

Meeting Minutes  
Governmental Services Committee  
Taxation and Budget Reform Commission  
Florida Supreme Court  
Court Room  
117 West Duval Street  
Tallahassee, Florida  
Thursday, September 27, 2007  
9:30 a.m. – 12:00 p.m.

**Committee Members:** *Roberto “Bobby” Martinez, Chair, Barney Barnett, Martha Barnett, Mark Bostick, Talbot “Sandy” D’Alemberte, Bruce Kyle, Robert “Bob” McKee, Les Miller, Jr., Randy Miller, Jade Moore, James Scott*

**Members Present:**

Roberto Martinez, Chair  
Robert McKee  
Les Miller  
Randy Miller  
Jade Moore

**Members Present by Phone:**

Bruce Kyle

Chair Martinez called the meeting to order at 9:35 am.

Staff called roll and announced the presence of a quorum.

Chair Martinez asked for a motion to approve the minutes from the August 21<sup>st</sup> meeting, as posted on the website. Several members so moved, and seconded. Minutes were approved.

The chairman introduced the first presenter, the Honorable R. Fred Lewis, Chief Justice of the Florida Supreme Court. Chair Martinez voiced his appreciation and gratitude for Chief Justice Lewis making time to speak to the Governmental Services Committee.

Chief Justice Lewis began his presentation with some opening remarks:

“Mr. Chair, members of the commission, it is an honor and privilege to be able to come before you as the representative of the Judicial Branch. As I come before you today because I wear the hat of the Chief Justice of Florida, I come not only in that capacity. My background is from the trenches that we’re going to be talking about. I have represented plaintiffs and defendants. I have represented the

powerful and the powerless. I have represented the wealthy and those stricken with poverty. I have represented the young and the old. I have represented government and individuals. I have spent my life and dedicated my professional life to what I am going to discuss with you this morning. At times, my wife would tell you that I've spent birthdays and anniversaries writing briefs preparing to come in to the system. If I did not believe to the bottom of my soul in this system and its protections and its independence, then I would not have given myself in that fashion. So, I come to you not just as someone who has been at the public trough for 35 or 40 years. I come to you as an officer, truly as an officer of this great branch. Today, what we anticipated (this may be a little bit redundant for the lawyers) was to explain who we are and what we do. It is very important for us all to come together to understand what it is we do, who we are, and where we have been if we engage in any meaningful discussion of where we are going to go."

Chief Justice Lewis began his presentation titled, Florida's Judicial Branch: Trends for the Future: The Vision, Mission, and Structure of the State Courts System.

Chief Justice Lewis identified the vision of the courts system, "Justice in Florida will be accessible, fair, effective, responsive, and accountable."

The mission of the Judicial Branch is to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.

Florida's court structure is made up of County Courts (322 Judges), Circuit Courts (599 Judges), District Court of Appeals (62 Judges), and the Supreme Court (7 Judges). The trial courts are made up of the County Courts (67 Counties) and the Circuit Courts (20 Circuits).

Chief Justice Lewis explained the evolution of Florida's Court System to the Governmental Services Committee of the Taxation and Budget Reform Commission. The State of Florida has undergone incredible changes in the courts system to make up the system we now live under today. In 1950, there was no State Courts System. Today, 57 years later, Florida's Courts are the aspiration of many other court systems across America.

The current funding structure of the Judicial Branch appropriates 0.7% of Florida's total budget in FY 2007-08. State Courts and the Justice System are appropriated separately. In FY 2007-08, the State Courts System was appropriated \$491,234,853 for their total budget. Also in FY 2007-08, the Justice System was awarded \$1.29 billion in total appropriations.

The demographic trends of the State of Florida and its court systems are in a constant state of fluctuation. The population trends, as we have heard in previous meetings, are growing at a rate which may rise faster than the State of Florida's services can effectively keep pace. The courts will have to prepare for these demographic shifts. One of the

fastest growing segments of Florida's population is the Non-English speaking inhabitants; courts have been compelled to hire judges and staff who are fluent in languages other than English in order to service this segment of the population.

Chief Justice Lewis indicated that technology in the courts is a vital place to streamline and increase productivity. Technology is changing how the courts do business. The courthouse of the future will focus on instant communications and instant case processing. Video linkages, data processing, and personal computer technologies will enhance and speed up case resolution.

The budget drivers for the future of the State of Florida's Courts System are a function of projected case filings and a projected need for new judges in Florida. Extrapolating the data from the demographic trends indicates that (all things remaining constant) there may be some budget shortages in the future.

Chair Martinez asked Chief Justice Lewis if he could get more information on budget drivers to the committee staff. Chief Justice Lewis agreed to the Chairman's request. (State Courts staff has provided requested material; information has been released onto the website)

Florida TaxWatch has prepared a research project which proposed cost savings and increased accountability for the courts. The Chief Justice included an excerpt of the report in his presentation:

"The State Courts System's Performance and Accountability Commission, over the next two years, is charged by the Supreme Court to make recommendations on effective and efficient management of due process services, including: court-appointed counsel, digital recording technology, and court reporting services; monitoring the management of dependency and termination of parental rights and post-conviction motions and appeals; and, as time and resources permit, developing recommendations to implement a performance and accountability system, beginning with circuit criminal cases."

*Florida Government Has Unprecedented Opportunities to Increase Accountability and Achieve Cost Savings*, Florida TaxWatch Research Report, September 20, 2007

Chair Martinez asked the Chief Justice if the Clerk of a particular circuit reports to a chief judge. Chief Justice Lewis answered that they don't report to the chief judge but they do work with them. There is a court administrator who does answer to the chief judge. The Clerk is a separate constitutionally elected officer and when they work together with the chief judge and the court administrator in that particular courthouse, things will tend to move more smoothly.

Commissioner Les Miller asked how many hours per day a Supreme Court Justice would normally work. Chief Justice Lewis replied that 10 – 12 hour days are quite normal.

Commissioner Bob McKee asked how costs are born in the appellate courts. Appellate courts are all State funded, according to Chief Justice Lewis.

Chair Martinez pointed out that the Judicial Branch is very powerful but is also the weakest branch. You do not have a lobbyist, so how do you fill that role? Chief Justice Lewis answered that the Trial Court Administrator often is relied upon to play the role of lobbyist for the courts.

Chief Justice Lewis completed his presentation by impressing the importance of maintaining fair and impartial courts that uphold the Constitution, ensure access to justice, are accountable to the law and the Constitution, and maintain attributes of independence and impartiality that inspire confidence in the process.

Commissioner Les Miller asked if the courts were experiencing any budget cuts. The Chief Justice answered that, yes, in the last special session some cutting was ordered; somewhere in the area of 3.8% to 4% cuts.

Chair Martinez asked about the compensation to judges. He asked how judges are paid in the State of Florida. Chief Justice Lewis answered that Florida is what is known as a tiered system. Until recently, judges in the State of Florida courts system would go through a conference to request a pay increase from the Legislature. After the completion of a two year study commissioned by the courts, a unified benchmark system was found to be easier to approach. For example, the Supreme Court Justices receive a set benchmark (\$161,000), the DCA Judges receive a percentage less than the benchmark (5% less), Circuit Judges receive a greater percentage less than the benchmark (10% less), and the County Judges make less than all of the other State of Florida Judges (15% less than the benchmark).

Chair Martinez declared that Judges usually do not like to talk about themselves and especially about their salaries. The Chair opined that the State of Florida's Judges have been underpaid for years, and that Judge's Salaries should be reevaluated. Chief Justice Lewis responded that the Supreme Court Justices have not even received a cost of living increase in over 10 years, much less a substantial pay increase.

Commissioner McKee asked, as a matter of reference, how much a Federal District Judge earns yearly. Chief Justice Lewis answered that he believed they earned \$170,000 to \$175,000 annually.

Chief Justice R. Fred Lewis concluded his presentation with a quote from American anthropologist, Margaret Mead<sup>1</sup>; "Never doubt that a small group of citizens can change the world. Indeed it is the only thing that ever has."

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<sup>1</sup> Margaret Mead (1901-78) taught generations of Americans about the value of looking carefully and openly at other cultures to better understand the complexities of being human. Scientist, explorer, writer, and teacher, Mead, who worked in the Department of Anthropology at the American Museum of Natural History from 1926 until her death, brought the serious work of anthropology into the public consciousness.

Chair Martinez thanked the Chief Justice for addressing the Governmental Services Committee.

Chair Martinez introduced and welcomed the 6<sup>th</sup> Judicial Circuit State Attorney from Pinellas County, Bernie McCabe.

Mr. McCabe began his presentation with a comparison of criminal justice statistics from 1986, 1996, and 2006. Felony filings in the State of Florida have experienced a significant spike over the last twenty years; In 1986, there were 141,391 felonies filed; in 1996, 177,687 felonies filed; and in 2006, there were 224,026 felonies filed in the State of Florida. Prison populations are another area for concern for the State. In 1986, the prison population in Florida was 29,712; in 1996, the prison population had more than doubled with 64,333; and in 2006, 88,576 inmates were held in Florida prisons.

Mr. McCabe went on to describe the evolution of the courts system from 1986 to present day. The numbers of arrests, filings, and convictions have all increased since the year 1986, however, in that same period the percentage of convicts going to prison remains stable. According to Mr. McCabe, factors such as the revolving door of recidivism, the 85% statute, sentencing guidelines, and the criminal punishment code all contributed to the increase of the numbers between 1986 and 2006. Other Federal and State programs designed to be “tough on crime” had an effect on the court’s numbers. The 3 Strikes law is another program which impacted the numbers of defendants in court as well as behind bars. The three strikes you’re out rule is a sentencing enhancement that was created in 1994 under the Violent Crime Control and Law Enforcement Act and provides a mandatory life sentence to repeat offenders for their third conviction. The sentence is given to those that have met the enhancement criteria and was created to curb the growing violent crime rates in the country at that time. “Felonization” is a term coined by Mr. McCabe. In this context, “felonization” is the enhancement of misdemeanor crimes to felonies when the offender is convicted of the same misdemeanor numerous times. For example, driving under the influence may be charged as a felony when the offender is charged with his or her 4<sup>th</sup> DUI.

Trends in the State of Florida’s Courts System have been established by the introduction and implementation of various policies. One of the most prevalent trends is the increase in 1 year + 1 day sentences. County judges are much more likely to sentence convicted inmates to over 1 year in order to send the inmate to a State or Federal facility. This increase in 1 year + 1 day sentences is a direct result of overcrowding of local jails.

Chair Martinez asked Mr. McCabe what drives 1 year + 1 day sentences. He replied that overcrowding of local detention facilities compels judges to send inmates to a Federal prison where Federal tax dollars are collected nationwide and spent locally. Federal and State prison facilities are often larger, better-quality, and more well-funded than local jails.

Mr. McCabe discussed more diversion and treatment options like: Pre-Trial Intervention, Domestic Violence Intervention, and various local juvenile diversion programs. The Florida Department of Corrections operates what is called the Pre-trial Intervention Program. This program, primarily for first-time offenders, offers an alternative to formal prosecution. The program is selective and cannot accept applicants without the approval of the victim, arresting officer, prosecutor and judge. If you have no significant prior record, and are not charged with a violent crime, ask your attorney about the possibility of entry into the pre-trial intervention program. DVIP is a program dedicated to teaching new skills that replace abusive, violent, conflict resolution. The program promotes “zero tolerance” of violent behavior and it is designed for those who have been abusive to their partners. There are several juvenile diversion programs offered through the State of Florida and local governments. Multi-Agency Assessment Program (MAAP) is a grant program administered by the State Attorney's Office for juvenile offenders exhibiting multiple factors indicating they are at risk of re-offending. Participants are diverted out of court and are intensely monitored at home and at school by a State Attorney case manager. Appropriate counseling is made available when needed.

Another unfortunate trend in the Florida Courts is the increased pressure on counties for courts, State Attorneys, Public Defenders, and jails. Mr. McCabe believes there is a need for stable funding sources for both State and County responsibilities.

Chair Martinez showed his appreciation for Bernie McCabe addressing the committee, and informed him that staff may call upon him at a later time to provide information for further review. Mr. McCabe agreed and said that he would do anything in his power to assist the Governmental Services Committee.

Chair Martinez welcomed the final speaker, President of Florida Public Defender Association and 8<sup>th</sup> Judicial Circuit Public Defender, C. Richard Parker.

Mr. Parker notified the committee that one of the biggest problems for public defenders is the inadequacy of funds and an overload of cases. In some cases, public defenders must take in upwards of 600 cases per lawyer. Despite these large caseloads, public defenders usually offer an excellent quality of legal work.

Public defenders are often lured away from public service in order to secure a higher salary with a private firm or a higher-paying agency.

Turnover is frequently high in Public Defender's offices. Taxpayers are paying to train new attorneys constantly because of the turnover.

Commissioner Jade Moore asked what the average debt was for a young man or woman graduating from law school. On the average, law school graduate's from a public college or University run a debt around \$60,000. Private schools are even higher, with graduates owing, on average, over \$100,000

Mr. Parker described the situation where law school graduates often choose more lucrative positions in public or private practice in order to pay off their student loans more rapidly. Lack of general revenue dollars is oftentimes to blame for the failure to retain higher-quality law graduates.

Commissioner Randy Miller asked if the Public Defender's Office can adjust the salary of a highly qualified and talented public defender. Mr. Parker answered that yes there is some room for upward adjustment, but only around \$1,000 per year difference.

Richard Parker voiced his aspiration for a dedicated funding source for the courts and thanked the chairman and committee for the opportunity to appear before them.

Chair Martinez asked for a motion to recess for one hour. Commissioner Randy Miller so moved and several members seconded.

The Chair announced that the second portion of the Governmental Services meeting would be held in Senate Office Building, Room 229.

Recess at 11:58 a.m.

Chair Martinez called the Governmental Services committee meeting back to order at 1:05 p.m. in the Senate Office Building, Room 229.

Staff called roll and announced the presence of a quorum.

Chair Martinez indicated that the remaining portion of the meeting will be used to work on administrative duties of the committee.

Staff handed out an outline of the subjects which had been heard by the Governmental Services Committee up to that point. The meeting subjects were: Public Education, Public Health Care, Public Safety, Transportation, and Water & State Lands. Chairman Martinez indicated that the Governmental Services Committee must now begin to fulfill its obligation to report.

The framing of the reports can now begin at the discretion of Chair Martinez.

Commissioner Randy Miller suggested that staff distribute a copy of the subjects outline to each member.

Chair Martinez introduced the subject of Public Education before the committee. There are several sub-topics under the heading of Public Education which should be studied, addressed, and reported on by staff.

The Chair brought up the issue of Public Health Care to be discussed and analyzed by the committee. There are several sub-topics under the heading of Public Health which should be studied, addressed, and reported on by staff.

Public Safety was indicated as an area of interest by Chair Martinez for the Governmental Services Committee of the TBRC. There are several sub-topics under the heading of Public Safety which should be studied, addressed, and reported on by staff.

Chair Martinez introduced the subject of Transportation for discussion by the Governmental Services Committee. There are several sub-topics under the heading of Transportation which should be studied, addressed, and reported on by staff.

Water Policy in Florida has been identified as an area of serious concern by the Chair. There are several sub-topics under the heading of Water Policy, Conservation and State Lands which should be studied, addressed, and reported on by staff.

There were several other items and subjects which staff has been instructed to report back to the committee on. Preliminary reports were requested for the following subjects:

1. School Choice and Home schooling
2. Level 1 Trauma Centers
3. Capital Projects
4. Consolidation of Law Enforcement agencies
5. University Communications
6. Trust Funds
7. Water Supply Authorities
8. Blue Belt
9. Courts Compensation
10. Clerks of the Court/Public Records
11. Student Loan Waivers

There being no further business, the meeting was adjourned at 2:34 p.m.