekly.

**Section (2)** provides that the act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. Other Constitutional Issues:**

- The 1998 amendment to Article V of the Florida Constitution which shifts major costs of Florida's judicial system from the counties to the state still requires counties to "*fund . . . the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.*" See Art. V, § 14, Fla. Const. This constitutional provision would not necessarily preclude the state from providing additional funding through a grants program for construction or improvement in courthouse facilities.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

- This bill may provide each small county an equal opportunity to apply for a matching grant award for courthouse facilities. For the past two years, the proviso language in the General Appropriations Bill for FY 1997-98 and FY 1998-99, has appropriated \$3 million each year to certain counties from the General Revenue Fund for purposes of

“ . . . consulting or architectural studies related to the improvement of courthouse facilities, improving court facilities to assure compliance with the Americans with Disabilities Act and other federal or state requirements, other renovations in court facilities, improvements in court security and other costs paid by the county pursuant to s. 27.006, [relating to court-reporting services], s. 34.171 [relating to salaries and benefits for county court employees] or s. 43.28 [relating to court facilities], Florida Statutes, and any other court-ordered improvements.”

Appropriations were allocated to these counties as follows:

<i>FY 1997-98</i> <i>Specific Appropriation 2144E</i>		<i>FY 1998-99</i> <i>Specific Appropriation 2200</i>	
Baker	\$1,572,500	Baker, Bradford, Calhoun, Desoto, Gulf, Highlands, Holmes, Jackson, Jefferson, Liberty, Taylor, Wakulla	(each) \$100,000
Bradford	\$225,000		
Calhoun	\$50,000		
Columbia	\$40,500		
Dixie	\$60,000	Dixie	\$250,000
Gadsden	\$350,000		
Gilchrist	\$40,500	Flagler, Hendry	(each) \$125,000
Jackson	\$40,500		
Liberty	\$40,500	Okeechobee, Suwanee	(each) \$150,000
Wakulla	\$40,500		
Union	\$540,000	Gadsden, Gilchrist, Lafayette, Union, Walton	(each) \$200,000

Under the bill, the following 32 counties would receive preferential consideration by the review panel based on their populations of less than 75,000: Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Nassau,

Okeechobee, Putnam, Sumter, Suwanee, Taylor, Union, Wakulla, Walton, and Washington.

- According to the Office of State Courts Administrator, approximately \$2,958,078.25 have been collected from the counties for the County Article V Trust Fund since its effective date on July 1, 1998. Most of these monies have only been collected in the last several months. Under the allocation and disbursement plan for the trust fund, funds for a request by an eligible county will be allocated in 3 disbursements during the fiscal year to attempt to accommodate all county requests and any fluctuations in the monies collected for the trust fund. Prior to disbursement, however, an eligible county must submit a request for funds and must execute a contract agreeing to use funds received for statutory purposes. Few counties have yet submitted their requests. OSCA anticipates collections may reach \$5,000,000.00 by the end of the Fiscal Year 1998-99.
- This proposed committee substitute has not yet been submitted to the Office of State Courts Administrator for review. However, OSCA did complete independent fiscal impact analysis on f SB 220 and SB 914 and suggested that an appropriation might be needed to operate the review panel or trust fund committee for certain expenses (travel, per-diem, meeting room facility rental, telephone use, copying and fax services, etc.). OSCA estimated that the review panel or trust fund committee, would meet, at a minimum, 3 times a year. Review panel or trust fund committee coordination and grant or trust fund implementation through OSCA would be handled within existing OSCA staff resources. OSCA projected the same fiscal impact on the courts under SB 220 and SB 914:

<i>A. Non-recurring or First Year Start-Up Effects</i>				
		<i>Year 99-00</i>	<i>Year 00-01</i>	<i>Year 01-02</i>
Revenues:		-0-	-0-	-0-
Expenditures:		-0-	-0-	-0-
<i>B. Recurring or Annualized Continuation Effects</i>				
Revenues:		-0-	-0-	-0-
Expenditures	General Revenue: Expenses	\$10,730	\$10,730	\$10,730
<i>C. Appropriation Consequences</i>				
	General Revenue	(\$10,730)	(\$10,730)	(\$10,730)

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---