HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1461 Court System Funding
SPONSOR(S): Domino
TIED BILLS: **IDEN./SIM. BILLS:** SB 2024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Appropriations Committee		Brazzell	DeBeaugrine
2) Judiciary Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

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

HB 1461 deletes the requirement that the Department of Revenue determine whether a county is budgeting sufficient funding (as determined by a formula) to fund certain court-related responsibilities, and, if a county is not, withholding revenue-sharing funds equal to the shortfall and providing these to the circuit court.

Instead, the bill provides that counties that expend a specified amount of funds (as determined by a different formula) have met their court-related funding obligations. The bill provides exceptions for when lower funding would be acceptable. There would be no penalty if a county did not expend the specified funds.

The bill appears to have a fiscal impact on state and local governments. See "Fiscal Comments".

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: This bill reduces the responsibilities of the Department of Revenue to review counties' court-related budgets and take other related actions.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

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

Currently s. 29.008(4), F.S., provides a process for the Department of Revenue (DOR) to review whether counties are budgeting sufficient funding for certain court-related responsibilities under s. 29.008(1), F.S. These responsibilities include funding the costs of communications services, existing radio systems, existing multiagency criminal justice information systems, and local requirements pursuant to s. 29.008(2)(a)(1), F.S., as well as facilities, maintenance, utilities, and security for circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

Section 29.008(4), F.S., provides a formula that dictates the minimum amount a county must budget that requires a 1.5% annual growth in the budgeted amounts for each responsibility compared to the base year, which is FY 2002-03. The statute requires the submission of budget documents by the county to the DOR, and, if the DOR finds that the county is not meeting its requirement to budget sufficient funds, requires the DOR to withhold other funds that would otherwise be remitted to a county and instead pay the county's unbudgeted court-related funding obligations.

The DOR reviewed this process and in its report *Reporting and Oversight of County Court-Related Funding Obligations: Review and Recommendations* (November 15, 2005), highlighted perceived problems. Among other recommended changes, DOR suggests that the agency be relieved of its obligation to determine county compliance with their budgeting responsibilities and that this and other of its obligations be transferred to the Department of Financial Services, in part because the agency believes the review duplicates another required to be conducted by the Chief Financial Officer (CFO) [1]and that the duty falls within the core competency of the Department of Financial Services. Under its proposal, the DOR would retain responsibility for withholding funds as directed by the CFO, based on his or her review. The DOR also suggested that actual rather than budgeted expenditures be compared and that allowances be made for exceptions such as nonrecurring expenditures made in the base year.

Proposed Changes

The bill:

- Provides for evaluation of a county's court-related *expenditures* rather than their court-related *budgets*.

[1] Counties' actual court-related expenditures are listed in documents submitted to the Chief Financial Officer pursuant to s. 29.0085, F.S.

- Changes the base year from the 2002-03 fiscal year to the average of the expenditures over the previous 5 fiscal years.
- Removes from the formula the county's responsibility to fund facilities.[2]
- Provides that counties' court-related funding obligations are satisfied if counties' spending grows by 1.5% annually.
- Removes the requirement for the county to submit budget documents to any entity for review and eliminates the mechanism for the withholding of certain funds from counties not in compliance with the budgeting requirements and the funds' redirection to the courts.
- Provides that counties may spend less than what the formula requires if technology and equipment innovations have resulted in savings and allows the chief judge to certify these reductions in expenditures.

C. SECTION DIRECTORY:

Section 1 amends s. 29.008, F.S., to revise the process for determining and compelling county compliance with their court-related funding responsibilities.

Section 2 amends s. 29.0085, F.S., regarding county submission of documentation of certain revenues and expenditures to the Chief Financial Officer.

Section 3 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See "Fiscal Comments", below.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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[2] Section 29.008(1)(a) defines "facility" as "reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders' offices, state attorneys' offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term "facility" includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. The office space provided by a county may not be less than the standards for space allotment adopted by the Department of Management Services, except this requirement applies only to facilities that are leased, or on which construction commences, after June 30, 2003. County funding must include physical modifications and improvements to all facilities as are required for compliance with the Americans with Disabilities Act. Upon mutual agreement of a county and the affected entity in this paragraph, the office space provided by the county may vary from the standards for space allotment adopted by the Department of Management Services.

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders. Court reporting equipment in these areas or facilities is not a responsibility of the county.
2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communication services as defined in paragraph (f).

1. Revenues:

   See “Fiscal Comments”, below.

2. Expenditures:

   See “Fiscal Comments”, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill eliminates the Department of Revenue’s (DOR) ability to withhold certain revenues from counties that are not in compliance with their responsibilities to budget required amounts to fund certain court-related responsibilities. While the DOR has calculated that it is required to withhold $4.6 million from counties for FY 04-05 and $18.2 million for FY 05-06, it has not yet withheld these funds. The bill does not affect the withholdings for these 2 fiscal years but would eliminate the DOR’s ability to withhold funds in future years, thus counties would not be subject to withholding in the future.

Accordingly, since the circuit courts serving these counties would have received the withheld funds, under this bill, these circuit courts would not receive such funds in the future.

Since the bill explicitly limits counties’ funding obligations for certain court-related responsibilities, if the funding formula requires less funding than the county otherwise would have provided, the circuit courts will receive less funding from the counties for counties’ court-related responsibilities in the future.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear what impact a chief judge’s choice to certify or not certify a county’s reduced expenditures, as provided for in section 1 of the bill, would have upon county expenditures.

Section 29.0085(1), F.S., currently provides for counties to submit annually to the Chief Financial Officer a statement of revenues and expenditures which identifies total county expenditures for the court-related county responsibilities. The amendment the bill makes to this subsection appears to provide for this statement to reflect an averaging of the previous five years’ revenues and expenditures.

It is unclear whether this is the intent of the bill or if, rather, the revenues and expenditures from each statement from each of the previous five years are to be averaged and reflected in a new document.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.