

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1184

SPONSOR: Judiciary Committee and Senator Villalobos

SUBJECT: Judicial Branch

DATE: March 19, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Roberts</u>	<u>Roberts</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u> </u>	<u> </u>	<u>AAV</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

The committee substitute expands upon the initial framework provided in CS/SB 1212 (Chapter 2000-237, Laws of Florida) for the continued implementation of Revision 7 to the State Constitution. The elements of the state court system, the state attorneys' offices, the public defenders' offices, and court-appointed counsel to be provided from state revenues appropriated by general law are identified further and subsequently defined. In addition, the committee substitute revises the definitions of certain items identified to be funded by the counties pursuant to Revision 7. A process is established for the identification and funding of local requirements of the state courts system.

Significant changes are proposed to the responsibilities of public defenders and circuit conflict committees, which are renamed as "circuit indigent representation committees," in recognition of the need for statewide uniformity and standards in providing court-appointed legal counsel in criminal and civil cases. Under the committee substitute, circuit indigency representation committees shall be comprised of the chief judge of the judicial circuit or designee, one experienced criminal defense attorney, one experienced civil trial attorney and the public defender. Additionally, the Florida Public Defenders Association and the Office of the State Courts Administrator are charged with setting the eligibility and performance standards of court-appointed and conflict attorneys that, in turn, must be applied by every circuit indigent representation committee. The public defender is required to designate an individual to serve as the coordinator to the circuit indigent representation committee who is responsible for handling administrative matters for the committee. The Justice Administrative Commission is required to prepare and issue a quarterly state-wide report comparing actual year-to-date expenditures to budgeted amounts for the circuit indigent representation committees in each of the judicial circuits.

This bill substantially amends the following sections of the Florida Statutes: 27.02, 27.15, 27.34, 27.54, 27.3455, 27.51, 27.53, 27.562, 27.58, 28.24, 29.001, 29.002, 29.004, 29.005, 29.006, 29.007, 29.008, 43.26, 92.153, 395.3025, 925.035, 925.036, and 925.037. This bill creates the following section 40.001. This bill repeals the following sections of Florida Statutes: 27.005, 27.006, 27.385, and 29.011.

II. Present Situation:

Article XI, section 2 of the State Constitution provides for the creation of a thirty-seven member constitution revision commission (CRC) for the purpose of reviewing Florida's Constitution and proposing changes for voter consideration. The last revision commission was appointed in 1997. When the work of the CRC was completed in May 1998, it had adopted nine proposed revisions to the State Constitution to be placed on the November ballot for consideration by the voters.

REVISION 7

Revision 7, proposed by the CRC, was adopted by the voters at the 1998 November election. The revision made several changes to Article V of the State Constitution, including extensive changes to Article V, section 14 related to funding. These changes revised the method by which the judicial system is funded by specifying the costs to be paid by the state, the counties, or by other sources. The actual text in pertinent part reads:

SECTION 14. Funding.—

(a) All justices and judges shall be compensated only by state salaries fixed by general law. Funding for the state courts system, state attorneys' offices, public defenders' offices, and court-appointed counsel, except as otherwise provided in subsection (c), *shall be provided from state revenues appropriated by general law.*

(b) All funding for the offices of the clerks of the circuit and county courts performing court-related functions, except as otherwise provided in this subsection and subsection (c) shall be provided by adequate and appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions as required by general law. Selected salaries, costs, and expenses of the state courts system may be funded from appropriate filing fees for judicial proceedings and service charges and costs for performing court-related functions, as provided by general law. Where the requirements of either the United States Constitution or the Constitution of the State of Florida preclude the imposition of filing fees for judicial proceedings and service charges and costs for performing court-related functions sufficient to fund the court-related functions of the offices of the clerks of the circuit and county courts, *the state shall provide, as determined by the legislature, adequate and appropriate supplemental funding from state revenues appropriated by general law.*

(c) No county or municipality, except as provided in this subsection, shall be required to provide any funding for the state courts system, state attorneys' offices, public defenders' offices, court-appointed counsel or the offices of the clerks of the circuit and county courts performing court-related functions. Counties shall be required to fund the cost of

communications services, existing radio systems, existing multi-agency criminal justice information systems, and 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. Counties shall also pay reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.

(d) The judiciary shall have no power to fix appropriations.

Revision 7 also included an implementation schedule for the funding provisions in Article XII, section 22 which read:

SECTION 22. Schedule to Article V Amendment.--

(a) Commencing with fiscal year 2000-2001, the Legislature shall appropriate funds to pay for the salaries, costs, and expenses set forth in the amendment to Section 14 of Article V pursuant to a phase-in schedule established by general law.

(b) Unless otherwise provided herein, the amendment to Section 14 shall be fully effectuated by July 1, 2004.

To begin the implementation of Revision 7, the 2000 Legislature passed CS/SB 1212 (Chapter 2000-237, Laws of Florida). The law provided the framework for identifying and defining the components of the state court system, the public defenders' offices, the state attorneys' offices, court-appointed counsel, and those court-related functions that are the responsibility of the counties for funding purposes.

The state court system is defined to include the essential elements of the Supreme Court, district courts of appeal, circuit courts, county courts, and essential supports thereto as follows:

- Judges appointed or elected under current law and essential staff, expenses, and costs as determined by general law;
- Juror compensation and expenses and reasonable juror accommodations when necessary;
- Reasonable court reporting services necessary to meet constitutional requirements;
- Auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts;
- Construction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court;
- Foreign language interpreters and translators essential to comply with constitutional requirements; and
- Staff and expenses of the Judicial Qualifications Commission.

See ss. 29.001(1) and 29.004, F.S.

The offices of public defenders and state attorneys are defined to include the essential elements of the 20 state attorneys' offices and the essential elements of the 20 public defenders' offices as follows:

- The state attorney and public defender of each judicial circuit, assistant state attorneys and public defenders, and essential staff as determined by general law;
- Reasonable court reporting services necessary to meet constitutional requirements; and
- Witnesses summoned to appear for an investigation, preliminary hearing, or trial in a criminal case when the witnesses are summoned by either a state attorney or on behalf of an indigent defendant; mental health professionals who are appointed pursuant to s. 394.473, F.S. and required in a court hearing involving an indigent; and expert witnesses who are appointed pursuant to s. 916.115(2), F.S. and required in a court hearing involving an indigent.

See ss. 29.001(1), 29.005 and 29.006, F.S.

Court-appointed counsel is defined as counsel appointed to ensure due process in criminal and civil proceedings in accordance with state and federal constitutional guarantees, with the essential elements as follows:

- Private attorneys assigned by the court to handle cases where the defendant is indigent and cannot be represented by the public defender;
- Private attorneys appointed by the court to represent indigents or other classes of litigants in civil proceedings requiring court-appointed counsel in accordance with state and federal constitutional guarantees;
- Reasonable court reporting services necessary to meet constitutional requirements;
- Witnesses summoned to appear for an investigation, preliminary hearing, or trial in a criminal case when the witnesses are summoned on behalf of an indigent defendant; mental health professionals who are appointed pursuant to s. 394.473, F.S. and required in a court hearing involving an indigent; and expert witnesses who are appointed pursuant to s. 916.115(2), and required in a court hearing involving an indigent; and
- Investigating and assessing the indigency of any person who seeks a waiver of court costs and fees, or any portion thereof, or applies for representation by a public defender or private attorney.

See ss. 29.001(1) and 29.007, F.S.

Section 14, Article V of the State Constitution requires the counties to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions. Chapter 2000-237, Laws of Florida, defined these items. *See* s. 29.008, F.S.

THE COURTS

The state currently funds all costs related to the State Supreme Court and the five District Courts of Appeal. This includes all costs for the judges, the clerk, all staff support and related expenses, as well as all facilities, equipment, furnishings and related costs such as security, maintenance and parking. All filing fees and costs imposed by these courts are used to offset the expense of operation.

The state currently funds all judges, one judicial assistant per judge, one law clerk for every three judges, administrative staff, and some program staff for the circuit and county courts. The state also appropriates the expense and other capital outlay funds related to those positions. The counties fund facilities and parking and in most cases augment the state funded personnel with county staff and associated expense and other capital outlay funding for the trial courts and specific programs within each court.

THE STATE ATTORNEYS

The state attorneys are funded by the state within the executive branch as well as receiving funding from the counties in accordance with Chapter 27, F.S. Section 27.33, F.S., provides that by November 15 of each year each state attorney shall provide to the Executive Office of the Governor a written estimate of the amount needed for operational expenses for the next fiscal year. This list must include salaries for the state attorney, assistant state attorneys, stenographers, and investigators, expenses for travel, office equipment, stationery, stamps, telephone and telegraph service, and the printing of necessary legal forms and other necessary expenses of the state attorney and assistants. The proposal is also to include a reserve for contingencies but is not to include any expense which the statutes require the counties to fund.

The authorization and requirements for county funding of the state attorneys= offices are generally set out in s. 27.34, F.S. Each county is to provide the state attorney with office space, utilities, telephone service, custodial services, library services, transportation services, and communication services as needed for the state attorney to carry out their duties except as otherwise provided in the General Appropriations Act. Additionally, the counties are required to fund pretrial consultation fees for expert or other potential witnesses consulted before trial, travel expenses in connection with out-of-jurisdiction depositions, out-of-state travel expenses to attempt to locate and interrogate witnesses, court reporter costs during the course of an investigation and prosecution, postindictment and postinformation deposition costs, cost of copying depositions of state witnesses taken by the defense. For many of these costs related to the investigation and prosecution of a criminal case, the state attorney must certify that the expenditures were useful and necessary in the prosecution and the counties may contest the reasonableness of the expenditure in the court where the criminal case is brought.

While section 27.34, F.S., prohibits counties and municipalities from appropriating or contributing funds to the operation of the state attorneys except for the items listed above they are authorized to contribute funds for one assistant state attorney or to contract with the state attorney for the prosecution of violations of special laws or ordinances of the county or municipality. The county may also provide personnel employed by the county or municipality to serve as special investigators and the county may contribute funds to pay the salary of one or more assistant state attorneys trained in the use of the civil and criminal provisions of the Florida RICO Act.

Section 27.245, F.S. requires each county to submit a report on the revenues and expenditures related to the state attorneys. This report must include all of the expenditures by the county set out above, medical examiner services, county victim witness programs, appellate filing fees for indigent defendants, other court-related costs paid by the county pursuant to a judgment or order of the trial court, and revenue from the Local Government Criminal Justice Trust fund used to pay the costs of the state attorney.

THE PUBLIC DEFENDERS AND CONFLICT COUNSEL

The public defenders are also funded by the state as part of the executive branch and they also receive county funding for specified activities. Section 27.53, F.S., provides the authorization and requirements for county funding of the public defenders' offices. Each county is to provide the public defender with office space, utilities, telephone services, custodial services, library services, transportation services, and communication services as needed for the public defenders to carry out their duties except as otherwise provided in the General Appropriations Act. Additionally, the counties are required to fund pretrial consultation fees for expert or other potential witnesses consulted before trial, travel expenses in connection with out-of-jurisdiction depositions, out-of-state and out-of-jurisdiction travel expenses to attempt to locate and interrogate witnesses, court reporter costs during the course of an investigation and prosecution, postindictment and postinformation deposition costs, cost of copying depositions of defense witnesses taken by the prosecution. For many of these costs related to the investigation and prosecution of a criminal case the public defender must certify that the expenditures were useful and necessary in the defense of the case and the counties may contest the reasonableness of the expenditure in the court where the criminal case is brought.

While section 27.54, F.S., prohibits counties and municipalities from appropriating or contributing funds to the operation of the public defenders except as provided above they are authorized to contribute funds for one assistant public defender for the defense of violations of special laws or ordinances of the county or municipality. The county or municipality may also provide personnel employed by the county or municipality to serve as legal and support staff when the public defender certifies that inadequate resources will result in the withdrawal from current cases or the inability to accept new appointments.

Public defenders are to represent all indigent persons charged in their circuits with felony, misdemeanor, or juvenile offenses. The public defenders also represent indigents facing involuntary hospital commitments, involuntary mental illness treatment or involuntary confinement for evaluation and treatment for being an alleged sexually violent predator. *See* 27.51, F.S. In addition, section 27.51(4), F.S., designates five public defenders to serve as appellate defenders and handle all indigent felony appeals.

Section 27.53(3), F.S., authorizes a public defender to withdraw from a case based on a conflict. "Ethical conflicts" most typically occur when the public defender is appointed to represent co-defendants whose defenses are adverse or hostile or when the public defender formerly represented a state witness or victim who will testify against the public defender's present client. "Overload conflicts" occur when a public defender moves to withdraw because his or her office is experiencing an excessive trial or appellate workload. When a public defender files a motion

to withdraw the court must review and *may* inquire or conduct a hearing into the adequacy of the public defenders representations regarding a conflict of interest. If the court grants the motion to withdraw it may appoint private counsel to act as conflict counsel. The private counsel is to be paid by the county in accordance with the compensation schedule in s. 925.036, F.S. Further, all costs related to the conflict counsel defense are paid by the county in the same manner as for the public defender.

CIRCUIT CONFLICT COMMITTEES

Section 925.037, F.S., provides that a conflict committee be established in every circuit to be comprised of the following representatives:

- The chief judge or his or her designee;
- One representative from the board of county commissioners; and
- The public defender.

The conflict committee is responsible for selecting and approving attorneys who are eligible for appointment as a special assistant public defender. Circuit Conflict Committees are required to meet at least once a year.

Chapter 2000-237, Laws of Florida, authorized the creation of pilot projects to reimburse three counties for reasonable and necessary conflict counsel fees, expenses, and costs. The counties designated for the pilot projects –Polk, Hillsborough, and Miami-Dade –were charged with instituting cost containment and accountability processes, and to provide a detailed report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Committee on Article V¹. Specific appropriation 2670B of the 2000-2001 General Appropriations Act created and authorized funding for reimbursement of reasonable and necessary conflict counsel fees, expenses, and costs in criminal cases as part of the project. Specific instructions to the participating counties were developed by staff from the Office of the State Courts Administrator (OSCA) in consultation with staff from the Florida Legislature. The Legislature funded the pilot project in the fiscal year 2001-2002 budget; however the project was vetoed by the Governor. A final report was issued.²

THE CLERKS OF THE CIRCUIT AND COUNTY COURTS

Clerks of the circuit courts are elected constitutional officials. *See* Art. VIII, s. 1, Fla. Const. (2002). Although the Florida Constitution provides for the establishment of the clerks of the

¹ The Joint Legislative Committee on Article V was created in CS/SB 1212 (Chapter 2000-237, Laws of Florida). It was comprised of eight members, with four appointed from each House of the Legislature. The committee was charged with overseeing the implementation of Revision 7. The committee met only once on May 8, 2002. Brief overview presentations were made and a Request for Proposal (RFP) for consultant services was adopted. A contract was subsequently awarded to MGT of America, Inc., in August, 2002. The contract entails four phases of work to be performed by MGT. To date, two reports have been submitted to the Legislature: Phase I – Description of the Court System Operations and Phase II – Recommendations to Increase Efficiency/Reduce Costs of Essential Services. No new appointments to the joint committee have been made.

² Additional information regarding the pilot project and contact information for staff at the OSCA involved in the project can be accessed at www.flcourts.org/osca/divisions/ArticleV/conflictcounsel2.html.

courts in each county, the duties of the clerks are set forth by special or general law. *See* Art V, s. 16, Fla. Const. The duties of the clerk may be divided as if between two officers, one serving as the clerk and the other serving as the county financial officer (i.e., clerk for the board of county commissioners, auditor, recorder and custodian of all county funds).

Although the duties of the clerk of the circuit court are set out through numerous statutory chapters to include issuances of marriage licenses, recordings of plats, and collection or administration of fines and court charges imposed for a variety of criminal and noncriminal violations, their primary duties are set forth in Chapter 28, F.S. The clerk of the court is the official recorder of all instruments. *See* § 28.222, F.S.; Art. VIII, s. 1, Fla. Const. (2002).

According to the State Association of Court Clerks and Comptrollers, the clerks' offices are funded either as "fee clerks" or "budget clerks". The fee clerks are funded primarily or solely by service charges, fees, and court costs or specific appropriations from the county government. The budget clerks submit an annual budget to the county and are funded in the same manner as any other department of the county government. The clerks collect numerous fees, service charges, and court costs related to the functions of the judicial system. These funds are distributed in accordance with the statute, court rule, local court rule, or ordinance which authorized the charge. Fee clerks retain those amounts authorized to cover operating costs and budget clerks deposit the funds collected into county accounts.

III. Effect of Proposed Changes:

The committee substitute for SB 1184 expands upon the initial framework provided in CS/SB 1212 (Chapter 2000-237, Laws of Florida) for the continued implementation of Revision 7 to the State Constitution. The elements of the state court system, the state attorneys' offices, the public defenders' offices, and court-appointed counsel to be funded through the General Appropriations Act are identified further and subsequently defined. In addition, the committee substitute revises the definitions of certain items identified to be funded by the counties pursuant to Revision 7. A process is established for the identification and funding of local requirements of the state courts system.

Significant changes are proposed to the responsibilities of public defenders and circuit conflict committees in recognition of the need for statewide uniformity and standards in providing court-appointed legal counsel in criminal and civil cases. Under the committee substitute, circuit indigency representation committees shall be comprised of the chief judge of the judicial circuit or designee, one experienced criminal defense attorney, one experienced civil trial attorney and the public defender. The committees are charged with determining the most appropriate and cost-effective method of providing legal representation and for developing a schedule of standard fees and expense allowances. Expenditures exceeding those set by the committee may not be allowed without prior court approval.

The Florida Public Defenders Association and the Office of the State Courts Administrator are charged with setting the eligibility and performance standards of court-appointed and conflict attorneys that, in turn, must be applied by every circuit indigent representation committee. The public defender is required to designate an individual to serve as the coordinator for the circuit

indigent representation committee responsible for handling administrative matters for the committee. The Justice Administrative Commission is required to prepare and issue a quarterly state-wide report comparing actual year-to-date expenditures to budgeted amounts for the circuit indigent representation committees in each of the judicial circuits.

A section by section analysis of the committee substitute follows:

SECTION 1: Amends s. 27.02, F.S., relating to duties of state attorneys before the court, to provide that the state attorneys shall provide discovery materials to the defendant pursuant to the applicable rule of procedure and may charge fees as provided in s. 119.07(1)(a), F.S., but may not charge more than \$0.15 per copy for a non-certified copy of a public record. Indigent defendants would not be required to pay fees under this provision. This section is effective July 1, 2004.

SECTION 2: Amends s. 27.15, F.S., relating to state attorneys assisting in other circuits, to provide that expenses incurred because of a state attorney executive assignment to another circuit shall be paid from the appropriation provided by the state for the state attorney who is being assisted in the discharge of his or her duties, rather than the appropriation provided for the circuit court. Clarifies that all other costs attendant to the prosecution of such cases shall be paid by the entity obligated to pay the expense in the absence of an executive assignment. This section is effective July 1, 2004.

SECTION 3: Amends s. 27.34, F.S., relating to salaries and other related costs of state attorneys, to prohibit a county or municipality from contracting with, or appropriating or contributing funds to, the state attorney for the prosecution of a violation of a special law or ordinance of the county or municipality. Prohibits a county or municipality from appropriating or contributing funds to pay for the salary of an assistant state attorney for the investigation and prosecution of civil and criminal RICO actions that occur within the boundaries of the county or municipality. Deletes subsection (2), which sets forth those items to be provided to the state attorneys by the counties. This section is effective July 1, 2004.

SECTION 4: Amends s. 27.3455, F.S., relating to the annual statement of certain revenues and expenditures, to conform to other provisions in the committee substitute. This section is effective July 1, 2004.

SECTION 5: Amends s. 27.51, F.S., relating to duties of public defenders, to expand the role of the public defender to include securing representation for indigents in enumerated cases where such individuals are entitled to court-appointed counsel. Eliminates responsibility with respect to indigents charged with a violation of a municipal or county ordinance in county court. This section is effective July 1, 2004.

SECTION 6: Amends s. 27.53, F.S., relating to the appointment of assistants and other staff of the public defenders, to provide that special assistant public defenders may not permit an attorney who does not meet the eligibility and performance requirements set by the Public Defenders Association and the Office of the State Courts Administrator to appear at a critical stage of an indigent defendant's case. Provides an exception for a certified intern with the public defender's office when appearing under appropriate supervision. Requires that the public

defender must apply the uniform conflict standards adopted by the Florida Public Defenders Association in determining whether there is a conflict of interest. Prohibits the withdrawal by a public defender based solely upon inadequacy of funding or excess workload of the public defender. Provides that if the court grants a motion to withdraw by the public defender it must appoint an attorney who meets the eligibility and performance requirements set by the Florida Public Defenders Association and the Office of the State Court Administrator. Requires the court to appoint conflict counsel in the manner approved by the circuit indigent representation committee. This section is effective July 1, 2004.

SECTION 7: Amends s. 27.54, F.S., relating to expenditures for the public defender office, prohibiting a county or municipality from contracting with, or appropriating or contributing funds to, the public defender for the purpose of defending indigents charged with violations of special laws or violations of county or municipality ordinances. Eliminates the provision which allows the public defender to employ legal and support staff upon certification by the public defender that inadequate resources will result in withdrawal of current cases or inability to accept additional appointments. Deletes subsection (3), which sets forth those items to be provided to the public defenders by the counties. This section is effective July 1, 2004.

SECTION 8: Amends s. 27.562, F.S., relating to the disposition of funds, to redirect those funds and fees collected under ss. 938.29 and 27.52 (relating to liens for attorneys fees and costs when a public defender or conflict attorney has been appointed and the determination of indigency application fee) from the counties to the state. Provides that all judgments entered under this part shall be in the name of the state and deposited into the General Revenue Fund of the state. This section is effective July 1, 2004.

SECTION 9: Amends s. 27.58, F.S., relating to the administration of public defender services, to change the name of the service to “indigent representation” to conform to changes made in section 5 of the committee substitute. This section is effective July 1, 2004.

SECTION 10: Amends s. 28.24, F.S., relating to service charges by clerk of the circuit court, to provide that charges imposed for furnishing records pursuant to a state attorney or public defender subpoena or records request shall be as provided for in chapter 119, F.S., but may not charge more than \$0.15 per copy for a non-certified copy of a public record. Provides that the clerk of the court shall provide without charge to any justice or judge access and copies of any public records held by the clerk. This section is effective July 1, 2003.

SECTION 11: Amends s. 29.001, F.S., relating to the state courts system, removing intent language and the term “essential”. Provides that the funding for the state courts system, the state attorneys’ offices, the public defenders’ offices, and court-appointed counsel shall be provided from state revenues appropriated by general law, except for those items to be funded by the counties. Provides that the counties are financially responsible for the payment of all reasonable and necessary salaries, costs, and expenses of the state court system to meet local requirements as defined by s. 29.008, F.S. This section is effective July 1, 2004.

SECTION 12: Amends s. 29.002, F.S., relating to the basis for funding, to clarify that for purposes of implementing, rather than pursuant to, s. 14, Art. V of the State Constitution on or

before July 1, 2004, the Legislature's appropriation of funding shall be based upon reliable and auditable data. This section is effective July 1, 2004.

SECTION 13: Amends s. 29.004, F.S., relating to the state courts system, deleting the term "essential" and providing that the elements of the state courts system to be provided from state revenues appropriated by general law are as follows: judges appointed or elected; juror compensation and expenses; court reporting services; construction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme Court; court foreign language interpretation and translation and sign-language interpreters; court expert witnesses and other court witnesses; legal support to judges; masters and hearing officers; court administration; case management; mediation-alternate dispute resolution; the Judicial Qualifications Commission; the offices of the appellate clerks and marshals and appellate law libraries; the investigation and assessment of indigency; and associated staff, expenses, and costs, and computer systems and equipment including computer hardware and software, modems, printers, computer support staff, training and supplies determined by the legislature to be reasonably required to provide the element. This section is effective July 1, 2004.

SECTION 14: Amends s. 29.005, F.S., relating to state attorneys' offices and prosecution expenses, deleting the term "essential" and providing that the elements to be funded from state revenues are as follows: The state attorney of each judicial circuit, assistant state attorneys and other staff as determined by general law; reasonable court reporting services necessary to meet constitutional or statutory requirements, including the cost of copying depositions of witnesses and the cost of foreign-language interpreters and translation and sign-language interpreters; certain witnesses; reasonable transportation services; reasonable travel expenses; and reasonable library services, other than a public law library. This section is effective July 1, 2004.

SECTION 15: Amends s. 29.006, F.S., relating to public defenders and indigent defense costs, deleting the term "essential" and providing that the elements to be funded from state revenues are as follows: The public defender of each judicial circuit, assistant public defenders, and other staff as determined by general law; reasonable court reporting services necessary to meet constitutional or statutory requirements, including the cost of copying depositions of witnesses and the cost of foreign-language interpreters and translation and sign-language interpreters; certain witnesses; reasonable transportation services; reasonable travel expenses; and reasonable library services, other than a public law library. This section is effective July 1, 2004.

SECTION 16: Amends s. 29.007, F.S., relating to court-appointed counsel, deleting the term "essential" and providing that the elements to be funded from state revenues are as follows: private attorneys assigned by the court to represent indigents when the public defender cannot provide representation pursuant to ss. 27.53, 925.035, and 925.037 (relating to criminal cases); private attorneys appointed by the court to represent indigents or other classes of litigants in civil proceedings in accordance with constitutional guarantees and federal and state statutes; reasonable court reporting services necessary to meet constitutional or statutory requirements, including the cost of copying depositions of witnesses and the cost of foreign-language interpreters and translation and sign-language interpreters; and certain witnesses. This section is effective July 1, 2004.

SECTION 17: Amends s. 29.008, F.S., relating to county funding of court-related functions, to provide that the term “facility” includes “space”; that the office space provided by the county may not be less than the standards of allotment adopted by the Department of Management Services and that the services and that these services and office space can not be less than what was provided in the previous fiscal year; and that county funding must include physical modifications and improvements as are required to comply with the Americans with Disabilities Act. Provides that the term “construction or lease” includes reasonable and necessary costs of leasing facilities, equipment, and furnishing and clarifies that the reference to “volunteers” refers to volunteers of a tenant agency. Clarifies that the term “utilities” means all such services enumerate therein. Clarifies that under the term “communications systems or communications services” the definition includes all telephone services and equipment enumerated therein. Removes the counties obligation to provide the computer systems and equipment, hardware and software, modems, printers, support staff or services, and training and supplies thereto for the integrated computer system. Provides that the counties are responsible for funding auxiliary aids and services for qualified individuals with a disability which are necessary to ensure access to the courts. Sets out a procedure for meeting local requirements of the state courts system by establishing criteria to be followed by the chief judge in determining whether a program rises to the level of a local requirement. Local requirements are defined as those specialized programs, non-judicial staff and other expenses associated with specialized courts, specialized prosecution needs, or resources that are needed in a local jurisdiction as a result of special factors or circumstances. Provides a method the chief judge must follow in determining the existence of local requirements, including the certification of such to the board of county commissioners for inclusion in the tentative budget and summary statement of the budget. Thereafter, the certification is treated in accordance with the county’s budgetary procedures. Provides that a county may provide additional financial support for the court system, state attorneys, or public defenders. This section is effective July 1, 2004.

SECTION 19: Creates s. 40.001, F.S., to provide for the division of duties between the chief judge and the clerk of the court regarding the processing of jurors. Provides that the chief judge of the circuit is vested with overall authority and responsibility for the jury system. Provides for responsibilities of the clerk of the court within the jury system. Provides that the jury system within each circuit must operate consistent with jury management practices adopted by the Supreme Court. This section is effective July 1, 2003.

SECTION 20: Amends s. 43.26, F.S., relating to the presiding judge of the circuit, to allow the delegation of contractual authority to the trial court administrator. Changes the term “presiding judge” to “chief judge” to reflect current practice. This section is effective July 1, 2003.

SECTION 21: Amends s. 92.153, F.S., relating to the production of documents by witnesses and reimbursement of costs, to provide that the cost of documents produced pursuant to a state attorney or public defender subpoena or records request may not exceed \$0.15 per page and \$10.00 per hour for research and retrieval. This section is effective July 1, 2003.

SECTION 22: Amends s. 395.3025, F.S., relating to patient and personnel records; copies; and examination, to provide that the cost of documents produced pursuant to a state attorney or public defender subpoena or records request may not exceed \$0.15 per page and \$10.00 per hour for research and retrieval. This section is effective July 1, 2003.

SECTION 23: Amends s. 925.035, F.S., relating to the appointment and compensation of attorneys in capital cases, to add a cross-reference and to provide that all attorneys handling capital cases must meet the minimum standards for attorneys in capital cases adopted by the Florida Supreme Court and the eligibility and performance standards set by the Florida Public Defenders Association and the Office of the State Courts Administrator. Deletes references to compensation as set forth in s. 925.036 and the \$1000 cap on attorneys fees and costs incurred in representing a defendant in an executive clemency proceeding. Provides that costs which a county is required to pay pursuant to county funding of court-related functions shall be paid by the county in which the trial was held unless the trial was moved. This section is effective July 1, 2004.

SECTION 24: Amends s. 925.036, F.S., relating to appointed counsel, to add a cross-reference to s. 27.51 and to provide for compensation at a rate to be fixed by the circuit indigent representation committee. Deletes the statutory caps on attorney's fees and expenses accordingly. Provides that a conflict attorney appointed in lieu of a public defender or an attorney appointed to a case as enumerated in s. 27.51 may not permit an attorney who does not meet the eligibility and performance standards set by the Florida Public Defenders Association and the Office of the State Courts Administrator to appear at a critical state of an indigent persons' case. Provides an exception for certified interns with the public defenders' offices when appearing under appropriate supervision. This section is effective July 1, 2004.

SECTION 25: Amends s. 925.037, F.S., relating to circuit conflict committees, to change the name of these committees to "circuit indigent representation committee" to conform to section 5 of the committee substitute. Deletes all references to county responsibility. Changes the composition of the committee by removing the representative of the board of county commissioners and replacing with one criminal experienced criminal defense attorney. Adds one experienced civil trial attorney to the composition of the committee and provides that the public defender shall service as the chair. Both the criminal defense attorney and the civil trial attorney are prohibited from being the attorney of record in a court-appointed or non-capital criminal conflict case from the time of appointment through their term, which is for two years. The circuit indigent representation committee is required to meet at least quarterly, rather than annually and is charged with determining the most appropriate and cost-effective method of providing legal representation and for developing a schedule of standard fees and expense allowances. Provides that the civil trial attorney appointed to the committee may not participate in the development of the fee and expense schedule for criminal cases, and that the criminal defense attorney appointed to the committee may not participate in the development of the fee and expense schedule for civil cases. Expenditures exceeding those set by the committee may not be allowed without prior court approval. The committee is required to apply the written eligibility and performance standards set by the Florida Public Defenders Association and the Office of State Courts Administrator for each type of case enumerated in s. 27.51 (see section 5 of the committee substitute). The public defender must designate a committee coordinator to handle the administrative matters of the committee. Requires the Justice Administrative Commission to prepare and distribute a quarterly state-wide report on the expenditures for circuit indigent representation committees. The Florida Public Defenders Association and the Office of State Courts Administrator are charged with incorporating in the standards requirements related to length of bar membership, continuing legal education, and relevant trial experience. Provides

that, at a minimum, the experience standards for criminal cases must require participation in three criminal trials for a third-degree felony case and five criminal trials for a case involving a felony of the second degree or higher degree. Prohibits the public defender from participating in case-related decisions and other related matters in conflict cases if the public defenders office is not providing legal representation in the particular case. Provides that the positions and funding for the administration of the circuit indigent representation committee program shall be as appropriated to the public defenders in the General Appropriations Act. Provides for separate appropriations categories within the Justice Administrative Commission for funds for criminal conflict case fees and expenses; Chapter 394 conflict case fees and expenses; and fees and expenses in child dependency cases and other court-appointed attorney cases. This section is effective July 1, 2004.

SECTION 26: Repeals ss. 27.005 (definitional section no longer applicable as it relates back to funding responsibilities of the counties for public defenders' offices and state attorneys' offices); 27.006 (providing for appropriations to the counties for court reporters); 27.385 (relating to budget expenditures of state attorneys); 29.011 (relating to the conflict attorney pilot project); and subsection (3) of section 40.02 (relating to the chief judge's authority to designate specified duties of the clerk relating to jurors, to the circuit court), F.S. This section is effective July 1, 2004.

SECTION 27: Provides that the transfer of the funding responsibility for the state courts system shall not affect the validity of any judicial or administrative proceeding pending on the day of the transfer. Provides that the entity providing appropriations after July 1, 2004 shall be considered the successor in interest to any existing contracts, but not responsible for the funding of services rendered prior to July 1, 2004.

SECTION 28: Provides that except as otherwise expressly provided in the act, the act shall take effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This committee substitute may have an impact on those attorneys who serve as conflict counsel. There may also be an impact on those vendors under contract with the counties for goods and services provided for court operations.

C. Government Sector Impact:

For fiscal year 2003-2004, the committee substitute does not appear to impact state government.

For fiscal year 2004-2005, the fiscal impact of this committee substitute to the state is significant but indeterminate at this time. The unaudited fiscal year 1999-2000 county expenditure data submitted to the Comptroller pursuant to s. 218.32, F.S., show that those court system elements which were not previously addressed in Chapter 29, F.S., but which would become explicit state responsibilities under this committee substitute account for an estimated \$110 million of county expenditures. For a better estimate to be made of the impact to state government, such data must be audited for accuracy and compliance with auditing standards, and further analysis of the cost data and program parameters must be made to determine what expenditures related to such elements are reasonable and appropriate for funding by the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.