

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 1212

SPONSOR: Judiciary Committee and Senator Laurent

SUBJECT: Judiciary

DATE: March 30, 2000 **REVISED:** _____

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

I. Summary:

The proposed committee substitute establishes a phase-in schedule for implementation of Revision 7 over the next four years and it establishes the framework for defining the essential elements of the state courts 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. In addition, the bill:

- Requires the Clerks of the Circuit and County Courts to provide specified information on court-related services and associated fees, costs, and service charges.
- Creates a process by which small counties, with populations of less than 85,000, may apply to the Governor and Cabinet for assistance from the Working Capital Fund in paying extraordinary criminal-case-related costs.
- Creates pilot projects in three counties to provide reimbursement for the cost of conflict counsel. The selected counties must agree to institute cost containment and accountability processes and to provide detailed quarterly reports.
- Creates the Article V Financial Accountability and Efficiency Workgroup to serve through January 15, 2001.
- Creates a Joint Legislative Committee on Article V to coordinate and oversee the implementation of Revision 7 to Article V of the Florida Constitution.
- Requires counties to continue to fund existing functions of the state courts system, state attorneys’ offices, public defenders’ offices, office of the statewide prosecutor, court appointed counsel, and the offices of the clerks of the circuit and county courts performing court-related functions.

- Requires the judicial branch to comply with the statutory performance based budgeting requirements that all agencies must implement.

Consistent with the framework established in the bill to implement Revision 7, the proposed committee substitute specifies that nothing in the act requires the state to fund any court function or court-related activity except as provided in the sections creating the process for small counties to seek reimbursement for criminal-case-related costs and the pilot projects.

This bill creates new sections of the Florida Statutes.

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. Throughout the summer of 1997, the CRC held public meetings throughout the state to hear various proposals for changes to Florida's Constitution. Committee meetings were then held throughout the fall with the full CRC meeting through December 1997 and January 1998 to consider, debate, and vote on proposals. More public hearings were held throughout the spring of 1998 to receive public input on the proposals being considered. When the work of the CRC was completed in May 1998, it had determined that 9 proposed revisions to State Constitution would be placed on the November ballot for the citizens of Florida to vote upon.

REVISION 7

Revision seven, proposed by the CRC, was adopted by the voters at the November election. The revision contained 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 for paying for Florida's judicial system 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.

THE JOINT TASK FORCE ON STATE COURT FUNDING/ARTICLE V

In order to implement these amendments to Article V and XII, the President of the Senate and the Speaker of the House of Representatives appointed a joint task force on October 25, 1999. The Task Force on State Court Funding/Article V was charged to develop a schedule by which the state would assume responsibility for funding the state court system.

During six meetings the task force received testimony from the entities directly impacted by revision 7 including the Office of State Court Administrator, the State Association of Counties, the Public Defenders, the State Attorneys and the Association of Court Clerks and Comptrollers. This extensive testimony addressed current funding of the state court system, the state attorney, public defenders, and clerks of the court, and the structure and programs provided provided by these office. The task force also received information on available data regarding revenue, funding and costs of the judicial system and court-related functions.

Based on the reports made at these meetings the Task Force approved a proposed plan and list of proposed interim projects to submit to the President of the Senate and the Speaker of the House of Representatives.

The task force also approved draft legislation addressing the requirements of revision 7 of the State Constitution for the development of a schedule to implement the state assumption of additional funding of the state court system.

THE COURTS

The state currently funds all the 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 the 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.

In the circuit and county courts the state currently appropriates funds all judges, 1 judicial assistant per judge, 1 law clerk for every three judges, administrative staff, and some program staff. The state also appropriates the expense and OCO 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 OCO 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, Florida Statutes. 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.

Section 27.23(3), F.S., authorizes a public defender to withdraw from a case based on a conflict. 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 defender's 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.

THE CLERKS OF THE CIRCUIT AND COUNTY COURTS

Clerks of the circuit courts are elected constitutional officials. *See* art. VIII, s. 1, *Florida Constitution*. Although the *Florida Constitution* provides for the establishment of the clerks of the courts in each county, the duties of the clerks are set forth by special or general law. *See* art V, s. 16, *Florida Constitution*. 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.; *See* § 1, art. VIII, Fla. Const. (1998).

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. Those amounts the clerks are authorized to retain are used to cover operating costs by the fee clerks and are deposited into county accounts by a budget clerk.

THE UNIFORM CHART OF ACCOUNTS

To shift costs of the judicial system from the counties to the state, the state must determine the actual costs to be moved and identify revenue source that are available or could be available to fund those costs. Chapter 95-400, Laws of Florida created the Uniform Chart of Accounts Development Committee to “develop and implement a uniform chart of accounts.” s. 218.325(1), F.S.(1997). A “detailed, uniform chart of accounts and financial reporting system for court and justice related agency expenditures and revenues” was to be developed by the committee. s. 218.325(2), F.S.(1997). The Uniform Chart of Accounts was to be implemented by rule by the Comptroller by July 1, 1996. s. 3, Chapter 95-400, Laws of Florida. The Uniform Chart of Accounts has been developed and the first data from the implementation of this methodology is available.

THE REPORT BY THE LEGISLATIVE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

In 1998 the Legislative Committee on Intergovernmental Relations issued a report containing a historical perspective of the Article V issue and estimates of the potential costs of Proposed Revision 7 to both state and local governments. *Review of Costs Associated with Article V*, Report No. 98-3, (June 1998). This comprehensive report summed up the shift in funding responsibility as follows:

According to LAIR projections, the shift in costs to the state by the FY 2004-2005, would mean an additional expense of \$320 million dollars if there were no revenue offset, through a transfer of fines and fees currently going to local governments. The amount would be approximately \$130 in new expenses to the state if such fines and fees currently going to local governments were shifted to the state coffers. In addition, if the state is required to provide supplemental funding to the Clerks of Court office performing court-related functions this amount could be much larger. For example, if there were no difference in the percentage of fees and service charges collected compared to the clerk expense in FY 95/96, then the projected expense to the state would potentially be an additional \$200 million in FY 2004-2005. No matter the magnitude of these scenarios, the state will still be required to pay much more for the judicial system than it has previously.

Review of Costs Associated with Article V, Report No. 98-3 at 46 (June 1998)(emphasis in original).

PERFORMANCE BASED BUDGETING

Section 19 of Article III of the constitution requires the Legislature to adopt by general law, a quality management and accountability program to ensure productivity and efficiency in the executive, legislative, and judicial branches. In 1994 the Legislature implemented this provision in the form of performance based budgeting in chapter 94-249. This act provided definitions of programs, outputs, inputs, and gave specific instructions for agency and judicial branch development of programs and performance measures. Chapter 94-249, Laws of Florida, recognized in whereas clauses that the “judicial branch must independently carry out [its] mandates provided by the Florida Constitution, but nonetheless should endeavor to develop performance measures to evaluate certain functions of the . . . judicial [branch] to encourage efficient performance of [its] duties for the benefit of the public, . . .” The act specifically provides that as used in the act “state agency” does not include the judicial branch but for purposes of the act “judicial branch” means “all officers, employees, and offices of the Supreme Court, district courts of appeal, circuit courts, county courts, Justice Data Center, and the Judicial Qualifications Commission.”

The judiciary was not included in the act’s general schedule of implementation, but section 6 of the bill established a separate judicial schedule. The judicial implementation required the Chief Justice to “submit to the Legislature a list of programs that the Chief Justice of the Supreme Court recommends could operate under a performance-based program budget.” Section 6 of the bill provided the programs recommended were to be submitted to the Legislature by January 15, 2000 and measures for the programs are to be submitted by September 1, 2000. The section then provided “the legislature, in consultation with the judicial branch, will develop statutory procedures for evaluating the effectiveness of such programs.”

The performance-based budgeting process for the judicial branch is distinguishable from the process set out for the executive branch in several fundamental ways. As a state agency moves into the performance-based budgeting process chapter 94-249, Laws of Florida, requires the agency to obtain input on the identification of programs and performance measures from the legislative appropriations and substantive committees. The agency must also obtain approval of the Executive Office of the Governor and in developing performance measures, must additionally seek input from the Office of Program Policy Analysis and Government Accountability. In contrast the courts are not required to consult with any entity during the development of programs or measures. The two processes are also distinguishable in the evaluation process. State agencies are to be evaluated by the Office of Program Policy Analysis and Government Accountability. The act requires the Legislature and the courts to “consult” to develop an evaluation process.

The court’s implementation of the judicial branch performance based budgeting provisions began in October of 1997 with the formation of a committee to review the District Courts of Appeal. A trial court performance and accountability committee was formed in December of 1998. Both committees made recommendations to the Chief Justice during 1999 and the Chief Justice’s recommendations were forwarded to the Legislature on January 15, 2000 as required by law. This process is in place of the review of executive agency programs automatically performed by OPPAGA.

THE PHASE IN SCHEDULE

Proposed Revision 7 requires the adoption of a phase-in schedule in general law to fully effectuate the changes by July 1, 2004. Any plan developed and adopted would require changes in fiscal policy through the state’s budgetary process. It would also require amendments to substantive law. Any such changes would be tied directly to the particular incremental change by fiscal policy.

III. Effect of Proposed Changes:

The proposed committee substitute for SB 1212 provides the initial process for the Legislature to begin implementation of revision 7 to the State Constitution this fiscal year and to complete implementation by July 1, 2004.

In addition to a phase in schedule, the PCS provides the framework for identifying and defining the elements of the state court system, the state attorneys’ offices, the public defenders’ offices, conflict counsel, and the court related functions of the clerks of the court. The bill also provides definitions for those items revisions 7 identifies are to be funded by the counties.

Two programs are to be funded in the 2000/2001 budget. The small county contingency fund is created to assist counties with a population of less than 85,000 to fund “extraordinary criminal case-related costs.” Three counties are to be selected to serve as pilot projects for the state assumption of all conflict counsel costs.

A Joint Legislative Committee on Article V is created consisting of 8 members, 4 members appointed by the President of the Senate and 4 appointed by the Speaker of the House of Representatives.

An article V financial accountability and efficiency workgroup is created to develop recommendations related to financial accountability systems and standards, alternative structures for budgeting and fiscal management. The workgroup is also to obtain data on revenue sources for the court system, and the efficiency and effectiveness of operating policies and procedures for the court system, the public defenders, and the state attorneys.

The Clerks of the Court are directed to provide specified financial and operational information to the Legislature by September 30, 2000.

The bill specifies that nothing in the act requires the state to fund any court function or court-related activity except as provided in the sections creating the contingency fund and the pilot projects.

In addition, the counties are required to continue to fund existing functions of the state courts system state attorneys' offices, public defenders' offices, court-appointed counsel, and the offices of the clerks of the circuit and county courts performing court-related activities , consistent with current law and practice until such time as the Legislature expressly assumes the responsibility for funding those functions.

A section by section analysis of the bill follows:

Section 1 provides legislative intent to implement the provisions of Article V, section 14 in accordance with the direction in the constitution. The intent language clearly states that the state will fund or will provide a means of funding the constitutionally mandated or essential functions of the state court system, the state attorneys, the public defenders, and the essential court related functions of the clerks of the court.

The intent language also states that simply because the state currently funds an area within the state court system, state attorneys, public defenders, or the clerks of the court or that some function is mandated by current law does not mean the function will meet the definition of an essential function for purposes of funding under revision 7.

Section 2 states the basis to be used in reviewing programs to determine appropriate funding. First, funding must be based on reliable and auditable data. That court costs, fines, and other dispositional assessments imposed by the courts must be enforced and when collected distributed in accordance with general law. Finally, the waiver of fees or costs for an indigent must be done in accordance with general law.

Section 3 provides a phase-in-schedule to ensure that all programs and functions are reviewed prior to July 1, 2004.

During fiscal year 2000-2001 the Legislature is to review the state court system to determine what functions should be funded by the state and the most appropriate manner for providing that funding.

By fiscal year 2001/2002 the Legislature is to review the revenue generated by the court system and redirect the appropriate revenue to the state.

By fiscal year 2002/2003 the Legislature is to review the state attorneys' offices and the public defenders' offices as well as the use of civil indigency counsel and conflict counsel to determine what functions should be funded by the state.

By fiscal year 2003/2004 the Legislature is to review the offices of the clerks of the circuit and county courts to define court-related activities performed by the clerks. Where there is appropriate data the Legislature should also determine the appropriate levels of filing fees, service charges, and court costs to fund the assigned activities.

This section also includes a requirement that prior to July 1, 2004 each county must continue to fund existing functions of the state courts system, the state attorneys' offices, public defenders' offices, court appointed counsel, and the offices of the clerks of the circuit and county courts consistent with current law and practice. This provision will not apply where the state assumes the cost of the function prior to July 1, 2004.

This section also includes direction for the appropriation of unspecified funding for the small county contingency fund and for three pilot projects for funding conflict attorneys.

Section 4 defines the state court system to include: Judges appointed under current law and the essential staff, expenses and costs as provided by general law, costs related to juries, court reporting services necessary to meet constitutional requirements, accommodations for a person with a disability to access the courts (except for facility related costs born by the county), facilities for the Supreme Court and the District Courts of Appeal, foreign language interpreters and translators to meet constitutional requirements and funding for the Judicial Qualifications Commission.

Section 5 defines the State Attorneys' Offices and prosecution expenses to include: the state attorney, assistant state attorneys, and essential staff; court reporting services to meet constitutional requirements; and a specified list of witnesses.

Section 6 defines the Public Defenders' Offices and indigent defense costs to include: the public defender, assistant public defenders, and essential staff; court reporting services needed to meet constitutional requirements; and the specified witnesses.

Section 7 defines court appointed counsel to include: court appointed counsel in cases where the defendant is indigent and cannot be represented by the public defender; private counsel appointed to represent indigents or other litigants in civil proceedings in accordance with state and federal constitutional guarantees; constitutionally required court reporting services; witnesses as specified; the investigation of indigency.

Section 8 of the bill provides definitions for those items listed in Article V, section 14 subsection (c) to be funded by the counties.

Section 9 of the bill establishes the Article V Financial Accountability and Efficiency Workgroup. This group is to consist of 9 members with 4 ex officio members. The chair and vice-chair of the Joint Legislative Committee on Article V are to respectively serve as the Chair and Vice-chair of the working group. This working group is to recommend financial accountability systems and

standards and alternative budgeting and fiscal management structures to facilitate the movement to increased state funding of the court system, the state attorneys, the public defenders, and the court related functions of the clerks. The group is to examine existing accounting and budget systems in order to develop the recommendations and may also assess the efficiency and effectiveness of the related operating policies and procedures. Finally, the workgroup is to obtain data on all fees, costs, service charges, fines, forfeitures, or other court-related charges collected by the clerks of the court.

Subject to approval of the President of the Senate and the Speaker of the House of Representatives the workgroup is authorized to contract for consultants or technical assistance in carrying out its responsibilities.

The final report of the workgroup is to be submitted by January 15, 2001.

Section 10 creates a process by which a county with a population under 85,000 may seek assistance from the Governor and Cabinet to cover extraordinary criminal-case-related costs. A county that experiences extraordinary criminal-case-related costs may apply to the Governor and Cabinet for assistance in paying those costs. When approved by the Governor and Cabinet a county would be reimbursed from the Working Capital Fund.

Section 11 authorizes at least three pilot projects to be funded to pay the costs of conflict counsel in the county. The counties selected must agree to have cost containment and accountability processes and to provide a detailed quarterly report.

Section 12 provides direction to the clerks of the court to provide detailed information to the Legislature by September 30, 2000. This information is to address the sources and distribution of all funds collected by the clerks, detailed information on services provided to the court by the clerks and the cost to provide each service, the total amount collected for each identified fee, cost, service charge, fine, forfeiture, or other charge for FY 1998-99. The clerks are then to make recommendations regarding what services should the clerks continue to provide in the future, levels of fees, costs and service charges to fully fund the clerks court related activities, and where necessary alternative sources of funding.

Section 13 creates the Joint Legislative Committee on Article V. This committee is to have 8 members with four appointed from each House of the Legislature. The committee is to oversee the implementation of revision 7 and to be reviewed in 2004 to determine the need for its continued existence.

Section 14 provides that nothing in the act requires the state to fund any court function or court-related activity except the small county contingency fund and the pilot projects.

Section 15 redefines "state agency" and "agency" for purposes of performance based budgeting to include the judicial branch.

Section 16 redefines "state agency" for purposes of implementing Article III, Section 19(h) of the State Constitution to include the judicial branch.

Section 17 requires the courts to submit a performance-based program budget request to the Legislature by September 15, 2001.

Sections 18 and 19 ensure that the judicial branch is not required to submit its budget to the judicial branch in the same manner as an executive branch agency.

Section 20 provides direction to the court on the submission of its budget pursuant to performance based budgeting. The requirements in the section are substantially the same as those for a state agency. The programs and measures must be developed in consultation with the Office of Program Policy Analysis and Government Accountability and legislative staff, the measures are to be documented, and the Chief Justice may propose revisions to the proposed programs and performance measures but the Legislature will have final approval through the General Appropriations Act or the legislation implementing that act.

Section 21 provides that the three pilot projects and the process for small counties to receive assistance in funding criminal-case-related costs will be funded as provided in the General Appropriations Act.

Section 22 provides the act will take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill includes several provisions which direct the expenditure of county funds. First, the bill provides definitions for those items or functions revision 7 directs to be paid by the counties. The requirements of these provisions, while requiring a county to expend funds on specific items, simply implements the Florida Constitution. Second, counties are required to continue funding the state court system, the public defenders' offices, the state attorneys' offices, the clerks of the court indigency counsel, and litigation costs of the statewide prosecutor at the current level until the program or function is assumed by the state. This does not place a new burden on the counties. Finally, the bill authorizes the redirection of fines, fees, costs, service charges, and forfeitures in accordance with general law. Since there is no specific redirection of funding in this bill and certain changes in the allocation of fees, costs, and service charges are mandated by the constitution, there are no local mandates within the terms of Article VII, section 18.

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:

None.

C. Government Sector Impact:

Those counties with under 85,000 in population experiencing extraordinary criminal case-related costs will be able to obtain state funds from the Working Capital Fund to pay those costs thus reducing the burden on local taxpayers.

Those counties included in the pilot project to pay the cost of conflict attorneys will be relieved of paying those costs from county revenues.

The Legislature, the state courts, the public defenders' offices, the state attorneys' offices, the clerks of the court and the counties will have expenses related to gathering data and adjusting processes as the Legislature moves forward to implement revisions 7. The exact amount of those costs are unknown at this time.

If the joint committee is provided with permanent staff there will be costs for salaries and expenses associated with those positions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.