

Item # 4

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Property Tax Reduction for Construction or Reconstruction of Housing for Elderly Parent(s) or Grandparent(s) Ordinance

**DEPARTMENT:** County Manager      **DIVISION:** \_\_\_\_\_

**AUTHORIZED BY:** J. Kevin Grace      **Contact:** Sally A. Sherman      **EXT.** 7224

<b>Agenda Date</b> <u>11/18/03</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/> <b>Public Hearing – 1:30</b> <input type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>
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**MOTION/RECOMMENDATION:**

Approve and authorize setting a public hearing to consider adoption of an Ordinance implementing the Property Tax Reduction for Construction or Reconstruction of Homestead Property to House Elderly Parent(s) or Grandparent(s) of Owners or Owner's Spouse.

**BACKGROUND:**

At the October 14, 2003, County Commission meeting, Bill Suber, Property Appraiser presented an overview on the Reduction in Assessment for living Quarters of Parents or Grandparents Legislation commonly referred to as the "Granny Flats Bill." This legislation is the result of an amendment to Article VII of the Florida Constitution that was approved by the voters in November 2002. In Seminole County the measure was approved by 65%. The implementing legislation was enacted by the Florida Legislature during the 2002 Session and became effective simultaneously with the constitutional amendment.

Under the provisions of the statute the Board of County Commissioners may adopt an ordinance to provide for a reduction in the assessed value of homestead property meeting certain criteria. If adopted the ordinance is binding upon all taxing authorities that levy taxes within the County. There are established guidelines that must be met before the property owner can be eligible to receive this exemption.

- Only construction or reconstruction that has been substantially completed after January 7, 2003 can be considered for this exemption.
- The reduction in value cannot exceed 20% of the assessed value of the property prior to the assessment reduction being taken.

<b>Reviewed by:</b> <b>Co Atty:</b> <u>[Signature]</u> <b>DFS:</b> <u>[Signature]</u> <b>Other:</b> _____ <b>DCM:</b> <u>[Signature]</u> <b>CM:</b> <u>[Signature]</u>  <b>File No</b> <u>CCM01</u>
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- The reduced amount shall be placed on the roll after a change in ownership, when the property is no longer homesteaded, or when the parent or grandparent discontinues residing on the property.

The Economic Impact Statement on the operations of the County is anticipated to be minimal. Staff contacted all the taxing authorities that levy taxes within the County requesting input by November 3, 2003. We have received input from the following taxing authorities indicating they have no objections to the Ordinance:

- City of Altamonte Springs
- City of Casselberry
- City of Oviedo
- City of Sanford
- St. Johns River Water Management District

Attached for your information is a copy of Florida Statute 193.703 and the proposed Ordinance.

Select Year:



## The 2002 Florida Statutes

[Title XIV](#)  
TAXATION AND FINANCE

[Chapter 193](#)  
ASSESSMENTS

[View Entire Chapter](#)

### **<sup>1</sup>193.703 Reduction in assessment for living quarters of parents or grandparents.--**

(1) In accordance with s. 4(e), Art. VII of the State Constitution, a county may provide for a reduction in the assessed value of homestead property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parents or grandparents of the owner of the property or of the owner's spouse if at least one of the parents or grandparents for whom the living quarters are provided is at least 62 years of age.

(2) A reduction may be granted under subsection (1) only to the owner of homestead property where the construction or reconstruction is consistent with local land development regulations.

(3) A reduction in assessment which is granted under this section applies only to construction or reconstruction that occurred after the effective date of this section to an existing homestead and applies only during taxable years during which at least one such parent or grandparent maintains his or her primary place of residence in such living quarters within the homestead property of the owner.

(4) Such a reduction in assessment may be granted only upon an application filed annually with the county property appraiser. The application must be made before March 1 of the year for which the reduction is to be granted. If the property appraiser is satisfied that the property is entitled to a reduction in assessment under this section, the property appraiser shall approve the application, and the value of such residential improvements shall be excluded from the value of the property for purposes of ad valorem taxation. The value excluded may not exceed the lesser of the following:

- (a) The increase in assessed value resulting from construction or reconstruction of the property; or
- (b) Twenty percent of the total assessed value of the property as improved.

(5) If the owner of homestead property for which such a reduction in assessed value has been granted is found to have made any willfully false statement in the application for the reduction, the reduction shall be revoked, the owner is subject to a civil penalty of not more than \$1,000, and the owner shall be disqualified from receiving any such reduction for a period of 5 years.

(6) When the property owner no longer qualifies for the reduction in assessed value for living quarters of parents or grandparents, the previously excluded just value of such improvements as of the first January 1 after the improvements were substantially completed shall be added back to the assessed value of the property.

**History.--**s. 1, ch. 2002-226.

<sup>1</sup>**Note.--**Section 2, ch. 2002-226, provides that "[t]his act shall take effect upon the effective date of an amendment to Section 4 of Article VII of the State Constitution which allows counties to provide for a reduction in assessed value of living quarters constructed for parents or grandparents."

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be

**AN ORDINANCE AMENDING CHAPTER 245, TAXATION, SEMINOLE COUNTY CODE BY CREATION OF PART 11 PROVIDING FOR A REDUCTION IN ASSESSED VALUE OF HOMESTEAD PROPERTY FOR CONSTRUCTION OR RECONSTRUCTION TO HOUSE ELDERLY PARENT(S) OR GRANDPARENT(S) OF OWNER OR OWNER'S SPOUSE; PROVIDING FOR DEFINITION, COMPLIANCE WITH LOCAL PLANS, REGULATIONS, AND ORPHANAGES, QUALIFICATIONS FOR REDUCTIONS, ANNUAL APPLICATION, AND LIMIT ON AMOUNT OF REDUCTION; PROVIDING FOR PROPERTY HELD JOINTLY WITH RIGHT OF SURVIVORSHIP; PROVIDING FOR PENALTIES FOR VIOLATIONS AND ADJUSTMENT OF ASSESSED VALUE; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, Article VII, Section 4(e), Florida Constitution, authorizes the State Legislature to enact a general law allowing local governments, for the purpose of their respective tax levies, to provide for a reduction in the assessed value of a homestead property; and

**WHEREAS**, said Constitutional Amendment provides that the reduction in assessed value of the homestead property may be reduced to the extent of any increase in assessed value of the property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive parent(s) or grandparent(s) of the owner or of the owner's spouse if at least one of the parent(s) or grandparent(s) for whom the living quarters are provided is 62 years of age or older. The Constitutional Amendment further provides that the reduction may not exceed the lesser of: (1) the increase in assessed value resulting from

construction or reconstruction of the property; or (2) twenty percent (20%) of the total assessed value of the property as improved; and

**WHEREAS,** the State Legislature enacted Chapter 2002-226, Laws of Florida, creating Section 193.703, Florida Statutes, implementing Article VII, Section 4(e), Florida Constitution, making the law effective upon passage of the Constitutional Amendment by referendum of the voters; and

**WHEREAS,** in November 2002, the voters of the State of Florida voted in favor of the Constitutional Amendment to Article VII, Section 4(e), discussed herein; and

**WHEREAS,** a reduction in the assessed value of homestead property within the provisions and limitations of Article VII, Section 4(e), Florida Constitution, Chapter 2002-226, Laws of Florida, and Section 193.703, Florida Statutes would benefit the citizens of Seminole County; and

**WHEREAS,** said reduction in the assessed value of property must be in the form of an ordinance and must be filed with the Seminole County Property Appraiser no later than January 1, 2004, to be effective in the 2004 tax year; and

**WHEREAS,** an Economic Impact Statement has been prepared and is available for public review in accordance with the provisions set forth in the Seminole County Home Rule Charter,

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:**

**Section 1.** Chapter 245, Seminole County Code, "Taxation" is amended by the creation of Part 11, to read as follows:

**PART 11 REDUCTION IN ASSESSED VALUE OF HOMESTEAD PROPERTY FOR CONSTRUCTION OR RECONSTRUCTION OF HOMESTEAD PROPERTY TO HOUSE ELDERLY PARENT(S) OR GRANDPARENT(S) OF OWNER OR OWNER'S SPOUSE.**

**Sec. 245.144 Reduction in homestead assessment for living quarters of parent(s) and grandparent(s).**

Commencing January 1, 2003, and annually thereafter, pursuant to Article VII, Section 4(e), Florida Constitution, and Section 193.703, Florida Statutes, a reduction in the assessed value of homestead property is hereby authorized provided that the reduced assessment value results from the construction or reconstruction of the property for the purpose of providing living quarters, constituting the primary place of residence for one or more natural or adoptive parent(s) or grandparent(s) of the owner of the property, or of the owner's spouse if at least one of the parent(s) or grandparent(s) for whom the living quarters are provided is at least 62 years of age.

**Sec. 245.145 Definitions.**

(a) As used in this Part, the term "construction" means all types of construction governed by the Florida Building Code.

(b) As used in this Part, the term "reconstruction" means all types of reconstruction governed by the Florida Building Code.

(c) As used in this Part, the term "primary place of residence" shall have the same meaning as "permanent residence" for establishing homestead exemption pursuant to Section 196.031, Florida Statutes. The Property Appraiser may rely upon the factors listed in Section 196.015, Florida Statutes, in determining whether the property is the primary place of residence for the applicant's parent(s) or grandparent(s).

**Sec. 245.146 Local plans, regulations, and ordinances.**

A reduction may be granted under this Part only to the owner of homestead property where the construction or reconstruction is consistent with local land development plans, regulations, and ordinances.

**Sec. 245.147 Qualifications for reduction.**

The assessment reduction applies under the following circumstances:

(a) The construction or reconstruction is substantially complete in the year prior to the January 1 in which the qualifying parent(s) or grandparent(s) first occupies the constructed or reconstructed living quarters.

(b) At least one qualifying parent or grandparent maintains his or her primary place of residence in the

constructed or reconstructed living quarters during the taxable year for which the reduction is claimed.

(c) The assessment reduction shall be applied to the assessed value of the homestead property as calculated pursuant to Article VII, Section 4(e), Florida Constitution

**Sec. 245.148 Annual application and limit on amount of reduction.**

Such a reduction in assessment may be granted only upon an application filed annually with the Property Appraiser. The application must be made before March 1 of the year for which the reduction is to be granted. An applicant shall be required to complete forms required by the Property Appraiser, including an affidavit regarding the age of the qualifying parent(s) or grandparent(s) and whether the living quarters are being used as the qualifying parent's or grandparent's primary place of residence for the year in which the reduction is sought. If the Property Appraiser is satisfied that the property is entitled to a reduction in assessment under this Part 11, the Property Appraiser shall approve the application, and the value of such residential improvements shall be excluded from the value of the property for the purposes of ad valorem taxation. The value excluded may not exceed the lesser of the following:

(a) The increase in assessed value resulting from construction or reconstruction of the property; or



(b) Twenty percent (20%) of the total assessed value of the property as improved.

**Sec. 245.249 Property held jointly with right of survivorship.**

If title to the homestead property is held jointly with right of survivorship, the owner residing on the property and otherwise qualifying may receive the entire amount of the reduction in assessed value.

**Sec. 245.150 Penalty for violation.**

If the owner of homestead property for which such a reduction in assessed value has been granted is found to have made any willfully false statement in the application for the reduction, the reduction shall be revoked, and the owner shall be disqualified from receiving any such reduction for a period of five (5) years.

**Sec. 245.151 Adjustment of assessed value.**

When the property owner no longer qualifies for the reduction in assessed value for living quarters of parent(s) or grandparent(s), the previously excluded just value of such improvements, as of the first January 1 after the improvements were substantially completed, shall be added back to the assessed value of the property.

**Section 2. Codification.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Code and

that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; providing, however, that Sections 2, 3, and 4 shall not be codified.

**Section 3. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 4. Effective date.** This Ordinance shall take effect upon filing a copy of this Ordinance with the Florida Department of State by the Clerk of the Board of County Commissioners. A true and correct codified copy of this Ordinance shall be delivered by the Clerk to the Seminole County Property Appraiser as soon as practicable.

**ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2003.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
Daryl G. McLain, Chairman

AEC/lpk  
10/21/03  
ord providing for prop tax reduct

# ECONOMIC IMPACT STATEMENT

DATE: November 2003      DEPT./DIVISION: County Manager's Office

CONTACT PERSON: Sally Sherman      EXTENSION: #7224

## DESCRIBE PROJECT/PROPOSAL:

Florida law requires provisions for a reduction in the assessed value of an owner's homestead property resulting from the construction or reconstruction of their property for the purpose of providing living quarters for parents or grandparents aged 62 years or older.

## DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE OPERATION OF THE COUNTY:

The impact of this proposal on the operation of the County is anticipated to be minimal based on the following :

- 1.) The majority of Seminole County homestead properties are located in residential areas or subdivisions where construction or reconstruction is limited.
- 2.) The qualifying reduction will be the assessed value of the living quarters or twenty percent (20%) of the total assessed value of the property, whichever is less.
- 3.) Qualifying for the annual reduction is limited to the survivorship of the parents or grandparents.

## DESCRIBE THE DIRECT ECONOMIC IMPACT OF THE PROJECT/ PROPOSAL UPON THE PROPERTY OWNERS/TAX PAYERS/CITIZENS WHO ARE EXPECTED TO BE AFFECTED:

For Seminole County citizens with aging parents, this proposal would serve as a benefit to assist with the cost of maintaining an affordable standard of living for themselves and their aging parents.

## IDENTIFY ANY POTENTIAL INDIRECT ECONOMIC IMPACTS, POSITIVE OR NEGATIVE WHICH MIGHT OCCUR AS A RESULT OF THE PROJECT PROPOSAL:

The long term impact of this proposal on the operation of the County could be substantial if several properties of higher value (\$1 million dollars and above)

chose to build extravagant "granny" quarters. This could potentially reduce ad valorem taxes, while increasing the need for County services.

The long-term impact for the average property owner could be higher taxes, due to subsidizing additional services required for properties with the additional exemption.

**IMPLEMENTING REVISION 7 TO  
ARTICLE V OF FLORIDA'S  
CONSTITUTION**



**STAFF REPORT  
NOVEMBER 18, 2003**

**IMPLEMENTING REVISION 7 TO ARTICLE V OF FLORIDA'S CONSTITUTION**

**Table of Contents**

**Management Summary..... 1**

**Background..... 4**

**Requirements of HB 113A..... 5**

**Major Impacts to Seminole County**

- Facilities, Equipment and Computers..... 10**
- Fiscal Analysis..... 11**

**"Glitch Bill" Issues**

- Listing of Questions/ Suggestion for Implementation..... 21**

**Summary..... 26**

**Appendix**

## **MANAGEMENT SUMMARY**

In November 1998, the voters approved Revision 7 to Florida's Constitution in an attempt to shift more of the costs of the court system to the state. House Bill 113A (HB 113A), passed during the 2003 Special Session of the Florida Legislature implements Revision 7 and will affect every Florida county, municipality and citizen that uses the court system. At the direction of the County Manager an Article V Revision Working Group was established to conduct a review of HB113A and its potential legal, fiscal and operational impact on Seminole County Government.

### Fiscal Issues

The preliminary analysis concluded that the fiscal impact to the County in implementing Revision 7 to Article V is at least \$1.0 million annually and \$2.7 million in the first year of implementation (FY04/05). The analysis reveals a deficit to the County of \$260K after court related expenditures are transferred to the state and sales tax and revenue sharing is reduced. However, this deficit is increased due to local requirements, other impacts and court discretionary programs that are the funding responsibility of the County under HB113A. The fiscal analysis is summarized as Exhibit 1 of this report.

### Court Programs

Counties are required to fund "local requirements" under HB 113A. Two programs are specifically defined as "local requirements" in the bill: Legal Aid and Alternative Sanctions Coordinators. If funding continues at the present level, these two programs are estimated to cost the county approximately \$345K annually. In addition, the bill provides that the chief judge (after conferring with the state attorney and public defender) can determine other local requirements for funding consideration by the Board of County Commissioners (BCC). Essentially, funding will be requested locally for any shortfall in funding from the current level for the

court system. Since the actual amount can not be reasonably estimated at this time, the potential impact has not been included in the fiscal analysis.

### Facilities, Equipment and Technology

The statutory requirement that presents a challenge for the county is with regards to communications services, which include computer and telephone systems. HB 113A requires counties to fund the costs of "communications services". It also requires the transfer of equipment to the state but leaves the responsibility for maintenance of the equipment with the county. Thus, the county will be required to maintain equipment that it does not own.

An integrated computer system must be operational and, at minimum, must be able to electronically exchange judicial case background, sentencing guidelines and score sheets and video evidence information stored in integrated case management systems over secure networks by January 1, 2006. An estimate of the cost of an integrated computer system has not been made at this time due to the uncertainty of legislative implementation.

### Legal Issues

Legal issues of HB 113A include:

- Elimination of the county's ability to impose fees that support various programs;
- Imposition of a \$200 filing fee that the county must pay to prosecute county ordinance violations through the court system; and
- Prohibition against the state attorney from prosecuting local ordinance violations and the public defender from defending indigents charged with those violations.



## Conclusion

As presented, HB 113A generates many issues and concerns. Discussions have taken place with the Florida Association of Counties and staff from other counties to seek clarification on a number of issues. However, answers are not forthcoming as much confusion exists as to the legislature's intent in implementation of HB113A, which warrants the need for additional legislation to clear up or alter the current law.

The information in this report is based on what is currently known and staff will continue to keep abreast of issues as we move closer towards the July 1, 2004 implementation date.

## **BACKGROUND**

Article V of the Florida Constitution provides for the structure, functions and responsibilities of the judicial branch of state government. In 1972, voters approved an amendment, which provided for a major restructuring of the court system to a more unified and cohesive system. After years of struggling with escalating costs of maintaining the court system, Florida counties began pursuing an amendment to the state constitution that would require the state to take on the obligations of its court system. This amendment, known as Revision 7, was approved by the voters in November 1998. In 2000, SB 1212 created F.S. Chapter 29 to outline what constitutes the “essential elements” of the state courts system, and overview the components of the state courts system that must be funded by counties. The legislation also provided for a phased-in schedule for implementing Revision 7. However, portions of the definitions adopted were inconsistent with the constitutional amendment and Statement of Intent promulgated by the Constitution Revision Commission. During Special Session A of the 2003 session, the legislature passed a 208 page bill, HB 113A, to implement Revision 7.

HB 113A will have significant impacts on counties and the state beginning July 1, 2004. It substantially changes the responsibilities for the state, county, and clerk of the courts regarding how the state courts system is to be funded. The “state courts system” has been defined as the essential elements of the Supreme Court, district courts of appeal, circuit courts, county courts and essential supports thereto.

## **REQUIREMENTS OF HB 113A**

HB 113A delineates the funding duties and responsibilities of the state, counties and clerk of the courts in providing court services to Florida's citizens. Following is a summary of funding responsibilities and local requirements:

### **Clerk of Courts**

Beginning July 1, 2004 the Clerk of the Court is responsible for collecting fees adequate to meet the funding requirement to support the Clerk's court-related activities. Any surplus in the fees generated, once meeting those needs, will be transferred to the State rather than to the county's General Fund. Also, on this date, all local court fees established by the county will be eliminated. HB 113A establishes a budget review and approval process for the court-related functions of the clerk of court.

### **County Requirements**

(Implementation Dates - Appendix A)

- Facilities- All costs associated with providing facilities for the court system
- Communication Services (excluding postage, fax machines, long distance charges, printed documents, wireless communication and pagers).
- Existing radio systems.
- Existing multi-agency criminal justice information systems.
- Transfer of ownership of fax, phone and teleconferencing equipment to the state by July 1, 2004.

- Cost of construction or lease, maintenance, utilities, and security of facilities for circuit and county courts, public defender offices, state attorney's offices and other offices of clerks of the circuit and County courts performing court related functions.
- Effective July 1, 2005 counties are to fund equipment and furnishings only in the public areas of the courthouses, the state will fund equipment and furnishings in other areas.
- Counties will be responsible for funding all computer-related costs for court operations including Clerk of the Court, Court Administration, Public Defender and State Attorney operations.
- Counties must transfer ownership of equipment (excluding computers) used by the court stakeholders to the state, at no charge, by July 1, 2005.
- 2006 requirement for integrated network.
- Counties are obligated to fund certain "local requirements". Local requirements are defined as "those specialized programs, non-judicial staff and other expenses associated with specialized court programs, specialized prosecution needs, specialized defense needs or resources required of a local jurisdiction as result of special factors or circumstances.
  - HB 113A specifically mandates two programs:
    1. Legal Aid Programs – no minimum amount of funding required.
    2. Alternative Sanctions Coordinators (FS984.09 and 985.216) – created in 1997 under the auspices of the chief administrative judge of the juvenile division of circuit court. The coordinator acts as a

liaison between the court, the Department of Juvenile Justice, the school system and the juvenile. The statute allows one coordinator for each county.

- Through a local process, the BCC may determine other “local requirements” as follows:
  1. The chief judge (after conferring with the state attorney and public defender) identifies all local requirements along with reasonable and necessary salaries, costs and expenses needed to meet those requirements and certifies this information to the BCC on or before June 1<sup>st</sup> of each year for the ensuing fiscal year. The BCC treats the certification in accordance with the county’s budget process.
  2. The BCC has full discretion to decide whether to provide funding for the local requirements and if so, to what extent. The BCC may require a pre-audit review prior to the disbursement of county funds and/or a review or audit of funds expended. The BCC may also provide additional financial support for the court system, state attorneys, or public defenders.

## **State Requirements**

### Courts

- Judges
- Court Administration\*

- Juror compensation and expenses\*
- Responsible court reporting and transcription\*
- Construction or lease of facilities, maintenance, utilities, and security for the district courts of appeal and the Supreme court
- Foreign and sign language interpreters and translators\*
- Expert witnesses appointed by the courts\*
- Judicial assistants, law clerks and legal materials
- Masters and hearing officers\*
- Case management\*
- Judicial scheduling
- Drug court monitoring coordination and service referral
- Mediation and arbitration (excluding citizens dispute settlement programs and community arbitration programs)\*
- Basic legal materials available for the public other than a public law library, appellate clerks and appellate law libraries

### Attorneys

- State Attorneys, Public Defenders and support staff (counties will no longer be able to utilize state attorneys or public defenders in enforcement of local ordinances)
- Court Appointed Attorneys\*
- Court reporting and transcription services\*
- Expert and ordinary witnesses\*
- Mental Health professionals\*

- Transportation expenses\*
- Travel expenses\*
- Library and electronic research services other than a public law library\*
- Pretrial consultation fees and costs\*

\*These items were previously the responsibility of counties.

## **MAJOR IMPACTS TO SEMINOLE COUNTY**

### **Facilities, Equipment and Computers**

The transfer and maintenance of facilities, equipment, and computers from the county to the state mandated by HB 113A creates some unique challenges for Seminole County. The revision requires Seminole County “..to fund the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of the construction or lease, maintenance, utilities, and security of the facilities for the circuit and county courts, public defenders’ offices, state attorneys” offices, and the offices of the clerks of the circuit and county courts performing court related functions.” It also requires the transfer of equipment to the state but leaves the responsibility for maintenance of the equipment with the county. A listing of the equipment to be transferred to the State per HB 113A has been prepared. The equipment valuation at historical cost is \$308K.

As HB 113A is currently written, communications equipment services will provide a challenge for the county. “Communication services” means any reasonable and necessary transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by judges, clerks, public defenders, state attorneys, and all staff of the state courts systems, state attorneys’ offices, public defenders’ offices, and clerks of the circuit and county courts performing court-related functions.



Information Technology has provided a list of the existing communications equipment to be transferred to the state per HB 113A. The replacement value of this equipment totals approximately \$1.4 million (Appendix B). This is the value per industry standards for an integrated system with messaging voice features. An estimate of the cost of an integrated computer system has not been made at this time due to the uncertainty of legislative implementation.

### **Fiscal Analysis**

The preliminary analysis (Exhibit 1) of the fiscal impact to the County in implementing Revision 7 to Article V anticipates an annual cost to the county of approximately \$1 million. Inclusive of one-time costs of legislative implementation, the cost for FY04/05 is estimated to be \$2.7 million.

Estimates for Revenues and Expenditures were calculated using the approved FY04/05 Budget and other outside agency projections. Assumptions used in the analysis include the following:

#### **REVENUES (Exhibit 3):**

Pursuant to HB 113A, most court-related revenues generated through fees and fines that are currently used to support the court system, will become the property of the Clerk of Circuit Court (i.e. the State) to be used in performing court-related functions. General Fund Court-related revenues total approximately \$5.2 million. Other Court-related fee based revenues designated for specified purposes (facilities, Mediation, Arbitration, etc.) total approximately \$2.0 million. Fees

supporting the Intergovernmental Radio System (approximately \$263K) and the Police Education Program, (approximately \$50K), are unaffected by Article V legislation (HB113A, Section 81.142.01).

Additionally, the legislation requires contributions from General Fund revenues through reductions of the distribution percentages that goes to local governments under the half-cent sales tax and county revenue sharing programs. For Seminole County, the estimated annual reduction is approximately \$1.1 million in sales tax and \$700K in revenue sharing for a total of \$1.8 million.

The total loss of revenue to the County is estimated at \$9 million, some of which will be offset by a shift in expenditures to the state.

**EXPENDITURES:**

The State will assume approximately \$8.7 million of court-related expenditures (General Fund and Other Fee Specified funds) resulting in a deficit to the County of almost \$300K. The deficit is increased when local requirements and other impacts are added in for a total deficit of \$2.7 million.

Without Article V legislation, the County provides support to the 18<sup>th</sup> Judicial Circuit Court and Clerk of Courts (Exhibit 2) with General Fund revenue (FY04/05) totaling approximately \$8.4 million. County support, with Article V implementation;

including optional programs, additional costs, and one-time transfers total approximately \$11.1 million.

Article V legislation has identified specific programs as optional for support by the County. These programs will not be statutorily mandated as a County responsibility nor supported by the State. The programs affected by this change are: Guardian Ad Litem (\$70K), the Law Library (\$75K), and Adult Drug Court (\$100K) totaling \$245K. The Adult Drug Court Program is currently being funded through a grant program by the State's Office of Justice Programs, which will end FY04/05. The cost of these optional (existing) programs has been factored into the cost analysis with the assumption of their continuation, however funding of these programs is at the option of the BCC.

The legislation mandates the County to fund communications and facility costs for the Courts, Clerk of Courts, State Attorney's Office, and the Public Defender's Office. These are discussed in the Facilities, Equipment and Computers section of this report. Local requirements and other mandated responsibilities and requirements are discussed below:

**Expenditure Detail / Mandated Costs:**

Mandated Costs for the County are estimated based on the FY04/05 approved Budget and are detailed as Local Requirements or Other Responsibilities / Requirements (Exhibit 4).

Local Requirements:

Legal Aid Program – The County will be responsible for supporting the Legal Aid Program in the amount of \$295K. The County will not be authorized to continue levying fees that currently support this program.

Juvenile Alternative Sanctions Coordinator – This position is currently funded by the County in the amount of \$50K.

Other Responsibilities / Requirements:

The County is responsible for funding facilities (construction or leases, maintenance, utilities, security) and communications (phones, computer leases, equipment, maintenance, technology support) costs, existing radio systems, and existing multi-agency criminal justice information systems for the 18<sup>th</sup> Judicial Circuit Court, Clerk of Courts, State Attorney's Office, and Public Defender's Office.

Clerk of Courts - The Clerk of Courts' equipment and maintenance and phone costs total \$724K. This includes computer leases and technology support for the new Courthouse. No estimates are included for the Clerk of Courts' current communications/technology costs.

The County funds the Clerk's Office / County Finance in the amount of \$1.1 million. This arrangement is not affected by Article V since the Clerk serves as the County's Chief Financial Officer, performing contractual services.

Court Facilities / Maintenance – The County will no longer have the authority to levy Court facility fees, but will be responsible for facility/maintenance provisions in the amount of \$5.0 million. This includes construction costs for the new Courthouse.

Court Administration – The County will assume responsibility for Court Administration communications and facility support costs in the amount of \$500K.

State Attorney – The County is responsible for the State Attorney's Office communications and facility support costs totaling approximately \$414K.

Public Defender – The County is responsible for the Public Defender's Office communications and facility support costs totaling approximately \$176K.

County Ordinance Violations – Prosecution of County Ordinance violations, not ancillary to a State charge, will become the funding responsibility of the County. The County will also be responsible for providing defense services for indigents entitled to representation. The State Attorney's Office currently prosecutes approximately (325) cases that comprise ordinance violations and other charges. Of the 325 cases, 84 were solely county ordinance violations. The cost to the County to hire a part-time attorney for the prosecution of such cases would estimate \$35K.

In addition, Article V legislation establishes a \$200 filing fee for counties to utilize the courts for prosecuting local ordinance violations. Filing fees for county ordinance violations estimate \$16.8K. Animal Services estimates the prosecution of six (6) cases per year, totaling \$1.2K. Code Enforcement utilizes a Code Enforcement Board to ensure compliance.

Furniture/Equipment - Counties are required to transfer ownership of these items with the exception of common areas, used for the public, by July 1, 2005. This includes judicial employees or Judges' private areas (workstations, desk units, chairs, printers, typewriters, copiers, and fax machines). These are one-time costs (transfers) estimated at \$308K.

Communications Equipment - Counties are required to transfer ownership of these items to the State by July 1, 2004. The replacement value of this equipment totals approximately \$1.4 million dollars. No estimates are configured for equipment integration or network costs which are January 1, 2006 requirements. Multi-agency criminal justice information system costs are not factored.

**SUMMARY**  
**FISCAL IMPACT OF ARTICLE V IMPLEMENTATION**

	FY04/05 Budget
Court Revenue -(GF)	(5,162,557)
Court Revenue -Other Fees	(2,003,171)
GF Revenue to State (Sales Taxes)	<u>(1,836,680)</u>
<b>Revenues deferred to the State</b>	<b>(9,002,408)</b>
<b>State Costs</b>	<b><u>8,742,040</u></b>
<b>State Surplus / County Deficit *</b>	<b>\$ (260,368)</b>
<b>Additional Costs:</b>	
Technology and Support Costs	(642,565)
Filing Fees/Ordinance Violations	(18,000)
Attorney/ Prosecution Services	<u>(35,000)</u>
<b>Total Additional Costs</b>	<b><u>(695,565)</u></b>
<b>TOTAL COUNTY IMPACT - ANNUALLY</b>	<b>\$ (955,933)</b>
<b>One Time Costs (Transfers):</b>	
Furniture/Equipment Costs (July 1, 2005)	(307,994)
Communications/Equipment Costs (July 1, 2004)	(1,419,500)
<b>FISCAL IMPACT FY04-05</b>	<b>\$ (2,683,427)</b>

**\* Optional Costs (Existing Programs): Factored in County Deficit**

Guardian Ad Litem	(70,449)
Law Library	(75,000)
Adult Drug Court (Grant Program ends 04/05)	<u>(100,000)</u>
<b>Total Optional Costs</b>	<b>\$ (245,449)</b>

Source Estimates: Approved FY04/05 Budget

**County Support to Clerk and Judicial Courts**  
 (without Article V vs Article V implemented) FY04/05

**Without Article V:**

**Total Court Related Costs FY04/05:**

Costs assumed by State	8,742,040
Article V Mandated Costs	6,585,718
Optional Costs	245,449
Additional Costs	<u>0</u>
<b>Total</b>	<b>15,573,207</b>

**Total Court Related Revenues FY04/05:**

Court Revenue -(GF)	5,162,557
Ct Rev -Other Fees	<u>2,003,171</u>
<b>Total</b>	<b>7,165,728</b>

**04/05 County Support (w/o Article V)**

Total Court Related Revenues	(7,165,728)
Total Court Related Costs (not incl add'l costs)	15,573,207
 <b>County Support (w/o Article V)</b>	 <b>\$ 8,407,479</b>

**Article V - Implemented:**

**COUNTY:**

**GF Revenue to State (Sales Taxes) @ 95%:**

Reduction in Half Cent Sales Tax	1,130,461
Budgetary Reduction to State Shared Revenue	<u>706,219</u>
<b>Total</b>	<b>1,836,680</b>

**County Portion of Court Costs**

County Portion of Court Costs	6,585,718
Optional Costs	245,449
Additional Costs	<u>695,565</u>
<b>Total</b>	<b>7,526,732</b>

**County Support (w/Article V):** **\$ 9,363,412**

<b>TOTAL ANNUAL County Impact</b>	<b>\$ (955,933)</b>
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**One time Cost for furniture/equipment**

<b>FY04/05 County Support (w/Article V):</b>	<b>\$ 11,090,906</b>
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<b>FY04/05 County Impact</b>	<b>\$ (2,683,427)</b>
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**Court Related Revenues  
FY04-05**

<u>Fund</u>	<u>Function</u>	<u>Account Name</u>	<u>Court Rev- (GF)</u>	<u>Court Rev- Other Fees</u>	<u>GF Rev - (Sales Tax)</u>	<u>NOTES</u>
<b>General Fund</b>						
00100	33512000	State Revenue Sharing			743,388	= rev loss (95% = 706,219)
00100	33518000	Half-Cent State Sales Tax			1,189,959	= annual % inc/ approx 5.5%
00100	34170100	Legal Aid - County	175,000			
00100	34175000	Legal Aid - Circuit	120,000			
00100	35110000	County Court Fines	1,034,548			F.S. 318.21
00100	35114500	Intergovernment Agreement	1,100,000			F.S.318.21
00100	35115000	Traffic - Parking	28,256			
00100	35120000	Misdemeanor	1,000,000			
00100	35130000	Circuit Court Fines (Felony)	60,000			
00100	35140000	Traffic-Noncriminal	2,500			
00100	35150000	Estreated Bonds	500,000			
00100	35930000	Public Defender Lien-Cty	56,100			
00100	35931000	Public Defender Lien-Cir	40,000			
00100	38600210	Reimbursements - Clerk	1,317,867			Health Ins, WC
00100	39999800	Less 5% - Receipts	-271,714		-96,667	
<b>Court Revenue -Other Fees</b>						
12300 - Alcohol/Drug Abuse					102,100	
12401 - Court Facilities-County					727,428	
12402 - Circuit Court Facilities					184,134	
12700 - Criminal Justice Trust (State Atty/Public Defender)					478,800	
12901 - County Civil Mediation Total					144,133	
12902 - Circuit Civil Mediation					198,317	
12903 - Family Mediation					168,259	
<b>TOTAL Court -Related Revenues</b>			<b>5,162,557</b>	<b>2,003,171</b>	<b>1,836,680</b>	<b>\$9,002,408</b>

Court Related Expenditures - Article V (FY04/05)

Department	Fd#/Org.	STATE		COUNTY		Total Mandated + Additional	NOTES
		Costs assumed by State	Article V Mandated - County	Optional County - Existing Programs	Additional Costs		
<b>Clerk of Courts:</b>							
Clerk of Circuit Court	23000	1,339,312	320,600				R&M, computer, copiers, phones
Clerk of Circuit/County Finance	23100	0	0				\$192,859 - contracted svc
Clerk of Circuit/County Finance Salaries	13001	0	0				\$936,920 - contracted svc
Clerk's Court Costs	10634	3,129,655	1,500				phones
Judicial / County Court	31000	130,683	24,120				computer support, R&M, equipmt
Witness/Other Fees	31200	18,000					
County Civil Traffic	31700	30,488					
Admin Svcs/Computer Leases (new Cthse)	10560		7,095				
Audio/Visual Staff (new Cthse)	new					175,548	(2) Techs- ps + operating/capital
IT Technical Staff (new Cthse)	new					195,498	(2) Techs- ps + operating/capital
<b>Total</b>						<b>724,361</b>	
<b>Court Facilities:</b>							
Ct Fac Fees (City#12401/ & Cir#12402)	31100/33100		102,007				
Support Svcs (Cnty Ct Fac =#12401)	10536		37,220				
Fac Maint (Cnty & Circuit) (#12401 & 12402)	10567-10568		772,335				
Courthouse Debt (Sales Tax)	#22200		2,570,885				completion date 7/04
Fac Maint & Support Svcs (new Cthse)	10560/10530		1,586,628				
<b>Total</b>						<b>5,069,075</b>	
<b>Courts:</b>							
Judicial/ Circuit Court	33000	464,636					
* Judicial /Circuit Court (Court Admin)	"		499,578				IT Staff, 55k & 65k, IT 250k, phones = 129k
* Judicial/Cir Ct (Alt Juv Sanctions Coord)	"		50,000				
Judicial / Civil Domestic Division	33300	170,253					
Circuit Court Costs	33400	737,052					
Court Appointed Counsel	33500	1,725,000					
* Legal Aid	37000		295,000				
<b>Optional Programs:</b>							
* Guardian Ad Litem	34000			70,449			
* Law Library	37100			75,000			
* Adult Drug Court	#00110/33110			100,000			Grant ends in 04/05/optional exp
<b>Total</b>						<b>245,449</b>	
Witness Management	63900	169,326					State (1); PD (1). St = salaries /City=furn, comptr, phones
County Civil Mediation	#12901	144,133					no budgeted reserves
Circuit Civil Mediation	#12902	198,317					" " "
Family Mediation	#12903	168,259					" " "
<b>State Atty:</b>							
St Atty /IT Staff (state employees)	new				80,000		(2) Tech/ currently State
St Atty /IT Maintenance	new				116,902		maint, licenses, supplies
St Atty/ (Internal Svc Chgs)	14029		75,791				radios, postage, phones + suppt
<b>Total</b>						<b>414,466</b>	
<b>Public Defender:</b>							
PD /IT Staff (state employees)	new				50,000		(1) Tech/ currently State
PD/ IT Maintenance	new				24,617		maint, licenses, & supplies
PD/ (Internal Svc Chgs)	14029		79,090				radios, postage, phones + suppt
<b>Total</b>						<b>175,803</b>	
<b>Filing Fees/Ordinance Violations:</b>							
* Animal Control Svcs	new				1,200		(6) court mandated appearances @ \$200
* Ordinance Violations	new				16,800		(84) cases @ \$200 filing fee
* Attorney /Ordinance Violations	new				35,000		Att svcs (part-time cost)
<b>TOTALS</b>		<b>8,742,040</b>	<b>6,585,718</b>	<b>245,449</b>	<b>695,565</b>		

**TOTAL EXPENDITURES (Article V) \$16,268,772**

**One Time Costs (Transfers):**

* Furniture/equipment (7/1/04)					307,994		Jud Ct - wkslns, desk units, printers, typewr, coprs, fax mac
* Communications/equipment (7/1/05)					1,419,500		Hardware/Software, Phones, etc., Judicial, PD, St Atty, Clerk
<b>TOTAL STATE =</b>		<b>8,742,040</b>			<b>9,254,226</b>	<b>= TOTAL COUNTY</b>	

**TOTAL EXPENDITURES (Article V) -FY04/05 \$17,996,266**

## "GLITCH BILL" ISSUES

Whenever a massive rewrite of Florida law occurs, issues may not have been addressed, need to be clarified or contested. A "Glitch Bill" is presented to the legislature to address these issues. Counties and other agencies in the state are preparing comprehensive lists of items for submission as part of a "Glitch Bill" for the 2004 Legislative Session to clarify many concerns regarding HB 113A provisions.

The following are unanswered questions presented by Seminole County, questions presented to Florida Association of County from various Counties/Municipalities, and a suggested provision for use of Intergovernmental agreements for implementation of Article V revisions.

### **Questions presented by Seminole County:**

1. How best to deal with the transfer of telephone systems, computers and other personal property that is:
  - (a) leased from third parties; or
  - (b) providing service to both court and non court entities—i.e., the court related service is only a part of the service provided by the system.  
(In Seminole County the computers are under a lease program. Also, the hub of the fiber optic system is in the Courthouse and the system serves all County agencies and departments, including the court system. Separating the systems out may be virtually impossible).
  - (c) In addition Telephone switching equipment (PBS & Switches) have always been purchased and included in the cost of the building. The building is the property of the BCC. Under the revisions to Article V, does the BCC retain ownership of the systems, switches, wiring infrastructure, etc. This is also true with the WAN (wide Area Network Equipment) and some Audio Visual equipment and systems.  
\* What about actual telephone sets which are digital and useless without the system (PBX) they are attached to.

- (d) If we do retain ownership is it fair and equitable to charge them a users fee for the proportionate share of these systems based on number of users and/or services utilized?
  - (e) The County provides services based on a system approach, for example we provide long distance service and basic dial tone on lines that are shared over the entire enterprise and are not located at or dedicated to one facility or user. A user at reflection may be using a dial tone line from CSB or the Courthouse and another at the State Attorney's office may be using long distance service coming in through the Public Safety location. How do we break out these services? Do they have to be separated? Can we just charge them for service proportionately or do we need to separate services? (note – in some cases if we separate services we could incur additional expenses by having to break up cost efficient PRI lines from bell to accommodate redistribution of services by location)
  - (f) Are the technical employees that support Judicial/Public Defender/State Attorney going to be County employees? If so, who manages, fires, hires them? Can a state employee fire a County employee?
  - (g) How will the pcs that are currently funded by the State Attorney/Public Defender be funded after the transition? Currently, they are sent a bill and they process for payment.
  - (h) Potential cost of Integrated Computer System??? Page 7 on Session A Revision 7 Legislation
  - (i) Who is responsible for software purchases and licensing on pcs and servers?
2. Who is the County Prosecuting Attorney? (Who will prosecute violations of county ordinances unrelated to violations of state statutes?)
  3. Who pays appointed attorneys in cases that are in progress when the system changes hands? Will the State pick up compensation in all cases as of a date certain or only new cases after that date?
  4. Confirm/clarify Facility Fees being the responsibility of the Chief Financial Officer.
  5. Will the existing revenue balances for Mediation Fees remain with the County or be returned to the State?
  6. What is the criterion for determining final Mediation Fee receipts?

7. Will FY04/05 projections for the Half-Cent Sales Tax and Revenue Sharing (including Article V reductions) be generated by the DOR early enough to be used as a projected guideline for annual budget preparations?

**Other Questions Presented from Various Counties/Municipalities  
(Appendix C)**

Florida Association of Counties (FAC) compiled a listing of questions generated by Counties and municipalities across the state as a result of a conference call, sponsored by FAC on July 23, 2003, regarding HB 113A provisions. Most of the questions still require clarification.

**Suggestion for Implementation of Article V Revisions**

Attached as Exhibit 5 is an internal memo from the County Attorney's Office recommending the use of intergovernmental agreements as a provision for the implementation of Article V revisions.



**COUNTY ATTORNEY'S OFFICE  
INTERNAL MEMORANDUM**

To: Article V Revisions Working Group

From: Arnold W. Schneider, Assistant County Attorney  
Ext. 7254

Date: November 3, 2003

Subject: SUGGESTED PROVISION FOR USE OF INTERGOVERNMENTAL  
AGREEMENTS FOR IMPLEMENTATION OF ARTICLE V REVISIONS

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Recent seminars, discussions with other county officials and interested parties reveals that certain aspects of implementing the court restructuring program may prove unnecessarily costly, impractical and duplicative in the absence of authority for flexible intergovernmental cooperation. Of foremost concern is the unbundling of consolidated telecommunications and computer systems serving multiple constitutional officers and general county government as well as the court system itself (including prosecutors and public defenders). In some instances, these services may even serve multiple jurisdictions. In many, if not most instances, these hardware and software systems are the subject of long term leases and maintenance agreements. Bifurcation of ownership and maintenance responsibilities is another concern.

These issues may prove more difficult than most persons would have thought earlier in the process. In the case of the I.T. issues, allowing the state to simply "lease" the present configurations and services via intergovernmental agreement may prove to be the best and most cost effective option. Broad statutory authority for intergovernmental agreement would provide a flexible legal mechanism for innovatively addressing practical concerns that may vary considerably among jurisdictions. There may be other practical applications as well. In the case of special public defenders, retention of those persons, assignment of existing contracts to the state as well as administration of the contracts for such services may prove to be more practical to administer locally.

The solution to many administrative and implementation problems may lie in broad statutory authority for use of intergovernmental agreements between the state and county governments and among the constitutional officers and other county governments, locally. Such agreements would facilitate keeping intact the hardware and software configurations as well arrangements for services more practically and cost effectively. Accordingly, I believe we should make a coordinated effort to try and obtain such authority as a part of any "glitch bill" legislation purporting to address clarification of or improvement to the current law.

The language need not be overly complex. A section similar to what appears in Chapter 163, Part I, Florida Statutes (broadly authorizing interlocal agreements among

local governments on issues of common concern) is probably all that is required. While in the final analysis, use of such agreements may or may not prove to be a panacea, at this juncture it seems better to have that authority and not need it than to need it and not have it.

## **SUMMARY**

Staff's preliminary analysis estimates that the fiscal impact to the County will be a deficit of approximately \$2.7 million in the first year and \$1 million thereafter.

However, the true cost to the County will ultimately be determined by a number of variables: the amount of funding the state ultimately provides to the court system; the level of discretionary program funding the Board chooses to fund; whether or not the Clerk imposes the optional fees, and subsequent legislative action relating to HB 113A. In addition, this bill is based on clerks increasing their fees to support both their operations and to help subsidize the state's other court funding responsibilities.

At this time there are many questions and concerns regarding the legislature's intent in implementing the legislation of HB 113A. Clarifying legislation will need to be introduced during the 2004 legislative session. Seminole County will join forces with a number of other counties to develop a list of implementation concerns with the current law that will be introduced as a "glitch bill" during the upcoming 2004 legislative session.

This report is staff's best attempt to provide the Board with the impact of this law on Seminole County. Because of the uncertainties that exist, the board should consider this analysis as a work in progress until more is known. Staff will follow the impact of proposed changes to the legislation closely and will provide the Board with periodic updates of impacts to the County. We anticipate another briefing in



May 2004 following the close of the legislative session. We will discuss the results of the “glitch bill” at that time and present the Board with local requirements and discretionary budget requests, so that the budget can be amended to reflect these items starting July 1, 2004. It should be noted that in planning for implementation of HB 113A, the FY03/04 budget includes funding for nine months of operations for each of the court stakeholders, with three months of funding held in reserves to meet these potential budgeting requirements.

# **APPENDIX**

**APPENDIX A  
ARTICLE V IMPLEMENTATION DATES**

<b>EFFECTIVE DATE</b>	<b>PROVISION FOR IMPLEMENTATION</b>
July 1, 2003	Public Defender lien revenue transfers to State
Nov. 1, 2003	<p>Due Date for report to State on all county expenditures for the Courts for FY 2001-02. Requires all court stakeholders to attest to the accuracy of any data provided</p> <p>Requires the Clerk of each County to submit a report to the legislature containing methodologies for apportioning the cost between their court related and non-court related functions.</p>
July 1, 2004	<p>The percentage of sale tax that local governments received in the local government half-cent revenue sharing program is reduced from 9.653% to 8.814%. Also, the percentage of sales tax that counties receive from the County Revenue Sharing Program is reduced from 2.25 % to 2.044%</p> <p>Counties will be responsible for providing phone system infrastructure, including phone and computer lines, phone switching equipment and maintenance of that equipment and maintenance of that equipment.</p> <p>Counties will be required to transfer ownership of fax and phone equipment owned by counties and used by the courts and court stakeholders, to the state, at no charge.</p> <p>Repeals all county enacted court service charges and fees authorized in chapters 28 and 34 of the Florida Statutes.</p>
July 1, 2005	<p>Counties responsibility for providing court-related equipment and furnishings will be limited to the public areas of the courthouse. The state will be responsible for equipment and furnishings in all other areas.</p> <p>Counties will be required to transfer ownership of equipment and furnishing owned by the County and used by court stakeholders in private areas of the courthouse, to the state, at no charge.</p>
Jan. 1, 2006	An integrated computer system must be operational and, at minimum, must be able to electronically exchange judicial case background, sentencing guidelines and scoresheets, and video evidence information stored in integrated case-management systems over secure networks.

## Appendix B

### COMMUNICATIONS EQUIPMENT: (Transferable as of July 1, 2005)

Agency	Number of phones	Orgn#	Replacement EA	Annual Cost
<b>Public Defenders</b>				
<b>Total</b>	<b>156</b>	036000	\$1,500.00	\$ 234,000.00
<b>Clerk of the Court</b>				
CCC	5	010634	\$1,500.00	\$ 7,500.00
	127	023000	\$1,500.00	\$ 190,500.00
BCC Finance	20	023100	\$1,500.00	\$ 30,000.00
BCC Rec	5	010100	\$1,500.00	\$ 7,500.00
<b>Total</b>	<b>157</b>		\$1,500.00	\$ 235,500.00
<b>Judicial</b>				
Judicial/Circuit	76	033000	\$1,500.00	\$ 114,000.00
Judicial	49	033400	\$1,500.00	\$ 73,500.00
Law Library	4	037100	\$1,500.00	\$ 6,000.00
GAL	3	034000	\$1,500.00	\$ 4,500.00
JJC	23	031000	\$1,500.00	\$ 34,500.00
<b>Total</b>	<b>155</b>		\$1,500.00	\$ 232,500.00
<b>State Attorney</b>				
<b>Total</b>	<b>145</b>	035000	\$1,500.00	\$ 217,500.00
<b>Hardware/Software</b>	All Agencies			\$ 500,000.00
<b>*TOTAL SYSTEM COSTS</b>			<b>TOTAL:</b>	<b>\$ 1,419,500.00</b>

\*These costs do not take into consideration reproduction of Network equipment, nor future Criminal Justice Staff.

## Appendix C

### Other Questions Presented from Various Counties/Municipalities:

#### Appointed Counsel

Who pays appointed attorneys in cases that are in progress when the system changes hands? Will the State pick up compensation in all cases as of a date certain or only new cases after that date?

#### Prosecution of Local Ordinances

Do you see any conflict issues with a County performing both the role of prosecuting its county ordinances and defending people charged with these same county ordinance violations? and if so, is there a way to structure these offices and functions within a county to avoid any improper conflict?

Will the \$200 filing fee apply to all county filings relating to code violations? What about parking infractions or animal control citations, where the fine amount is only \$30. Are those fines now actually going to be worth \$230?

#### Annual Reporting

-----Original Message-----

**From:** JOHN PRYOR [mailto:JPRYOR@broward.org]

**Sent:** Monday, August 04, 2003 11:19 AM

**To:** TED SAUERBECK

**Subject:** Clerks of the Court and Article V

... Here are our questions: (1) after July 1, 2004, do you think the Clerk will qualify as a component unit of the County under GASB 14? I don't think it meets the tests. (2) How should we handle the nine month period ended June 30, 2004? Get a separate audit for that period and include it in our financials?

Ted Sauerbeck,  
Auditor General's Office

...The letter from GASB staff director David Bean addressing whether or not the constitutional officers are component units of the county reporting entity. The letter concluded that constitutional officers were not component units because they do not possess the corporate powers necessary to meet the GASB Statement 14 definition of separate legal standing, and they should be reported as a part of the county government.

The fact that the funding sources of the Clerk is changing, or that county budget approval is no longer required, does not appear to change the basis for the conclusion that constitutional officers are part of the county reporting entity. As such, the county audit report for the fiscal year ended September 30, 2004, should include countywide financial statements that include the Clerk's operations, and separate financial statements for the Clerk.

### **Revenues / Budget**

Section 775.083 p.167 of 206, we need clarification on the court costs imposed by this section constituting \$50 for a felony and \$20 for a misdemeanor or any other offense and shall be deposited by the clerk of the court into an appropriate county account for disbursement for the purposes provided in this subsection. It basically says these funds are considered crime prevention funds. The county, in consultation with the Sheriff, must expend such funds for crime prevention programs in the county.

If 56.4% of the civil traffic infraction revenues that previously went to counties will now go to the fine and forfeiture fund for use by the Clerk, do counties get to keep the remaining 43.6%?

Funds received from the levy of the special tax in section 142.02, FS, are to be used for criminal expenses, the balance to be returned to the county general fund. What is the special tax and how is it implemented?

When do the Counties lose fee revenues?

What Clerk fees (revenues) will be affected?

How do we abolish County Ordinances allowing the collection of fees no longer reimbursable under Article V?

What are the mechanics of "Repeals all county enacted court service charges and fees authorized in chapters 28 and 34 of the Florida Statutes, effective 7/1/04?"  
How do we accomplish this?

We were contemplating using hearing officers to preside over non-criminal parking violations. The funding source was to be the Civil Traffic Infraction Fund.

Now the Counties are required to fund such hearing officers. Does this mean that the County cannot use the monies from the Civil Traffic Infraction Fund?

Is the State going to ask the counties to turn over cash leftover on 6/30/04 in accounts such as Arbitration and Mediation, and other funds that will become State responsibility on 7/1/04?

Can County governments impose new court fines in place of the ones eliminated in HB113A, for example, can the Board of County Commissioners impose an additional court fee for the Teen Court, court facilities, FS. 939.18, the civil traffic infraction hearing officer, FS 318.30-38 ?

Section 29 of HB113A eliminates additional service charges that many counties use for their law libraries; however, Section 31 allows for additional filing fees that can be used for law libraries and other local expenses. What is the dollar limit on this additional filing fee allowed in Section 31?

Several sections allow the government to collect fees and cost when they prevail in civil local ordinance enforcement matters, but there is no reference clarifying whether this includes our fees for prosecuting these cases. Are they covered? See, secs. 125.69, 162.30.

Is the ability to assess the \$2.00 fee pursuant to 938.15, the Criminal Justice Education for local Government affected by the legislation? We believe the revenues collected pursuant to 318.21 (3)(b) are no longer available but also believe the \$2.00 fee LE training (938.15) is still available.

Is the \$200 fee for the filing of a county code violation in court in addition to the prescribed filing fees (\$250.00)?  
How are other counties preserving surplus Teen Court revenues?

Since the provisions of the legislation amending s. 938.29 F.S. and s. 938.30 F.S. (Pd Liens) became effective on July 1, 2003, are we comfortable with the language in section 130 of the legislation, amending s. 935.35 F.S., that provides counties with the ability to continue to collect those outstanding obligations i.e., are counties still "entitled" to those outstanding obligations?

In preparing budgets, how are other counties estimating what the court will ask for under "local requirements" for the last quarter of FY '04?

What is the responsibility of the County and what is definition of that responsibility regarding technology? Does it include all computers, I, e. desktops, local computer programs, imaging, etc.

Both the Public Defender and State Attorney have technology-related expenditures (including staff) that are currently funded by the state. Do these expenditures become the responsibility of the state?

The County uses Trust Fund money to help pay for the cost of a courthouse renovation project. According to the Court Administrator, the Trust Fund money collected from HB 0439 remains in effect and still will be available to the County to continue to use? Do you expect it to remain?

Finally, if the County is utilizing the Court facilities to process local ordinances, can the Courts Administration charge the County for the financial impact on the Courts in addition to the \$200.00 filing fee?

How many counties set their FY04 funding of the Court System to end on June 30, 2004?

### **Clerks of Court**

Do Clerks have to be fee funded?

We would like additional insight into the Clerk's legal status as of July 1, 2004. Specifically, we would like to know if the office is part of the state, county, or is its own separate entity. Would the Clerk's Office be included in the County's CAFR?

### **Communications and Technology**

Please explain the perceived process to create an integrated computer system able to exchange specific criminal case information. How will counties be involved and how will funding take place?

What is the effective date of "Transfer of Ownership" of inventory (phones, computer, and furniture)?

How does the process of transferring ownership of fax and phone equipment to the state by July 1, 2004 actually work? What do we have to do to do this?

We may not have anyone with PDAs, so it may not be a relevant question, but are PDAs considered pagers for purposes of this legislation or what is their classification?

F.S. 29.008 (1) (b) 3

Define equipment? Orange County's Property Accounting Division defines equipment as any equipment with a useful life of 1 year and a cost of \$750 or more. Does the definition include immovable equipment?



F.S. 29.008 (1) (f) 2

Define what is meant by integrated computer system? Court Administration is currently responsible for Case Management; Clerk is responsible for Case Maintenance (i.e. judicial case background).

Section 45 - Pages 83 through 88

F.S. 29.008 (1) (b) 2

Define what is meant by appropriate and customary for courthouse, jury facilities and other public areas of the courthouse?

F.S. 29.008 (1) (f) 3

What does courier and subpoena services include? Does it include, for example, UPS/FedEx, or delivery of mail from and to county buildings by County staff?

Not easy to split systems (computers, telephone, ICJIS) because they are part of a total shared Enterprise system and splitting them is not cost effective because it results in duplicate systems that we must maintain and support.

Are counties responsible for buying new equipment if the equipment becomes broken and/or obsolete.

What are the minimum requirements for computer equipment?

Who will be the contact at the State level for coordinating the transfer of equipment to the State?

Who will be responsible for disposal of surplus equipment and who gets the proceeds from disposal, if any?

Who pays the maintenance cost on software?

We interpret HB 113A to direct the cost for service of process and issuing a subpoena to be borne by the State. There is no direct reference in the bill supporting this contention, but the heavy weight of implication throughout relevant sections of the Florida Statutes suggests that this position is correct.

Revision 7 provides that the state is responsible for the funding of all essential elements of the state court system. To this end, the state is responsible for funding the state attorneys' and public defenders' offices and court appointed counsel. As part of their duties, these entities are responsible for summoning and serving process on witnesses on their own behalf or at the direction of the Court. Indeed, these functions are cited as essential elements of these offices. See, 27.04 Fla. Stat. (2002) ("the state attorney shall have summoned all witnesses required on behalf of the state"). Based on this mandate of state law, and similar language in other sections of the statutes, responsibility for service of process and subpoena

service should properly be retained by the state as these functions are mandated to agencies funded by the state.

Who funds new hardware & software systems?

After the mandated transfer of communication equipment from Counties to the State. are the counties required to continuously provide new equipment, for example computers, to the court system?

### **Local Requirements**

There are two mandated local requirements: legal aid programs and alternative sanctions coordinators. Is there a minimum level of acceptable funding if they are mandates yet are meant to go through the budget process? Also, what are alternative sanctions coordinators?

### **Facilities**

Can the county charge the court system employees/visitors for parking in the county parking garage?

Can the county charge the court system for rent?

Hillsborough County Hillsborough Clerk of the Circuit Court – Has taken the position that the County has to pay for services to the Courts from the Clerk to such as facilities, telephone systems, etc. just like the County has to pay for such services for the Public Defender, State Attorney, and Court Administration. Your opinion?

Law Library - Looks like we lose the filing fee to help fund the Bar Association Public Law Library. Is the thought that funding the entire operation of the Law Library falls to the State under the amendment to Florida Statute 29.004 as "basic legal materials accessible to the public"? Is this just the subscriptions?

### **Personnel**

What specific positions do not fall under court administration? Are deputy court administrators the only positions that do not fall under "court administration" for the purposes of this legislation? Deputy Court Administrators?

Court Administration – Has taken the position that the State employees cannot be used for local administrative support such as payroll, purchasing, etc. when administering support for local programs. Your opinion?

## Miscellaneous

Sec. 29.004 does not explain the term, "basic legal materials accessible to the public". How will this be determined?

Are the State Staff Analysis' factual & sound to follow?

Guardian ad Litem - Is the County required to provide space, communications and technology-related expenditures for all functions under the Justice Administrative Commission such as Guardian Ad Litem (HB 0439)? Since Guardian Ad Litem has been under the Courts and will be removed from Court responsibility effective Jan 1, 2004, who pays for their support needs such as bookkeeping, purchasing, payroll, etc. Does JAC assume responsibility for Criminal Indigent Attorney Fees and Costs; and Non-Criminal Indigent Attorney Fees and Costs?

Is there a definition for security and how much is adequate?

What insurance is the County responsible for? Do we provide insurance for facilities & equipment, maintenance on contracts for computers & faxes?

Legal Aid Programs - We apparently pick up funding "Legal Aid Programs" as a mandated local requirement (which is questionable). Our existing Legal Aid Society presently receives funding support from a variety of sources, other than the filing fee charges (deleted July, 2004). They are taking the position the county will be responsible to fund their entire budget needs not just the deficiency thereto from the loss of the filing fee. Their position on the mandate is that it will remove them from having to secure any other historical funding, and the county has no real authority to question their budget needs or take any action thereto. Any thoughts on this from a budget review aspect and county's ability to address their budget?

Who has the responsibility for funding the following programs:

Drug Court Operations

Domestic Violence

Juvenile Diversion Programs

Children's Justice Center

Elder Justice Center

Mediation Program

Witness Coordination

Indigent Screening

Pro Se Assistance Criminal Indigent Attorney Fees and Costs

Non Criminal Indigent Attorney Fees and Costs

Traffic Court

Appellate Transfers

Dependency Courts