

PROPER FUNDING OF THE STATE COURTS SYSTEM
Is CRUCIAL TO RULE OF LAW,
TAXPAYER CONFIDENCE, AND A HEALTHY ECONOMY

INADEQUATE FUNDING MAY RESULT IN
JUSTICE DELAYED, JUSTICE DENIED



A Florida TaxWatch Special Report

February 2004

Nearly a Quarter of a Century in the Making

“Florida TaxWatch views the eventual elimination by the Legislature of the dual system of state and local funding in the judicial branch as inevitable. If the citizens of Florida are to have a unified court system, with effective and efficient fiscal management, however, the courts must adopt one unified management structure with the centralized leadership necessary to provide for the implementation of one uniform set of guidelines and procedures.

The Legislature must, however, give considerable thought and planning to state assumption of additional judicial costs.

Without the proper external standards of administration and clear authority and responsibility for their implementation, the Judiciary cannot effectively provide the needed accountability to the taxpayers of Florida.”

*Executive Summary
Florida TaxWatch Analysis
“Florida’s Judicial Branch:
Improving Its Administration”
February 3, 1980*



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February 25, 2004

Dear Fellow Floridian,

Florida faces an unprecedented challenge as the responsibility for funding the State Courts System is transferred from individual Florida counties to the state. At risk is the erosion of fundamental freedoms that we as Americans are guaranteed. Nearly a quarter of a century ago, Florida TaxWatch identified the critical importance of a unified State Courts System in Florida. More recently, Florida Supreme Court Chief Justice Harry Lee Anstead asked Florida TaxWatch to examine the impact of this transition on our state's Judiciary, focusing on the importance of adequate funding to the economy and the well being of our state. Our State Courts System plays a critical role in maintaining the Rule of Law and a healthy business climate where impartial, timely and peaceful resolution of disputes serves to enhance predictability for businesses and the health of our economy.

Florida TaxWatch's examination respectfully acknowledges that our State Courts System is a core and critical branch of our Florida government. And while perception may easily default to the belief that government is inherently wasteful, a fine line can be drawn when the root functions of one of the three branches of government may be compromised. As our founding President George Washington emphasized, "The administration of justice is the firmest pillar of government." Additionally, our examination carefully regards the original intention of a unified State Courts System—to bring equal justice to all Floridians, in every county of our state—to be of paramount importance.

We Floridians now stand at a crossroads as we fully implement Revision 7. The implications of removing or limiting essential functions of our State Courts System have the potential to wreak havoc on the freedoms both individuals and businesses of this great state and nation enjoy. As the late British statesman William E. Gladstone so eloquently noted, "Justice delayed is justice denied." If we inhibit the Court's ability, through an inadequate level of funding, to carry out its constitutional obligations, businesses and citizens may find themselves in the back of the line awaiting their entitled helping of justice. We must think carefully about how potential backlogs and delays of justice linked to underfunding may affect the daily lives of all Floridians and in turn the future economic health and viability of Florida.

In this age of fiscal belt tightening and economic uncertainty, our state leaders continue to search for ways to keep checks on our state budget. Florida TaxWatch underscores the need to act responsibly with taxpayer dollars while urging our leaders to ensure that the formal institution where our battles for justice are fought and won, our State Courts System, is neither impeded nor disrupted as the state assumes its new constitutional funding obligation.

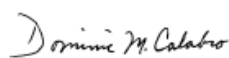
To help bridge the budget gap and ensure proper courts funding, Florida TaxWatch offers the state legislature six well-researched sources of approximately \$180-million in non-tax revenue. In addition, we've identified \$30-million worth of cost savings, innovations, and productivity improvements to provide future savings beyond FY 2004-05.

We thank the Chief Justice and the many people who have offered their support and expertise. We hope the 2004 Legislature takes this opportunity to properly fund the State Courts System to complete the voters' intent in 1972 and again in 1998 to create a Judiciary that is modern, responsive, cost-effective, innovative and accountable. In the end, the taxpayers of Florida—senior citizens, families, children, business customers, owners and employees—deserve and should expect nothing less.

Respectfully,



Hoyt R. "Barney" Barnett
Florida TaxWatch Chairman



Dominic M. Calabro
Florida TaxWatch President and CEO

The upcoming session of the Florida Legislature will likely be the most important in recent memory as lawmakers decide how to pay for our trial courts.

Under the leadership of Chief Justice Harry Lee Anstead and helped by the Bar, the Supreme Court has embarked on a vigorous education campaign to amass public support for adequate court funding. Floridians are learning that Florida's judges oversee millions of cases each year, involving criminal, family, civil, juvenile, probate, and other areas. Those actions protect public safety and personal property, resolve business disputes, and help the state in its social, business, cultural, and governmental activities—all at a cost, even with increased funding, at well under one percent of the state budget. *(This refers only to the State Courts System.)*

The business community also finds itself in a critical position with regard to this issue. The TaxWatch study supports what the legal community has been saying all along: A strong, effective court system is essential to having a thriving business community. An underfunded court system leads to a backlog of cases and hampers business activity. Worse yet, prolonged underfunding of our courts can have tremendous consequences on commercial and economic matters in our state.

Lawyers understand the vital importance of the court system and it is our duty to be a resource to the leaders in our communities. Access to our courts is a fundamental of American democracy. The Florida Bar continues to adhere to its core principles by supporting this study: Protecting Rights, Pursuing Justice and Promoting Professionalism.

Miles A. McGrane, III
2003-04 President
The Florida Bar

SUMMARY OF CONSTITUTIONAL REVISION 7

Funding for the state courts system, state attorney and public defender offices, and court-appointed counsel shall be provided from state revenues.

All funding for clerks of circuit and county courts performing court-related functions may be from filing fees for judicial proceedings and service charges.

The state shall provide funding where the Constitutions of the United States or Florida preclude fees and service charges to fund court-related functions of clerks of circuit and county courts.

Counties shall fund communications services, existing radio systems, existing multi-agency criminal justice information systems, and construction or lease, maintenance, utilities, and security of facilities for trial courts, public defender and state attorney offices, and offices of clerks of circuit and county courts performing court-related functions.

Counties shall pay salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.

Summary of Article V, Section 14, Florida Constitution, as amended by voters in the November 1998 General Election

Executive Summary

In the November 1998 general election, nearly 57% of voting Floridians approved constitutional Revision 7 amending Judicial Article V to shift funding of most state courts operations from counties to the state on July 1, 2004. Implementing the judiciary's new fiscal responsibilities—which have been the province of counties for decades, partly by state default—is a legislative and taxpayer priority of the highest order.

The administration of justice is the firmest pillar of government.

George Washington

Floridians stand at a crossroads as we fully implement Revision 7. The implications of removing or limiting essential functions of our State Courts System have the potential to wreak havoc on the freedoms both individuals and businesses of this great state and nation enjoy. As the late British statesman William E. Gladstone so eloquently noted, “Justice delayed is justice denied.”

Justice delayed is justice denied.

William E. Gladstone

As our state leaders rightfully seek ways to control our state budget, Florida TaxWatch underscores the need to act responsibly with taxpayer dollars while ensuring that the formal institution where our battles for justice are fought and won, our State Courts System, is not impeded nor disrupted when the state assumes its new constitutional funding obligation. At risk is the erosion of fundamental freedoms that we as Americans are guaranteed.

If we inhibit the court's ability, through an inadequate level of funding, to carry out its constitutional obligations, businesses and citizens may find themselves in the back of the line, awaiting their entitled helping of justice. We must think carefully about how potential backlogs and delays of justice linked to underfunding may affect the daily lives of all Floridians and in turn the future economic health and vitality of Florida.

Florida TaxWatch's report addresses the critical need for vision and statesmanship to fund Revision 7 responsibilities of the State Courts System throughout Florida's 20 judicial circuits—particularly with an eye toward achieving equity among large urban counties and small rural counties and to set fees at appropriate levels to pay for state courts-related functions performed by Clerks of the Circuit and County Courts. The report also calls for careful consideration by Florida lawmakers to ensure the equitable funding of selected court personnel and programs that are integral to 14 statutorily enumerated functions so essential to Florida being able to maintain a responsive trial court system.

State Courts System Funding

New State Responsibilities	Continuing State Responsibilities	County Responsibilities
Hearing Officers/General Masters ¹ Court Administration ¹ Court Reporting Court Interpreting Expert Witnesses Legal materials for Judges and Staff Attorneys Mediation/Arbitration Case Management	Judges Judicial Assistants/Law Clerks Juror Compensation Supreme Court Appellate Courts Judicial Qualifications Commission	Court Facilities Office Space Existing Communications & Information Systems State Courts Services to Local Governments

¹ Hearing Officers/General Masters and Court Administration will be primarily a state responsibility. They received state and local funding prior to Revision 7 and may continue to get some local funding under local requirements or local option programs.



Reforms Three Decades In The Making

In 1972, Florida voters approved a re-write of Article V, Section 14, of the Florida Constitution to organizationally unify state courts and eliminate municipal courts.

Responsibility for paying judges’ salaries and those of selected support personnel shifted to the state, but intergovernmental disagreements over funding many other judicial functions prevented anywhere near full implementation of fiscal reforms envisioned in the re-written Article V, thus continuing to place unfair fiscal burdens on counties.

Florida’s population doubled in the next 25 years from 8 million to 16 million and counties paid half or more of state trial courts costs.

Spending disparities among counties impacted the availability, timelines and quality of justice. Some less affluent jurisdictions were challenged to cover even basic costs that should have been paid by the state.

The 1998 Constitutional Revision Commission responded to counties’ calls for equity and relief with Revision 7.

Revision 7 passed with the support of 56.9% of those voting on the amendment.

In addition to replacing fiscal fragmentation with more uniform state funding and providing counties much needed budgetary relief, Revision 7 seeks to increase judicial consistency statewide so litigants—regardless of their location—receive similar services and similar opportunities for timely justice.

A properly funded State Courts System should serve to complete the voters' intent in 1972 and again in 1998 to create a judiciary that is modern, responsive, cost-effective, innovative and accountable. In the end, the taxpayers of Florida—senior citizens, families, children, business customers, owners and employees—deserve and should expect nothing less.



What Revision 7 Does

Revision 7 assigns specific cost responsibilities to the state in order to complete the electorate's 1972 overhaul of Article V of the Constitution and end 170 years of fragmented judicial funding as of July 1, 2004.

Revision 7 provides for state funding of most state courts functions, court-appointed counsel and clerk of circuit and county court offices performing court-related functions. Counties will continue to fund some court functions and have discretion to pay for others not funded by the Legislature. These include:

- Construction or leasing plus maintenance, utilities and security of court facilities;
- Office space for state attorneys and public defenders and circuit and county clerk staff performing state courts functions;
- Maintenance of existing information systems and communications; and
- Salaries and expenses related to state courts services provided pursuant to local requirements as determined by general law.



Rule of Law

The Rule of Law is the guide by which we, as a free and civilized society, choose to establish and maintain law and order. It helps preserve cherished freedoms and rights to fair, equal and timely legal processes and decisions that prevent abuse and misuse of public and private power and authority.

More than 95% of judicial activity nationwide occurs in state courts. They are the bedrock of the Rule of Law, an enduring pillar of America's constitutional democratic republic. An adequately funded Florida judiciary is essential to upholding the Rule of Law and meeting citizen and private sector expectations.

Critically important components of the Rule of Law will be advanced or diminished by the adequacy of Revision 7 funding. These include:

- Consistent and timely due process before citizen's lives, liberty or property are impacted;

- Protection of indigent rights and minority voices;
- Timely, peaceful resolution of business and personal disputes;
- Prudent application of rules; and
- Timely review of government decisions.

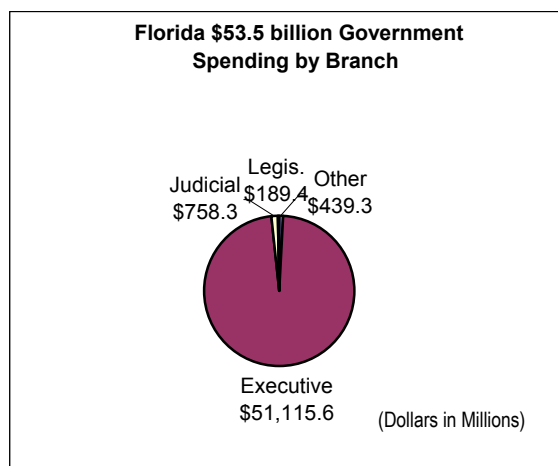


State Courts Serve All Floridians, Provide Good Value

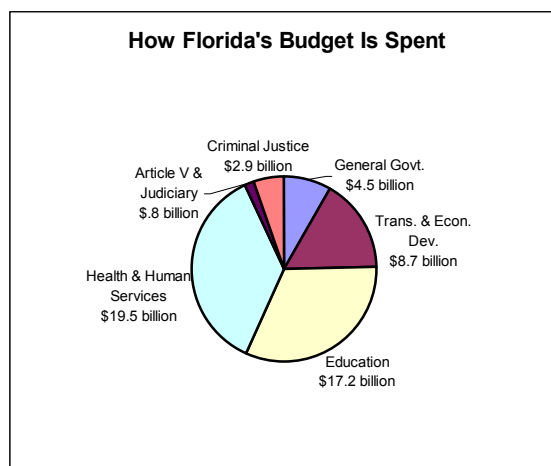
Perception exists that courthouses are for “those criminals” and to house the associated offices of judges and their paperwork. While it is true that the hallowed halls of justice are where criminals are sentenced, state courts also serve, among others, the victims of crimes and civil disputes.

Every Floridian is more than likely to be touched by the Judicial Branch of government. Whether as a plaintiff, a defendant, a child in a custody dispute, a business seeking resolution of a dispute, a victim of violent crime, an injured person seeking compensation, a party in a property dispute, an heir in a probate proceeding, a witness, or a juror or an attorney, most Floridians interact with a court in some direct way during their lifetime.

Florida’s Executive Branch is spending 98% of the 2003-2004 budget.
Judicial Branch 1.5%; Legislative Branch .5%



Source: State Budget and Florida TaxWatch



Source: Office of the State Courts Administrator

Floridians get good value for the money spent on their State Courts System. The total dollar amount (\$758.3 million) for the Judicial Branch plus State Attorneys, Public Defenders and the Justice Administrative Commission for FY 2004-2005 is only 1.5% of Florida’s \$53.5 billion budget.

Florida's State Courts System is recognized as among the nation's best for innovations, groundbreaking achievements and excellence by the National Center for State Courts, the American Bar Association and others. Since the 1970s, Florida has led the way in openness of court proceedings and records; access to justice for litigants without attorneys; innovations to reduce time spent on jury duty; efficiency and timeliness in processing a large volume of cases; and drug courts that save money—and lives!

Florida's State Courts System is also looked to as a model of efficiency. Our trial courts operate with a reported 33% fewer judges than the average number in the 10 most populous states. Our judges are assigned an average of 31% more cases than their counterparts nationally.

Florida's judiciary compares favorably with other states in terms of the numbers of judges provided per 100,000 population; the numbers of trial court filings and dispositions per 100,000 population; and comparison of the percentage of state budgets spent on judiciaries as a whole and as an amount per person.



\$140 Million Funding Recommended for 2004-05

Following review of the State Courts System's seven-year planning, prioritization and consensus building process that culminated in a \$170 million funding request to implement Revision 7; consideration of the Governor's \$104 million budget recommendation which mirrors the Courts request in numerous areas; and analysis of seven funding issues where levels requested by the Courts and recommended by the Governor are significantly different or of such major importance as to warrant special attention; Florida TaxWatch recommends Revision 7 funding of \$140 million for 2004-05.

Florida TaxWatch Recommendations on Key Revision 7 Funding Issues

(FY 2004-05)

Issue	State Courts Request Total \$	Governor's Recommendation* Total \$	Florida TaxWatch Recommendation Total \$
General Masters/Hearing Officers	\$24,078,396	\$10,885,534	\$24,000,000
Court Administration	\$22,508,779	\$16,149,723	\$22,000,000
Judges and Judicial Assistants	\$13,276,131	\$2,300,000	\$7,800,000
Technology	\$7,175,382	\$0	\$5,000,000
Contingency Funding**	\$11,900,000	\$5,000,000	\$5,000,000
Staff Attorneys/Law Clerks	\$28,355,716	\$696,180	\$9,500,000
Resource Management System	\$1,500,000	\$0	\$1,000,000
Subtotal	\$96,894,404	\$35,031,437	\$74,300,000
Other Revision 7 Funding	\$73,720,065	\$69,387,776***	\$65,700,000
Grand Total Revision 7 Funding	\$170,614,469	\$104,419,213	\$140,000,000

*According to 216.081, F.S., "All of the data relative to the legislative branch and to the judicial branch shall be for information and guidance in estimating the total financial needs of the state for the ensuing fiscal year; none of these estimates shall be subject to revision or review by the Governor, and they must be included in the Governor's recommended budget."

**State Courts Request of \$11.9 million is not included in total because contingency funding is embedded within individual elements.

***Assumes that the Family Courts Trust Fund will be reauthorized, and the requested funds made available.

Explanation of Recommendations

Florida TaxWatch's recommendations focused on the following funding differences between the State Courts System's request and the Governor's recommendation:

Masters/Hearing Officers: \$24 million

The State Courts System's \$24 million request to fund 237 Masters and Hearing Officer positions is for the purpose of creating an equitable level of service in all 67 counties. By contrast, the Governor's recommended budget funds only Hearing Officer/Special Master positions in place during 2003-04 for \$10.9 million. This amount appears to be insufficient to bring "have not" counties (mainly the smaller ones) up to comparable parity with "have" counties.

Fully funding Masters and Hearing Officers is an equity issue. The intent of Revision 7 is a level of state funding that is sufficient to provide essential courts services in all 67 counties that are adequate to provide effective and cost-efficient judicial services.

Court Administration: \$22 million

Court Administration is also an equity issue. Smaller county courts lack the modern administrative infrastructure necessary to implement Revision 7. Fully funding the State Courts System's request is important so there is no reason to doubt that citizens and businesses will continue to receive the high level of judicial/administrative services they have come to expect and enjoy.

Judges and Judicial Assistants: \$7.8 million

This line-item needs compromise between a hefty \$6,800 per full-time position requested by the Courts for expenses and office equipment, and a minimal \$1,500 recommended by the Governor that assumes counties will continue paying a significant portion of courts' personnel expenses and office equipment costs.

The Office of the State Courts Administrator is currently analyzing the issue as it relates to state standards under Revision 7. This seems to be a legitimate area for discussion and negotiation to achieve a mutually acceptable and beneficial funding level.

Technology: \$5 million

This is another area for compromise. The State Courts System's request is to build a statewide system while the Governor's budget recommendation of zero funding results from incomplete agreement on state versus county responsibilities for technology at the time the Governor prepared and released his recommended budget. Moreover, the current Jeb Bush Administration has consistently demonstrated a commitment and investment in the wise use of technology throughout Florida government. The taxpayers of Florida deserve and expect nothing less than a modern, efficient and accountable State Courts System that technology can help deliver.

An interim report by the Senate Committee on Appropriations describes the complexity and uncertainty of this issue. A report prepared by the consulting firm, MGT of America, under contract with the Legislature recommends that the state provide funding for court technology infrastructure or abandon goals and opportunities that are feasible only through an integrated, statewide court technology system.

Contingency Funding: \$5 million

Because there is both great uncertainty over the magnitude of unknown costs during the first-year implementation of Revision 7, and because the Legislative Budget Commission can approve or modify such additional funding (made pursuant to law) to meet such unknown costs, the Governor's \$5 million recommendation seems more reasonable than the State Courts System's \$11.9 million request that is based on 5% for due process costs and 10% for other statutory elements.

Staff Attorneys/Law Clerks: \$9.5 million

Funding of additional law clerks or staff attorneys goes well beyond Revision 7. As long as General Master and Hearing Officer positions are fully funded, up to a three-year phase-in of 353 new positions seems reasonable. Accelerated phase-in could be achieved by using a portion of documented cost savings achieved from implementing efficiencies recommended in this report.

Resource Management System: \$ 1 million

A good State Courts System is both well funded and properly managed with sound metrics and provision for accountability in place. We manage what we measure. A resource management system is important for conducting day-to-day court operations and for reporting performance and accountability data to manage the increasing demands of the courts system. Similar to the technology issue, funding for a resource management system calls for discussion and compromise.



Impacts of Insufficient Funding

Insufficient funding would reduce the State Court System's capacity to provide justice that is accessible, fair, effective, responsive and accountable to Florida taxpayers. It would likewise reduce the capacity to protect rights and liberties, uphold and interpret the law, and provide for peaceful resolution of disputes in a timely manner.

Insufficient funding would turn back the clock. Citizens would arrive at some circuit and county courts after July 1, 2004, to find that accustomed services cannot be provided in a timely manner. Delaying judicial decisions would cause further public disruption and aggravation.

Insufficient funding that fails to keep pace with state and federally required criminal case workload will force a shift of resources toward criminal divisions of state trial courts. This action would adversely impact civil proceedings in civil, juvenile, family and probate divisions.

Insufficient funding would adversely impact civil proceedings that are so important to the efficient, dependable and profitable operation of businesses in our state. Resulting delays not only will create unnecessary expenses to litigants, but are likely to have a chilling effect on the state's business climate if it becomes apparent that the state's judiciary is acting as an impediment to efficient business operations.

Insufficient funding would be a black eye for our judiciary's hard-earned national reputation of public service that has been built over the past three decades,

Insufficient funding would continue a long-standing inappropriate financial burden on local (property) taxpayers and their local governments in direct contradiction to Revision 7's main purpose.

Insufficient funding would impact one or more of the following judicial functions and concerns: cost-efficient Hearing Officer/General Master positions; court administrative services; productivity enhancing technology; day-to-day travel and per diem expenses of judges conducting trials and other court business, particularly in geographically large circuits; contingencies relating to first-year implementation of Revision 7; staff attorneys who help make it possible for Florida to operate a nationally recognized State Courts System with 33% fewer judges than the average of the ten most populous state; (7) new judgeships certified by the Supreme Court based on a legislatively prescribed methodology; and development of a resource management system to track the State Courts System's performance and productivity.



Offsetting the Cost of Revision 7

The Florida Association of Court Clerks estimates that \$70-\$75 million worth of Revision 7-related court fees to be collected at the local level will be deposited in the state treasury to offset the state's costs for Revision 7.

To help bridge the gap between the need for increased resources to execute the state's increased constitutional responsibilities while holding down increased government spending, Florida TaxWatch offers the State Courts System suggested cost savings, innovations and productivity improvements worth \$30 million. These cost-saving and productivity improvement suggestions are offered not as a substitute for current funding, but as court management improvements beyond FY 2004-05. Additionally, Florida TaxWatch is providing at least six well-researched (non-tax) revenue-raising measures recommended by Florida TaxWatch and the Florida Legislature's performance audit area of OPPAGA worth \$180 million annually.



Fiscal Fine Tuning Ahead

The Judicial Branch's \$170 million request to begin implementing Revision 7 in 2004-05 was developed at the conclusion of a strategic planning and consensus building process designed to better organize, prioritize and eliminate selected local and state-funded trial court functions.

A Trial Court Budget Commission established in 1999 worked with circuit and county judges and administrators in the state's 20 circuits to define essential judicial elements, reach consensus on functions supporting essential elements that should be either state-funded in all counties or eliminated, and to agree on funding needs of small, medium and large circuits to meet public expectations in successfully implementing Revision 7.

The estimated costs of implementing Revision 7 in 2004-05 are based on imprecise costs of many of the state's new fiscal responsibilities. That is because county-by-county data—referred to by some detractors as a fruit salad—are differentially organized, grouped, accounted for and reported to Tallahassee. Thus, legislative fine-tuning—likely both increases and decreases in funding Revision 7—will be necessary as the state pays its new bills in FY 2004-05.

It is also important to mention the important role that Justice Administration (including State Attorneys, Public Defenders and the Justice Administrative Commission) play as partners in upholding justice in our state. Though federal requirements dictate that criminal cases be addressed within a certain timeframe, inadequate funding of either the State Courts System and Justice Administration would impede both criminal and civil cases. Thus the consequences of underfunding one are not limited to criminal or civil cases exclusively.

Although the state assumed a substantial portion of the funding for Justice Administration prior to Revision 7, a number of costs such as those for court reporting, interpreting and expert witnesses will become state-supported as of July 1, 2004. Inadequate funding for these and other elements could have a far-reaching, negative effect on Florida's Judiciary and the quality of justice for all Floridians.



Proper Funding Level is Needed to Implement Voters' Reforms

Whether as a plaintiff, a defendant, a child in a custody dispute, a business seeking resolution of a dispute, a victim of violent crime, an injured person seeking compensation, a party in a property dispute, an heir in a probate proceeding, a witness, or a juror or an attorney, most Floridians interact with the State Courts System in some direct way during their lifetime.

One cannot overstate the importance of a sound, viable and impartial Judiciary to the daily functions of a healthy, dynamic and prosperous society. After the November 2000 presidential election, there were no tanks, militia or generals called in to keep the peace. Instead there were legal briefs, the gathering of evidence and petitions to the Judiciary. This "Rule of Law" is one of the unique and precious foundations of the American experience and our constitutional democratic republic form of governing.

In the November 1998 general election, Floridians made an important choice in the administration of state justice. Nearly 57% of voters approved constitutional Revision 7 amending Judicial Article V of the Florida Constitution. On July 1, 2004, most funding of the state trial courts, State Attorneys and Public Defenders, court-appointed counsel and the judicial duties of clerks of circuit and county courts will be provided from state, rather than county, revenues.

If timely court decisions and initiatives are jeopardized by inadequate funding, protections afforded by the Rule of Law will be diminished. Without adequate and reasonable funding, the effective, fair and impartial court system that the people of Florida now take for granted could be undermined.

*2002 Annual Report
Florida's State Courts System*

Counties will continue to fund certain administrative and operational costs: construction or leasing and maintenance, utilities and security of court facilities; office space for State Attorneys and Public Defenders; and the costs of circuit and county clerk staff performing state court functions. Counties also will pay to maintain existing information systems and communications plus salaries and expenses related to state court services provided pursuant to local requirements as determined by general law.

In addition to replacing fiscal fragmentation with more uniform state funding and providing counties budgetary relief, Revision 7 seeks to increase judicial consistency statewide so litigants—regardless of their location—receive similar services and similar opportunities for timely justice.

Florida courts preserve the Rule of Law and impact every aspect of modern society: protecting democracy by upholding the law, ensuring individual rights and liberties, enforcing public order, and providing for the peaceful resolution of disputes.

*Chief Justice Harry Lee Anstead
Florida Supreme Court*

The Judicial Branch has requested \$170 million for the state's first-year implementation of Revision 7 as enumerated in House Bill 113-A, passed in the first Special Legislative Session of 2003. The request was formulated at the conclusion of a strategic planning, prioritization and consensus building process that began in 1996. It should be noted that despite the best efforts of the State Courts System's Trial Court Budget Commission, the request ultimately had to be crafted absent precise costs for many of the state's new fiscal responsibilities. Parallel cost determination efforts by the state's Chief Financial Office (Department of Financial Services), a legislative committee and a legislative consultant similarly failed to obtain precise estimates. That is because county-by-county data—referred to by some detractors as a fruit salad—are differently organized, grouped, accounted for and reported to Tallahassee.

Notwithstanding its imprecision, the State Courts System's request seeks to fulfill the promise of a voter-approved rewrite of Article V of the Constitution three decades ago. Regardless of the level of approved funding for 2004-05, legislative fine-tuning—likely both increases and decreases—and perhaps emergency mid-year appeals for funding arising from contingencies beyond the funded level, will be needed based on the state's experience in paying bills for formerly provided county services to state trial courts.

Implementing the Judicial Branch's new fiscal responsibilities, which partly by state default were the province of counties for decades, is a legislative and taxpayer priority of the highest order. The Legislature's job in this will not be easy because only minimal phased-in funding of Revision 7 required by the amendment has been appropriated since its passage in November 1998.

Additionally, in the midst of a national economic recovery, Florida is faced with a number of competing needs and requirements that will drain the state budget: the class-size reduction constitutional amendment; a huge influx of new students throughout K-20; rising Medicaid costs and a number of challenging child welfare concerns. A November 2003 Florida TaxWatch *Budget Watch* estimates that additional spending for these and other items will exceed \$2 billion in 2004-05, not including the cost of implementing Revision 7.

The intent of the amendment, which was for the state to slowly assume funding of the State Courts System over a period of several years, did not occur—most notably during several years of relative fiscal bounty following the passage of Revision 7. This puts the 2004 Legislature in a precarious situation. Instead of a fairly seamless assumption of costs over a period of up to six years that was envisioned by the amendment's framers and required, albeit without specified levels, in the voter-approved amendment, the Legislature must contend with an all-at-once fiscal impact. If Revision 7 is not properly funded, citizens, families and businesses may arrive at their local courthouses after July 1, 2004 only to find that important and necessary services are not being provided in a timely manner—or at all.

This Florida TaxWatch report addresses the critical need for vision and statesmanship to fund Revision 7 responsibilities of the State Courts System throughout Florida’s 20 judicial circuits—particularly with an eye toward achieving equity among large urban counties and small rural counties in carrying out new statutorily designated functions of the State Courts System—and to set fees at appropriate levels to pay for State Courts-related functions performed by Clerks of the Circuit and County Courts. The report also calls for careful consideration by Florida lawmakers to ensure the equitable funding of selected court personnel and programs that are integral to 14 statutorily enumerated functions so essential to Florida being able to maintain a modern and responsive trial court system.

State Courts System Funding

New State Responsibilities	Continuing State Responsibilities	County Responsibilities
Hearing Officers/General Masters ¹ Court Administration ¹ Court Reporting Court Interpreting Expert Witnesses Legal materials for Judges and Staff Attorneys Mediation/Arbitration Case Management	Judges Judicial Assistants/Law Clerks Juror Compensation Supreme Court Appellate Courts Judicial Qualifications Commission	Court Facilities Office Space Existing Communications & Information Systems State Courts Services to Local Governments

¹ Hearing Officers/General Masters and Court Administration will be primarily a state responsibility. They received state and local funding prior to Revision 7 and may continue to get some local funding under local requirements or local option programs.



Florida Courts Enjoy National Reputation

Since the passage of Article V in 1972, Florida’s Judiciary has been recognized for innovation, groundbreaking achievements and excellence in a number of areas:

1979: Florida was the first state to allow cameras in the courtroom.

1981: Florida was the first state to use interest earned on lawyer trust accounts for indigent legal services. All 50 states now operate programs modeled after Florida’s.

Florida has a history of jury improvements. It is the only state whose Supreme Court has established the size of jury pools— which benefits employers and citizens by reducing the number of people called for jury duty. It has instituted one-day jury service statewide for those not selected for a trial. It is probably alone in maintaining statewide data on jury service with an eye toward conserving jurors’ time. And Florida does not require employers to compensate their employees for time spent on jury duty, but it withholds jury fees if employers voluntarily pay salaries for time spent on jury duty.

*Tom Munsterman
Director, Center for Jury Studies
National Center for State Courts*

1989: Miami-Dade County was the birthplace of drug courts, which now serve more than 10,000 people in Florida and are operated in other states.

1990: Florida's Judiciary was the first to research justice system discrimination relating specifically to women of color.

1993: The American Bar Association recognized Florida for providing the highest quality of judicial education and training for limited jurisdiction judges.

1994: Florida's was the first State Courts System to go on-line.

1998: Florida's access initiative, "Opening the Courthouse Doors," for litigants without attorneys won the American Bar Association's Louis M. Brown Award and was a semifinalist for an Innovations in Government Award from the JFK School of Government at Harvard University and the Ford Foundation.

2000: The Office of the State Courts Administrator (OSCA) won a Davis Productivity Award (DPA) for implementing an appellate court case management system that automates document creation and viewing and collects data to support performance-based budgeting. In 1991, OSCA won a DPA for jury management improvements that reduced time spent on jury duty by 60,000 days, saving \$850,000.

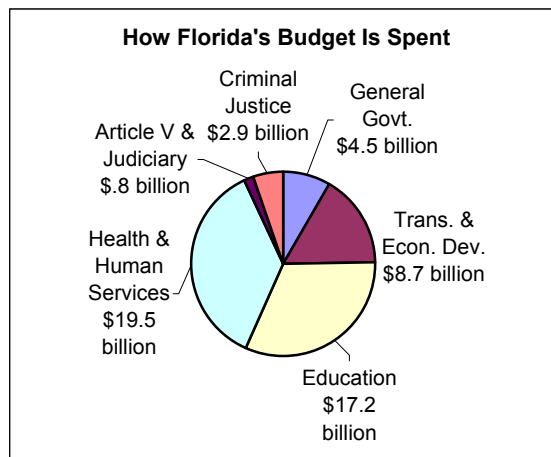
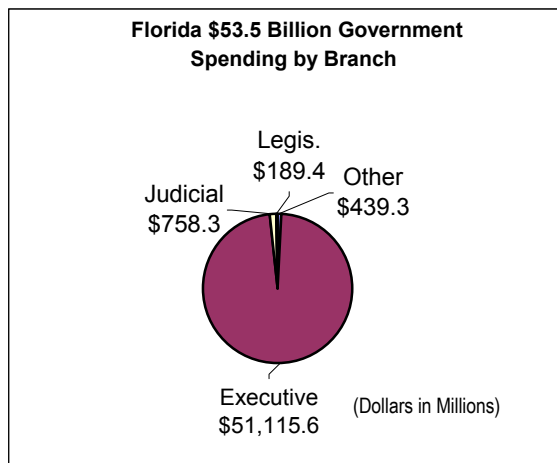
2003: The Association of Conflict Resolution's Presidential Award was presented to the Supreme Court for its significant role in the development of court-connected Alternative Dispute Resolution. The State Courts System's Dispute Resolution Center was recognized four additional times between 1996 and 2001.



State Courts Serve All Floridians, Provide Good Value

Perception exists that courthouses are for "those criminals" and for housing the offices of judges and their paperwork. While it is true that the hallowed halls of justice are where criminals are sentenced, state courts also serve, among others, the victims of crimes and civil disputes. Every Floridian is likely to be affected in some way during their lifetime by the state courts system.

Florida's Executive Branch is Spending 98% of the 2003-2004 budget.
 Judicial Branch 1.5%; Legislative Branch .5%



Note: The Judicial Branch includes the State Courts System, State Attorneys, Public Defenders and the Justice Administrative Commission. Source: Office of the State Courts Administrator
 Source: State Budget and Florida TaxWatch

Floridians get good value for the money spent on their State Courts System. The total dollar amount (\$758.3 million) for the Judicial Branch (includes the State Courts System, State Attorneys, Public Defenders and the Justice Administrative Commission) for FY 2003-2004 is only 1.5% of Florida's \$53.5 billion annual budget. Florida's State Courts System is recognized as among the nation's best for innovations, groundbreaking achievements and excellence by the National Center for State Courts, the American Bar Association and others (see previous section entitled "Florida Courts Enjoy National Reputation"). Florida's trial courts operate with a reported 33% fewer judges than the average number in the 10 most populous states. Florida judges are assigned an average of 31% more cases than their counterparts nationally.

Since 1973, county and circuit court caseloads have increased 60% while the number of judges has increased 18%. This is possible in no small part because counties, and to a lesser degree the Legislature, have funded cost-saving General Master and Hearing Officer positions in lieu of much higher cost judgeships to expedite discovery disputes in civil and family law cases, hear temporary relief and post-judgment matters, review probate and guardianship cases, accelerate child support establishment and enforcement, and hear traffic infraction cases. They submit findings and recommended orders, thereby enabling judges to concentrate on matters that only judges can constitutionally decide. Counties have also funded case management staff, which helps to increase efficiency by assisting judges in processing and handling cases. Case management staff provide initial review and evaluation of cases, including assignment of cases to court divisions or dockets; referral, coordination, monitoring and tracking of services, where appropriate; and scheduling of judicial events.



Rule of Law at Stake

The Rule of Law is more than a guidepost whereby a free and civilized society chooses to establish and maintain law and order. It is an enduring pillar of our constitutional democratic republic, helping society to preserve the many cherished freedoms that Americans enjoy each day, and protecting the rights of all to fair, equal and timely justice. The Rule of Law prevents abuse and misuse of public and private power and authority.

More than 95% of judicial activities nationwide occur in state courts, making them an institutional bedrock of the Rule of Law. A properly funded and managed Florida Judiciary is essential to support critically important components of the Rule of Law: consistent and timely due process when citizens' lives, liberties or property rights are threatened; protection of indigent rights and minority representation; timely, peaceful resolution of business and personal disputes; prudent and judicious application of rules; and timely review and oversight of government decisions/policies and related processes.

The Rule of Law bakes no bread, it is unable to distribute loaves or fishes and it cannot protect itself against external assault, but it remains the most civilized and least burdensome conception of a state yet to be devised.

*Michael Oakeshott
On History And Other Essays*



Public Trust and Confidence

Public trust and confidence in the Rule of Law legitimizes the Judiciary's constitutional role as a check on the other branches of government. It enhances voluntary compliance with court decisions; judges' ability to render legally correct but at times unpopular decisions; and self-management of court affairs without political interference.

I have no doubt that it has been the continuous support of the people that is the reason Florida's courts have been able to achieve a high level of services and problem-solving programs.

*Chief Judge Richard G. Payne
16th Judicial Circuit*

In the same way that it is necessary to adequately fund the Executive Branch of government to provide for public safety, build roadways and to help assure that succeeding generations of Floridians have ample educational opportunities, it is imperative that proper resources be provided to enable a viable and well-functioning State Courts System to maintain public trust and confidence in the Rule of Law.

A constitutional guarantee of equal justice for all Floridians will be compromised if Florida's trial courts flounder because illegitimate financial burdens are thrust upon them absent an adequate level of state funding for the requirements of Revision 7.

Should funding not be provided to fully honor the constitutionally mandated funding requirement, effective July 1, 2004, the future manifold costs required to recover from the fallout of reduced public trust and confidence in Florida's court system and the resultant likely tarnishing of the State Court System's national reputation could far exceed the level of resources required to do the job right at the outset.

Florida's State Courts System is at a critical juncture. We must take every step to minimize the risk and invoke every measure to ensure that we do not miss the opportunity to maintain a fair and effective justice system worthy of public trust throughout Florida.

*Florida Supreme Court Justices
December 2003*



Equitable Statewide Funding Intended

The fundamental purpose of Article V approved by the voters in 1972 was to create an organizationally uniform State Courts System. A quarter century later, voters approved Revision 7 to complete the job of achieving a minimum uniform funding threshold throughout the State Courts System. The purpose of uniformity is to ensure citizens' equitable access to essential components of a just court system in furtherance of the Rule of Law.

The 1998 Constitution Revision Commission's design of Revision 7 is seen in a transcript of the Commission's February 12, 1998 discussion of Revision 7; a statement of intent; and in the Revision 7 ballot language. These documents show that the voter-approved amendment provides for the state to do more than merely assume uneven county-to-county funding of state courts functions.

The promise of Article V is a fair and balanced approach to statewide funding at every locality. Small counties (pre-Revision 7) have had major problems in, for example, being able to afford conflict counsel in capital cases and that this is a very, very serious matter. These counties with fewer resources have been asking us to help get them some relief.--*Former Supreme Court Chief Justice and Constitution Revision Commissioner Gerald Kogan's comments, February 12, 1998 CRC meeting*

The Constitution Revision Commission intends for the state to fund all salaries, costs and expenses necessary to ensure the rights of the people to have access to a functioning and efficient judicial system. Core functions and requirements statewide are the obligation of the state and not of individual localities.
--*Constitutional Revision Commission Statement of Intent*

The amendment expressly promotes uniformity of justice irrespective of geography. Its intent is to make justice less dependent on a county's size or wealth and, therefore, more equitably funded and consistent with local needs. --*Revision 7 Ballot Language Adopted by Florida Voters in November 1998*



Proper Funding Needed to Allow for a Healthy Business Climate

Historically Florida TaxWatch has looked to thoughtful ways to reduce government spending as the first step toward sound fiscal policy. Florida TaxWatch has also consistently factored in its recommendations a keen eye on improving Florida's economic activity. Budget savings must not come at the expense of future development in key business sectors. Florida must ensure that it does not solve short-term problems with "solutions" that hurt in the long-term by affecting the vitality of Florida's economy and the attractiveness of the state's commercial climate. Placing hindrances in the process of business in our state, notably pushing businesses to the back of the line in the courts (as reduced funding would necessitate as the courts first handle criminal cases), could have an overall negative effect on Florida's long-term fiscal health.

Leaders in all sectors of Florida's economy depend on the court system for timely resolution of business and personal transactions. Alan Bookman of the Florida Bar states:

If my clients' issues must be litigated, long delays will only hamper business and economic growth and unnecessarily create frustration. Based upon what has happened in other states due to inadequate funding, many businesses and personal disputes are taking years to be resolved. Commerce is being impeded, and we cannot allow Florida to experience the same.

A leader in the state's retail industry states:

If it takes longer to resolve workers compensation cases, it would most likely be more costly to get these issues resolved in terms of time spent, benefits paid, and fees to our attorneys. This would have a very negative impact on our bottom line.

The Florida Council of 100, an organization made up of many of the state's top business leaders, released a report in 1995 calling for the increased, equitable funding of the state's judicial system. The report concluded that businesses are greatly affected by the quality and timeliness of the administration of justice. The Florida Council of 100 also found that when justice is delayed, there are many financial and other costs such as: lost profits; increased insurance premiums; unnecessary costs for litigation; extraordinary security costs; restoration of diminished property; lost productivity; reduced tourism; and reduced economic activity.

...slowing down the process would have a negative impact on many companies' ability to raise capital due to prolonged uncertainty over potential liability. Such delays could cause Florida companies lost opportunities, as speed to market is often critical.

*Steve Mayberry, Sr. VP,
Business Retention & Recruitment
Enterprise Florida*

Additionally, officials of Enterprise Florida, the official marketing arm for the State of Florida, and key national/international business relocation officers note that one of the most essential elements for a good business climate and the conduct of business is the certainty and stability of the environment in which business is conducted. A properly funded and well-managed State Courts System achieves this; an underfunded or poorly managed State Courts System would surely serve to undermine Florida's business climate and economic well-being.

The business community is a major user of Florida's Judicial System. Civil court interruptions could adversely impact commerce and economic development, corporate expansion/relocation decisions, profits and a variety of state tax collections.



Judiciary Plays Role in Improving Floridians' Quality of Life

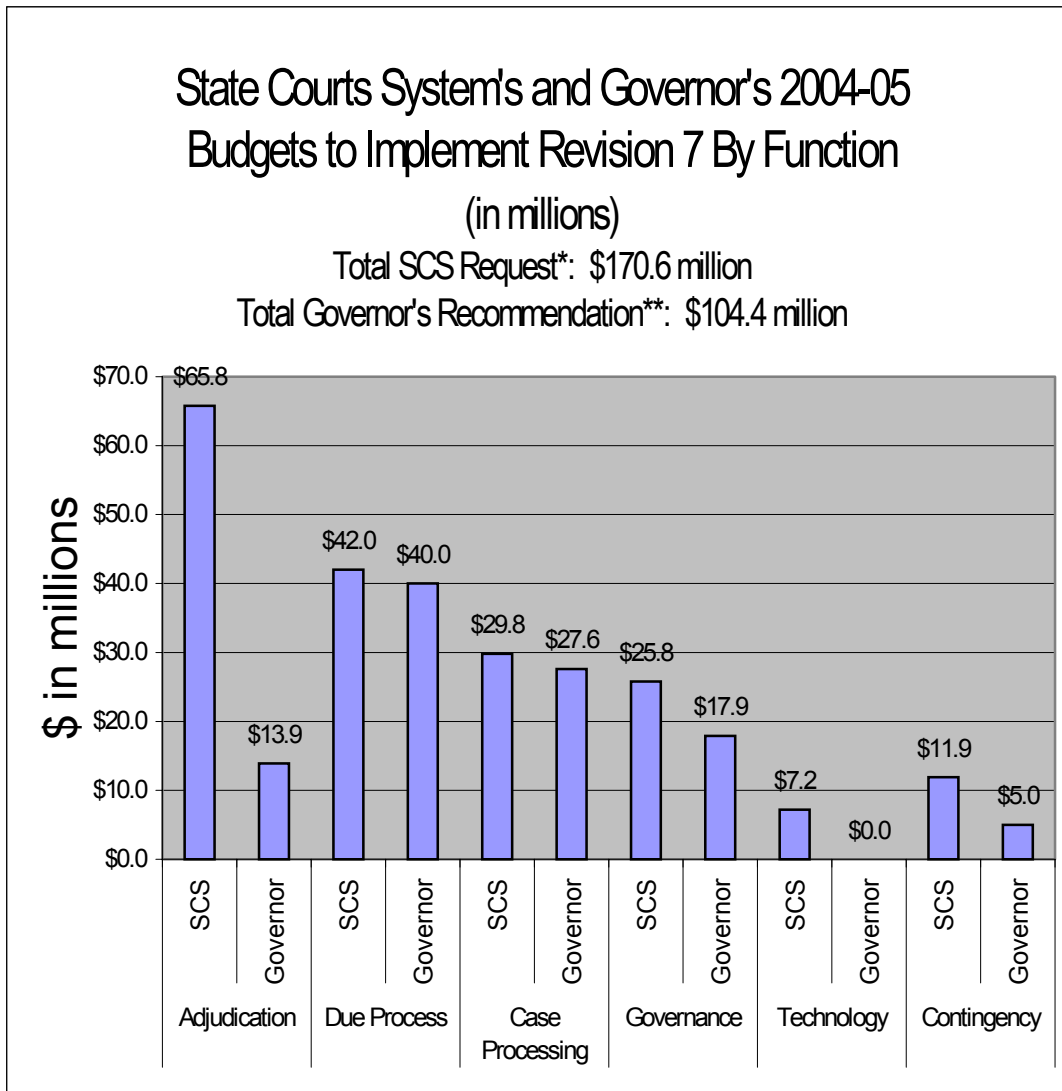
The Judiciary is instrumental in improving the "quality of life" for residents of our state and nation. Courts improve the quality of life that provides the foundation for our civil society and allows citizens to better themselves in a healthy and prosperous environment; provide the necessary balance between the executive and legislative branches of government including the assurance that the laws created are constitutionally sound and fair; and ensure protection of persons and their property regardless of religion, race or socioeconomic status. By settling disputes in a civil and timely manner, they encourage a healthy, safe, secure and dependable way of life.

While the affairs of many citizens are directly affected by judicial decisions, it is the lives of children who come under the jurisdiction of the courts that are often the most profoundly influenced. This represents an enormous challenge and opportunity to effect positive and constructive change in our society by assisting in positive and constructive changes in the lives of our troubled children. If there is any place where our most precious resource, our children, should come first, it is in our halls of justice.

*Chief Justice Anstead's letter
2002 State Courts Annual Report*

The Florida Legislature and Florida's courts have responded to local quality of life issues by establishing or supporting initiatives that go above and beyond the enforcement of justice.

One example is model dependency courts, established in several circuits by the 2000 Florida Legislature, and intended to improve the manner and speed in which cases involving children alleged to be abused, abandoned or neglected move through the court system. Data showed that these programs reduce the time needed to process cases and place children in permanent homes. Model Dependency Courts were eliminated by the budget cuts that took place in 2003. Individual counties may seek alternative revenue sources such as foundation and government grants to provide this and similar quality of life services.



*The State Courts' request of \$11.9 million in contingency funds is included in the individual elements, such as Adjudication, Due Process, etc.

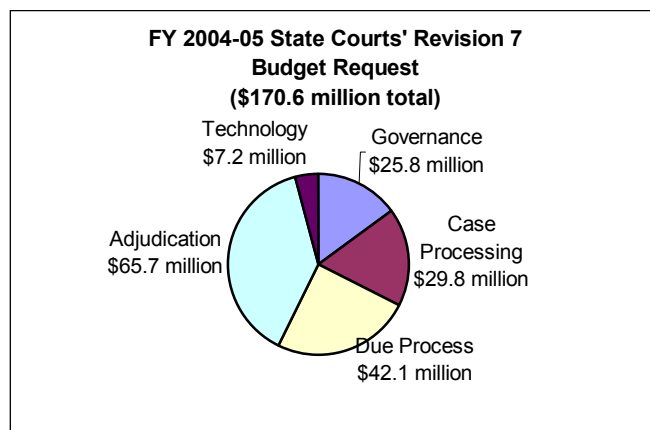
**The Governor's recommendations assume that the Family Courts Trust Fund will be reauthorized, and the requested funds will be available.

Source: Legislative Budget Request and the Governor's Recommended Budget



Statutory Elements of State Courts System

House Bill 113-A, enacted by the 2003 Legislature in the first special session to implement Revision 7, enumerates 14 elements of the State Courts System to be funded from state revenues. Six of the 14 are currently funded by state dollars; the remaining eight county-funded functions will be assumed as of July 1, 2004. (Two elements, hearing officers and court administration, may continue to receive some local funding under local requirements or local option programs.) The 14 elements are in four areas: adjudication, due process, case processing and governance.



While technology and resource management costs are not listed as a state-funded element in House Bill 113-A, they are of the utmost importance to a well-functioning court system.

New State Responsibilities	Continuing State Responsibilities	County Responsibilities
Hearing Officers/General Masters ¹ Court Administration ¹ Court Reporting Court Interpreting Expert Witnesses Legal materials for Judges and Staff Attorneys Mediation/Arbitration Case Management	Judges Judicial Assistants/Law Clerks Juror Compensation Supreme Court Appellate Courts Judicial Qualifications Commission	Court Facilities Office Space Existing Communications & Information Systems State Courts Services to Local Governments

¹ Hearing officers/General Masters and court administration will be primarily a state responsibility. They received state and local funding prior to Revision 7 and may continue to get some local funding under local requirements or local option programs.

Adjudication

1. Judges/Judicial Assistants

Since 1973, the state has provided the salaries of judges and their assistants. However, the expense dollars that traditionally accompany a state-funded FTE that furnishes general office necessities and travel expenses continued to be heavily supplemented by the counties. The Governor's recommendation of \$2.3 million only equates to \$1,500 per position. It is unclear whether the counties will be willing to continue paying any portion of the remaining costs.

Total State Courts System request: \$13.3 million
Governor's recommendation: \$2.3 million
Difference: -\$11 million

Certification of New Judgeships

Judges' salaries and those of selected support personnel shifted to the state pursuant to the re-write of Article V approved by the voters in 1972. Since then, county and circuit court caseloads have increased 60% while the number of judges has increased 18%.

Since 1972, the Supreme Court has certified a need for 921 judges, and the Legislature has authorized 614 or two-thirds of the number certified. However, between 1999 and 2003, the approval rate fell to 34% (77 of 224 judgeships certified). Thus, there is a certified shortage of 84 trial court judges, of which the Governor's recommendation funds 40 judgeships—albeit for only a portion of the 2004-05 fiscal year. It is important to note that before a need can be certified, a legislatively mandated caseload threshold must be met.

Florida's trial court system, acknowledged as one of the best in the nation, operates with a reported 33% fewer judges than the average number in 10 of the most populous states. Florida's judges are also assigned an average of 31% more cases than their counterparts nationally.

For fiscal year 2004-05, the Supreme Court has certified a need for 88 new judges (four among the five District Courts of Appeal, plus the 84 noted above⁵¹ for circuit courts and 33 for county courts). The costs for these judgeships total \$24.1 million. The Supreme Court opinion citing this need (SC03-2001) noted a history of seeking less expensive alternatives before requesting additional judgeships; *viz*, the use of case managers, mediation, general masters and hearing officers. Of course, these are used disparately and can be employed only if the counties have access to, and can allocate, the needed resources.

Florida's courts should take advantage of the less expensive and more efficient alternatives that are available to them for performing administrative and legal research work. In fact, these cost saving alternatives helped make Florida's judicial system nationally and internationally respected. Additional higher salaried judges will be needed with the reduction, or elimination, of prevention and diversion programs and personnel.

Total State Courts System request: \$24.1 million
Governor's recommendation: \$3.7 million
Difference: -\$20.4 million

2. Staff Attorneys/Law Clerks

Staff attorneys, also referred to as law clerks, provide research support to judges and a more expeditious way to successfully handle judges' workload. Counties are funding only 10 staff attorneys in FY 2003-04, and the Governor's recommendation only includes the addition of these positions. The judicial budget request for 2004-05 includes \$28.4 million for the creation of 353 new positions. If funded, this would allow every circuit judge to be assigned one staff attorney. If General Masters/Hearing Officers or case managers are not fully funded, staff attorneys will have to take on more administrative duties.

Total State Courts System request: \$28.4 million
Governor's recommendation: \$696,000
Difference: -\$27.7 million


3. General Masters and Hearing Officers


General Masters and Hearing Officers are instrumental in enabling Florida to maintain a trial court system acknowledged to be one of the best in the nation with an average of 33% fewer judges than the 10 most populous states.


General Masters and Hearing Officers help to expedite discovery disputes in civil and family law cases, hear temporary relief and post-judgment matters (especially those involving self-represented litigants), review probate and guardianship cases, accelerate child support establishment and enforcement, and hear traffic infraction cases. They submit findings and recommend orders, thereby enabling judges to concentrate on matters that only they can constitutionally decide.

The State Courts System's FY 2004-05 Revision 7 budget request of \$24 million includes funding for 237 General Masters and Hearing Officers. This request—nearly \$10 million more than the current level of county funding—underscores the inequity that localized funding produces.

The Governor's \$10.9 million recommendation is to fund those positions that are currently being disparately funded by counties. These positions would be equitably assigned to counties throughout each circuit. Ultimately, the philosophy of the state funding only positions established prior to the effective date of Revision 7 will decrease the efficiency of some counties instead of bringing all counties to an equitable—and adequate—level of funding.

 Example: One County Commission in a five-county circuit has been funding 15 General Masters/Hearing Officers while the County Commissions of the remaining four counties have not done so. As of July 1, 2004, the 15 positions that would be funded under the Governor's Recommended Budget would be spread throughout the circuit to create equitable staffing. Although this would help counties with no position(s) previously, it would harm and be unfair to those that have consistently had them.

 Chief Judge Stan Morris of the Eighth Judicial Circuit acknowledges in his letter of need for additional judgeships for FY 2004-05 that efficient use of Child Support Hearing Officers and Dependency General Masters is a successful strategy in mitigating the need for additional judgeships. He states, “Should the funding for these supplemental resources be reduced or eliminated, our ability to manage the existing caseload would be dramatically reduced.”

 The Seventh Judicial Circuit’s budget request specifies that a high clearance rate for domestic relations and juvenile cases is due to the use of quasi-judicial officers. If these positions are cut, those proceedings will be conducted by judges, and, without a corresponding increase in judges, the ability of families to receive timely justice will be severely impaired.

Total State Courts System request: \$24.1 million
Governor’s recommendation: \$10.9 million
Difference: -\$13.2 million

Due Process

4. Access to Legal Materials

House Bill 113-A’s enumeration of State Court System elements includes “basic legal materials available to the public other than a public law library.” The Office of the State Court Administrator purports that the most efficient way to provide this information is via the Internet, and one FTE and \$137,660 is requested to do so.

Total State Courts System request: \$137,660
Governor’s recommendation: \$0
Difference: -\$137,660

5. Juror Compensation and Expenses

Historically, jury expenses have been requested and dispensed to local Clerks of Court by the Office of the State Courts Administrator. House Bill 113-A inadvertently transferred this authority to the Justice Administrative Commission, which did not request funding for 2004-05. The Trial Court Budget Commission will include returning this authority in its “glitch” bill for the 2004 Legislative Session.

Total State Courts System request: \$0
Governor’s recommendation: \$4.9 million
Difference: +\$4.9 million

6. Court Reporting and Transcription

Responsibility for these constitutionally mandated services in criminal trials is assumed by the state under Revision 7. Some counties use more advanced methods of court reporting than others, thereby requiring substantial infrastructure costs that subsequently yield recurring savings. Differences between the State Courts System's request and the Governor's recommendation are attributed to contingency funds added to the State Courts System's request.

Total State Courts System request: \$26.9 million

Governor's recommendation: \$25.7 million

Difference: -\$1.2 million

7. Foreign Language and Sign Language Interpreters/Translators

More than 50 languages are communicated throughout the State of Florida, and the translation of these languages is an integral part of due process. The Florida Constitution requires translation services that have been funded entirely by counties. The State Court System's 2004-05 budget request for this item is \$8.6 million. Differences between the State Courts System's request and the Governor's recommendation are attributed to contingency funds added to the State Courts System's request.

Total State Courts System request: \$8.6 million

Governor's recommendation: \$8.1 million

Difference: -\$409,272

8. Expert Witnesses

Indigent defendants are guaranteed the right of expert witness testimony by the U.S. Constitution and Florida law. Expert witnesses support adjudication and due process by providing independent opinions concerning scientific and technical matters in dispute. They also testify on physical and mental conditions of persons in matters involving fundamental rights. The Judicial Budget Request includes \$6.2 million to meet these needs. Differences between the State Courts System's request and the Governor's recommendation are attributed to contingency funds added to the State Courts System's request.

Total State Courts System request: \$6.2 million

Governor's recommendation: \$5.9 million

Difference: -\$297,180

9. Facilities

Chapter 29, Florida Statutes, establishes the state's responsibility to provide funding for construction or lease of facilities plus maintenance, utilities and security for the District Courts of Appeal and Supreme Court.

The 2004-05 budget request for these items is \$909,295. Counties must continue to fund construction or lease of facilities plus maintenance, utilities and security for state trial court facilities.

Total State Courts System request: \$909,295
Governor's recommendation: \$622,751
Difference: -\$286,544

10. Judicial Qualifications Commission

The Judicial Qualifications Commission has been state funded since its inception in 1966. It is charged with investigating complaints against Florida judges and making recommendations to the Supreme Court.

Total State Courts System request: \$820,156
Governor's recommendation: \$820,156
Difference: \$0

11. Offices of the Appellate Clerks and Marshals and Appellate Law Libraries.

The state will continue to fund the Clerks of Court for the five District Courts of Appeal and the Florida Supreme Court. The Clerk of the Supreme Court is the custodian of all official Court records, including all pleadings and other documents as well as the official orders, opinions and mandates of the Court. The Clerk also provides an administrative role by scheduling and coordinating cases. The Supreme Court's Library supports the legal research needs of court personnel and to a lesser extent the public

Clerks of the District Courts of Appeal ensure that cases and official documents are processed in an accurate, secure and timely manner. Marshals supervise security operations of the appellate courts.

Total State Courts System request: \$600,188
Governor's recommendation: \$600,188
Difference: \$0

Governance

12. Court Administration

Court Administration includes executive direction, operations management and support services, paying bills, scheduling translators, and supplying information to the state, among other activities, that enable judges to execute their constitutional responsibility to adjudicate disputes, and their constitutional/statutory duty to assist in the governance of the Judicial Branch. This issue is not one of equity or a shift in funding responsibility, but rather to ensure that courts continue operating at a high level of efficiency.

The courts of this country need management which busy and overworked judges, with vastly increased caseloads, cannot give. We need a corps of trained administrators or managers, just as hospitals found they needed many years ago, to manage and direct the machinery so that judges can concentrate on their primary professional duty of judging.
*Former U.S. Supreme Court
 Chief Justice Warren E. Burger*

The judicial branch is not a coequal branch of government unless it has the ability and authority to manage its internal operations, including its largest single component, the trial courts.

*Bob Tobin
Principal Court Management Consultant
National Center for State Courts*

The State Courts System’s 2004-05 budget request includes 17.5 new positions in the State Courts Administrator’s Office to handle centralized administrative functions formerly performed locally.

Total State Courts System request: \$22.5 million
Governor’s recommendation: \$16.1 million
Difference: -\$6.4 million

Case Processing

13. Case Management for Non-Therapeutic Jurisprudence

Case managers help reduce the need for additional (higher salaried) judges and high-level managers by conducting the initial review, evaluation and assignment of cases; scheduling judicial proceedings; and tracking cases through the judicial process. Differences between the State Courts System’s request and the Governor’s recommendation are attributed to contingency funds added to the State Courts System’s request.

Total State Courts System request: \$13.7 million
Governor’s recommendation: \$12.5 million
Difference: -\$1.25 million

14. Mediation and Arbitration

Mediation is an efficient, cost effective alternative to litigation, resulting in more effective use of judges’ time. It is statutorily mandated in a number of circumstances, and judges have discretion for its additional use. About 10% of the more than one million civil cases filed annually in Florida courts are referred to mediation, thereby conserving judicial resources.

In addition to saving time and money, mediation and arbitration are used to empower litigants and provide better results for families, individuals and businesses. For example, mediation allows parents and the Department of Children and Families to develop meaningful dependency case plans.

The cost paid by those participating in mediation depends on the type of case and/or ability to pay. Under Revision 7, remaining costs will be paid by the state.

Total State Courts System request: \$11 million
Governor’s recommendation: \$10 million
Difference: -\$1 million

Florida TaxWatch Recommendations on Key Revision 7 Funding Issues

(FY 2004-05)

Issue	State Courts Request Total \$	Governor's Recommendation* Total \$	Florida TaxWatch Recommendation Total \$
General Masters/Hearing Officers	\$24,078,396	\$10,885,534	\$24,000,000
Court Administration	\$22,508,779	\$16,149,723	\$22,000,000
Judges and Judicial Assistants	\$13,276,131	\$2,300,000	\$7,800,000
Technology	\$7,175,382	\$0	\$5,000,000
Contingency Funding**	\$11,900,000	\$5,000,000	\$5,000,000
Staff Attorneys/Law Clerks	\$28,355,716	\$696,180	\$9,500,000
Resource Management System	\$1,500,000	\$0	\$1,000,000
Subtotal	\$96,894,404	\$35,031,437	\$74,300,000
Other Revision 7 Funding	\$73,720,065	\$69,387,776***	\$65,700,000
Grand Total Revision 7 Funding	\$170,614,469	\$104,419,213	\$140,000,000

*According to 216.081, F.S., "All of the data relative to the legislative branch and to the judicial branch shall be for information and guidance in estimating the total financial needs of the state for the ensuing fiscal year; none of these estimates shall be subject to revision or review by the Governor, and they must be included in the Governor's recommended budget."

**State Courts Request of \$11.9 million is not included in total because contingency funding is embedded within individual elements.

***Assumes that the Family Courts Trust Fund will be reauthorized, and the requested funds made available.

Explanation of Florida TaxWatch Recommendations

The following Florida TaxWatch recommendations address seven issues for which there are differences between the Legislative Budget Request of the State Courts System and the Governor's recommended budget.

General Masters/Hearing Officers: \$24 million

The State Courts System's \$24 million request to fund 237 General Masters and Hearing Officer positions is (as discussed previously) for the purpose of creating an equitable level of service in all 67 counties. By contrast, the Governor's recommended budget funds only General Master/Hearing Officer positions in place during 2003-04 for \$10.9 million.

Funding General Masters and Hearing Officers is an equity issue. The intent of Revision 7 is a level of state funding that is sufficient to provide essential courts services in all 67 counties that are adequate to provide effective and cost-efficient judicial services. The Governor's recommendation appears to be insufficient to bring "have not" counties (mainly the smaller ones) up to comparable parity with "have" counties.

Court Administration: \$22 million

Court Administration is also an equity issue. Smaller county courts lack the modern administrative infrastructure necessary to implement Revision 7. Fully funding the State Courts System's request is important so there is no reason to doubt that citizens and businesses will continue to receive the high level of judicial/administrative services they have come to expect and enjoy.

Judges and Judicial Assistants: \$7.8 million

This line-item needs compromise between a hefty \$6,800 per full-time position requested by the courts for expenses and office equipment, and a minimal \$1,500 recommended by the Governor that assumes counties will continue paying a significant portion of courts' personnel expenses and office equipment costs.

The Office of the State Courts Administrator is currently analyzing the issue as it relates to state standards under Revision 7. This is a legitimate area for discussion and negotiation to achieve a mutually acceptable and beneficial funding level.

Technology: \$5 million

This is another area for compromise. The State Courts System's request is to build a statewide system while the Governor's budget recommendation of zero funding likely was based on incomplete agreement on state versus county responsibilities for technology at the time the Governor prepared and released his recommended budget.

An interim report by the Senate Committee on Appropriations describes the complexity and uncertainty of this issue. A report prepared by the consulting firm, MGT of America, under contract with the Legislature recommends that the state provide funding for court technology infrastructure or abandon goals and opportunities that are feasible only through an integrated, statewide court technology system.

The Jeb Bush Administration has consistently demonstrated a commitment and investment in the wise use of technology throughout Florida government. Taxpayers deserve and expect nothing less than a modern, efficient and accountable courts system that technology can help deliver.

Contingency Funding: \$5 million

Because there is both great uncertainty over the magnitude of unknown costs during the first year implementation of Revision 7, and because the Legislative Budget Commission can approve or modify additional funding (made pursuant to law) to meet such unknown costs, the Governor's \$5 million recommendation seems more reasonable than the Courts' \$11.9 million request that is based on 5% for due process costs and 10% for other statutory elements.

Staff Attorneys/Law Clerks: \$9.5 million

Funding of additional law clerks or staff attorneys goes well beyond Revision 7. As long as General Masters and Hearing Officer positions are fully funded, a three-year phase in of 353 new positions seems reasonable. Accelerated phase-in could be achieved by using a portion of documented cost savings achieved from implementing efficiencies recommended in this report.

Resource Management System: \$ 1 million

A resource management system is important for conducting day-to-day court operations and for reporting performance and accountability data to manage the increasing demands of the courts system. A good courts system is both well funded and properly managed with sound metrics and provision for accountability in place. Providing a method to monitor the process and methods will allow state and local administrators to enhance performance by shifting resources where they are most needed. It also allows for a collaborative means of assessing and monitoring the performance of the State Courts System between the state and local circuits. Similar to the technology issue, funding for a resource management system calls for discussion and compromise.



Possible Scenarios from Underfunding Revision 7

The following scenarios relating to six components of the State Courts System are presented as possible consequences of significantly underfunding the implementation of Revision 7 in 2004-05.

<p>SCENARIO ONE HEARING OFFICERS AND GENERAL MASTERS</p>

Underfunding Hearing Officer and General Master positions will require shifting family law and civil court judges in some circuits and counties for the purpose of assisting with criminal trials and other judicial proceedings that have state and/or federal time requirements.

This shift, in turn, likely will delay the resolution of family law cases involving guardianship, child support payments and adoptions; delay resolution of business disputes; delay traffic infraction cases; delay estate settlements; and delay post-judgment matters involving self-represented litigants.


Hearing Officers and General Masters help Florida operate a highly regarded judicial system with nearly 33% fewer judges than the average of the 10 most populous states. Hearing Officers and General Masters help to expedite discovery disputes in civil and family law cases, hear temporary relief and post-judgment matters (especially those involving self-represented litigants), review probate and guardianship cases, accelerate child support establishment and enforcement, and hear traffic infraction cases. They submit findings and recommend orders, thereby enabling judges to concentrate on matters that only they can constitutionally decide.


A policy agreement hammered out by large, medium and small counties during the Trial Court Budget Commission's strategic planning and consensus building process provides that so-called "have" and "have not" counties will be provided Revision 7 resources equitably regardless of previous funding/staffing levels. This follows the Commission's interpretation of Revision 7 as calling for a level of funding in all 67 counties that is adequate to provide a given judicial service.


The State Courts System's \$24 million request to fund 237 General Master and Hearing Officer positions in 2004-05 is nearly \$10 million more than the 2003-04 level of county/state funding. The proposed increase is for the purpose of creating equitable service levels in all 67 counties. By contrast, the Governor's recommended budget funds only Hearing Officer/General Master positions in place during 2003-04 for \$10.9 million.

Following is a likely generic impact of Underfunding based on courts system's policy agreement: One of five counties in one judicial circuit is funding 15 General Master and Hearing Officer positions while the four remaining counties are unwilling or unable to do so. As of July 1, 2004, the 15 positions recommended for funding under the Governor's budget are spread throughout the circuit. While this helps counties previously without any positions, it unfairly penalizes the county that funded these positions in previous years.

The following specific comments were made in 2004-05 budget requests submitted by Chief Judges of five judicial circuits:


 7th Judicial Circuit (Flagler/Putnam/St. Johns/Volusia Counties): A high clearance rate for domestic relations and juvenile cases is ascribed to quasi-judicial officer positions. If these positions are reduced, the ability of families to receive timely justice will be severely impaired.


 8th Judicial Circuit (Alachua/Baker/Bradford/Gilchrist/Levy/Union Counties): If funding for Child Support Hearing Officers and Dependency General Masters is reduced or eliminated, the Circuit's ability to manage the existing caseload will be dramatically reduced.

 11th Judicial Circuit (Miami-Dade County): Without case managers, all of the assistance they provide would have to be absorbed by judges during the time they currently spend hearing cases and making rulings. There would be greater delays in obtaining hearings, resolutions, and final judgments.

The quantity of hearings would increase due to resets because of inaccurate or incomplete records. An increase in hearing durations would also occur. For example: The average hearing time for a civil injunction is approximately 15 minutes with a case manager. Without a case manager, the average hearing time would double.

The fiscal impact of the loss of case managers must also be considered. In our Family and Domestic Violence divisions, case managers cost \$16 to \$20 per hour. If their functions were performed by judges and judicial assistants, the cost would increase to \$70 to \$100 per hour. Within the Family Division alone, the \$200,000 that would have been spent on case managers would skyrocket to \$1,000,000 annually. Similar increases would be incurred in other divisions of the court.

 13th Judicial Circuit (Hillsborough County): If adequate funding for supplemental resources is not received, a significant shift in existing judicial resources from other divisions will occur. The potential impact of this shift will be further delays, backlogs and temporary court closings.

 16th Judicial Circuit (Monroe County): Inadequate funding for the courts would regrettably cause court delays. If you are a small-business person, you need to have your civil case resolved quickly if you are to pay your bills and stay in business. The triaging of cases is something we must avoid if at all possible if we are to have a truly just system.

SCENARIO TWO
COURT ADMINISTRATION

Underfunding of Court Administration will prevent smaller counties from building infrastructure that is necessary to perform Revision 7 functions formerly handled by county staff.

Court Administration includes executive direction, operations management and support services that enable judges to execute their constitutional responsibility of adjudication.

Court Administrators oversee day-to-day functions needed to keep courts running smoothly. Under Revision 7, courts in all 67 counties need administrative personnel to process cases, schedule judicial proceedings, arrange for expert witnesses, court reporters and translators, pay bills and provide financial and performance data to the state’s Chief Financial Office and the Office of the State Courts Administrator. Smaller county courts lack modern administrative infrastructure necessary to implement Revision 7.

The State Courts request for this element is \$22.5 million which includes new funding for small counties to build the infrastructure to perform functions formerly handled by county staff. The Governor recommended \$16.1 million to fund just existing court administration positions. Fully funding the State Courts System’s request is important so there is no reason to doubt that citizens and businesses will continue to receive the high level of judicial/administrative services they have come to expect and enjoy.

SCENARIO THREE TECHNOLOGY

Underfunding of State Courts technology infrastructure will prevent the achievement of the Legislature's goal of providing access to high-quality data and the improvement of justice administration statewide.

The Judiciary's current information technology infrastructure makes a spider web look simple. Technology varies widely among counties, depending on the extent to which a given county has subsidized state technology funding. Highly variable piecemeal funding of information systems gives some citizens access to more timely and informed justice.

The technology infrastructure of 42 counties needs upgrading to allow access to the State Courts Network. This network enables courts personnel to: access legal research services; ensure that communication is via a secure network for e-mail and video conferencing; and allows authorized users to access electronic case information and communicate with other state entities.

Citizens and businesses lose when reliable information is not available to assist judges and administrators in making decisions. A given county courthouse, for example, typically has separate data systems for civil, criminal, traffic and other divisions. This makes it very difficult for judges presiding over cases to determine whether defendants are under court orders in other divisions. As a result, judges may direct defendants to pay fines in civil court or send them to jail, unaware of their obligation to fulfill child support responsibilities stemming from family court cases.

Circuit court administrators need timely information on types of cases being filed so they can make the most efficient use of personnel and other resources. Caseload data is also essential because it is the basis on which additional judgeships are certified and legislatively granted. A February 2003 State Auditor General report cites duplication of effort by county and circuit Clerks of the Court, State Attorneys and Public Defenders in providing caseload data and questions the reliability and timeliness of data reported.

The Office of the State Courts Administrator reports that caseload data for a given fiscal year ending September 30 is not available until the following calendar year and may be incomplete or contain errors. This means administrative decisions may be based on inaccurate and outdated information.

A study conducted for the Legislature by the Tallahassee-based consulting firm MGT of America, recommended that the Legislature either reverse its course and provide funding for the court technology infrastructure or abandon its goal of providing access to high-quality data and the improvement of justice administration statewide.

The state courts' budget request of \$7.2 million does not attempt to accomplish any of the county funding responsibility for technology requirements outlined in House Bill 113-A.

However, the current technological infrastructure used in a number of Florida's counties needs to be upgraded to a point that will allow access to the State Courts Network. This network permits court personnel to use legal research services, have access to electronic case information and to communicate with other state entities. This request also includes funding to expand access to video conferencing, which increases efficiency by allowing certain proceedings to take place between a remote location (such as a jail) and a courthouse.

The Governor's budget recommendation includes no funding for courts technology. Inasmuch as Governor Bush is a staunch advocate of technology as a tool for increasing government efficiency, it would be surprising if at least partial funding of the State Courts System's request is not supported by his office at the conclusion of current discussions.

House Bill 113-A requires counties to provide an "integrated computer system," for use by the State Courts System, the offices of the Public Defenders, State Attorneys, and the Clerks of the Circuit and County Courts. This system, required to be in place by January 1, 2006, is to connect these groups with each other and remit their revenue, performance, and case management data to the state.

Florida's Clerks of Court have developed a Comprehensive Case Information System (CCIS), which allows authorized users to search court case information (by name or case number), the court calendars of judges, and to generate reports to help manage caseloads and determine efficiency. By June 2004, stakeholders in 31 counties are scheduled to have access to CCIS.

The CCIS provides an excellent framework for the integrated computer system required by House Bill 113-A. It is important that this initiative receives the proper financial support so that the system can be quickly expanded throughout the remaining counties and so its capabilities can be increased to meet the needs of all stakeholders including State Attorneys and Public Defenders.

SCENARIO FOUR
JUDGE AND JUDICIAL ASSISTANT EXPENSES

Underfunding the expenses of Judges and Judicial Assistants will either force counties to make up the difference (in contradiction to the intent of Revision 7) or curtail travel, per diem and other expenses related to judicial proceedings.

Under Article V as originally approved in 1972, the state pays the salaries of judges and their assistants. However, the allocation that accompanies each state-funded position to pay for office space, equipment, travel, per diem and other items has continued to be paid in large part by the counties.

An \$11 million difference for 2004-05 between the State Courts System and Governor's budgets reflect per position funding of \$6,800 versus \$1,500 – based on counties continuing to pay some of these costs.

SCENARIO FIVE CONTINGENCIES

Underfunding contingencies during the first year of Revision 7 implementation would require the State Courts System to justify a need for additional funding to the Senate/House Budget Administration Commission.

The State Courts System's \$11.9 million request is based on providing contingency funding of 5% for due process costs and 10% for other statutory elements. The Governor's recommendation is a flat \$5 million for contingencies.

Because there is both great uncertainty over the magnitude of unknown costs during the first year implementation of Revision 7, and because the Legislative Budget Commission can approve additional funding to meet such unknown costs, the Governor's recommendation seems more reasonable.

SCENARIO SIX STAFF ATTORNEYS/LAW CLERKS

Funding of staff attorney/law clerk positions would become more urgent to the extent that General Master, Hearing Officer and/or Case Manager positions are underfunded.

Staff attorneys increase judicial efficiency by providing support to judges in criminal, civil and family law cases, thereby allowing for the increased processing of cases.

The judicial budget request for 2004-05 includes \$28.4 million for creation of 353 new positions. If funded, this would allow every circuit judge to be assigned one staff attorney. The Governor's budget only includes 10 new positions, merely picking up the positions currently funded by counties.

Funding of additional law clerks or staff attorneys goes well beyond Revision 7. As long as General Masters and Hearing Officer positions are fully funded, up to a three-year phase in of 353 new positions seems reasonable.

Accelerated phase-in could be achieved by using a portion of documented cost savings achieved from implementing efficiencies recommended in this report.



Fiscal Fine Tuning Ahead

Modifications Likely Will Occur After State Pays First-Year Revision 7 Bills

Passage of Revision 7 completed the fiscal intent of Article V reforms, approved by voters more than a quarter century earlier, by ending seemingly interminable state/county disagreements over paying state trial court expenses.

Florida trial courts' mission is to protect rights and liberties, uphold and interpret the law, and provide for peaceful resolution of disputes.

In 1996, the Florida Supreme Court directed the Office of State Courts Administrator to initiate a long-range strategic planning and consensus building process to better organize, prioritize and eliminate selected local and state-funded

trial court functions. At the time, there were more than 300 judicial services being provided in one or more of Florida's 67 counties.

A Trial Court Budget Commission established in 1999 worked with judges and administrators in the state's 20 circuits to define, eliminate and reach consensus on essential judicial functions that should be equitably funded statewide or eliminated, and to agree on funding needs of small, medium and large circuits deemed necessary to meet public expectations in implementing Revision 7.

However, the Judicial Branch's Revision 7 legislative budget request for FY 2004-05 was developed with estimated rather than actual costs of some county-funded trial court expenditures being assumed by the state, effective July 1, 2004. That is because county-by-county data—referred to by some detractors as a fruit salad—are differently organized, grouped, accounted for and reported to Tallahassee. Thus, legislative fine-tuning—likely both increases and decreases in funding Revision 7—will occur after paying the bills in FY 2004-05.



Other State Courts Elements at Risk of Underfunding

Determining the Need for New Judgeships

Since 2000, the Supreme Court has certified the need for 192 judgeships, but only 45 are authorized. Throughout this time, caseload has continued to grow, and this again is reflected in the need certified for 2004-05.

Article V, section 9, of the Florida Constitution requires the Supreme Court to annually determine the need to increase or decrease the number of state judges, which includes all District Court of Appeal and trial court judges (and excludes Supreme Court justices, as this number, seven, is specified in Florida's constitution.)

The 1998 Legislature directed the Office of the State Courts Administrator (OSCA) to improve the certification process. OSCA and consultants at the National Center for State Courts monitored by the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA), developed a system to determine the need for trial court judges that weights cases based on the amount of judicial work performed to dispose of them. In 2003, the District Court of Appeal (DCA) Performance and Accountability Commission analyzed the threshold for needing additional judges and recommended increasing it from 250 to 350 cases per judge. Panel consisting of three DCA judges (with one being the primary judge) hear cases. For certification purposes, a judge's caseload only includes those cases for which the judge is assigned primary responsibility.

The certification process begins eight months before the Judicial Branch's legislative budget request is due to the Legislature in September. Current year filings are projected for the next fiscal year, weights are applied in the trial courts and judicial need is determined for each district, circuit and county. The 20 circuits' chief judges and the five District Court of Appeal chief judges submit requests for new judgeships to the Supreme Court, which determines the number of judges to certify assuming that the current level of assistance to judges remains constant.

The Supreme Court certified the need for 88 new judgeships in December 2003. However, the Governor's recommendation is to fund only 40, half of which would begin in January 2005 and the remaining 20 in April of 2005, which is the final quarter of the fiscal year.

"I would respectfully suggest that if this need goes unmet, it would undoubtedly have a deleterious effect upon the administration of justice in our circuit and our ability to guarantee to the citizens of our circuit their right of access to the court as guaranteed by Article 1, section 21 of the Florida Constitution."

*Request for additional judgeships for 2004-05 by
Chief Judge Hugh Hayes, Twentieth Judicial Circuit*

Justice Administration

This report would be incomplete without mentioning the important role that Justice Administration (including State Attorneys, Public Defenders and the Justice Administrative Commission) play as partners in upholding justice in our state. Though federal requirements dictate that criminal cases be addressed within a certain timeframe, inadequate funding of Justice Administration would impede both criminal and civil cases.

Although the state assumed a substantial portion of the funding for Justice Administration prior to Revision 7, a number of costs such as those for court reporting, interpreting and expert witnesses will become state-supported as of July 1, 2004.

Inadequate funding for these and other elements could have a far-reaching, negative effect on Florida's Judiciary and the quality of justice for all Floridians.

Technology

The Governor's budget recommendation includes no funding for courts technology. The state courts' budget request of \$7.2 million does not attempt to accomplish any of the county funding responsibility for technology requirements outlined in House Bill 113-A, including the requirement of an integrated computer system by 2006.

The current technological infrastructure used in a number of Florida's counties needs to be upgraded to a minimal standard that will allow users to access the State Courts Network. This network will permit court personnel to use legal research services, have access to electronic case information and to communicate with other state entities.

This request also includes funding to expand access to video teleconferencing, which will allow certain proceedings including inmate appearances and expert witness testimony to take place between a remote location and a courthouse.

Resource Management System

The State Courts System does not currently have the infrastructure necessary to collect data associated with measuring the performance and accountability for 14 statutorily-enumerated elements and other court support resources. Providing a method to monitor the process and methods will allow state and local administrators to enhance performance by shifting resources where they are most needed. It also allows for a collaborative means of assessing and monitoring the performance of the State Courts System between the state and local circuits.

The State Courts System requested \$1.5 million to provide funding for the creation of a Resource Management System. This request includes funding for hardware and servers in each of Florida's 117 court facilities, purchase of licenses for software, planning, designing and training. The Governor's recommended zero funding for this item.

Inadequate funding for the courts would...regrettably (cause) delay. If you are a small-business person, you need to have your civil case resolved quickly if you are to pay your bills and stay in business. The triaging of cases is something we must avoid if at all possible if we are to have a truly just system.

*Chief Judge Richard Payne
16th Judicial Circuit*

Absent a proper level of assistance to execute the 2003 Legislature's statutorily enumerated court functions could ultimately lead to the Supreme Court certifying the need for additional judges or cause judicial performance to fall below public expectations.



Additional Judicial Programs Complement Courts System

Legal Aid

The provision of legal aid to indigent persons is important to ensure that all Floridians are able to participate in the judicial system. Florida Legal Services, Inc. (FLS), founded in 1973, is a nonprofit organization that facilitates the provision of civil legal assistance.

Legal aid is undergoing major changes due to the implementation of Revision 7. House Bill 113-A eliminates county authority to add a surcharge to court filing fees to fund legal aid effective July 1, 2004. The bill also amends subsection 29.008 (3)(a) to make provision of legal aid a local requirement for counties with populations in excess of 75,000. However, when developing their 2003-04 budgets, 21 of the 35 counties with more than 75,000 residents did not include funding for the final quarter of their fiscal year ending September 30, 2004. As a result there is a \$1,028,399 shortfall for legal aid services during the fourth quarter.

The Florida Access to Civil Legal Assistance Act (FACLA) passed in 2002, directs funding to the Department of Community Affairs, which then contracts with a statewide non-profit organization (currently The Florida Bar Foundation) to fund civil legal assistance to the poor. General Revenue funding for FY 2002-03 was \$2 million; for 2003-04 it is \$ 1.5 million. Florida Legal Services is seeking 2004-05 funding of \$5.5 million so the program can be expanded from the current seven pilot judicial circuits to all twenty circuits.

Drug Court Program

Drug Courts are a key component of law enforcement, judicial and intergovernmental efforts to improve juvenile and young adult offenders' drug and alcohol treatment outcomes. The alternative often is a jail or prison sentence at increased costs to taxpayers, and reduced likelihood of rehabilitation.

The 2003 Legislature, in House Bill 113-A, excluded state funding for "therapeutic jurisprudence." The state will continue paying for case management of drug court programs, but the requirement of drug court initiatives in each judicial circuit was eliminated. The bulk of drug court program funding for treatment is left to counties at their option. According to state courts staff, individual courts will continue to work on alternative revenue sources to provide services such as drug court that they believe are important to their communities.

Experience shows that Drug Court programs work. According to the Office of the State Courts Administrator, graduates nationwide recidivate in a range of 16% to 27% versus up to 48% of non-drug court participants. Drug Court saves taxpayers at least \$15,000 per participant annually versus the cost of incarceration. Moreover, this is a “gift that keeps giving” because participants continue to work and pay taxes.

A 1999 Report by the National Institute on Drug Abuse stated that every dollar spent on drug courts and related treatment programs yields a \$4 to \$7 savings in reduced drug-related law enforcement, prosecution, corrections and health care costs. Savings also accrue to individuals and the state from reduction of interpersonal conflicts, improvement in workplace productivity and reduction of drug-related accidents.

Because Drug Court and other diversion, prevention and treatment initiatives are proven to be cost effective, it does not seem prudent for the state to leave the bulk of their funding to the counties where there are widely varying capabilities for such discretionary spending. Careful consideration should be given to funding a portion of drug court and other effective programs through the Department of Children and Families and Juvenile Justice.

Brenda Philhower became Sarasota County's first drug court client. Six years of sobriety later, she works for the program that's given 200 Marion County residents with felony drug charges an alternative to jail.

"It's always been one of my dreams to work for drug court," Ms. Philhower says. The program saved my life. My youngest daughter wants to be a judge and my oldest wants to be a police officer. They want to make a difference like mommy."

WCJB, Channel 20
Gainesville, Lake City, Ocala
June 25, 2003

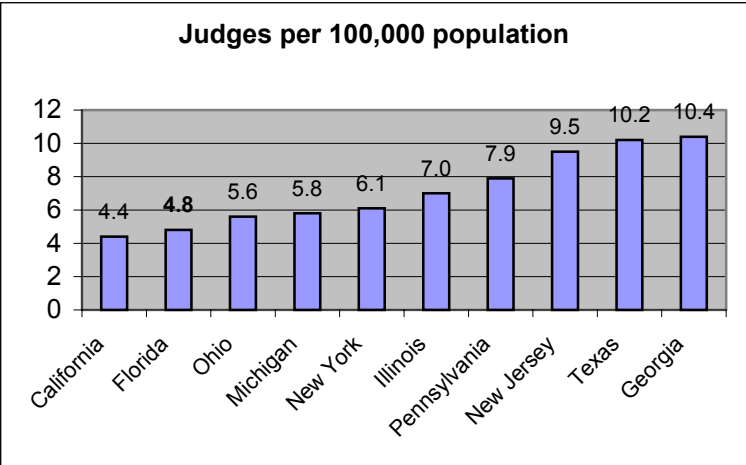


Comparison of Florida with Other States

Comparisons between different states’ judicial branches are often difficult due to their varying structures and methods of collecting data. The following comparisons between the nation’s four largest states—two of which (California and New York) have completed their transitions from dispersed funding to unified, state-level funding—plus Minnesota which is halfway through a phase-in of state funding, may help to place Florida’s court system in its proper context.

Judges

According to the Florida Office of the State Courts Administrator, judges’ caseloads have increased by more than 60% since 1973. While the judges has grown only by 18%. Florida’s trial courts currently operate with 33% fewer judges than the average of the 10 most populous states and judges in Florida average 31% more filings than the national average. Some counties have compensated for the increasing workload by hiring General Masters/Hearing Officers. These employees, who cost far less than judges, help to move cases through the judicial system in an efficient manner.

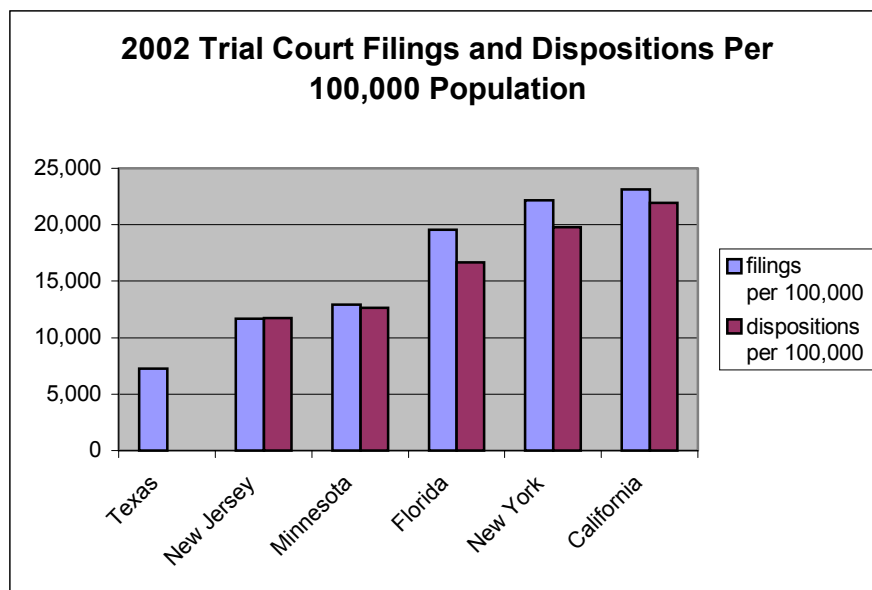


Source: Office of the State Courts Administrator, 2003

Case Filings and Dispositions

Florida’s trial courts process nearly three million new cases annually:

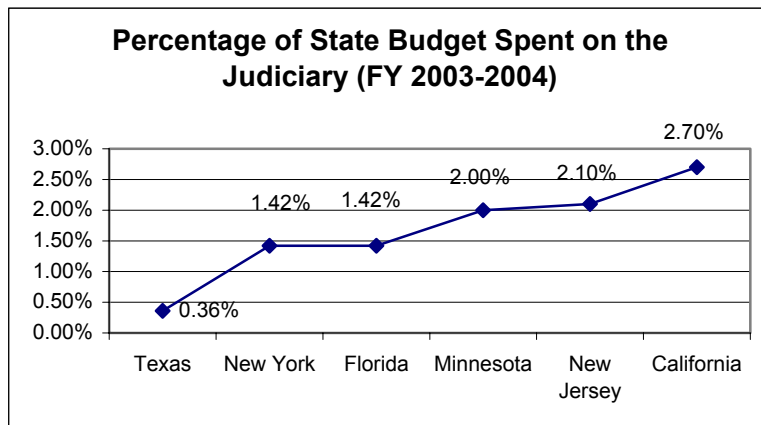
- Nearly ½ million involve family matters such as dependent children, victims of domestic violence, the elderly and the infirm.
- 1.2 million involve businesses and individuals that range from complex property disputes to small claims and landlord-tenant problems. These represent approximately 60% of the civil caseload and 40% of the Florida’s caseload overall.
- Over one million involve criminal law violations.
- During FY 2002, 19,582 cases were filed and 16,678 cases were disposed of per 100,000 in population.



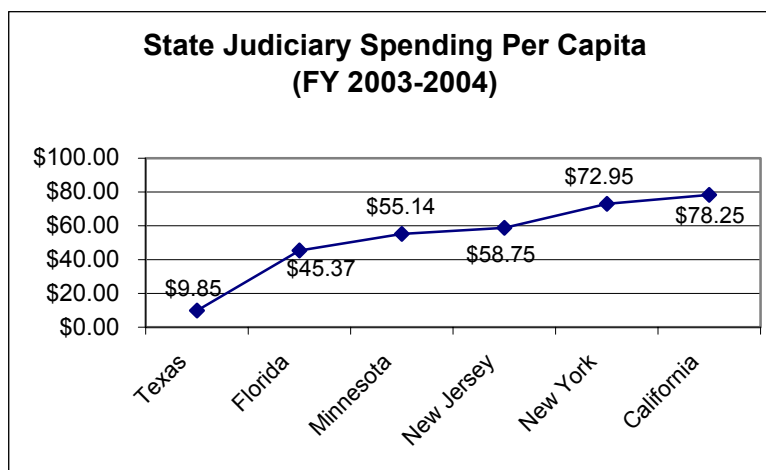
Note: Total dispositions for Texas' trial courts were unavailable.
 Source: Florida TaxWatch

The accurate and timely processing of new and continuing cases, cost-effective mediation, preparation of legal opinions and numerous other internal and external functions require a proper level of administrative, legal, technical and logistical support if top notch services are to be made available to taxpayers. It is particularly important that adequate staff be in place on July 1, 2004 and thereafter to assure a smooth transition from county to state administration of criminal and civil trial courts.

State Judiciary Budgets



Source: Florida TaxWatch



Source: Florida TaxWatch

In FY 2003-04, Florida's Judicial Branch was appropriated 1.42% of the state's \$53.5 billion budget.

If Florida's 2004-05 budget totals \$55.5 billion, and the Judicial Branch receives \$200 million for the implementation of Revision 7 and the certification of new judgeships, the percent of the state budget allocated to the Judicial Branch would increase to 1.73%. This would also increase per capita spending to \$53.34 and move Florida closer to Minnesota, which is only halfway through state assumption of judicial costs, and still well behind New York and California.

Other States' Experience with Inadequate Court Funding

Courts must administer justice regardless of who and how many people walk through the courthouse doors. Without access to courts, the Rule of Law is threatened. From coast to coast, courts have been fiscally challenged in their ability to deliver routine services. Over the past several years, state judicial systems across the nation have scrambled in the wake of inadequate funding:

- **Alabama**, effective 2002, froze hiring for circuit and district courts and the Administrative Office of the Courts; suspended jury trials, merit raises, promotions and out-of-court travel; and laid off 170 temporary employees;
- **Alaska**, in FY 2003, had a \$500,000 budget cut, cut public law library hours, and cut juror pay;
- **California**, cut judicial budget by nearly \$200 million for FY 2003-2004, reduced services in several courthouses, and closed 29 courtrooms in Los Angeles County;
- **Colorado**, effective 2002, froze hiring throughout the courts system, mandated eight days unpaid furlough for all court employees, and eliminated 320 positions
- **Kansas**, budget cuts forced the Supreme Court to impose a five-dollar emergency surcharge on all case filings to prevent the courts from shutting down altogether; tacked on an extra \$25 for marriage license fees; and froze judicial hiring for seven of the past 10 years;
- **Massachusetts**, since 2002, after losing 575 court employees through layoffs, early retirement and attrition, clerk's offices around the state shut down periodically to process paperwork for the next day's sessions; the wait for small claims hearings has increased from eight weeks to between four and six months; child custody and support hearings have also been delayed;
- **New Hampshire** suspended jury trials for two months in 2002;
- **Oregon** closed courts on Fridays, curtailed civil jury trials and suspended certain felony trials, including drug prosecutions, until the next fiscal year;
- **Utah** closed two courthouses;
- **Washington** courts, in response to a \$4 million cut in 2002-2003, condensed its jurisdictions, closed courts and laid off employees;
- Many other states report decreases in funds for alternative dispute resolution and pro se assistance programs, judicial education, court staff, interpreters, technology and security.

Florida's court system is in a weakened position to recover from underfunding of Revision 7 on the heels of nearly an eleven million dollar budget cut in FY 2003-04 and the elimination of 79.5 positions. Inadequate funding of judicial functions has tangible negative impact on the citizens they serve. The experiences of other states should be viewed as cautionary tales.



Efficiencies to Help Offset the Cost of Implementing Revision 7

The following cost saving, cost avoidance and revenue enhancement items can be worth as much as \$30 million if implemented, as applicable, over the next three years by State Courts Circuits, State Attorneys and Public Defenders; Clerks of Circuit and County Courts performing court-related functions; the State Courts Administrator's Office and the Justice Administrative Commission.

While by no means a substitute for proper funding of Revision 7, these efficiencies can help to offset a portion of increased state costs. Implementing selected efficiencies may avoid a need to seek consultant assistance or purchase new systems or off the shelf software; reduce communications, facilities, finance, accounting, budgeting and personnel costs; and stretch resources allocated to previously existing funding responsibilities. Most of the recommended efficiencies are adaptable achievements nominated between 1999-2004 for Davis Productivity Awards for state employees. The Tallahassee-based consulting firm MGT of America, under a contract with the Legislature, recommended several other efficiencies.

It should be noted that the State Courts System established a Performance and Accountability Commission in 1999. Since then, the Commission has been immersed in preparing for managing the state's new judicial responsibilities – with the exception of selectively implementing digital court reporting and video teleconferencing. After July 1, 2004, the Commission plans to begin a multi-year effort to identify and implement efficiency improvements as envisioned by the State Courts System Revision 7 budgeting process.

Additionally, House Bill 113-A created an Indigent Services Advisory Board to advise the Legislature on strategies and policies to contain due process costs, which are the largest expenditures in Revision 7. The Board's final report issued on December 18, 2003 made more than two-dozen recommendations concerning expert witnesses, interpreters, court appointed counsel and court reporters.

PRE-TRIAL CONFERENCE

1. Statewide, approximately 900,000 civil traffic infraction cases go to court annually. Miami-Dade County disposes of approximately 200,000 (2/3) of its traffic cases at "Pre-trial Conferences," saving approximately \$7 million worth of police overtime pay and increasing patrol hours by 150,000. Additional savings include judges and staff time and reduced use of courtrooms. Up to ten million dollars accrue from increased collection of fines and court costs. Other judicial circuits with more than 15,000 total filings and more than 15% of those filings going to trial should consider adapting and implementing this program. For more information, please contact Zina Valenza at (305) 548-5335 or zvalenza@jud11.flcourts.org.

DISPUTE RESOLUTION

2. Cost saving mediation and arbitration programs are used extensively by state courts to resolve conflicts that otherwise would end up on court dockets. Some circuits recruit volunteers to staff programs, thereby reducing costs. Additionally, an award winning dispute resolution initiative that helps protect business and professional reputations and mitigate adversarial situations might be worth considering. For more information please contact Ronald Safford at (850) 487-9518 or ronald.safford@dbpr.state.fl.us.

FELONY SCORE SHEET

3. Preparing score sheets based on sentencing guidelines at the point of arrest reduced the time for sentencing criminal defendants to prison or probation 120 days sooner than the average time for completing the prosecutorial process. This "Rocket Docket" initiative, developed by the Florida Department of Corrections Probation Office in Panama City, is now used in modified form by select State Attorney Offices. For more information, please contact Jimmy Whisenant at the Department of Corrections at (850) 872-4139.

JUVENILE TRIAL CASE ISSUES NOTEBOOK

4. An internet-based juvenile trial case issues and precedents notebook reduces the time required for attorneys and judges statewide to prepare for court. For more information, please contact the Florida Department of Children and Families at (407) 245-0530.

EXPERT WITNESSES

5. An expert witness-training program for physicians and nurses may be useful to attorneys preparing court testimony. For more information, please contact Tracey Cottle at the Florida Agency for Health Care Administration at (850) 922-5873 or cottlet@fdhc.state.fl.us.

6. A standard contract to retain expert witnesses eliminates specialized contracts and reduces management review, saving the Florida Agency for Health Care Administration more than \$150,000 annually. For more information, please contact Delanah White at (850) 488-6215 or white@fdhc.state.fl.us.

INCREASED COLLECTION OF FINES

7. A "Pay or Appear" fine collection program in the 18th Judicial Circuit brought in more than \$200,000 after being implemented by four Brevard County judges in 2000-01. For more information, please contact Tim Hamilton at (321) 631-2171 or tim.hamilton@flcourts18.org.

8. A job placement program for unemployed first-time felony offenders in the 11th Judicial Circuit (Miami-Dade County) has among its results, the increased collection of fines and fees, the payment of delinquent child support and the restitution to victims of crimes. Additionally, participants in this program become taxpayers instead of tax users. For more information, please call (305) 349-5600 or email Diana Guas, dguas@jud11.flcourts.org; Jennie Rundell, JRundell@jud11.flcourts.org; or Sharon Abrams, sabrams@jud11.flcourts.org.

AUTOMATED PAYMENT OF FINES

9. Large counties should consider payment of fines using credit cards and intelligent voice recording or Internet Website processes. Vendor price reductions may be available for multiple county purchases of the same system. This is a recommendation from MGT of America's Phase Two Report, which can be found on the website of the Senate Appropriations Subcommittee on Article V Implementation and Judiciary.

CHILD SUPPORT ENFORCEMENT EFFICIENCIES

10. Title IV federal funds should be used to the extent possible to compensate General Masters for time spent on Child Support Enforcement cases. For more information, please contact the Third Judicial Circuit in Lake City at (386) 719-7546.

11. Court personnel staff savings in Broward County were achieved by utilizing Florida Department of Revenue clerical employees to process child support orders from court dockets. For more information, please contact Velina Smalls at (954) 797-1733.

12. A tracking system that determines whether child support is owed before workman's compensation claims are paid to non-custodial parents increased delinquent support and court cost collections in Pinellas County by nearly \$500,000. For more information, please contact Mary Rhodes at the Florida Department of Revenue at (727) 507-6140 or rhodes@dor.state.fl.us.

13. Non-custodial parents who voluntarily enter into stipulated agreements are more likely to pay child support regularly, thereby reducing state legal costs. For more information, please contact Ed Doyle at the Florida Department of Revenue at (727) 816-1161 or doylee@dor.state.fl.us.

14. Pre-filing conferences initiated by CSE staff in Leesburg are for non-custodial fathers to stipulate to paternity or agree to genetic testing. Cases are closed when testing excludes them as biological fathers. A similar initiative in Gainesville clears potential fathers approximately 25% of the time, saving up to \$200 on each case not referred to a contracted legal service provider to obtain a court order to determine paternity.

15. Judicial time savings can be garnered from administrative enforcement remedies used by Florida Department of Revenue Child Support Enforcement staff in Naples and West Palm Beach. For more information, please contact Carol Light at (941) 417-6362 or lightc@dor.state.fl.us.

CONTRACTING AND PURCHASING

16. The state's first imaging management system for purchasing, disbursement, vouchering, developing contracts and leasing includes web-based paperless processing of requisitions; on-line management approval; and an expedited pay process. For more information, please contact Alan Edwards at the Florida Department of Agriculture and Consumer Services at (850) 488-5321 or edwarda@doacs.state.fl.us.

17. A web-based, paperless procurement system eliminates handling of purchase orders and receiving reports, saving Florida State University more than \$300,000. For more information, please contact Walter Parramore at (850) 644-6850 or wparramore@admin.fsu.edu.

18. Providing vendors an incentive to reduce the cost of services and commodities saved more than \$18,000 on a \$145,000 contract. For more information, please contact Russ Rothman at the Florida Department of Management Services at (850) 487-8778 or russ.rothman@myflorida.com.

LEGAL JOURNALS ACCESS SAVINGS

19. A statewide electronic service that gives Florida Department of Health employees access to journals an annual savings of up to \$400,000 may be adaptable by the State Courts System for legal journals and publications. For more information, please contact Darlene Deas at (850) 245-4444, ext. 2177 or darlene_deas@doh.state.fl.us.

PUBLIC EDUCATION SAVINGS

20. A public/private partnership between the Florida Department of Community Affairs, i.d.e.a.s. at Disney, Inc., and business sponsors to disseminate emergency management information may be adaptable to help disseminate Revision 7 legal and court education information. Nearly \$200,000 requested in the State Courts FY 2004-05 budget request is not included in the Governor's budget recommendations. For more information, please contact Hank Erickson at (850) 413-9873 or hank.erickson@dca.state.fl.us.

CONTINUING EDUCATION SAVINGS

21. State Attorney and Public Defender offices in the large judicial circuits may benefit from establishing in-house continuing legal education seminars conducted for attorneys, investigators and research personnel, saving travel costs, related time and course fees. The 13th Judicial Circuit (Hillsborough County) saves over \$20,000 annually. For more information, please contact Vivian Challen at (813) 307-4010 or challenv@pd13.state.fl.us.

PERSONNEL MANAGEMENT SAVINGS

22. Automated enrollment of new employees in the state personnel system reduces recruitment and selection costs. For more information, please contact Patricia Mitchell at the Florida Department of Revenue (850) 921-1074 or mitchelp@dor.state.fl.us.

23. An automated salary rate administration system annually saves county health offices and the Florida Department of Health's central office more than 5,000 staff hours. For more information, please contact Richard Maxey at (850) 245-4444 or richard_maxey@doh.state.fl.us.

INTERN PROGRAMS

24. Criminal Investigation. Public Defender offices may benefit from an investigator intern program that adds nearly \$70,000 worth of value in the 19th Judicial Circuit (Brevard County area). This program helps assistant public defenders by having interns make initial contact with clients and identifying those needing assistance with substance abuse, mental illness or developmental disability issues. Students earn credit toward criminal investigation certification as well as their academic degree. For more information, please contact Janice Johnson at (321) 617-7510 or ljohnson@statty18.brevard.fl.us.

25. Legal Assistance. The Public Defender's Office, 13th Judicial Circuit, saves approximately \$75,000 annually by recruiting and training law school students to work for credit rather than salary. Referred to as "externs", students help reduce the workloads of assistant public defenders assigned to the misdemeanor and juvenile bureaus by meeting with defendants and researching, writing and filing motions. For more information, please contact Vivian Challen at (813) 307-4010 or challenv@pd13.state.fl.us.

COMPUTER DOWNTIME SAVINGS

26. The potential for data loss decreases and productivity increases by reducing the time to perform computer upgrades and replace personal computers from two hours to 30 minutes, saving the Florida Agency for Health Care Administration \$56,000 on 408 computers. For more information, please contact John Edwards at (850) 922-3615 or edwardjt@fdhc.state.fl.us.

COMPUTER MAINTENANCE SAVINGS

27. A method of bidding maintenance on continually changing computer network devices covers all machines without regard to configurations and manufacturers. For more information, please contact Charles Ray at the Florida Department of Children and Families (850) 487-9362 or charles_ray@dcf.state.fl.us.

INFORMATION TECHNOLOGY SECURITY

28. A layered approach to information security consolidates internet-facing servers and uses one set of security policies plus alternate secure forms of remote access services. For more information, please contact Scott Morgan at the Florida Department of Agriculture and Consumer Services (850) 245-1040 or morgans@doacs.state.fl.us.

USAGE LICENSE SAVINGS

29. Judicial Circuits using IBM mainframe software may take advantage of a pricing process called "usage license charge." For more information, please contact Meg Dobbins at the Florida Department of Corrections (850) 488-3073 or dobbins.meg@mail.dc.state.fl.us.

SOFTWARE LICENSING

30. A joint purchase of Oracle software for four state agencies is saving approximately \$1 million over three years versus the cost of each agency purchasing the software separately. For more information, please contact Jeremy Daniell at the State Technology Office at (850) 413-9172 or jeremy.daniell@myflorida.com.

MONITORING HIGH BANDWIDTH USAGE

31. Computer network management is improved by an automated system that analyzes high bandwidth usage, which in turn notifies subnet system administrators about computers, and servers that are using a high amount of network bandwidth. The system also helps prevent security breaches. For more information, please contact Joseph Lazor at Florida State University (850) 644-0062 or jlazor@admin.fsu.edu.

RECONFIGURATION OF SYSTEMS NETWORK ARCHITECTURE

32. Judicial Circuits using Systems Network Architecture (SNA) circuits on mainframe computers may avoid spending hundreds of thousands of dollars on leased circuits and printing of forms by rerouting over a Transmission Control Protocol/Internet Protocol (TCP/IP) Metropolitan Area Network. For more information, please contact Mike Tillotson at the Florida Department of Children and Families at (850) 410-9254 or mike_tillotson@dcf.state.fl.us.

AUTOMATED SYSTEMS PROCESSING

33. Automated console monitoring, tape handling and batch scheduling for systems processing on a mainframe computer eliminated for recurring savings of \$127,500. For more information, please contact Tammy Crumel at the Florida Department of Corrections, (850) 921-1734 or crumel.tammy@mail.dc.state.fl.us.

FINANCE, ACCOUNTING AND AUDITING

The State Courts Administrator's Office, the Justice Administrative Commission, State Attorney, Public Defender and Clerk of the Court budget and finance staff performing court-related functions may find useful ideas among the following:

34. An automated receipting system enables funds to begin earning interest three days sooner and processes four times as much work and than a manual system. Data scrubbing annually saves hundreds of staff hours that formerly were spent researching misapplied payments. The system is secure and enforces cross validation to reduce errors on receipt detail. For more information, please contact Joe Franklin at the Florida Department of Juvenile Justice at 850-414-7672 or joe.franklin@djj.state.fl.us.

35. A web-based financial information and reporting system used by most county health departments improves access to information, promotes more timely budget decisions, and increases productivity and accountability for annual added value of approximately \$1 million. For more information, please contact Jennie Bishop at the Volusia County Health Department at (904) 226-7816.

36. A Financial Information and Reconciliation system saved five state agencies \$750,000. For more information, please contact Ella Hinson at the Florida Department of Health (850) 245-4504 or Ella_Hinson@doh.state.fl.us.

37. A financial reconciliation and reporting method eliminates ledgers formerly requiring creation of detailed subsidiary records and monthly accounting system reconciliation. This method provides bi-weekly financial reports to decision makers and saves nearly 250 hours of staff time annually. For more information, please contact Deborah Coury at the College of Medicine, Florida State University at (850) 644-5024 or deborah.coury@med.fsu.edu.

38. A computerized ledger system linked to an accounting system form eliminates duplicate data entry and errors; manipulates data required during contract amendment; rolls-up contract expenditures by budget entity and fund; ensures an accurate certified forward process; and displays expenditure information across contracts and programs. For more information, please contact Fred Bruneau at the Florida Department of Children and Families (813) 558-5731 or Fred_Bruneau@dcf.state.fl.us.

39. Expedited year-end financial certification process and elimination of errors in inputting items an accounting system. For more information, please contact Mary Ann Thorner at the Florida Department of Highway Safety and Motor Vehicles at (850) 921-0819.

40. Streamlined internal audit and investigations processes and reports formats largely eliminate duplicate billings and ineligible costs. For more information, please contact Sheryl Steckler at the Florida Department of Children & Families (850) 921-5999 or sheryl_steckler@dcf.state.fl.us.

COST SAVING ASSET MANAGEMENT

41. Remotely identifying the name and location of networked computers reduces staff time and travel, saving the Florida Department of Juvenile Justice's Central Florida region approximately \$30,000 annually. For more information, please contact Paul Prado at (407) 521-2668 or paul.prado@djj.state.fl.us.

42. A system that tracks and monitors physical assets and automatically updates a central accounting system generates asset barcodes and, using a hand held device (ipaq), scans and tracks them from the date they are received until surplus. Inventorying assets in one office building was reduced from eight days to three hours. For more information, please contact Martin Smalley at the Florida Department of Children and Families at (813) 558-5820 or Martin_Smalley@dcf.state.fl.us.

43. Automated tracking of property reduces the time required to register, tag, transfer and dispose of assets by nearly 50% and eliminates 75% of time formerly spent correcting errors. A web-based enterprise database system manages all property and moves and tracks all forms. For more information, please contact James Wheeler at the Florida Department of Health, (850) 245-4555 or James_Wheeler@doh.state.fl.us.

COMMUNICATIONS SAVINGS

44. Pooling cellular phone airtime minutes of field offices into one unit saves a state agency with fewer than 2,000 employees statewide over \$100,000 annually. For more information, please contact Betty Dennis at the Florida Agency for Health Care Administration at (850) 414-6051 or dennisb@fdhc.state.fl.us.

45. A web-based tracking system identifies ownership and billing accuracy of telephone and data circuits. This system may be helpful as responsibility for paying judicial services bills transfers from counties to the state. For more information, please contact Leo E. Ours at the Florida Agency for Workforce Innovation at (850) 245-7329 or leo.ours@awi.state.fl.us.

46. An online billing system for telecommunications services eliminates more than 20,000 paper invoices annually and saves a recurring \$30,000 in labor, materials and software agreements. For more information, please contact John Madey at the University of Florida at (352) 392-0710 or jmadey@ufl.edu.

47. A system that audits and confirms monthly telephone voice and data invoices after network changes create billing changes eliminates the problem of staff who receive and process invoices not having information they need to confirm billing accuracy.

For more information, please contact Charles Ray at the Florida Department of Children and Families at (850) 487-9362 or charles_ray@dcf.state.fl.us.

MOTOR FUEL SAVINGS

48. Purchasing gasoline at Department of Transportation fuel stations saves approximately \$.12 per gallon for gasoline and \$.30 for diesel. For more information, please contact Dick Rettig at the Florida Department of Agriculture and Consumer Services at (850) 922-7030 or rettigd@doacs.state.fl.us.

MAILING SAVINGS

49. Judicial and other offices should take advantage of a U.S. Postal Service regulation for mailing publications and materials that qualify as "media mail." For more information, please contact Wendy Moss at the Florida Department of State at (850) 487-2980 or wmoss@mail.dos.state.fl.us.

RECORDS STORAGE SAVINGS

50. A records storage information system that holds more than one million open and closed records identifies records for destruction, thereby saving storage fees. For more information, please contact George Bussey at the Florida Department of Children and Families (850) 558-5862 or George_Bussey@dcf.state.fl.us.



Sound Ways and Means of Securing \$200 million in Additional Funds for Revision 7

In addition to the recommendations for improving the efficiency and innovation of the court system and its operations, Florida TaxWatch also offers six cost-saving and revenue recovery ideas, from OPPAGA and other organizations, that make for good public policy and provide meaningful options for the Legislature to adopt. These should be considered as additional revenue sources to fund the compelling needs of Revision 7.

1. *Improving Residency Determination for Postsecondary Institutions.* General Revenue funds subsidize the tuition and fees of Florida residents, while out-of-state students are required to pay 100% of their tuition and fees at Florida's postsecondary institutions. Florida's current residency requirements allow students moving to Florida to attend school and then request reclassification after living in the state for one year. Florida does not require the student to produce convincing evidence such as employment or income to be reclassified as residents.

OPPAGA found that Florida institutions should follow the criteria of other states, such as defining the 12-months eligibility period based on time spent in the state before enrollment or registration and not prior to qualification. If institutions only reclassify students as residents if they can present facts that support an intention to reside permanently in the state, then institutions could receive \$28 million in additional revenue from non-residents.

All of the savings would be recurring and from General Revenue.

The Legislature would need to amend Florida statutes to clarify residency criteria.

Potential General Revenue: \$28,000,000

2. Maximize Federal Revenue Recoveries and Funding Support. Florida TaxWatch recommends that the state collect federal revenues (see following pages) that the state has earned, but not applied for. These monies do not require additional spending or commitment by the State. The Department of Financial Services solicited a competitive invitation to bid to vendors that specialize and have a strong track record of success in collecting such revenues. Because state agencies will not necessarily on their own use the services of the vendor to collect these revenues, TaxWatch recommends that they be required to do so as appropriate, by the Governor or the Legislature.

Of the \$904,306,000 in federal revenue, \$56,000,000 is a one-time retro-active collection and \$848,306,000 is recurring. A very conservative estimate of this initiative could yield more than \$100 million for FY 2004-05.

The Governor should direct all agencies to aggressively pursue the collection of all federal funds due to the state, especially these identified initiatives.

ESTIMATED NET NEW STATE REVENUES			
Agency	Description of initiative	One Time	Recurring
DCF			
1	Increase Title IV-E Maintenance Recoveries	\$30,000,000	\$41,000,000
2	Increase Title IV-E Administrative Recoveries	\$5,000,000	\$28,800,000
3	Identify Additional TANF MOE Spending	0	0
4	Optimize TANF Funding Claiming	0	\$10,000,000
5	Optimize TCM Recoveries Across DCF	0	\$8,000,000
6	Recover Child Welfare Costs Under Medicaid	0	\$25,000,000
7	Increase Recoveries Under the Child Care Development Block Grant	0	\$20,000,000
8	Optimize Mental Health Medicaid Administrative for CMHCs and Other Behavioral Health / Substance Abuse Agencies	0	\$10,000,000
9	Increase Federal Revenue for Mental Health Hospitals by Revising Medicare/Medicaid Cost Reports and Rate Setting	\$2,600,000	\$5,200,000
10	Increase Federal Revenue Through Certification of Medicaid Beds in State Mental Health Facilities	0	\$6,700,000

11	Capture SSI/SSA Assignments at Mental Health Facilities and at Developmental Services Institutions	0	\$3,000,000
12	Increase Federal Revenue for Developmental Services Institutions by Revising Medicaid Cost Reports	\$6,400,000	\$3,200,000
13	Increase Federal Revenue by Refinancing Room and Board Charge in Residential Facilities in HCBS-DD Waiver	\$6,000,000	\$6,000,000
14	Increase Federal Revenue by Implementing Cost-Based Rate in Community Mental Health Program	0	\$5,700,000
15	Increase Federal Funding Support Through Comprehensive SSI Advocacy	0	\$3,000,000
16	Increase Federal Revenue For Behavioral Health, Substance Abuse, and Developmental Services Administrative Offices	0	\$2,700,000
17	Increase Federal Cost Recoveries Through Cost Allocation	0	\$7,000,000
18	Increase Accuracy in Eligibility Determination and Payment Processes Across Medicaid and TANF Programs	0	TBD
AHCA			
19	Implement Strategic Medicaid Reform of Health Care Services	0	TBD
20	Increase Federal Medicaid Revenue Through Optimizing UPL/IGT Program Involving Public Hospitals	0	\$7,500,000
21	Increase Federal Medicaid Revenue Through Optimizing UPL/IGT Program Involving Public Nursing Homes	0	TBD
22	Increase Federal Medicaid Revenue Through Optimizing UPL/IGT Program Involving Public Clinics	0	TBD
23	Making a Health Care Provider Quality Assurance Assessment on Institutional Care Facilities For The Mentally Retarded	0	\$30,000,000
24	Increase Federal Medicaid Revenue Through Optimizing UPL/IGT Program Involving Physician and Dental Practice Plans at State-Affiliated Academic Medical Centers	0	\$25,000,000
25	Increase Federal Medicaid Revenue Through UPL/IGT Program Involving Home and Community Based Waiver Programs	0	TBD
26	Increase Federal Medicaid Revenue Through UPL/IGT Program Involving Public Owned Medicaid Managed Care Plans	0	TBD
27	Making a Health Care Provider Quality Assurance Assessment on Nursing Homes	0	\$288,000,000
28	Making a Health Care Provider Quality Assurance Assessment on Medicaid Managed Care Organizations	0	TBD
29	Making a Health Care Provider Quality Assurance Assessment on Private Hospitals	0	\$120,000,000
30	Increase Federal Medicaid Revenue Through Reallocating Disproportionate share to hospitals	0	TBD
31	Increase Federal Medicaid Revenue through Restructuring State Owned Institutions for the mentally retarded	0	TBD
32	Optimize Federal Funding for Family Planning Services	\$6,000,000	\$10,000,000
33	Increase Federal Revenue By Maximizing use of the Federal "1931" Grant Funds	0	\$6,000,000
34	Increase Cost Avoidance Savings For AHCA Through a Medical Support Enforcement Program	0	\$17,060,000
35	Implement Cost-Based Rates for School FFS Billing	0	126,000,000

HEALTH

36	Recover Federal Revenue for Public Health Program Provider Administrative Costs	0	\$3,000,000
37	Increased Recoveries for Public Health Services Under Medicaid	0	\$3,000,000

ELDER CARE

38	Increase Federal Revenue for the Long-Term Care Ombudsman Program		\$1,200,000
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CORRECTIONS

39	Increase Federal Revenue by Implementing Targeted Case Management for Department of Corrections Adult Probation	0	\$3,700,000
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JUVENILE JUSTICE

40	Implement Targeted Case Management within Juvenile Justice	0	\$2,620,000
41	Optimize Title IV-E Maintenance Recoveries	0	\$2,944,000
42	Optimize Title IV-E And Medicaid Administrative Claiming	0	\$7,422,000
43	Establish Medicaid Coverage for Private Institutional and Community-Based Services and Public Community-Based Services		\$3,060,000

DEPARTMENT OF FINANCIAL SERVICES

44	Minimize Interest Penalties Associated with the Cash Management Improvement Act	0	TBD
45	Increase Revenue Through Recovery of Delinquent Debts and Overpayments Using Federal Treasury Offset Program	0	\$6,500,000

TOTAL	\$56,000,000	\$848,306,000
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3. Irresponsible Driver Surcharge. New Jersey has instituted a program where drivers who have committed serious violations or are near having their license suspended must pay a surcharge to renew their license. The number of driver violations in New Jersey has been decreasing over the last four years, indicating that this system may be changing driving habits. This could increase revenue and improve safety on Florida’s roads. The New Jersey program realizes \$100 million in annual revenue. Assuming Florida enacted a similar program, with twice the number of drivers, this initiative could very conservatively generate \$25 million or more annually.

The recurring Increase in revenue could be directed to the General Revenue Fund.

Legislation would need to be enacted in order to accomplish this.

Potential General Revenue: \$25,000,000

4. Child Support Administrative Expenses Recovery (DOR). According to OPPAGA this program can increase the amount of administrative expenses recovered from non-custodial parents by updating the administrative cost schedule to reflect changes in operations, increasing the amount of costs that are assessed by the courts, and increasing the collection of costs that have been assessed. Recovery of these expenses could reduce reliance on GR funding.

All of the savings are recurring and from the General Revenue Fund.

The Governor should direct the agency to make the needed changes.

Potential General Revenue: \$4,400,000

5. Eliminate the Recycling and Education Grant Program (DEP). This program, created to help start up county recycling programs, has been successful in establishing recycling programs in Florida's counties. OPPAGA determined that its elimination would not have significant negative impact on recycling rates. State funding of recycling grants is no longer necessary since the program has exceeded its goal of recycling 30% of municipal solid waste. The Legislature should continue to phase out recycling and education grants. As noted in OPPAGA reports, these grants are no longer needed to help establish county recycling programs. This is a trust fund savings. A potential downside is that recycling programs in small counties could cease.

This is a recurring savings to the Solid Waste Management Trust Fund. A statutory change would be needed for the funds to revert to general revenue.

Funding reductions could occur without a statutory change. Elimination of the program would require the Legislature to amend s. 403.7095, F.S.

Potential Trust Fund Savings that could be legally transferred to the General Revenue Fund: \$2,500,000

6. Requiring Students to Pay for Excess Credit Hours. This OPPAGA recommendation suggests that legislation be passed to require those students taking more than 115% of the credits required for their degrees to pay the full cost of tuition. OPPAGA estimates the savings to the state would be \$30 million annually.

All of the savings would be recurring and from General Revenue.

Legislation would need to be enacted in order to accomplish this.

Potential General Revenue: \$30 million



Conclusion

More than 30 years ago, the voters of Florida voiced their preference for a uniform State Courts System. However, fiscal fragmentation continued and voters passed a second judicial amendment to the state Constitution, commonly known as Revision 7, in order to fulfill the intent of the original amendment for statewide funding of most court functions.

In 2003, nearly five years after passage of Revision 7, the Florida Legislature passed House Bill 113-A, which delineates state and county funding responsibilities that will go into effect on July 1, 2004.

Preserving Floridians' cherished freedoms and rights to fair, equal and timely legal processes is imperative as Florida meets the challenges of this shift in funding responsibility. Critically important components of the Rule of Law—the guide by which we as a free and civil society choose to establish and maintain order—will either be advanced or diminished with the adequacy of Revision 7 funding.

Following review of the State Courts System and its legislative budget request, Florida TaxWatch recommends \$140 million for FY 2004-05 as a proper amount to cover the state's new responsibilities. At risk in underfunding the State Courts System is access to fair, effective, responsive and timely justice. The cost of not protecting the rights and liberties of Florida's citizens and businesses by inadequate funding is too great.

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About Florida TaxWatch

Florida TaxWatch is the only statewide organization entirely devoted to protecting and promoting the political and economic freedoms of Floridians as well as the economic prosperity of our state. Since its inception in 1979, Florida TaxWatch has become widely recognized as the watchdog of citizens' hard-earned tax dollars. The nationally distributed *City and State* magazine (now *Governing* magazine) published a poll of the nation's statewide taxpayer research centers. Based on this poll, the publication cited Florida TaxWatch as one of the six most influential and respected government watchdogs and taxpayer research institutes in the nation.

In recent years, news stories about Florida TaxWatch have run in all Florida newspapers, *The Wall Street Journal*, *The New York Times* and *The Washington Post* and *Fortune* magazine. In addition, Florida TaxWatch has been featured on the prestigious *MacNeil/Lehrer Newshour*.

Florida TaxWatch is a private, non-profit, non-partisan research institute supported by voluntary, tax-deductible membership contributions and philanthropic foundation grants. Membership is open to any organization or individual interested in helping to make Florida competitive, healthy and economically prosperous by supporting a credible research effort that promotes constructive taxpayer improvements. Members, through their loyal support, help Florida TaxWatch to bring about a more effective, responsive government that is accountable to the citizens it serves.

Florida TaxWatch is supported by all types of taxpayers -- homeowners, small businesses, corporations, professional firms, labor unions, associations, individuals and philanthropic foundations -- representing a wide spectrum of Florida's citizens.

Florida TaxWatch's empirically sound research products recommend productivity enhancements and explain statewide impact of economic and tax and spend policies and practices. Without lobbying, Florida TaxWatch has worked diligently and effectively to build government efficiency and promote responsible, cost-effective improvements that add value and benefit taxpayers. This diligence has yielded impressive results: through the years, three-fourths of TaxWatch's cost-saving recommendations have been implemented, saving taxpayers over \$6.2 billion (according to an independent assessment by Florida State University). That translates to approximately \$1,067 in added value for every Florida family.

With your help, we will continue our diligence to make certain your tax investments are fair and beneficial to you, the taxpaying customer who supports Florida's government. Florida TaxWatch is ever present to ensure that taxes are equitable, not excessive, that their public benefits and costs are weighed, and that government agencies are more responsive and productive in the use of your hard-earned tax dollars.

The Florida TaxWatch Board of Trustees is responsible for the general direction and oversight of the research institute and safeguarding the independence of the organization's work. In his capacity as chief executive officer, the president is responsible for formulating and coordinating policies, projects, publications and selecting the professional staff. As an independent research institute and taxpayer watchdog, the research findings, conclusions and recommendations of Florida TaxWatch do not necessarily reflect the view of its members, staff or distinguished Board of Trustees.

Appendix A: Judicial Modernization Timeline

- 1968: The Constitution Revision Commission proposed revision of Judicial Article V but the Legislature did not act because the revision was viewed as controversial.
 - 1969: Another suggested Article V reform failed to get legislative support.
 - 1972: Voters approved a re-write of Article V that organizationally— but not fiscally-- unified state courts, eliminated municipal courts, set qualifications for judges and envisioned fiscal unification of the State Courts System.
 - 1991: Article V accountability and fiscal unification received a boost from government rightsizing initiated by the late Governor Lawton Chiles.
 - 1991: The Judicial Council of Florida recommended state assumption of most Article V costs, and The Florida Council of 100 urged the Legislature to address the courts' funding needs.
 - 1992: A constitutional amendment approved by voters required government agencies—including the Judicial Branch—to implement quality management and accountability programs. The amendment's reforms mirrored those first advocated by Florida TaxWatch in a 1986 publication entitled "*Building A Better Florida: A Management Blueprint To Save Taxpayers Over \$1 Billion.*"
 - 1995: An Article V Task Force recommended that the Legislature begin the assumption of specific Article V costs.
 - 1996: The Supreme Court initiated a strategic planning, consensus building and zero-base budgeting process in anticipation of the state's eventual assumption of additional circuit and county court costs.
- 1998: Revision 7 approved by voters in the November general election.
 - 2000: The Legislature passed Chapter 2000-237, Laws of Florida, listing seven judicial functions to be funded by state revenues. It also approved a phase-in schedule required under Revision 7 to begin paying a very minimal amount of salaries and expenses prior to the state assuming full funding responsibility on July 1, 2004.
 - 2002: The Legislature contracted with a Tallahassee-based consulting firm, MGT of America, to conduct a nearly \$1 million four-part study of the State Courts System. The reports are posted on the website of the Senate Appropriations Subcommittee on Article V Implementation and Judiciary.
 - 2003: The Legislature enacted House Bill 113-A amending Chapter 2000-237, Laws of Florida, to increase the number of judicial functions to be funded under Revision 7 from seven to 14. House Bill 113-A directed Florida's Chief Financial Office (Department of Financial Services) to analyze court-related expenditures incurred and revenues collected by counties in order to inform 2004 legislative consideration of Revision 7 funding.
 - House Bill 113-A created an Indigent Services Advisory Board to advise the Legislature and Judiciary on due process costs—including those currently paid by counties—and measures to help reduce the cost of implementing Revision 7.
 - July 1, 2004: Effective date of implementing Revision 7.

Appendix B: ESTIMATED ADDED VALUE OF EFFICIENCIES FOR STATE COURTS SYSTEM, JUSTICE ADMINISTRATIVE COMMISSION, STATE ATTORNEY AND PUBLIC DEFENDER OFFICES, AND CLERKS OF THE COURT PERFORMING STATE COURT FUNCTIONS

(in millions)					
Legend		ADDED VALUE OF EFFICIENCY AS PREVIOUSLY IMPLEMENTED OR RECOMMENDED		ESTIMATED ADDED VALUE IF ADAPTED AND IMPLEMENTED BY SELECTED SCS, JAC, SA, PD & CLERKS OFFICES PERFORMING COURTS FUNCTIONS	
-- Added value undetermined.					
#	TITLE of EFFICIENCY	Cost Savings or Cost Avoidance	Increased Revenue	Cost Savings or Cost Avoidance	Increased Revenue
1	Pre-Trial Conference	7.000		7.000	10.600
2	Dispute Resolution	0.200		0.400	
3	Felony Score Sheet	0.060		0.300	
4	Juvenile Trial Case Issues Notebook	--		0.040	
5	Expert Witness Training Programs	--		--	
6	Expert Witness Contract	0.150		0.750	
7	Increased Collection of Fines	0.200		2.000	
8	Increased Collection of Fines	0.270		0.270	
9	Automated Payment of Fines	--		--	
10	Maximizing Fed Funds for CSE Cases	--		--	
11	Court Personnel Savings for CSE Cases	0.010		0.200	
12	CSE Tracking System		0.500		5.000
13	CSE Stipulated Agreements	0.200		7.400	
14	CSE Pre-Filing Conferences	--		--	
15	CSE Administrative Enforcement		0.200		7.000
16	Imaging Management System	0.100		0.500	
17	Paperless Procurement System	0.300		0.750	
18	Vendor Incentive Savings	0.018		0.036	
19	Journal Access Savings	0.400		0.400	
20	Public Education Savings	0.500		0.200	
21	Continuing Education Savings	0.020		0.020	
22	Employee Recruitment/Selection Savings	0.100		0.200	
23	Salary Rate Administration Savings	0.200		0.200	
24	Criminal Investigation Savings	0.070		0.420	
25	Legal Assistance Savings	0.076		0.460	
26	Computer Downtime Savings	0.056		0.110	
27	Computer Maintenance Savings	1.000		0.500	
28	Information Technology Security	0.150		0.150	
29	Usage License Savings	0.021		0.021	
30	Software Licensing	--		--	
31	Monitoring High Bandwidth Usage	0.200		0.200	
32	Mainframe Computer Savings	0.260		0.260	

33	Automated Systems Processing	--		--	
34	Increased Interest Earnings		0.100		0.100
35	Financial Information/Reporting System	1.000		1.000	
36	Financial Reconciliation System	0.006		0.032	
37	Financial Reconciliation System	0.010		0.010	
38	Computerized Ledger System	0.500		0.250	
39	Financial Certification	--		--	
40	Streamlined Internal Audit/ Investigation		6.900		0.700
41	Remote Inventory of Computers	0.036		0.072	
42	Tracking and Monitoring Assets	0.100		0.100	
43	Tracking and Monitoring Assets	0.075		0.075	
44	Cellphone Usage Savings	0.100		0.100	
45	Phone/Data Circuit Billing Accuracy	1.000		0.100	
46	Online Billing System	0.075		0.150	
47	Phone/Data Circuit Audit Accuracy	0.120		0.120	
48	Motor Fuel Savings	0.030		0.090	
49	Mailing Savings	0.012		0.240	
50	Records Storage Savings	--		--	
TOTALS		14.625	7.70	25.126	23.40

Notes:

1. The added value of previously implemented efficiencies is based on information from Davis Productivity Awards nomination forms and follow-up with nominators.
2. Estimated additional value after adaptation and implementation of these efficiencies by the State Courts System, Justice Administrative Commission, State Attorney and Public Defender Offices, and Clerk of the Court offices performing state courts-related functions is based on Florida TaxWatch estimates. The estimates are a conservative assessment of the amount of adaptation and implementation of achievements that can reasonably occur over the next three years.
3. Added value of the recommended efficiencies and estimated added value after adapting and implementing them are for one year. Recurring added value is not reflected in the above data.

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