

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** H1929 Article V  
**SPONSOR(S):** Judicial Appropriations  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 1184

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Appropriations	29 Y, 8 N	DeBeaugrine	Hansen
2)			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

In November 1998, voters approved Revision 7 to Article V of the Florida Constitution. Article V provides for the judicial branch of government. According to the ballot summary, Revision 7 “allocates state court system funding among state, counties, and users of courts.” Revision 7 must be “fully effectuated” by July 1, 2004.

In summary, this bill continues the implementation of Constitutional Revision 7 to Article V of the Florida Constitution begun by the Legislature in 2000 and largely reflects the recommendations of the House Select Committee on Article V. Please see Section III.C. at the end of this analysis for a description of specific differences between the committee recommendations and this bill. Specifically, the bill would:

- delineate state and county funding responsibilities;
- remove certain mandates imposed on circuits;
- permit state attorney prosecution of local ordinance violations only when ancillary to a state charge;
- provide for a contingency fund for the judicial branch and one for the Justice Administrative Commission to alleviate deficits in due process appropriations categories;
- undertake an analysis of county court-related expenditure and revenue data for FY 2001-02;
- establish a process for selecting and compensating court-appointed counsel;
- create cost containment mechanisms, including an Article V Indigent Services Advisory Board;
- revise the standards and process for determining indigent status;
- impose numerous court-related charges by operation of law rather than by court order;
- direct clerks to report certain assessment and collection amounts beginning July 1, 2003;
- require clerks to maintain accounts receivable and accept partial payments;
- prioritize the order in which clerks disburse partial payments;
- revise court-related fee authority; and
- transfer certain fee authority to clerks and authorize clerks to impose fees on reopened cases

The fiscal impact on state expenditures is not known at this time, but could be roughly \$181.3 million based on county reported expenditures for FY 2000-01. Counties would experience potential cost savings of \$495 million from the shift of funding responsibility proposed by this bill. Some of these savings will be offset by the cost of specified local requirements and items that counties may wish to continue funding. The bill also contains a number of provisions related to court-related revenue. Please see section II. of this analysis for more detail.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1929.ap.doc  
**DATE:** April 24, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                                         |                             |                                         |
|--------------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

The bill would continue the implementation of Constitutional Revision 7,<sup>1</sup> approved by the voters in November 1998. According to the ballot summary, Revision 7 “allocates state court system funding among state, counties, and users of courts.”

Voter approval of Revision 7 to Article V in November 1998, presented the Legislature with a host of implementation issues to address before July 1, 2004, the date by which the Revision must be “fully effectuated.” The Legislature has responded to Revision 7 in stages, beginning with passage of SB 1212 in 2000 (Chapter 200-237, Laws of Florida), followed by additional changes to that law in 2001, and, finally in 2002, through the funding of a study to assist in the final phase of implementation. MGT of America, the firm under contract to the Legislature, has completed the first two phases of the four phase project. Remaining phases are due in mid-April.

Under Revision 7, state revenues must be used to fund the “state courts system,” less salaries, costs and expenses necessary to meet “local requirements.” For purposes of implementing Revision 7 to Article V, the Legislature has defined the “state courts system” as the “essential elements of the Supreme Court, district courts of appeal, circuit courts, county courts, and essential supports thereto.” The Legislature has not defined the phrase “local requirements.” The state also must continue to fund

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<sup>1</sup> Art. V, s. 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 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.

the offices of the state attorneys and public defenders, other than facilities, communications services, and functions considered to be “local requirements” of the state courts system. Additionally, the state must continue to pay the salaries of justices and judges. Finally, to the extent user fees in an amount sufficient to fund the court-related functions performed by the clerks of county and circuit court are constitutionally precluded, state revenues must be used to supplement user fee revenues.

Counties too have specific funding responsibilities. They must fund “reasonable and necessary salaries, costs, and expenses” of the “state courts system” to meet “local requirements” as determined by general law. The extent of this obligation has not been determined since the Legislature has not yet defined the phrase “local requirements”. Counties also must fund the cost of facilities for the trial courts and the offices of the state attorney and public defender, including the costs of construction, leasing, maintenance, security and utilities. Counties must also fund the cost of “communications services,” defined by the Legislature as including “telephone services and equipment; and computer systems and equipment, including computer hardware and software, network connections... necessary for an integrated computer system to support the state courts system, offices of the state attorney and public defender, and offices of the Clerk.”

Users must fund the court-related functions performed by the clerks of the county and circuit courts. They must be funded entirely by filing fees, service charges, and costs, except to the extent user fees in a sufficient amount to fund these costs are constitutionally precluded. User fees also may be a source of funding for selected salaries, costs, and expenses of the “state courts system.”

On January 10, 2003, House Speaker Johnnie Byrd appointed a Select Committee on Article V, chaired by Representative Holly Benson, to recommend legislation for 2003, for the purpose of:

- delineating the specific funding responsibilities of the state, counties, and users;
- identifying ways to fund these responsibilities;
- addressing the functional management structure and functional responsibilities and staffing including, where appropriate, privatization of functions;
- establishing the budget and financial management structure;
- identifying any necessary funding methodologies;
- identifying any operational efficiencies; and
- identifying state data needs for system management and assigning responsibility for collecting and reporting information.

On April 8, 2003, the House Select Committee on Article V issued a final report including most of the proposals reflected in this bill (see section III. C. for a detailed list of changes between this bill and the committee recommendations).

### **Proposed Changes**

In summary, the bill would continue the implementation of Constitutional Revision 7 to Article V of the Florida Constitution begun by the Legislature in 2000. Specifically, the bill would:

- delineate state and county funding responsibilities;
- remove certain mandates imposed on circuits;
- permit state attorney prosecution of local ordinance violations only when ancillary to a state charge;
- provide for a contingency fund for the judicial branch and one for the Justice Administrative Commission to alleviate deficits in due process appropriations categories;
- undertake an analysis of county court-related expenditure and revenue data for FY 2001-02;
- establish a process for selecting and compensating court-appointed counsel;
- create cost containment mechanisms, including an Article V Indigent Services Advisory Board;

- revise the standards and process for determining indigent status;
- impose numerous court-related charges by operation of law rather than by court order;
- direct clerks to report certain assessment and collection amounts beginning July 1, 2003;
- require clerks to maintain accounts receivable and accept partial payments;
- prioritize the order in which clerks disburse partial payments;
- revise court-related fee authority; and
- transfer certain fee authority to clerks and authorize clerks to impose fees on reopened cases

### **A. Functions and Funding Responsibilities**

**1. State funding.** The bill delineates the elements of the state courts system, state attorney and public defender offices, and court-appointed counsel the state will fund. Most of these are elements currently identified as “essential” in general law.

*[Currently, elements of the state courts system identified as “essential” include judges and their essential staff, costs, and expenses; juror compensation, court reporting services, auxiliary aids, appellate court facilities, interpreters, and the Judicial Qualifications Commission. The bill would add masters and hearing officers, mediation and arbitration, basic legal materials accessible to the public, expenses and administrative services in support of these functions, offices of appellate clerks and appellate law libraries.*

*Currently, elements of state attorney and public defender offices deemed “essential” include state attorney/public defender and staff; court reporting services, witnesses, and certain appointed mental health professionals. Added to this list would be translator services necessary to meet constitutional requirements, reasonable and necessary travel expenses, reasonable pre-trial consultation fees and costs, and reasonable library services. For court-appointed counsel, reasonable and necessary expenses would be included on the list of elements funded by the state.]*

**2. County funding.** The bill revises county funding obligations.

- Counties must continue to fund “communications services,” but the definition is revised to exclude such items as postage, printed documents, pagers, and telephone equipment. However, the counties will be required to transfer ownership of these items to the state at no charge on July 1, 2004.
- Counties must continue to fund “facilities,” but the definition of “construction or lease” as it applies to facilities is revised to exclude equipment and furnishings effective July 1, 2006, except for that “appropriate and customary for courtrooms, jury facilities, and public areas of courthouses.” Counties will be required to transfer ownership of excluded equipment and furnishings effective July 1, 2006. Office space provided by counties will be required to be in accordance with Department of Management Services standards, except by mutual agreement of the parties. This office space standard applies to facilities constructed or leased after July 1, 2003.
- County funding for drug courts would be optional and for costs not otherwise provided by the state.
- Teen courts would remain optional with counties, but counties would no longer be able to impose mandatory costs as a source of funding.

- The following would be deemed “local requirements” and, in accordance with the terms of Revision 7, the responsibility of counties to fund:
  - Legal aid programs.
  - Reasonable and necessary transportation expenses incurred by state attorneys and public defenders.
- Indigent defense costs associated with a violation of a local ordinance when not ancillary to a state charge.

**3. Local ordinance violations.** The bill would prohibit state attorneys from prosecuting violations of local ordinances unless ancillary to a state charge. Likewise, public defenders would no longer be permitted to defend indigents accused of ordinance violations unless ancillary to a state charge. Counties would be authorized to establish a prosecutorial authority to prosecute these violations and would be required to fund indigent defense costs involving violations of these ordinances.

*[Currently, counties may contract with state attorneys to prosecute ordinance violations. They may fund the salary of one assistant state attorney solely to handle ordinance or special law violations.]*

**4. Circuit mandates.** Circuits would no longer be required to employ an alternative sanctions coordinator serving under the chief administrative judge of the juvenile division, establish a drug court program, and approve parenting courses and course provider lists.

**5. Clerk functions.** Makes uniform the responsibility of court clerks to handle jury management, but permits court administrators to perform these functions if the county provides funds for this purpose. Requires clerks to provide pro se assistance services.

**6. Witness coordination:** Replaces the requirement for court administrators to have a witness coordination office to a general requirement for state attorneys and public defenders to perform certain coordination responsibilities.

## **B. Financial Management**

**1. Revenue and expenditure analysis.** The bill requires the Chief Financial Officer to conduct an extensive analysis of court-related expenditures incurred and revenues collected by counties for FY 2001-02, for use by the Legislature in budgeting for FY 2004-05. Requires submission of report by November 1, 2003.

*[Currently, counties report court-related revenues and expenditures based on the Uniform Accounting System Manual. Counties must report this information pursuant to s. 218.32 (annual financial report), s. 218.321 (annual financial statement), and s. 218.39 (annual financial audit reports). Some have called into question the accuracy of the reported court-related revenue and expenditure data.]*

**2. Accounting systems revisions.** The bill requires the Department of Financial Services to undertake a review of the Florida Accounting Information Resource (FLAIR) subsystem and Uniform Accounting System Manual (UCA) to determine the need for any necessary revisions to existing account descriptions and account codes used in recording expenditures and revenues associated with Article V. Requires adoption of revisions by July 1, 2004.

*[Currently, the FLAIR, the state financial accounting system, may not include appropriate accounts to record state-funded court-related expenditures currently borne by counties. The*

*Uniform Accounting System Manual account descriptions have been criticized by some for not being descriptive enough to aid in proper recording of revenues and expenditures.]*

**3. Contingency fund.** The bill provides for the creation of a contingency fund for the judicial branch and for one within the Justice Administrative Commission to alleviate deficits in due process service appropriation categories. The bill also provides for a process designed to identify and transfer surplus funds from existing appropriations prior to reliance on the contingency fund. The bill further provides that the contingency fund cannot be used to alleviate a deficit arising from the appointment of conflict counsel based on a claim of excessive workload.

## **C. Cost Containment**

**1. Article V Indigent Services Advisory Board.** The bill creates the Article V Indigent Services Board to advise the Legislature concerning cost containment strategies and policies and qualification and compensation standards governing the expenditure of state appropriated due process funds for service providers such as court-appointed counsel, court reporters, court interpreters, and expert witnesses; recommending adjustments to existing statutory compensation standards for private court-appointed counsel; approving standard form contracts for use in procuring due process services; and identifying due process services that should be included on state contract and competitive bidding opportunities on a state, regional, or circuit basis. Board to consist of 12 members, 3 each appointed by the Governor, Senate President, House Speaker, and Chief Justice.

*[In Makemson v. Martin County, 491 So.2d 1109 (Fla. 1986), the Florida Supreme Court found “fee maximums unconstitutional when applied to cases involving extraordinary circumstances and unusual representation.” The Court ruled that “in extraordinary and unusual cases” the court may depart from the statute’s fee guidelines “when necessary in order to ensure that an attorney who has served the public by defending the accused is not compensated in an amount which is confiscatory of his or her time, energy and talents.”]*

**2. Determination of indigent status.** The bill makes provision for state-funded indigency examiners assigned to the clerks of court to assess the indigent status of applicants for court-appointed counsel and other due process services. Preserves right of individual to have determination reviewed by the court. Lowers the income threshold to qualify as indigent from 250 percent of the federal poverty level to 150 percent.

*[Currently, the determination of indigent status is made by the court. Applicants for court-appointed counsel must file a financial affidavit with the clerk and pay a \$40 application fee. To be declared indigent, the Legislature requires an income of no more than 250 percent of the federal poverty level or an inability to pay without substantial hardship. A defendant is presumed to not be indigent if certain factors exist (e.g., released on bail of \$5,000 or more, equity interest in real or personal property, retained private counsel before or after filing the affidavit.)*

*The 250 percent income standard is higher than that for many public assistance programs. For example, for temporary cash assistance, 185 percent, food stamps, 100 percent; Medicaid for elderly/disabled, 88 percent, Medicaid for pregnant women, 185 percent, and Medicaid for children, between 100 and 200 percent. The Florida Bar Low Fee Panel uses a standard equal to approximately 177 percent of the federal poverty level.]*

## D. Court-appointed Counsel

1. **Consolidation of provisions.** Consolidates provisions relating to conflict counsel and compensation in regards to defendants charged with capital and noncapital offenses into a single section. Conforms provisions as appropriate.

2. **Statewide registry.** Directs the executive director of the Justice Administrative Commission to maintain a registry, by circuit and county and by category of case, of attorneys willing and able to serve as court-appointed counsel in conflict cases and in other cases in which public defenders are not expressly authorized to provide representation. Provides for attorney certification as to satisfaction of requirements for appointment. Directs courts to monitor the performance of court-appointed counsel. Permits the Justice Administrative Commission to charge attorneys included on the registry an annual fee of up to \$25 to cover the cost to maintain the registry.

*[Currently, no statewide registry exists for court-appointed counsel, except in the case of post conviction capital collateral proceedings. Typically, the selection process for counsel in other criminal proceedings varies among circuits. With respect to private attorneys appointed to represent defendants in cases where the public defender is unable to provide representation because of a conflict of interest, circuits use conflict committees composed of the chief judge, a representative of county commissioners, and the public defender.]*

3. **Method of appointment.** Under the bill, courts would be required to appoint private court-appointed counsel from the registry on a rotational basis.

*[Currently, the appointment method varies among the circuits.]*

4. **Compensation.** Under the bill, private court-appointed counsel would be compensated pursuant to the terms of their contract with the Justice Administrative Commission. The Justice Administrative Commission would contract with private attorneys in accordance with standards imposed by the Legislature after receiving recommendations from the Article V Indigent Services Board. Court-appointed counsel will be required to provide proposed billing to the Justice Administrative Commission prior to moving for a court approval of fees and costs. The court will give initial approval of payment of fees and costs. The bill grants the Justice Administrative Commission standing to contest the reasonableness of billing.

*[Currently, court-appointed counsel are funded in any number of ways—an hourly rate, fixed fee, or some combination thereof. The Legislature has established fee standards and fee caps in criminal proceedings in current law, ranging from \$1,000 for a misdemeanor to \$3,500 for a capital case represented at the trial level. However, see Section III.A.2. of this analysis regarding an opinion of the Florida Supreme Court concerning fee caps.]*

5. **Conflict motions.** Expressly directs judges to look into the adequacy of the motion to withdraw due to an ethical conflict. Requires public defenders to copy the Justice Administrative Commission with any motion to withdraw based on an ethical conflict.

*[Currently, there appears to be some difference of opinion concerning the extent to which the court can inquire into the sufficiency of a motion filed by a public defender to withdraw from representation due to an ethical conflict of interest.]*

6. **Circuit conflict committees.** These are repealed given use of a statewide registry.

*[With respect to private attorneys appointed to represent defendants in cases where the public defender is unable to provide representation because of a conflict of interest, circuits use conflict committees composed of the chief judge, a representative of county commissioners, and*

*the public defender. These committees exist for the purpose of selecting and approving attorneys for all appointments.]*

## **E. Court-related Charges**

**1. Imposition.** The bill generally requires fees, service charges, and costs to be imposed as a matter of law, rather than by court order, and eliminates waivers of these fees, service charges, and costs.

*[Many court-related fees, charges, and costs are imposed at the discretion of the court.]*

**2. Collection and distribution.** The bill requires court clerks to report court assessments and collections on a quarterly basis beginning July 1, 2003, and annually beginning July 1, 2004. Also requires clerks to enter into payment plans to recover unpaid charges from persons qualifying as indigent and unable to pay court-related charges in full. Requires court clerks to maintain accounts receivable, accept partial payments, and distribute partial payments received according to the following order of priority: the clerk of court to cover court-related functions, followed by the state for Article V related uses, the General Revenue Fund, non-Article V related purposes at the state level, and all other recipients. Within each level of priority, funds would be allocated on a pro rata basis. Eliminates the requirement that county commissioners approve court clerk use of third parties to collect court-related funds.

*[Currently, the extent to which court-related fees, charges, and costs are being assessed, waived in full or in part, being discharged, or not being collected once assessed is generally unknown. Not all clerks of court maintain accounts receivable, and many reportedly do not accept partial payments. In those instances when they do collect partial payments, clerks must decide in which priority order to assign the partial payment. The order of priority for disbursements will vary among clerks. There generally is no statutory direction.]*

The bill redirects the \$40 application fee for public defender services from the Indigent Criminal Defense Trust Fund to the General Revenue Fund.

Provides that for FY 2003-04 only, any surplus in amounts collected through a \$3 local discretionary court cost earmarked for teen courts may be used for juvenile drug courts.

Provides that public defender lien revenue will be redirected from local governments to the state General Revenue Fund.

**3. Authority and amount.** The bill:

- retains the \$200 cap on circuit civil filing fees.
- transfers authority to impose additional circuit civil and county court filing fees from the board of county commissioners to the clerk of court. Therefore, court clerks may impose filing fees in circuit civil in an amount clerks deem necessary to fund their costs within the existing filing fee cap of \$200. Charges imposed by county commissions pursuant to this authority will stand repealed July 1, 2004.

*[Currently, the state-mandated portion of circuit civil filing fees is \$50.50. The clerk share is \$41. The statewide average filing fee, however, is \$157. In several counties, the full \$200 filing fee is levied. The local option add-on funds law libraries, legal aid programs, and court facilities.]*



- beginning July 1, 2003, requires court clerks to impose a \$50 fee in circuit civil court for each reopened case. Defines a “reopened case.” Permits deduction of fee paid to modify a final judgment of dissolution. For 2003-04 only, provides for collections of this fee to be deposited in the Grants and Donations Trust Fund within the Justice Administrative Commission.

*[Currently, filing fees are not imposed on cases that are reopened. The only exception is for a modification of a final judgment of dissolution. Reopened cases can include a motion for rehearing and modifications of child support orders, among others. Circuits reported approximately 446,000 reopened cases in their civil divisions for 2000-01.]*

- eliminates county authority to impose additional filing fees in probate matters in addition to state-mandated charges.
- eliminates clerk charges for certain services billed to counties by budget clerks, including the daily court attendance, court minutes, and juror payroll fees.
- treats counties and municipalities as any other party in a circuit civil action in requiring payment of court-related service charges for services performed by court clerks. Requires counties and municipalities filing a civil action to pay filing fees in county court as do private plaintiffs.
- Exempts state attorneys and public defenders from payment of fees and charges assessed by the clerk of court.
- Directs \$40 public defender application fee to General Revenue. These fees are currently deposited into the Indigent Criminal Defense Trust Fund.

## F. Technology

The bill creates a 13-member council composed of the chief information officers for various entities involved in the administration of justice. The purpose would be to issue recommendations to facilitate the examination of data needs, data access across multiple systems, and information sharing.

## G. Other

**1. Revenue flexibility.** The bill permits counties to use the local option sales tax to fund construction, lease, maintenance, utilities, and security costs associated with facilities under Revision 7 to Article V.

**2. Justice Administrative Commission status.** The bill eliminates reference to the Justice Administrative Commission as part of the judicial branch of government.

**3. Judicial work hours.** The bill provides that judicial work may take place on Sundays and holidays.

## C. SECTION DIRECTORY:

Section 1. Amends s. 25.383, F.S., relating to court reporters

Section 2. Amends s. 27.005, F.S., relating to definitions.

Section 3. Amends s. 27.02, F.S., relating to duties before court.

Section 4. Amends s. 27.04, F.S., relating to summoning and examining witness for the state

Section 5. Amends s. 27.25, F.S., relating to state attorney authorized to employ personnel.

Section 6. Amends s. 27.34, F.S., relating to special investigators.

Section 7. Amends s. 27.35, F.S., relating to salaries of state attorneys.

Section 8. Amends s. 27.385, F.S., relating to budget expenditures.

Section 9. Renames Part III of Chapter 27.

Section 10. Creates s. 27.40, F.S., relating to court-appointed counsel; statewide registry.

Section 11. Amends s. 27.51, F.S., relating to duties of public defender.

Section 12. Amends s. 27.52, F.S., relating to determination of indigency; indigency examiners.

Section 13. Amends s. 27.53, F.S., relating to public defender appointment of assistants and other staff.

Section 14. Amends s. 27.5301, F.S., relating to salaries of public defenders.

Section 15. Creates s. 27.5303, F.S., relating to public defenders; conflict of interest.

Section 16. Creates s. 27.5304, F.S., relating to private court-appointed counsel; compensation.

Section 17. Amends s. 27.54, F.S., relating to expenditures for public defender's office.

Section 18. Amends s. 27.562, F.S., relating to disposition of funds.

Section 19. Amends s. 27.58, F.S., relating to the administration of public defender services.

Section 20. Amends s. 27.702, F.S., relating to the duties of the capital collateral regional counsel; corrects cross-reference.

Section 21. Creates s. 28.215, F.S., relating to pro se assistance by clerks.

Section 22. Amends s. 28.24, F.S., relating to services charges by clerk of the circuit court.

Section 23. Amends s. 28.2401, F.S., relating to service charges in probate matters.

Section 24. Amends s. 28.241, F.S., relating to filing fees for reopened cases (effective July 1, 2003).

Section 25. Amends s. 28.241, F.S., relating to filing fees for trial and appellate proceedings (effective July 1, 2004).

Section 26. Amends s. 28.245, F.S., relating to transmittal of funds.

Section 27. Creates s. 28.246, F.S., relating to payment of court-related charges; partial payments; distribution of funds.

Section 28. Creates s. 28.35, F.S., relating to exemption from fees and charges.

Section 29. Amends s. 29.001, F.S., relating to intent.

Section 30. Amends s. 29.002, F.S., relating to basis for funding.

Section 31. Amends s. 29.004, F.S., relating to state-funded elements of the state courts system.

Section 32. Amends s. 29.005, F.S., relating to state attorneys' offices and prosecution expenses.

Section 33. Amends s. 29.006, F.S., relating to public defenders and indigent defense costs.

Section 34. Amends s. 29.007, F.S., relating to private court-appointed counsel.

Section 35. Amends s. 29.008, F.S., relating to county funding of court-related functions.

Section 36. Creates s. 29.014, F.S., relating to creation of Article V Indigent Services Advisory Board (effective July 1, 2003).

Section 37. Creates s. 29.015, F.S., relating to creation of a contingency fund for due process costs.

Section 38. Creates s. 29.016, F.S., relating to the creation of a contingency fund for the judicial branch.

Section 39. Amends s. 34.032, F.S., relating to the power of clerk to appoint deputies.

Section 40. Amends s. 34.041, F.S., relating to county court filing fees and costs.

Section 41. Amends s. 34.13, F.S., relating to method of prosecution.

Section 42. Amends s. 34.171, F.S., relating to salaries and expenses.

Section 43. Amends s. 34.181, F.S., relating to branch courts.

Section 44. Amends s. 34.191, F.S., relating to fines, forfeitures, and costs.

Section 45. Amends s. 39.0134, F.S., relating to appointed counsel; dependency proceedings.

Section 46. Amends s. 39.4075, F.S., relating to referral of a dependency case to mediation.

Section 47. Amends s. 39.815, F.S., relating to appeals; revising a cross-reference.

Section 48. Creates s. 40.001, F.S., relating to chief judge; authority; duties.

Section 49. Amends s. 40.02, F.S., relating to selection of jury lists.

Section 50. Amends s. 40.29, F.S., relating to amount for pay of jurors.

Section 51. Amends s. 40.30, F.S., relating to requisition endorsement.

Section 52. Amends s. 43.16, F.S., relating to the Justice Administrative Commission.

Section 53. Amends s. 43.19, F.S., relating to money paid into court; unclaimed funds.

Section 54. Amends s. 43.26, F.S., relating to presiding judge of circuit; selection and powers.

Section 55. Amends s. 43.35, F.S., relating to witness coordination.

Section 56. Amends s. 44.108, F.S., relating to funding of mediation and arbitration.

Section 57. Amends s. 49.10, F.S., relating to notice of action; revising a cross-reference.

Section 58. Amends s. 55.141, F.S., relating to satisfaction of judgments and decrees.  
Section 59. Amends s. 57.081, F.S., relating to costs.  
Section 60. Amends s. 57.085, F.S., relating to waiver of prepayment of court costs; prisoners.  
Section 61. Amends s. 61.21, F.S., relating to authorized parenting course.  
Section 62. Amends s. 77.28, F.S., relating to garnishment.  
Section 63. Amends s. 92.231, F.S., relating to expert witnesses; fees.  
Section 64. Amends s. 125.69, F.S., relating to penalties; enforcement by code inspectors.  
Section 65. Creates s. 162.30, F.S., relating to civil actions to enforce local ordinances.  
Section 66. Amends s. 197.532, relating to fees for mailing additional notices; correcting a cross-reference.  
Section 67. Amends s. 197.542, F.S., relating to sales at public auction.  
Section 68. Amends s. 197.582, F.S., relating to disbursement of proceeds of sale; conforming a cross-reference.  
Section 69. Amends s. 212.055, F.S., relating to discretionary sales surtaxes.  
Section 70. Amends s. 318.18, F.S., relating to amount of civil penalties.  
Section 71. Amends s. 318.21, F.S., relating to disposition of civil penalties by county courts.  
Section 72. Amends s. 318.325, F.S., relating to jurisdiction and procedure for parking infractions.  
Section 73. Amends s. 395.3025, F.S., relating to patient and personnel records; conforming a cross-reference.  
Section 74. Amends s. 397.334, F.S., relating to treatment-based drug court programs.  
Section 75. Amends s. 712.06, F.S., relating to contents of notice; conforming a cross-reference.  
Section 76. Amends s. 741.30, F.S., relating to domestic violence.  
Section 77. Amends s. 790.22, F.S., relating to certain weapons.  
Section 78. Amends s. 796.07, F.S., relating to prostitution; conforming change.  
Section 79. Amends s. 914.06, F.S., relating to compensation of expert witnesses in criminal cases.  
Section 80. Amends s. 914.11, F.S., relating to indigent defendants; cost of witnesses.  
Section 81. Amends s. 916.107, F.S., relating to rights of forensic clients to treatment or training.  
Section 82. Amends s. 916.15, F.S., relating to involuntary commitment of a defendant.  
Section 83. Amends s. 938.01, F.S., relating to Additional Court Cost Clearing Trust Fund.  
Section 84. Amends s. 938.03, F.S., relating to the Crimes Compensation Trust Fund.  
Section 85. Amends s. 938.05, F.S., relating to the Local Government Criminal Justice Trust Fund.  
Section 86. Amends s. 938.06, F.S., relating to additional cost for crime stoppers programs.  
Section 87. Amends s. 938.19, F.S., relating to teen courts.  
Section 88. Unnumbered. allowing surplus teen funds to be used for juvenile drug courts (effective July 1, 2003).  
Section 89. Amends s. 938.27, F.S., relating to judgment for costs on conviction.  
Section 90. Amends s. 938.29, F.S., relating to legal assistance, lien for attorney's fees or costs.  
Section 91. Amends s. 938.30, F.S., relating to financial obligations in criminal cases.  
Section 92. Amends s. 938.35, F.S., relating to collection of court-related financial obligations.  
Section 93. Amends s. 939.06, F.S., relating to acquitted defendant not liable for costs.  
Section 94. Amends s. 939.08, F.S., relating to costs to be certified before audit.  
Section 95. Amends s. 939.12, F.S., relating to the cost against state in Supreme Court.  
Section 96. Amends s. 947.18, F.S., relating to conditions of parole.  
Section 97. Amends s. 948.03, F.S., relating to terms and conditions of probation or community control.  
Section 98. Amends s. 960.001, relating to guidelines for fair treatment of victims; conforming change.  
Section 99. Amends s. 984.09, F.S., relating to punishment for contempt of court; alternative sanctions.  
Section 100. Amends s. 984.12, F.S., relating to case staffing; conforming change.  
Section 101. Amends s. 985.203, F.S., relating to right to counsel; delinquency.  
Section 102. Amends s. 985.216, F.S., relating to punishment for contempt of court; alternative sanctions.  
Section 103. Amends s. 985.306, F.S., relating to delinquency pretrial intervention program.  
Section 104. Unnumbered. Requires the Department of Financial Services to undertake a review of the Florida Accounting Information Resource subsystem and Uniform Accounting System Manual to determine the need for any necessary revisions to existing account descriptions and account codes

used in recording expenditures and revenues associated with Article V. Requires adoption of revisions by July 1, 2004 (effective July 1, 2003).

Section 105. Unnumbered. In an effort to capture reliable data, requires the Chief Financial Officer to conduct an extensive analysis of revenue and expenditure data reported for county fiscal year ended September 30, 2002. Requires submission of report by January 1, 2004 (effective July 1, 2003).

Section 106. Unnumbered. Creates the Article V Chief Information Officers Coordinating Council.

Section 107. Provides for certain fees to be deposited within the Grants and Donations Trust Fund within the Justice Administrative Commission for FY 2003-04 only.

Section 108. Unnumbered. Legislative intent relating to important state interest.

Section 109. Unnumbered. Service charges imposed by governing authority of counties by ordinance and special law pursuant to authority granted in ss. 28.242 – 34.041 prior to June 30, 2004, are hereby repealed and abolished effective July 1, 2004.

Section 110. Unnumbered. Allowing judicial acts to be performed on any day of the week.

Section 111. Unnumbered. Repeals list of sections.

Section 112. Effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The impact of the bill on state revenue is indeterminate at this time due to data limitations. Court-related revenues, including fines and forfeitures, were reported to be \$553 million for FY 2000-01. The state received approximately \$147 million of this total with clerks retaining \$120 million and counties and municipalities receiving the balance.

The state will receive additional revenue from the following provisions:

- a. Revenue from additional court costs required pursuant to s. 938.05, F.S. will be deposited into the General Revenue Fund. The counties reported total collections of \$14 million from these additional court costs for FY 2000-01.
- b. Revenue from public defender liens will be deposited into the state General Revenue Fund. Total reported revenue from these sources for FY 2000-01 was \$2.4 million.
- c. Revenue from a \$50 filing fee for reopened civil cases will, for FY 2003-04 only, be deposited into the Grants and Donations Trust Fund in the Justice Administrative Commission. This could generate up to \$20 million. Beginning July 1, 2004, these fees will be used by Clerks of Court to offset their costs.
- d. Petitioners wishing to obtain a modification of a final judgment of dissolution will be required to pay the \$50 filing fee for reopened cases as well, but \$45 of the fee will be directed to the state General Revenue Fund on a permanent basis to provide for mediation and arbitration programs. In addition, a \$5 fee will be imposed on all civil filings in the county and circuit courts. Potential collections from these sources are estimated to be \$5.7 million.
- e. The Justice Administrative Commission will be required to charge an annual fee, up to \$25, for each attorney who wishes to be considered for appointment in cases where the Public Defender has an ethical conflict. The total revenue that this will generate is indeterminate since data are unavailable on how many attorneys will choose to participate and the amount of the fee that will be set by the Commission.
- f. Funds from recovery of costs associated with provision of public defender services to individuals later determined to have been ineligible for such services will be deposited into the General Revenue Fund. The impact of this provision on state revenue is indeterminate since current county recoveries are not reported. The impact on state revenue, however, will likely be minimal.

In addition, revenue from the \$40 application fee for public defender services that have been deposited into the Indigent Criminal Defense Trust Fund will be deposited into the General Revenue Fund. This source currently generates about \$3 million on an annual basis.

2. Expenditures:

The impact of this bill on state expenditures is indeterminate at this time due to data limitations concerning local court expenditures and the fact that the legislative appropriations process will ultimately determine which court-related activities will be funded and the appropriate funding level.

A general sense of the magnitude of the state's potential liability, not deducting for any portion of salaries, costs and expenses that might be considered a local requirement, can be obtained by examining court-related expenditures reported by local governments to the Uniform Chart of Accounts (UCA). While the UCA is the only statutorily mandated, comprehensive source of information on local court-related expenditures, readers are cautioned to be mindful that the accuracy and relevance of UCA data has been questioned by a number of knowledgeable observers. There is a provision in the bill to address this problem by directing the Chief Financial Officer to collect more detailed information on court-related expenditures and to make recommendations to the Legislature for revisions to the UCA.

According to the UCA, counties spent \$777 million on court-related activities for local FY 2000-01. Not all of these costs, however, will become the responsibility of the state. Counties will still be responsible for facilities costs, security, and information systems. These three items represent \$162 million. Another \$323 million is associated with Clerks of Court which are to be funded by court system users. Other reported expenditures represent items that will be local responsibilities such as drug courts, misdemeanor probation and pre-trial release programs. Still other reported expenditures are not clearly identified and may not be deemed to be a state priority sufficient to warrant state funding. For items the state does decide to fund, there may be economies of scale and other efficiency measures to reduce costs of services.

Ultimately, the Legislature is not bound by county-reported expenditures to determine which activities to fund or the appropriate level of funding for activities that are funded. At best, county reported data only provides a context for discussion by showing what other governmental entities decided to fund for court-related activities.

The following table isolates UCA expenditures in FY 2000-01 for items that would appear to be eligible for state funding under the provisions of this bill. Expenditures such as capital outlay, debt service, information systems, security, community service programs, grants-and-aid, and activities that are not clearly identifiable as a potential state responsibility under the provisions of this bill are excluded.

**I. Due Process Costs**

Clinical Evaluations	4,798,663
Court Interpreters	4,775,903
Court Reporters	19,251,210
Expert Witness Fees	3,045,525
Conflict Counsel	39,379,670
Jury Management	3,362,032
Witness Coordination and Management	5,271,631
Subtotal Due Process	79,884,634

**II. Other Potential Costs for Legislative Consideration**

**A. Administration (Excluding clerks)**

Court Administration	28,706,087
Public Defender Administration	12,146,708
State Attorney Administration	14,724,543

Subtotal Administration	55,577,338
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**B. Other Potential Costs**

Alternative Dispute Resolution	7,726,207
Judicial Support	10,390,115
Masters and Hearing Officers	6,046,842
Public Defender	9,847,920
State Attorney	4,506,237
Traffic Court Hearing Officers	994,708
Trial Court Law Clerks/Legal Support	6,335,244
Subtotal Other Potential Costs	45,847,273

<b>Total Costs</b>	<b>181,309,245</b>
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In addition, the state could be responsible for some Clerk of Court costs if imposition of adequate user fees is precluded by the state or federal constitutions. According to the UCA, the clerks spent \$323 million for FY 2000-01.

Other costs that the state will incur as a result of the bill include the following:

- The bill authorizes contingency funds, subject to Legislative appropriations, to cover extraordinary due process costs incurred by courts, state attorneys and public defenders. The funding levels for each, if approved, will be determined by the Legislature during the appropriations process.
- There will be additional costs to the Justice Administrative Commission for maintaining the conflict counsel registry and from other new administrative responsibilities. The Commission is directed to charge an annual fee to attorneys who wish to be on the registry sufficient to fund the costs of maintaining the registry.
- There is a question as to whether the Justice Administrative Commission staff will need to move to a larger facility to accommodate new staff that will be necessary to handle its increased workload.
- There is an appropriation for \$200,000 in the House version of the General Appropriations Act to assist the Chief Financial Officer in carrying out his responsibilities to review local financial reports.
- The bill requires the state to employ indigence examiners to be assigned to Clerks of Court. The number of employees and amount needed to provide this service statewide will be negotiated during the appropriations process.

Some provisions of the bill expressly eliminate state responsibility for programs that are currently funded by the state. These include drug courts which are currently funded at \$2.8 million and Juvenile Alternative Sanctions Coordinators which are currently funded at \$1.3 million. In addition, State Attorneys and Public Defenders will no longer be permitted to prosecute and defend cases involving local ordinance violations. The extent to which this will decrease state appropriations is indeterminate since expenditures on these cases are not reported by either the State Attorneys or Public Defenders.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

The bill limits the use of filing fees retained at the local level to cover the costs of the Clerks of Court as directed by Revision 7. Under current law, county commissions are allowed to levy additional filing fees for items such as court facilities, equipment purchases, law libraries and legal aid programs. The bill places the authority and responsibility for imposing local filing fees with the Clerks of Court.

Clerks of Court will have the potential to generate approximately \$173 million annually from enhanced filing fee authority beginning July 1, 2004. This estimate, however, assumes 100% collection rates.

Counties will no longer receive revenue from public defender liens and from costs recovered from individuals determined to have improperly received public defender services. According to the Uniform Chart of Accounts, public defender liens generated approximately \$2.4 million for FY 2000-01. Recoveries from individuals who improperly received public defender services is not known but is believed to be minimal.

Counties will no longer have the authority to levy special service charges to support local mediation and arbitration programs. According to the Uniform Chart of Accounts, 30 Florida counties reported revenue of \$4.3 million during FY 2000-01 for mediation and arbitration programs.

There are several provisions of the bill that are designed to increase the assessment and collection of mandatory fees, court costs and fines. The extent to which implementation of these provisions will increase collections is not known at this time. Based on current collections of \$553 million, however, every 1% improvement in collections generates approximately \$5.5 million. Clerks of Court will collect and report certain revenue collections data beginning July 1, 2003. This will give the Legislature approximately 6 months of data prior to the 2004 session.

Clerks of Court will have the ability to collect up to \$200 from local governments that file to enforce a local ordinance. The potential revenue collections to the Clerks are approximately \$24 million.

Counties will no longer have the ability to impose a \$3 filing fee to cover the costs of teen courts. Revenue resulting from this authority is not reported in the UCA.

### 2. Expenditures:

Counties will experience significant relief from paying many of the costs of the state courts system. Counties reported expenditures of approximately \$777 million for FY 2000-01. According to the Clerks of Court, they retain approximately \$120 million from court system users to cover the costs of operating their offices. Of the remaining \$657 million, the three major items that counties will still be responsible for funding (security, facilities and information systems) total \$162 million. Thus, counties could experience relief of approximately \$495 million resulting from the shift of funding responsibility.

In reality, local governments will probably choose to continue funding activities such as misdemeanor probation (\$7.8 million), pre-trial release programs (\$8.8 million), community service programs (\$1.2 million) and other programs, even if they do so through local agencies other than the courts. Many of these activities relieve pressure on local jails or address local priorities and are often funded from user fees.

Local governments will also be responsible for costs associated with prosecuting local ordinance violations. The cost to counties is indeterminate at this time since costs of prosecuting and defending violations of local ordinances are not separately tracked and reported by the state

attorneys or public defenders. In addition, local governments will have to pay up to \$200 for filing fees for prosecuting violations of local ordinances. According to the Office of State Courts Administrator, there were 118,773 ordinance violations filed in county criminal court. At the maximum \$200 per filing, the resulting cost to counties would be approximately \$23.8 million.

Local governments will also be required to fund the cost of legal aid and transportation as a local requirement.

Counties will also have the option to continue funding for local services such as drug courts and teen courts.

Clerks of Court will incur costs associated with administration of pro se litigant services. According to the UCA, counties spent \$845,365 in FY 2000-01 for these services.

Clerks of Court will incur costs associated with establishment of accounts receivable systems. Since the exact nature and functionality of these systems is not specified in statute, the potential costs will largely be determined by decisions made by each clerk. According to panelists that participated in a discussion of court related revenues for the House Select Committee on Article V, such systems are commonly available at modest cost.

Clerks of Court will incur costs associated with determining indigency for public defender and other services. The clerks have not provided an estimate of total costs associated with this responsibility.

Local governments will have flexibility for FY 2003-04 only to transfer surplus funds earmarked under current law to teen courts to juvenile drug courts.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A filing fee of \$50 will be imposed on all reopened cases. This could result in additional costs of \$20 million to private litigants. Also, current discretionary local fees for mediation and arbitration programs would become mandatory. Potential collections from these mandatory fees are \$5.7 million, or approximately \$1.4 million more than county reported collections from these fees for FY 2000-01.

Civil litigants may also experience increased filing fees for other types of cases since clerks would be responsible for establishing filing fees sufficient to cover the costs of operating their offices.

#### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Since the purpose of the bill is to reallocate funding responsibilities for the court system between the state and counties, there are a number of provisions throughout the bill that touch on these issues. Overall the bill would provide for a net savings to counties. Counties reported spending \$777 million for FY 2000-01 for costs of the state courts system. The bill should provide relief of approximately \$495 million in the aggregate, which sum would be reduced by the cost of paying filing fees in cases to enforce ordinance violations of approximately \$23.8 million.

Costs on pleas of guilty or nolo contendere: Pursuant to s. 938.05, F.S., counties receive funds in the form of costs imposed on any person who pleads nolo contendere to a local misdemeanor



or criminal traffic offense or pleads guilty or nolo contendere to a state felony, misdemeanor, or criminal traffic offense. The cost is \$200 for felonies and \$50 for misdemeanors and criminal traffic offenses. These funds have been deposited into special trust funds of the counties and were used to reimburse counties for the actual costs they spend on state attorney and public defender operations, and for operations of the medical examiner and victim-witness programs.

The bill redirects these costs to the General Revenue Fund. The items for which the subject funds could be used will, however, become state-funded. Therefore, there will be an offsetting effect. Currently, county governments take in \$14 million through this source. State funding of the items for which the funds could be used must be increased to offset any negative fiscal impact and should thereby not result in a significant fiscal impact.

Teen court: There is currently authority for counties to impose a \$3 cost in cases of a guilty or nolo contendere plea to any state, county, or municipal crime if the county has established a teen court. These funds may be used for the operation of the teen court. The bill provides that counties that have established teen courts are authorized to fund them through local means, but removes the authority to impose a fee on pleas in order to do so.

This section reduces the authority of counties to raise revenues but allows the counties to fund teen courts if they choose to do so with local funding.

Filing fees: Currently, county commissions are authorized to levy add-ons to the filing fees for circuit and county court filings. The authority to impose local filing fees is transferred to the clerk of court; i.e., from one county entity to a different county entity, therefore it does not reduce the authority of the county to raise revenue. Further, clerks may generate as much as \$173 million annually from this source.

Public defender liens: Defendants who have pled guilty or nolo contendere and who were defended by the public defender are liable for attorney's fees and costs for the defense. These fees and costs become a lien on the defendant's real and personal property (or, in the case of a minor, the parents of the defendant). Funds collected for the reimbursement of public defender fees and costs are currently remitted to the county for deposit in the county's fines and forfeitures fund to defray the expenses incurred by the county in defending criminal prosecutions. This amounts to a sum of \$2.4 million statewide.

The bill redirects the funds to the state Indigent Criminal Defense trust Fund. This change does not require counties or cities to spend funds or take an action requiring the expenditure of funds; does not reduce the authority that cities or counties have to raise revenues in the aggregate; and does not reduce the percentage of a state tax shared with cities or counties.

Mediation and arbitration: County commissions are authorized to levy a surcharge up to \$5 on circuit court and county court proceedings for mediation and arbitration programs within the county and a surcharge of up to \$45 on petitions for modification of a final judgment in divorce cases.

The bill, instead, levies these amounts as a state charge, with the funds deposited in the General Revenue Fund. Counties report \$4.3 million in collections for mediation and arbitration programs. Offsetting this amount, however, the state will assume the responsibility to provide mediation and arbitration services and should result in an insignificant fiscal impact over the long term.

## 2. Other:

The bill creates the Article V Indigent Services Advisory Board, one of the purposes of which is to review current statutory fee caps for payment of court-appointed counsel. In *Makemson v. Martin County*, 491 So.2d 1109 (Fla. 1986), the Florida Supreme Court found “fee maximums unconstitutional when applied to cases involving extraordinary circumstances and unusual representation.” The Court ruled that “in extraordinary and unusual cases” the court may depart from the statute’s fee guidelines “when necessary in order to ensure that an attorney who has served the public by defending the accused is not compensated in an amount which is confiscatory of his or her time, energy and talents.”

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

This PCB largely reflects the result of the recommendations of the House Select Committee on Article V. The major changes between the PCB and the final committee recommendations are as follows:

- Included pre-trial consultation fees and costs as an element of state attorneys, public defenders, and private court-appointed counsel.
- Included reasonable and necessary transportation services for state attorneys and public defenders as a “local requirement” in accordance with the authority granted to the Legislature in Revision 7.
- Revised the proposed amended definition of “communications services” for purposes of defining the funding obligation of counties to require counties to provide access to a local carrier for local and long distance service and pay for the local service.
- Made numerous technical cleanup changes (e.g., conforming, organization).
- Expand clerk of court responsibility for handling estimates and requisitions for certain state-funded services from juror compensation to all due process services such as court-appointed counsel, witnesses, mental health professionals, and court reporting and translator services.
- Changes the fee on reopened cases in circuit civil filings from one discretionary with the clerk of court to one required to be imposed by clerks of court. Provides that for FY 2003-04 only, fee proceeds will be held in the Grants and Donations Trust Fund within the Justice Administrative Commission. Beginning July 1, 2004, proceeds will be used by clerks to offset their costs.
- Includes a contingency fund for the judicial branch similar to that recommended by the Select Committee for the Justice Administrative Commission for due process costs. Restructured proposed language for the contingency fund for the Justice Administrative Commission.
- Revises the membership of the proposed Article V Indigent Services Advisory Board to require appointment of an individual with criminal trial experience (other than a state attorney or public defender).
- Restored current law directing application fees paid by indigent defendants for appointed counsel to the Indigent Criminal Defendants Trust Fund rather than the General Revenue

Fund. Also directed revenues from any assessed attorney's fees and costs (i.e., public defender liens) into this Trust Fund.

- Restores a proposed removal of provision for funds set aside for appeals by public defenders.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

There were 9 amendments adopted April 15, 2003 by the Committee on Appropriations to the PCB as originally proposed. Eight of these were recommended by the Subcommittee on Judicial Appropriations as follows:

- Amendment 1 allows counties to use surplus teen court funds for juvenile drug courts.
- Amendment 2 provides that the judiciary may work on Sundays and holidays.
- Amendment 8 redirects the \$40 public defender application fee from the Indigent Criminal Defense Trust Fund into the General Revenue Fund.
- Amendment 9 redirects recoveries from public defender liens from the Indigent Criminal Defense Trust Fund into the General Revenue Fund.
- Amendments 10 through 13 were adopted to correct drafting errors.

In addition, an amendment was adopted in the full committee to clarify that a \$50 filing fee on reopened civil cases would only be deposited into the Justice Administrative Commission's Grants and Donations Trust Fund for FY 2003-04 only. After FY 2003-04, the revenue will be used by Clerks of Court to offset the costs of their operations.