

STORAGE NAME: h1319a.cjcl

DATE: April 1, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CIVIL JUSTICE & CLAIMS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1319

RELATING TO: Court Funding

SPONSOR(S): Representative Thrasher and others

STATUTE(S) AFFECTED: ss. 25.402, 318.21, 938.18, F.S.

COMPANION BILL(S): SB 722 by Senator Horne (i); SB 902 (s); HB 1333

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

- (1) CIVIL JUSTICE & CLAIMS YEAS 8 NAYS 0
- (2) COMMUNITY AFFAIRS
- (3) FINANCE & TAXATION
- (4) CRIMINAL JUSTICE APPROPRIATIONS
- (5)

I. SUMMARY:

HB 1319 would govern the operation of the County Article V Trust Fund. A separate bill would create this fund. According to HB 1319, the Supreme Court would administer the County Article V Trust Fund and would use the proceeds to compensate counties for costs associated with operating the state courts system. The bill would require the Supreme Court to develop a comprehensive plan for administering the trust fund. The trust fund would be financed by requiring county courts to deposit percentages of certain civil fines into the trust fund.

HB 1319 would also allow courts to assess additional costs against persons who plead guilty or nolo contendere to, or who are found guilty of, certain offenses. Moneys collected under this provision would be deposited into revenue funds administered by the individual counties. The bill would require clerks of the circuit courts to prepare annual financial reports detailing receipts, expenditures, and earnings. The clerks would submit these reports to the board of county commissioners, the chief judge of the circuit, and the State Courts Administrator.

HB 1319 would result in a substantial fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

1. **Criminal Assessments** - Currently, the statutes authorize courts to impose fines and fees against persons who commit certain offenses. While some of these fines and assessments are discretionary, others are mandatory. Courts do not always assess fees against offenders, however, even where such fees are mandatory. The Office of the Auditor General, in a 1991 performance audit, found that courts assess all required fees in only about 34 percent of the cases. Office of the Auditor General, *Performance Audit of the Assessment of Required Criminal Fees Administered by the State Courts System of Florida*, Report No. 11757 (1991).

a. **Prosecution and Law Enforcement Costs** - Section 27.3455, F.S., requires courts to assess additional costs against persons who plead guilty or nolo contendere to, or who are convicted of certain offenses. The clerk of the court collects such assessments and deposits them into a special trust fund of the county. The cost schedule, contained in s. 27.3455(1), F.S., is as follows:

(1) Felonies.....	\$200
(2) Misdemeanors.....	\$50
(3) Criminal Traffic Offenses.....	\$50

Section 939.01 F.S., authorizes courts to include the costs of prosecuting a criminal defendant within the judgment rendered against the defendant.

Section 893.13, F.S., authorizes courts to assess up to \$100 against any convicted drug offender. This money is to be used by the statewide criminal analysis laboratory system.

Section 893.16, F.S., authorizes courts to assess an additional amount against certain drug offenders, to provide assistance to county substance abuse treatment and education programs.

Section 943.25(3), requires the deposit of certain costs into the Criminal Justice Trust Fund.

b. **Victim Compensation** - Other sections of the statutes authorize courts to use certain assessments to compensate victims of crime. Section 775.0835(1), F.S., for example, allows courts to impose fines against certain types of offenders. These fines, along with some mandatory surcharges, are deposited into the Crimes Compensation Trust Fund.

2. **Civil Penalties** - Currently, s. 318.21, F.S., regulates the disposition of civil penalties collected by county courts. It requires one dollar to be paid to the Department of Health and Rehabilitative Services (recently redesignated as the Department of Children and Family Services) for deposit into the Child Welfare Training Trust Fund. It also requires one dollar to be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund. The

remainder is paid to the General Revenue Fund, various trust funds, and the clerks of the court.

B. EFFECT OF PROPOSED CHANGES:

1. **Article V Trust Fund** - HB 1319 would provide guidelines relating to the County Article V Trust Fund. This trust fund, which would be established by HB 1333, would be used to compensate counties for costs associated with operating the state courts system and performing executive functions that are part of the justice system. County courts would be required to pay percentages of various civil fines into the trust fund. Over a four year period, these percentages would increase from 0 percent to 5 percent, to 10 percent, to 15 percent, to 20 ⁶/₁₀ percent. At the same time, percentages of certain civil fines allocated to the state's general revenue fund would drop, from 20 ⁶/₁₀ percent, to 15 ⁶/₁₀ percent, to 10 ⁶/₁₀ percent, to 5 ⁶/₁₀ percent, to 0 percent.
2. **County Revenue Funds** - HB 1319 would allow courts to assess additional costs against persons who plead guilty or nolo contendere to, or who are found guilty of certain offenses. Courts would be permitted to levy these additional assessments upon determining that the party has the ability to pay the assessment, and that the party would not be prevented from paying restitution or child support. Moneys collected under this provision would be deposited into revenue funds administered by the individual counties. HB 1319 would require clerks of the circuit courts to prepare annual financial reports detailing receipts, expenditures, and earnings. The clerks would submit these reports to the board of county commissioners, the chief judge of the circuit, and the State Courts Administrator.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. HB 1319 would require the Florida Supreme Court to adopt a comprehensive plan, after consultation with representatives of county government, for the operation of the County Article V Trust Fund. The bill would also permit county courts to assess additional court costs against certain offenders.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The Florida Supreme Court would be responsible for administering the County Article V Trust Fund. County courts would be responsible for depositing certain civil penalties into the Article V Trust Fund. Courts would also be responsible for collecting additional costs from certain offenders.

The bill would require counties to separately account for these funds. Finally, clerks of the circuit courts would be required to prepare annual financial reports.

- (3) any entitlement to a government service or benefit?

NA.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA.

- (2) what is the cost of such responsibility at the new level/agency?

NA.

- (3) how is the new agency accountable to the people governed?

NA.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

Yes. HB 1319 would allow courts to assess up to \$150 in additional costs upon persons who plead guilty or nolo contendere to, or who are found guilty of, certain offenses.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. HB 1319 would allow the courts to assess court costs against persons whose offenses required the use of court resources.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

NA.

(2) Who makes the decisions?

NA.

(3) Are private alternatives permitted?

NA.

(4) Are families required to participate in a program?

NA.

(5) Are families penalized for not participating in a program?

NA.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

NA.

(2) service providers?

NA.

(3) government employees/agencies?

NA.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Creates s. 25.402, F.S.; requires the Supreme Court to administer the County Article V Trust Fund; requires the court to disburse funds to compensate counties for costs related to operating the state courts system; directs the Supreme Court to adopt a comprehensive plan for the operation of the trust fund; provides that the trust fund shall be financed with money generated from certain civil penalties; repeals s. 25.402, F.S., as of July 1, 2001.

Section 2: Amends s. 318.21(1), F.S. (1996 Supp.), amends subsection of s. 318.21(2)(a), F.S. (1996 Supp.), and adds paragraph (h) of s. 318.21(2), F.S. (1996 Supp.), effective July 1, 1998; changes a statutory cross reference; reduces from 20 ⁶/₁₀ percent, to 15 ⁶/₁₀ percent, the amount of certain civil penalties allotted to the General Revenue Fund; repeals subparagraph 1. of s. 318.21(2)(a), F.S., as of June 30, 1999; requires the deposit of 5 percent of certain civil penalties into the County Article V Trust Fund; repeals subparagraph 1. of s. 318.21(2)(h), F.S., as of June 30, 1999.

Section 3: Amends s. 318.21(1), F.S. (1996 Supp.), amends s. 318.21(2)(a), F.S. (1996 Supp.), and adds paragraph (h) of s. 318.21(2), F.S. (1996 Supp.), effective July 1, 1999; changes a statutory cross reference; provides that $10\frac{6}{10}$ percent of certain civil penalties shall be allotted to the General Revenue Fund; repeals subparagraph 1. of s. 318.21(2)(a), F.S., as of June 30, 2000; requires the deposit of 10 percent of certain civil penalties into the County Article V Trust Fund; repeals subparagraph 1. of s. 318.21(2)(h), F.S., as of June 30, 2000.

Section 4: Amends s. 318.21(1), F.S. (1996 Supp.), amends s. 318.21(2)(a), F.S. (1996 Supp.), and adds paragraph (h) of s. 318.21(2), F.S. (1996 Supp.), effective July 1, 2000; changes a statutory cross reference; provides that $5\frac{6}{10}$ percent of certain civil penalties shall be allotted to the General Revenue Fund; repeals subparagraph 1. of s. 318.21(2)(a), F.S., as of June 30, 2001; requires the deposit of 15 percent of certain remaining civil penalties into the County Article V Trust Fund; repeals subparagraph 1. of s. 318.21(2)(h), F.S., as of June 30, 2001.

Section 5: Amends s. 318.21(1), F.S. (1996 Supp.), amends s. 318.21(2)(a), F.S. (1996 Supp.), and adds paragraph (h) of subsection (2) of s. 318.21, F.S. (1996 Supp.), effective July 1, 2001; changes a statutory cross reference; provides that $20\frac{6}{10}$ percent of certain civil penalties shall be paid to the County Article V Trust Fund.

Section 6: Creates s. 939.18, F.S.; allows courts to assess additional court costs against certain offenders; provides that counties must separately account for such funds; requires the clerk of the court to meet certain reporting requirements.

Section 7: Provides an effective date of July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Office of the State Courts Administrator observes that sections 2 and 3 of HB 1319 would require state general revenue to be earmarked for Article V use during a four-year period. The Office of the State Courts Administrator calculates that this shift would cause the following reductions in state general revenue.

<u>Fiscal Year 1997-1998</u>	<u>Fiscal Year 1998-1999</u>	<u>Fiscal Year 1999-2000</u>
(\$0)	(\$5,375,000)	(\$10,750,000)

3. Long Run Effects Other Than Normal Growth:

The Office of the State Courts Administrator estimates that sections 4 and 5 of HB 1319, because they earmark funds for Article V use over a four-year period, would cause the following reductions in state general revenue:

<u>Fiscal Year 2000-20001</u>	<u>Fiscal Year 2001-2002</u>
(\$16,125,000)	(\$21,500,000)

Sections 2-5 of HB 1319 may result in some administrative costs connected with managing the Article V Trust Fund.

4. Total Revenues and Expenditures:

Uncertain.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

The Office of the State Courts Administrator anticipates that sections 2 and 3 of HB 1319 would result in the following fiscal impact:

<u>Fiscal Year 1997-1998</u>	<u>Fiscal Year 1998-1999</u>	<u>Fiscal Year 1999-2000</u>
\$0	\$5,375,000	\$10,750,000

The Office of the State Courts Administrator, using a projected case growth rate of 2.8 percent, calculates that section 6 of the bill would produce the following fiscal impact:

<u>Fiscal Year 1997-1998</u>	<u>Fiscal Year 1998-1999</u>	<u>Fiscal Year 1999-2000</u>
\$10,400,000	\$10,691,200	\$10,990,553

3. Long Run Effects Other Than Normal Growth:

The Office of the State Courts Administrator estimates that sections 4 and 5 of HB 1319 would enhance county revenues by the following amounts:

<u>Fiscal Year 2000-2001</u>	<u>Fiscal Year 2001-2002</u>
\$16,125,000	\$21,500,000

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

This bill would not reduce the percentage of a state tax shared with counties or municipalities. Therefore, It would not contravene the requirements of Article VII, Section 18, of the state constitution.

V. COMMENTS:

1. **Key Issues:**

a. **Question Presented** - Should the state divert future revenues in order to relieve counties from fiscal burdens associated with funding state courts?

b. **Other Policy Considerations:**

(1) Is the current system of funding state courts fair to counties or does it impose an unreasonable burden upon counties?

- (2) Should the state create a trust fund to compensate counties for costs associated with the state court system? If so, should the Florida Supreme Court be given the responsibility of administering this trust fund?
 - (3) Does the bill provide sufficient guidelines to the Florida Supreme Court concerning the operation of the County Article V Trust Fund?
 - (4) Should the courts be given authority to impose additional court costs on certain offenders?
2. **Tied House Bill** - HB 1333 would create the County Article V Trust Fund. This fund would terminate on June 30, 2001, unless the Legislature acts to re-create the trust fund. HB 1333 would also allow the Supreme Court to make a recommendation to the Legislature concerning the termination or re-creation of the County Article V Trust Fund.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CIVIL JUSTICE & CLAIMS:

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