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IN THE SUPREME COURT OF FLORIDA

CASE NO. 91,533

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ROBERT F. MILLIGAN, Comptroller, Florida Office of the Comptroller, and Head of the Department of Banking & Finance,

Appellant,

vs.

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS, BURT AARONSON, Chairman,

Appellee.

4th DCA CASE NO. 97-02927
L.T. CASE CL 97-2951 AE

AMICUS BRIEF OF
METROPOLITAN DADE COUNTY

ROBERT A. GINSBURG
Dade County Attorney
Stephen P. Clark Center, Suite 2810
111 N.W. 1st Street
Miami, Florida 33128-1993
Tel: (305) 375-5151
Fax: (305) 375-5634
BY
Jason Bloch
Florida Bar No. 033588
and
Gerald K. Sanchez
Florida Bar No. 915912
Assistant County Attorneys

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SUMMARY OF ARGUMENT

Pursuant to the plain language of §57.081 and 5924.17, Florida Statutes, there is no filing fee for indigent appellants. The Comptroller's attempt to construe other statutes as giving him authority to collect such fees from the counties is misguided. Moreover, the Comptroller's construction renders those statutes unconstitutional.

I.

THE LEGISLATURE HAS PROVIDED THAT NO FILING FEE ACCRUES IN APPEALS BY INDIGENTS.

The issue before this Court is whether indigent criminal defendants incur filing fees when seeking appeals, and whether those fees, if required, may be billed to the various counties. In contrast to the complicated argument forwarded by the Appellant (the Comptroller), the answer to this question is relatively simple. Pursuant to the two applicable statutes which speak directly to the subject, §57.081 and §924.17, Florida Statutes, there is no fee charge for indigent's appellate filings and, as a consequence, there is nothing for the counties to pay.

The Comptroller, however, employs a more circuitous analysis. He begins by invoking $939.15, Florida Statutes, whose complete meaning and relevance in modern judicial practice is somewhat elusive. Nevertheless, the Comptroller

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maintains that since this section establishes generally that counties must pay for the costs expended by indigent criminal defendants, it follows that counties must pay for their appellate filing fees. This sounds like a reasonable position except for one thing: there is no cost to be paid by the county if there is no charge to begin with. Sections 57.081 and 924.17 provide that there is no charge. Therefore, there is nothing for the county to pay. This conclusion is supported by the plain language of the statutes.

Section 57.081, Fla. Stat. provides in pertinent part:

> (1) Any indigent person who is a party . . . in any judicial . . . proceeding or who initiates such proceeding shall receive the services of the courts, sheriffs, and clerks with respect to such proceedings, without charge. Such services [include] filing fees . . .

Though seemingly dispositive of the matter, this provision was given only passing attention by the Comptroller. See Appellant's Br. at I 1- 12. Also seemingly dispositive is §924.17, Fla. Stat., which provides:

> If the Court determines that the defendant is indigent and unable to pay costs, the appeal shall be supersedeas without payment of costs.

This too is given short shrift by the Comptroller. See Appellant Br. at 6.[1]

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[1] The one brief time the Comptroller addresses the provision head on, it is altered. He writes: "Section 924.17, Florida Statutes, directs that indigent appeals are supersedeas, without prepayment of costs by the insolvent appellant." Appellant's Br. at 6 (emphasis added). The Comptroller's substitution of the word "prepayment" for "payment" when paraphrasing the statute is curious given the specific efforts he makes to explain the distinction between payment and

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Rather than confronting these simple and unambiguous provisions, the Comptroller instead urges this Court to infer the counties' obligation to pay filing fees by advancing a complicated in pari materia analysis involving $939.15, Laws of Florida, Chapter 89-129 (and the statutes it amends), §27.56, §27.3455(1)(c) and (d) and 3(a) and (d), and Senate Bill No. 388, Chapter 97-271 (creating ch. 938, Fla. Stat.). See Appellant's Br. at 6-9. Like Frankenstein's monster this assembly of disparate pieces and stitched-on fragments is ultimately doomed. These statutory provisions were never intended to be joined together and, as explained below, they cannot function as a cohesive whole.[2]

prepayment later in his brief. See Appellant's Br. at 9-11. Similarly curious is the Comptroller's use of the word "appellant" instead of "defendant," given the importance he ascribes to the distinction between these two in his discussion of $939.15. See Appellant's Br. at 5-6.

[2] Before engaging this project, the Comptroller attempts a running start by asserting that "[t]he requirement that the county in which a crime was committed, be liable for the costs of an indigent defendant has been the law for at least 63 years. " Appellant's Br. at 3. The Comptroller then quotes from Rolle v. State, I. 15 Fla. 64, 66, 154 So. 2d 892, 892-93 (Fla. 1934), and concludes: "There has not been any indication that the legislature intended, or intends, to modify the county's responsibility." Appellant's Br. at 3. Rolle, which interestingly makes no mention of appellate filing fees at all, speaks only of the county's responsibility "in cases of appeal, [for] the costs allowed by law." Rolle, 154 So. 2d at 893 (emphasis added). Of course $53.08 1 and §924.17, which eliminate the charge for filing fees, were first enacted and amended several times, after the Rolle decision was handed down. This would seem to refute the Comptroller's assertion that "[s]ub judice, there has been no . . . statement of legislative enactment as to the shifting of responsibility for payment of indigent appellant filing fees." Appellant's Br. at 4.

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The Comptroller acknowledges that nothing in §939.15 explicitly requires counties to pay filing fees when an indigent defendant appeals. Indeed, this statute requires the county to pay only "the costs allowed by law." Thus, key to the Comptroller's position is the contention that "Florida law does not 'exempt' the payment of filing fees for an insolvent criminal appellant." Appellant's Br. at 9. This is so because the Comptroller recognizes that something cannot possibly be a taxable cost if there is no underlying obligation to pay it in the first place. To complete his argument the Comptroller states: "In fact, substantive law requires payment by insolvent appellants, while specifically exempting other classes of persons." Appellant's Br. at 10.

To support the contention that indigent appellants are not exempt from filing fees the Comptroller surveys various rules of procedure. E.g., Appellant's Br. at 11 ("[p]ursuant to [Fla. R. Jud. Admin. 2.040(b)(3)] indigents and the state need not prepay [the filing] fee, while habeas corpus petitioners are exempted from payment altogether."); id. at 9 (Fla. R. App. P. 9.430 allow indigent parties to proceed with appeals "'without either the prepayment of fees or costs in the lower tribunal or court as the giving of security therefore.' [Amendments to the Florida Rules of Appellate Procedure, 685 So. 2d 773, 829 (Fla. 1996)]

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(emphasis added). The vernacular is 'prepayment,' which is not the equivalent of 'no payment .'").

The Comptroller is attempting to garner support for his contention by highlighting the distinction found in the rules between an exemption from fees altogether, and an exemption from prepayment of fees. But this reliance on rules of procedure is misplaced. The relationship between rules and existing substantive law has been previously explained:

> This rule [9.430] governs the manner in which an indigent may proceed with an appeal without payment of fees or costs and without bond . . . . This rule is not intended to expand the rights of indigents to proceed with an appeal without payment of fees or costs. The existence of such rights is a matter governed by substantive law.

Amendments to the Rules of Appellate Procedure, 685 So. 2d at 829 (Committee Notes) (emphasis added). This explanation recognizes two significant points. First, an indigent's right to an appeal without a filing fee is a matter of substantive law (granted by the Legislature). Correspondingly, judicial rules addressing the subject are merely those of procedure. Consequently, the Comptroller's dependence on such rules for its contention that "substantive law requires payment by insolvent appellants", Appellant's Br. at 10, is inappropriate.

Also absent from the Comptroller's "prepayment" analysis is the recognition that Fla. R. Jur. Admin. 2.040(b)(3), Fla. R. App. P. 9.430, §35.22(3), and §57.081 each apply to all types of cases, be they civil, criminal or administrative. The "prepayment" language in the rules is not to suggest that the indigent is still responsible for the fee but only at a later time. (I.e., if no "prepayment" is meant to suggest the counties' ultimate payment for criminal appellants pursuant to §939.15, then who is responsible for ultimate payment on behalf of indigent **civil** appellants?). Rather, the prepayment idea envisions that if, for example, the indigent is the prevailing party in a civil case, then the fee may be taxed against the non-prevailing **party** and paid to the court pursuant to 1557.08 1 (3).[3]

[3] Subsection (3) provides:

> If **an** applicant prevails in **an** action, costs shall be taxed in his or her favor as provided by law and, when collected, shall be applied to pay costs which otherwise would have been required and which have not been paid.

Thus, filing fees are imposed in indigent appeals only when the indigent prevails and moves and recovers costs.

For this reason, rejecting the Comptroller's analysis does not necessarily render §27.3455(1)(d) superfluous either. Considering $939.15, and ignoring for the moment that portion of it concerning indigents, we see that counties are also responsible for costs when a defendant's "judgment [is] reversed." In sum, when an indigent defendant prevails on appeal, has his judgment reversed, moves to tax costs, obtains a judgment taxing costs, and collect such costs, **the** county arguably **must** pay the fee. This would be one situation that could be reported under

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Indeed, the Comptroller himself, disproves his own "prepayment" analysis. He begins by explaining that "[p]ursuant to [Fla. R. Jud. Admin. 2.040(b)(3)], indigents and the State need not prepay [the] fee, while habeas corpus petitioners are exempted from payment altogether." Appellant's Br. at 11. And yet just two sentences later he acknowledges that pursuant to §35.22(3), Fla. Stat. the state is exempt from payment. Id. Similarly, notwithstanding the rules, indigents, like the State, are exempt pursuant to §57.081 and $924.17.

This Court has previously recognized the existence of such rights under substantive law. In Chappel v. Florida Dept. of Health and Rehabilitative Set-vices, 419 So. 2d 105 1 (Fla. 1982), this Court concluded that by its plain language, $57.08 1 included among the free services allowed, appellate filing fees. Id. at 1052. Accord Thames v. State, 549 So. 2d 1198, 1199 (Fla. 1 st DCA 1989) ("If the client cannot pay the [appellate filing fee] he can be certified as indigent and it will be waived, Section 57.081(1), Florida Statutes") (footnote omitted); see also Cliburn v. State, 510 So. 2d 1155, 1156 (Fla. 3d DCA 1987) ("There is no legal authority under Florida law for the imposition of [filing fees] against insolvent defendants.") (citing $924.17, among other authorities).

§27.3455(1)(d). Requiring this payment, however, is of dubious constitutional validity. See Section II, infra.

Second, this language clearly recognizes the existence under current substantive law of "the rights of indigents to proceed with an appeal without payment of fees or costs." These rights derive from §57.081 and $924.17.

Apparently for the purpose of suggesting an analogous approach to interpretation of $939.15, Florida Statutes, but while still not admitting the relevance of $57.081, the Comptroller cites Fields v. Zinman, 394 So. 2d 1133 (Fla. 4th DCA 1981), which in fact interpreted $57.081. Appellant's Br. at 11.

The Fourth District in Fields also concluded that §57.081's cost waiver provisions applied not just to trials, but to appeals as well. The court held "that §57.081 . . . authorizes waiver of the service charge imposed by §35.22 [appellate filing fees]." Fields, 394 So. 2d at 1137. It is true, as the Comptroller observes, that the Fourth District reached its holding after "eschewing the plain language approach to [interpreting the statute,]" Appellant's Br. at 11-12, and relied instead on interpretation of various rules of procedure and this Court's practice of allowing indigents to proceed without payment of filing fees. See Fields, 384 So. 2d at 1135, 1137 (citing e.g., Adams v. Powers, 278 So. 2d 598 (Fla. 1973); State ex rel. Stegall v. Hartsfield (Fla. unreported order)). In

addition, however, Judge Hurley wrote a special concurrence in which he expressed that this result was dictated by the statute's plain meaning:

> Without belaboring the obvious, I believe that the phrase "any judicial . . . proceeding," is sufficiently clear and descriptive to require reliance on the plain meaning rule . . .
>
> * * *
>
> Consequently, I would apply Section 57.081(1) as written, and would hold that it encompasses civil appeals. [citations omitted]

Fields, 394 So. 2d at 1138, 1139 (Hurley, J., concurring specially).

Importantly, when this Court resolved the issue in Chappel, it cited first to Judge Hurley's concurring opinion. 4 19 So. 2d at 1052. This fact demonstrates two fundamental defects in the Comptroller's position. The first is the Comptroller's invitation for this court to "eschew[] the plain language" of $939.15. As noted, this Court has already declined such an invitation, having concluded in Chappel that the statute's plain language does embody appellate costs. The second defect is even more basic. Section 939.15 is not the correct statute at all. Rather, (557.081 (and 4924.17) are controlling.

In addition to the fact that $939.15 only encompasses actual costs allowed, there are several other problems with the §939.15-In pari materia framework. r example, the statute only requires payment or reimbursement "upon presentation

to the county commissioners . . . a certified copy of the judgment of the Court against such county for such costs." In the case at bar, the Comptroller has not demonstrated even the existence of such judgments, much less their presentation to the Palm Beach County Commission. In reality the Comptroller is not asking the County to pay the district court a filing fee at all. Instead, he is saying that every time an indigent defendant files an appeal the County must pay the State a sum of money equal to the amount of a filing fee. This is not an assessment or reimbursement of costs; this is an unauthorized imposition of a levy, paraded as a filing fee.

Next the Comptroller injects §27.3455(1) which requires the counties to report to the State an accounting of various categories of its expenditures in the criminal justice system. Included among the categories are: "medical examiner services," §27.3455(1)(a); "County victim witness programs," §27.3455(1)(b); services provided by the state attorneys' and public defenders' officers, §27.3455(1)(c) and (e), and appellate filing fees in criminal cases, §27.3455(1)(d). This section does not mandate county expenditures in any of these categories; it requires only that those expenditures which are made be reported. (Similarly, §27.3455(3) sets out a theoretical framework of reimbursing the counties for any expenditures in these categories from the funds collected

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pursuant to the special cost assessment against criminal defendants contained in §938.05(1).[4] The statute is only intended to require an accounting of expenditures, not to cryptically imply an obligation to make such expenditures. (By analogy, the Internal Revenue Service requires taxpayers to report their capital gains; unfortunately this requirement does not equate to undersigned counsel having actually made any.) This provision no more requires counties to pay filing fees than does it, by itself, require counties to pay for medical examiner services or County victim witness programs. Such items, as with filing fees, may or may not be required by other statutes. In the case of filing fees, $57.081 and §924.17 say there is no such requirement; §939.15, in contrast, is silent on the matter. Meanwhile, the reporting requirements of §27.3455 remain in place, should the other statutes ever be modified.

An example further illustrates the shortcomings of the Comptroller's approach. Suppose a DNA expert offered his services to an indigent defendant represented by the public defender "without charge," just as services of the courts

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The special cost assessment against defendants in §938.05 ($200 for felonies, $50 for misdemeanors and criminal traffic offenses) itself vividly demonstrates the incompatibility of $939.15 and 827.3455 and the defect in the Comptroller's theory. Presumably, under the Comptroller's analysis of $939.15, when it came to indigent defendants, counties would have to pay the state these costs too. Certainly this is not what was intended, nor would it be constitutionally permissible. See Section II, infra.

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and clerks are provided "without charge" in §57.081. Under the Comptroller's analysis the County would nonetheless be obligated to pay for the services under 5939.15, an absurd result. (Who must be paid -- the expert or the State -- is unclear.) This example further reveals the problem with the Comptroller's invocation of §27.3455 to establish an obligation to pay filing fees. In addition to reporting any appellate filing fees paid, the counties must also report any expenditures on expert witnesses. §27.3455(1)(c), Fla. Stat. (requiring counties to pay the expenses described in §27.54(3), Fla. Stat. (describing expert witness fees of the public defender, among other expenses)). The DNA expert has provided a covered type of service, but because he has not charged, the county has made no expenditures, and will have no expenditure to report. The county will still have to submit a statement but it will properly not reflect any expenditures on the DNA expert.

Perhaps the Comptroller's biggest problem with his reliance on 9939.15 is the statute's explicit exclusion of all "indigent defendants represented by the public defender." Because of this exclusion, even if one were to agree with every other aspect of the Comptroller's position, the vast majority of appellate cases would simply not be covered. The Comptroller tries to skirt this problem by insisting that this exclusionary language applies only to indigent defendants and

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does "not apply to indigent appellants." Appellant's Br. at 5. This argument proves too much. For, by its own terms, $939.15 in its entirety applies to defendants, not appellants. ("When the defendant in any criminal case . , . .") Tf one were to agree that "defendants" did not include "appellants" then aside from all of the other arguments, $939.15 would immediately become irrelevant to the instant discussion of appellate filing fees.

The Court does not have to speculate or accept the Comptroller's in pari materia analysis to determine which, if any, of the free services granted in $57.08 1(1) the Legislature intended counties to fund. Indeed, one need look no further than the statute itself. Subsection (2) provides in its entirety:

> Any sheriff who, in complying with the terms of this section, expends personal funds for automotive fuel or ordinary carfare in serving the process of those qualifying under this section may requisition the board of county commissioners of the county for the actual expense, and on the submission to the board of county commissioners of appropriate proof of any such expenditure, the board of county commissioners shall pay the amount of the actual expense from the general fund of the county to the requisitioning officer.

The Legislature has told the counties to reimburse only the Sheriff for any out-of-pocket money spent. It has not told the counties to pay the State for any filing fees, actual or hypothesized. Assuming it were constitutional, see Section II, infra, the Legislature could amend the statute to require such payment. e

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the Legislature to do so, the counties would report these payments to the State as required under §27.3455(1)(d). Until then, however, there is nothing to pay, and no payments to report.

II.

REQUIRING COUNTIES TO PAY FOR COURT FILING FEES WOULD VIOLATE ARTICLE V OF FLORIDA'S CONSTITUTION.

A. Backwound and Purpose of Article V.

If the Comptroller's construction of the statutes is found to be correct, then those statutes cannot be enforced. By requiring the counties to subsidize the State Court System, the statutes run afoul of Article V of the Florida Constitution. On March 14, 1972, the people of Florida voted overwhelmingly to approve Article V to create a uniform State Courts System. Prior to 1972, Florida's court system consisted of a hodgepodge of fourteen (14) different courts which varied from county to county. The intent of the framers and voters in 1972 was threefold:

- first, the creation of a uniform system of courts;
- second, the elimination of ""cash-register" justice where local judges were constrained by local governments to assess fines and fees to fund their courts and raise revenues;
- and third, and most importantly, the creation and maintenance of a state-funded, independent judicial branch of government.

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Report of the Judicial Council of Florida, Article V Subcommittee of the Florida Judicial Council (hereinafter "Report of the Article V Subcommittee"), July 1991, at 1.

The principal objective of these changes, according to the Article V Subcommittee of the Florida Judicial Council,

> was to create a courts system that would insure equal justice throughout the state without regard to the financial ability of a particular county or municipality to fund court operations . . . . [I] t was envisioned that the cost of support staff and expenses necessary to operate these state courts would be transferred from local governments to the state and funded through state revenues rather than continuing to rely on the grossly divergent financial resources of the various counties.

Report of the Article V Subcommittee at 3.

The legislative history of Article V supports the conclusion that the framers and voters intended that the costs of the State Courts System would be borne by the State. This fact is crucial to Dade County's constitutional analysis because the intent of framers and voters is as obligatory as the written word. See Amendments to Fla. Rules of Appellate Procedure, 685 So. 2d 773 (Fla. 1996) (relying upon legislative history of Art. V in finding constitutional right to appeal); Plante v. Smathers, 372 So. 2d 933,936 (Fla. 1979) ("spirit of the constitution is as obligatory as the written word"); Williams v. Smith, 360 So. 2d 417,419 (Fla. 1978) (the court must ascertain intent of voters and framers and

then interpret constitutional provision in a way that will best fulfill that intent); Gallant v. Stephens, 358 So. 2d 536, 539 (Fla. 1978) (the court is "obliged to ascertain and effectuate the intent of the framers and the people.").

Talbot "Sandy" D'Alemberte, who is recognized as the "father" and "drafter" of Article V,[5] clearly stated such an intent: "Under this proposal [to revise Article V], the state would take over financial responsibilities for all court functions" (emphasis added). Letter from Talbot D'Alemberte, Chairman, House Judiciary Committee, to Theresa M. Callahan and E.C. Wilcox, September 15, 1971 (available at Florida Department of State, Division of Archives, series 19, carton 191, Tallahassee, Fla. (hereinafter "Archives") (attached in App. at Tab A). Numerous other letters written by Talbot D'Alemberte confirm this legislative intent. See, e.g., letter from Talbot D'Alemberte to Stephen C. O'Connell, President of the University of Florida, September 15, 1971 ("The committee intended that the state assume the costs of the entire court system") (Archives, series 19, carton 191) (attached in App. at Tab B); letter from Talbot D'Alemberte to Werner Buntemeyer, City Manager, City of Coral Springs, October 5, 1971 ("The court structure would be financed by the state . . . . The state would assume the cost of the court system while returning fines and

[5] See Amendments to Fla. Rules of Appellate Procedure, 685 So. 2d at 781 (concurring opinion).

forfeitures to the cities, thus providing for much needed financial assistance to the cities.") (Archives, series 19, carton 194) (attached in App. at Tab C).

Florida's voters similarly believed that all costs of the State Courts System would be assumed by the State. The League of Women Voters of Florida, a key supporter of the revision, produced a public information guide which was widely circulated and relied upon by voters. This guide clearly informed voters that the new State Courts System would be funded by the State: "The new article provides for total state funding of courts thus relieving local property taxpayers from this burden and releasing more money for local services." (A copy of the League of Women Voters' guide is attached at App. Tab D.)

Florida's newspapers likewise informed voters that Article V costs would be paid by the State. See, e.g., Tampa Tribune, January 23, 1972 ("The new plan provides that the state operate all courts, thus relieving local governments of this burden") (attached at App. Tab E); Florida Times-Union, February 13, 1972 ("Q. Will the counties and municipalities continue to pay a portion of the costs of the courts? A. No, the state picks up the entire tab") (attached at App. Tab F); Miami Herald, March 9, 1972 ("The reforms would save money for the county because the state would pay both the salaries of the judges and the costs of operating the courts -- expenses now paid by Metro") (attached at App. Tab G).

B. **Requiring Counties to Pay Filing Fees Violates the Intent of the Framers and Voters.**

Any statute which imposes upon the counties the cost of funding the courts, such as the filing fees at issue here, violates the intent of the framers and voters. This intent, as previously stated, is as obligatory as the written word. Consequently, this Court must interpret Sections 939. 15 and 27.3455 as precluding the State from requiring the counties to pay filing fees.

C. **Counties Have Limited Ability to Raise Revenue.**

Today, Florida's counties pay for more than half of the cost of funding the State Courts System. During the 1994-95 fiscal year, for instance, the counties spent nearly $600 million to finance the State Courts System. Dade County's Article V costs are staggering. For the 1996-1997 fiscal year, Dade County's net Article V costs were $102.3 million dollars. The attached chart outlines Dade County's Article V costs. (See App. at Tab H.)

Since the adoption of Article V in 1972, Florida has experienced unprecedented growth and the demands placed on local governments have increased dramatically as many parts of Florida have become more urbanized and dense. It is local government that has become responsible for providing many of the most essential services to our increasing population; public safety (police, fire, jails), parks, social services, indigent health care, and public transportation

are just a few of the fundamental services that local/regional governments like Dade County are responsible for and must fund.

To pay for all of these essential services, the Florida Constitution dedicates only one revenue source to local governments: the ad valorem property tax. This tax is the primary revenue source given to local governments to pay for basic services. While Article VII of the Florida Constitution caps the ad valorem tax at 10 mills, it also expressly prohibits the State from levying such an ad valorem property tax on real estate in order to protect this source of funding from appropriation and use by the State to fund State activities and functions such as the State Courts System.

D. Counties Cannot Afford to Finance the Court System.

Year after year, new court programs and legislative actions have placed more and more financial responsibility for the State Courts System on counties. Over the last eleven years, net Article V costs paid by Dade County have increased by an average of 14% each year, or by a total of 176% ($37 million in 1983-84 to $102.3 million in FY 1995-96), while Dade County's Countywide General Fund, from which net Article V costs are paid, has only increased by an average of 7.6% each year during the same period.

Local governments are under extreme pressure to fund even the most basic services. The challenge to protect our citizens and deter crime, and keep pace with rapid population growth, large immigrant populations, increased urbanization, elevated poverty levels, welfare reform at the federal and State levels, increasing unemployment and a lack of available jobs and job training programs is almost overwhelming. Consider the following Article V statistics:

- A substantial number of Florida's counties, including Dade County, are approaching the ten mill cap and some are already there. As Article V costs increase, our only option will be to further reduce or eliminate funding for essential local services.

- Based upon our most recent forecasts, by the year 2006 approximately 84% of Dade County's general fund will be directed toward criminal justice activities, of which Article V costs are a major component. Only 16% will be available for all other local tax-supported responsibilities including, among others, social services, parks and recreation, mass transit and indigent health care. A graph found at Appendix Tab I depicts the future impact of Article V costs upon Dade County.

- Unlike the State, which has unlimited taxing power, the counties with their 10 mill cap cannot realistically meet future needs of the State Courts System and fund the courts, the State Attorney, the Public Defender and other Article V costs on an equitable, statewide basis.

E. Other Considerations Requiring Payment by the State.

Beyond the fact that counties cannot pay for the State Courts System and provide essential local services, other considerations require the State to pay for Article V costs. First, because **county** funding for Article V costs is not uniform

throughout the State, we do not have the uniform State Courts System envisioned by the framers and voters. Each county has a different set of priorities and a different tax base and millage rate. As this Court concluded in an informational pamphlet produced earlier this year: "Each county commission has its own priorities for funding its county's needs, and the courts vary from county to county on those priority lists. The concept of 'equal justice for all' loses its meaning when the State Courts System must rely on resources which are different all over the state." "The Facts About Funding Article V of Florida's Constitution," Feb. 1997, at 3 (attached in App. at Tab J).

Second, the system of "cash register" justice which existed prior to 1972 has not been eliminated. The Article V Subcommittee of the Florida Judicial Council noted that the "increasing demands for funds made by trial courts on county commissioners likewise have a corrosive effect on the appearance of the detachment and objectivity of the judges." Report of the Article V Subcommittee at4.

Third, the system for financing the State Courts System is grossly unfair; property owners, and not the general population, are funding a substantial percentage of the State Courts System.

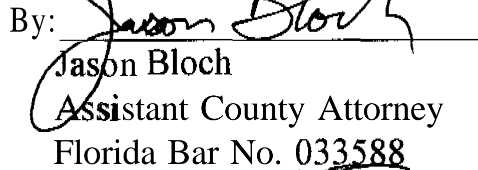
Finally, given that counties must pay for Article V costs with ad valorem tax dollars, the State, by requiring the counties to finance the State Courts System, is indirectly imposing a prohibited State ad valorem tax. See Amicus Curiae Brief of Pinellas County.

CONCLUSION

For the reasons stated herein, Dade County respectfully requests that this Court affirm the trial court.

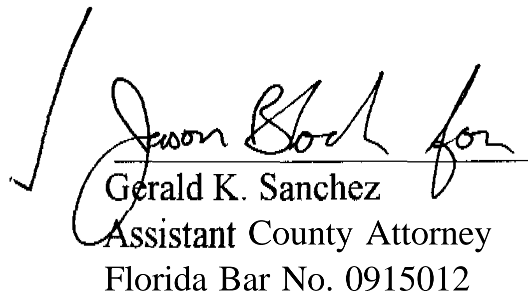
Respectfully submitted,

ROBERT A, GINSBURG
Dade County Attorney
Stephen P. Clark Center, Suite 28 10
111 N.W. 1st Street
Miami, Florida 33128-1993
Tel: (305) 375-515 I
Fax: (305) 375-5634



By: ____________
Jason Bloch
Assistant County Attorney
Florida Bar No. 033588

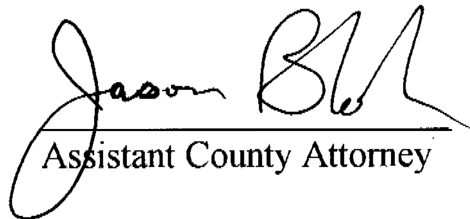
and



Gerald K. Sanchez
Assistant County Attorney
Florida Bar No. 0915012

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was this 17th day of November, 1997, mailed to: Deborah Guller, Esq., Chief Appellate Counsel, Office of the Comptroller, 110 S.E. 6th Street, #1400, Ft. Lauderdale, Florida 33301-5000; and to Daniel P. Hyndman, Esq., Attorney for Appellee, Assistant County Attorney, P.O. Box 1989, West Palm Beach, Florida 33402.



Assistant County Attorney

J:\BRF2\119736D.SAM

Appendix A

ATTACHMENT A

FLORIDA HOUSE OF REPRESENTATIVES

TALLAHASSEE

TALBOT "SANDY" D'ALEMBERTE
REPRESENTATIVE, 98TH DISTRICT
ROOM 203, CAPITOL
TALLAHASSEE, FLORIDA 32304

September 15, 1971

COMMITTEES:
JUDICIARY, CHA[IRMAN]
APPROPRIATIO[NS]
RULES & CALEN[DAR]
FINANCE & TAXA[TION]

19 191
(Blue Folder)

Mrs. Theresa M. Callahan
Mr. E. C. (Tony) Wilcox
City of Miami
Association of Retired Employers
2487 S.W. 23rd Street
Miami, Florida

Dear Mrs. Callahan and Tony:

Thank you so much for the copy of your letter to Governor Askew calling for financial assistance to the cities.

I agree that we must provide assistance to local government. One of the means of assistance which has been proposed is the state taking over the costs of our entire judicial system.

The Judiciary Committee has propoqed a revision of Article V, the judicial article of the State Constitution. The proposed revision would establish a uniform two tier trial court system financed by the state. Cities would continue to receive the fine and forfeitures'. -Provision is made in the revision for branch courts to avoid inconvenience to police officers and witnesses having to attend court. Under this proposal, the state would take over financial responsibilities for all court functions and municipal courts as they are now organized would-be abolished.

I would be d&lighted to have the'opportunity to discuss this matter with you further. Please don't hesitate to let me know your further view8 on this or any other legislative matter of concern to you.

Sincerely yours,

Talbot "Sandy" D'Alemberte

TD'A:11

Appendix B

ATTACHMENT B

FLORIDA HOUSE OF REPRESENTATIVES

TALLAHASSEE

TALBOT "SANDY" D'ALEMBERTE
REPRESENTATIVE, 98TH DISTRICT
ROOM 203, CAPITOL
TALLAHASSEE, FLORIDA 32304

September 15, 1971

COMMITTEES:
JUDICIARY, CHAIRMAN
APPROPRIATIONS
RULES - CALENDAR
FINANCE & TAXATION

The Honorable Stephen C. O'Connell
President
University of Florida
Gainesville, Florida

19 191
(Blue, Folder)

Dear Judge:

Thank you so much for your letter of September 1, concerning HJR 2567.

Enclosed is the latest revision of Article V. At the end of the last session, the committee authorized the circulation of HJR 2567 for the purpose of obtaining comments and suggestions from those interested in the revision of Article V. We circulated the draft to every state and chartered county judge, all local bar associations, prominent attorneys, the League of Cities and members of the press who had taken an active interest in the revision of Article V.

We have, in turn, received considerable favorable comment and excellent criticism. We have met with Justice Adkins, and Judges Barkdull, McCord, Taylor, Vann, and Moody.

The enclosed draft is an attempt to combine the excellent suggestions we have received into a draft as acceptable as possible to all concerned. The draft is still tentative. At our September 29 hearing,: I am going to ask the committee's authorization to recirculate this draft for further comments,

Some have complained that they have never been given an adequate opportunity to be heard on Article V. Consequently, we hope to hold hearings on this draft in Jacksonville, Tampa and Miami, in October and November before we vote on a final draft.

We were, frankly, unable to sustain our position in favor of giving the legislature power to regulate and adjust jurisdiction. We received considerable criticism on this aspect of the original HJR 2567.

Hon. Stephen C. O'Connell
September 15, 1971
Page Two

We have discussed the elimination of the common law writs with members of the court. We felt that so much confusion has been created as to the force, ef feet and meaning of these writs that they should be eliminated in favor of a general right of review.

On the issue of original jurisdiction in the court, we felt that all cases should be subjected to the usual appellate procedures to insure adequate consideration of each case. If the Supreme Court has the power to enter any order necessary to enforce its jurisdiction, we felt it could ingure that cases be decided in the courts below within the time limits of any possible emergency.

We did intend to abolish municipal courts and chartered county courts. It was the committee's intent to establish a uniform two tier trial court system throughout the state. Chartered county judges would become county court judges. Municipal judges would lose their office. The enclosed draft, I hope, clarifies the inconsistencies you point out in your letter.

The committee intended that the state assume the costs of the entire court system. The cities and counties would continue, however, to receive their'shars of the revenues from fines and forfeitures. This would be one means of providing much needed assistance to local government. We envision that branch courts would be established in order that police officers and witnesses would not be inconvenienced by having to travel to a distant court room.

If we did not attempt to establish a uniform state court system by constitutional resolution and instead left it up to the legislature to abolish municipal and chartered county courts, I am afraid we would just continue the present hodgepodge of local courts varying in quality throughout the state.

I so very much appreciate your taking the time to write concerning Article V in view of your busy schedule with the University, I will keep you posted on our progress.

Sincerely yours,

Talbot "Sandy" D'Alemberte

TD'A:ll

Enclosures

Appendix C

ATTACHMENT C

FLORIDA HOUSE OF REPRESENTATIVES

TALLAHASSEE

JUDICIARY COMMITTEE
Room 203 Capitol Building
Tallahassee, Florida 32304

October 5, 1971

Series 19
Carton 194

Mr. Werner Buntemeyer
City Manager
City of Coral Springs
9500 W. Sample Road
Coral Springs, Florida 33060

Dear Mr. Buntemeyer:

Thank you for your letter of October 1, 1971, together with the resolution of the City Commission of Coral Springs opposing the abolition of municipal courts.

The-proposed revision of Article V contemplates a uniform two tier trial court structure throughout the state. The county court would try violations of municipal ordinances. Branch courts could be established throughout the county to avoid lost time and expense to witnesses and police officers.

The court structure would be financed by the state and would be adequately staffed by lawyers. The revision of Article V will provide for a flexible and full use of our judicial talent&and end the logjam to which you refer. This logjam has been caused by the archaic, piecemeal constitutional provision now in effect.

The much needed revision will eliminate the hodge-podge of courts which are arbitrarily limited in juris-diction and number.

The state would assume the cost of the court system while returning fines and forfeitures to the cities, thus

Members

David C. Clark
Granville H. Crabtree, Jr.
James H. Sweeny, Jr.
Harold C. Featherstone
John R. Forbes
Tom Gallen
George Williamson
Jeff D. Gautier
William D. Gorman
Robert M. Johnson
Donald C. Nichols
Walter W. Sackett, Jr.
John E. Santora, Jr.
T. Terrell Sessums

providing for much needed financial assistance to the cities. Although many cities have responded, we have not received the information from Coral Springs concerning the cost of your municipal court and the revenue from fines and forfeitures. This information would be helpful to us in estimating the financial assistance which would accrue to the cities if this revision were adopted.

So far as municipal courts are concerned, I cannot justify the inherent conflict between a court which is supposed to dispense justice and yet imposes fines and forfeitures which most cities are dependent upon as a source of revenue.

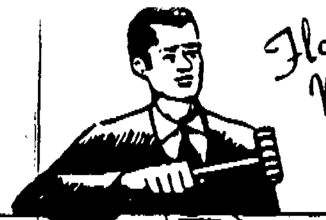
I would be happy to discuss this matter with you in greater length.

Sincerely,

Talbot "Sandy" D'Alemberte

TDA:njd

Appendix D



Florida Needs –

ORDER IN THE COURTS

REVISION OF ARTICLE V OF THE CONSTITUTION WILL BRING ORDER TO THE PRESENT COURT "HODGE PODGE"

COPY
reproduced by
FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250
Series 19 Carton 181

"Materials Used"

IT WOULD:

ELIMINATE DUPLICATION

Instead of 15 kinds of trial courts, there will be 2.

Circuit — Civil $2500 and over, juvenile, probate, guardianship, competency and all felonies.

County — Civil less than $2500, misdemeanors, traffic, and violations of all ordinances.

As an example, at present, if a citizen sues for damages under $2500 he may either enter his case in a small claims court, a county court, a county judge's court, a justice of the peace court, a magistrate's court, a court of record, a civil court of record, or a circuit court, depending upon the county where he resides.

In the proposed system he would go to a county court.

ESTABLISH RULES FOR ALL COURTS

For the first time there will be clear cut lines of responsibility and accountability.

SPEED JUSTICE

More efficient use will be made of judicial manpower by assignment of judges to the courts that need them.

New judges may be created by the legislature on the basis of need, not population.

Professional court administrators may be used allowing judges more time to dispense justice.

BRING LOCAL JUSTICE CLOSER TO THE PEOPLE

Grievance procedures are provided for citizens to lodge complaints against trial judges of lower courts.

REMOVE LOCAL POLITICS FROM JUDICIAL APPOINTMENTS

Judicial nominating commissions will remove patronage power which is sometimes used by elected officials to reward unqualified supporters.

PROVIDE MORE LOCAL REVENUE

The new article provides for total state funding of courts thus relieving local property taxpayers from this burden and releasing more money for local services.

ELIMINATE PART-TIME JUSTICE

All judges must serve full time removing the possibility of conflicts of interest.

PHASE OUT ALL NON-LAWYER JUDGES

Except in counties under 40,000, all non-lawyer judges will eventually be phased out.

ABOLISH THE FEE SYSTEM

In many courts fees collected from fines are used to determine judges' salaries and other court costs. This has been called a "justice-by-the-dollar" system. This practice will be abolished. Any fines and forfeitures collected will be returned to the city or county where the offense occurred.

PROMOTE COURT ROOM DECORUM & DIGNITY

At present, many municipal and justice of the peace courts are conducted in garages, auto repair shops, etc. What defendants see in such cases they use as a basis for judging all the courts in the land. The proposed revision would ensure that all courts will be state courts with appropriate judicial procedures.

Vote FOE -Amendment I-

ARTICLE V REVISION ... on March 14

LEAGUE OF WOMEN VOTERS OF FLORIDA
1316 W. Colonial Drive — Orlando, Florida 32804

Appendix E

For March 14: People's "Plan for Better Justice

Editorials Of The Tribune

'HERE'S a great deal d difference between whal a Florida ızen wants from his courts and ıat he actually finds ill the courtom

The citizen wants his judges to lhe best available, impartial, nl professional at all levels from unicipal courts to the Supreme ourt. The citizen wants his case ındled promptly. He wants a ourt system not totally dominated lawyers.

Alar, the citizen doesn't find ıch ideal conditions in the Florida ourt system. This is not lo indict e entire system, which includes ıany excellent judges and courts.

But the system bar serious imrfections. And why not? Today's urts are based on a Constitution-plan adopted In 1885. It has been ıanged 30 times. The Legislature ıs created so many new courts at now there is a confusing udge-podge of 15 different types t trial courts.

FOR THE LAST two years datorable conditions existing In the stem of criminal justice have een brought to public attention. efendants have been killed in vercrowded jails while 'awalling elayed trials or sentencing. Persons accused d serious crimes have been set free because congested courts couldn't get to their cases in the required time. Judicial red tape has seemed to stretch longer and longer.

An attempt was made in 1970 to correct the courts' flaws by a constitutional amendment. The people rejected It. It was loosely drawn, lacked uniformity, contained no requirements for screening d judicial prospects. It did nothing • a simplified court administration. It left municipal courts untouched.

A new proposed judiciary article to be voted on March 14 corrects the defects d the 1970 plan and goes considerably further In court reform. This proposal streamlines the courts, 'makes them mere responsive to the people. It could well become a model for other states.

THE NEW PLAN provides that the state operate ail courts, thus relieving local governments of this tar burden. A two-tier system of trial courts is proposed: Circuit Courts to try all felony cases and County Courts to handle misdemeanors, violations of municipal ordinances, traffic cases and civil claims up to $2,500. A total d 93 Juvenile, County and Criminal Courts will be elevated to Circuit Court status. Circuit Courts also will handle probate matters, cases involving family relations and incompetency hearings.

A pool d judicial manpower is created so judges may be assigned about the date lo meet emergency conditions. The Chief Justice of the Supreme Court is the top court administrator and uch judicial circuit will have a chief judge to supervise all courts at the local level. Caseloads will be monitored and the lazy judge exposed. All judges will he on full-time salary.

All future judicial appointments by the Governor will be made from names submitted by special nominating commissions. Thus Governors no longer can pay off political debts with judgeships. Judges, except those In counties d less than 40,000, mud be lawyers.

Tbe Judicial Qualifications Commission, which now deals only with errant Circuit Judges, will be empowered to conduct hearings on any judge accused d misconduct or incompetence.

Disorder in the Court

Judgeshipa will be created only an a basis of need. The Supreme Court is responsible for notifying the Legislature of the need for more judges or the • dvisaMlity of fewer judges.

The fee system under which 15 courts now operate will be wiped out. Justices of the Peace will be • bollsbed. Tbe Legislature will determine whether constables arc needed.

By 1977, or earlier by special legislative acts, all municipal courts will be phased into th County Court systems. All fine from violations of municipal ordi nances will revert lo cities. Th City d Tampa expects lo profi • bul $400,000 by letting the stat take over its municipal court

Residents of municipalities. an especially those away from urba areas. will benefit from Count Courts. These courts will sit i cities which now have municip courts ad try not only municip law violations and traffic cases bu also civil cases involving less tha $2,500. Justice will be brougl closer to the people.

THERE'S STRONG backing f this much needed reform of th state's courts. Governor Askew a vigorous supporter and is pr moting it all over Florida. Legisl tive leaders of both parties a working for it. The Florida BP which took no stand an the 19 amendment, strongly supports th one.

There are solid reasons for su support. Governor Askew provid a primary one: "This is a peopl draft, not a lawyers' draft."

The people deserve this plan i better courts and improved justi They can assure it by their vi March 14.

'Justice will be brought closer to the people.'

Tampa Tribune
M - 162,000
S - 187,000
JAN-23-72

ATTACHMENT E

Appendix F

AND

Jacksonville Journal

SUNDAY, FEBRUARY 13, 1972 H-1

ATTACHMENT F

Why Ask Me to Vote on This-I'm No Legal Authority?'

Because the Legislature is in session, Gov. Askew will be unable to wage a vigorous campaign on behalf of the revised article to the extent he campaigned last year in winning voter approval of a corporate income tax.

To help fill this void the governor, in a series of January meetings, called on the state's news media to help explain the proposed court revision to readers and also requested editorial endorsement.

The Times-Union and Journal, through the following questions and answers, hopes to enlighten readers on the proposed revision without necessarily influencing their vote.

QUESTIONS AND ANSWERS:

Q. Why is the referendum set on March 14?

A. This is the date of the presidential preferential primary and by placing the question on the ballot at this time it will save the cost of a special election and probably assure a heavier vote. Also, if the revised article is ratified, there will be time to hold elections this year for the new court system which would go into effect on Jan. 1, 1973.

Q. Why is it necessary for the people to vote since the average citizen knows very little about the structure of the courts?

A. The revision requires a change in the Florida Constitution and the Constitution cannot be altered without approval of the people.

Q. What levels of courts will be abolished under the proposed revision?

A. All levels with the exception of the Supreme Court, the District Courts of Appeal and the Circuit Courts. If the article is ratified by the people, criminal courts, juvenile courts, county judge's courts, courts of record, small claims courts' justices of the peace and other special courts will cease to exist after Jan. 1. Municipal courts will be phased out over a four-year period.

Q. If you abolish municipal, county judge's, JP and small claims courts, which court will handle the minor charges and claims that affect most citizens who must go to court?

A. A new lower court system will be created in the article to handle misdemeanor criminal cases and civil cases not involving damages in excess of $2,500. This new court level will be known as county courts. The Circuit Court will handle all criminal cases involving felonies and civil cases where the amount of damages is greater than $2,500. The county court system will replace municipal, small claims and justice of the peace courts and, in most cases, take over duties now performed in some counties by the county judge's court.

Q. Who will handle probate matters dealing with wills and estates? How about divorces?

A. Probate matters, now handled by the county judge's court, will be taken over by the Circuit Court. Divorces will continue to be the jurisdiction of the Circuit Courts.

Q. What about cases involving juveniles?

A. The juvenile courts will be abolished and their duties taken over by the Circuit Court.

Q. How many county courts will be created?

A. There will be one court in each county with the Supreme Court deciding how many judges are needed to handle cases with approval of the Legislature.

Q. If I get a traffic ticket and must appear in the new county court, will it be necessary for me to drive all the way to the Courthouse for my trial?

A. Not necessarily. The article provides that a chief judge be appointed in each circuit. The chief judge has broad powers to assign judges to specific duties. The article provides that a county court may hold sessions in municipalities other than the county seat provided space is furnished by the municipality. Thus, if you are arrested in a municipality other than the county seat, the odds are your case will be heard in this municipality. In a one-municipality county as large as Duval, county courts probably will be located in various sections of the county.

Q. What about a warrant? If I need one quickly will it be necessary for me to drive to the Courthouse to get one?

A. Again, not necessarily, since chances are county courts will be dispersed with judges living in the area of the courts where they would most frequently reside. Municipalities may request a county court be located within its boundaries.

Q. Must all judges be attorneys under provisions of the article?

A. Yes, with two exceptions. In counties under 40,000, non-attorneys may run for county court positions. This exception was provided because in some small counties there may be only one or two attorneys who already serve in official capacities such as legal counsel for the school board or county commission. The second exception permits non-attorneys who are now justices of the peace to seek office as a county judge.

Q. Will attorneys be able to serve as judges and continue to practice law on the side?

A. No, the revised article prohibits this. Judges must serve full time with no outside business interests.

Q. What happens to the judges whose courts are abolished?

A. Provisions have been made in the revised article for criminal court and juvenile judges and for judges of courts of record and the county judges courts to be merged with the Circuit Courts, provided in all cases they are attorneys. Municipal, small claims court judges and justices of the peace may run for positions on the new county court provided they are attorneys. The exceptions are justices of the peace already holding office and county courts in counties of less than 40,000 population.

Q. Will all judges continue to be elected?

A. Yes, in non-partisan elections. The terms for Supreme Court justices, circuit judges and judges of the courts of appeal, will extend for six years. The terms of county court judges will be four years.

Q. How will vacancies be filled due to deaths, resignations, etc.

A. The article provides for a judicial [illegible] commission composed of three members named by the Florida bar and three by the governor. These six members will select non-attorney members who reside in the circuit from which the judge shall be selected. The commission will recommend three qualified persons and the governor must select one of these nominees. This provision is expected to eliminate appointments by governors solely to pay off political debts.

Q. How will judges be disciplined or removed from office if they do not perform their duties satisfactorily?

A. The article requires creation of a judicial qualifications commission composed of six judges, two members of the bar and five non-attorney citizens. They will be appointed by the governor subject to confirmation by the Senate. Upon recommendation of two-thirds of these members, the Supreme Court may order a judge be disciplined or removed from office for willful or persistent failure to perform his duties or for conduct unbecoming a member of the judiciary. Judges may also be involuntarily retired for any permanent mental or physical disability that interferes with performance of duty.

Q. If municipal and county judge's courts are abolished, won't it mean a big loss of revenue for cities and counties?

A. Not necessarily. Courts, of course, do not function to collect money. However, cities and counties will continue to receive funds from fines assessed against persons found guilty in the county court of violating city and county [illegible]. For example, if you're fined for speeding in a municipality, the municipality gets the funds. If it's an unincorporated area, it goes to the county.

Q. Will counties and municipalities continue to pay a portion of the cost of the courts?

A. No, the state picks up the entire tab.

Q. Who adopts rules and regulations for the courts?

A. The Supreme Court with the Legislature, by a two-thirds vote of both houses, empowered to overturn any rules. The Supreme Court may also transfer judges from one jurisdiction or circuit to another if the need arises.

Q. Who will assign judges to various duties after the merger of these 16 trial courts into a two-tier trial system?

A. A chief judge will be elected in each circuit. He will assign judges to the various cases that come before the courts. A chief judge, for example, may assign one or more judges to handle all juvenile cases or cases dealing with probate matters.

Q. How much will this new system cost the State of Florida?

A. There are no firm estimates since the number of judges will be established following ratification of the article. The cost, however, is expected to be greater, since all judges must be compensated for full-time work and the state will now pay all costs of operation of the courts.

Q. What happens to persons who serve the courts, such as state attorneys, public defenders and clerks?

A. They will be merged into the revised Circuit Court system to the extent that they are needed. The office of constable, however, will be abolished.

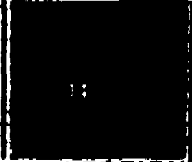
Appendix G

ATTACHMENT G

Judicial Reform Means End to JPs, Municipal Courts

By SUSAN BURNSIDE
Herald Staff Writer

DADE'S



ELECTION ISSUES

The state constitutional amendment for judicial reform that will appear on Tuesday's ballot would, if passed, put Dade's five justices of the peace out of work, promote 34 judges to a new court and save the county an estimated $3 million.

It would also phase out all municipal courts by early 1977 and require that all judges work fulltime on the bench.

NO LONGER would city judges, such as Miami's five municipal judges, be permitted to serve as a judge one day a week and practice law the remaining four.

Miami commissioners, now caught in the furor arising from the state attorney's probe of alleged corruption in the city court, have endorsed the reform amendment.

The court restructuring would replace the 14 different courts now operating throughout the state with a two-court system: a county court and a circuit court.

LOCALLY, the change would mean promoting Dade's 13 Metropolitan Court judges and its four Small Claims Court judges to the new County Court.

The 17 county judges would handle all traffic offenses and all minor cases where claims are under $2,500.

Dade's five Criminal Court judges, five Civil Court judges, four Juvenile Court judges and its three County judges would become Circuit Court judges — joining the county's existing 25-member [illegible]

THE REFORMS would save money for the county because the state would pay both the salaries of the judges and the costs of operating the courts — expenses now paid by Metro.

Metro Budget Director William Hampton estimates the county would pick up an immediate savings of $1.2 million in salaries and another $1.8 million when the state takes over all court operations.

The state takeover would be gradual — as counties work out the problems of adjusting courtroom space and as the legislature makes the state funds available.

The proposed amendment is the first of the state questions to appear on the ballot.

At a glance, here are the major changes in the proposed constitutional amendment:

- City and municipal courts: Abolished no later than 1977. County courts would try their cases. Cities entitled to have their prosecutors try municipal cases; money from fines and bond forfeitures returned to cities which filed charges. Cities are entitled to have county courts sit in municipal courtrooms.
- Justices of the Peace: Abolished as of Jan. 7, 1973. County courts would take over their function of trying small claims, [illegible] and holding preliminary hearings.
- Juvenile offenses: Would be tried in Circuit Court.
- Probate cases: The job of handling wills and settling estates would go to the Circuit Court as would competency cases.
- Felonies: Circuit Court judges would try all felony cases.
- Appointment of judges: special nominating commissions composed of attorneys and the lay public would submit a list of nominees to the governor who would select from among nominees. Appointments now solely at discretion of governor.
- Election of judges: No longer required by law to be non-partisan. Circuit judges given six year terms; county judges given four-year terms.
- Non-lawyers as judges: Prohibited for the first time, except as county judges in counties with populations of less than 40,000. County judges and justices of the peace now in office who do not have law degrees would be allowed to run for election to county court.
- Public Defenders: Written into the constitution for [illegible] the first time.
- State attorneys: Would become chief prosecuting officers. County solicitors [illegible] [illegible] job [illegible] the [illegible] the number of [illegible]

Appendix

Recurring Article V-Related Costs
(dollars in millions)

ATTACHMENT H

Activity / Cost Description	FY 96-97 Actual		
	Gross Cost	State/Local Revenue	Net Cost
Judicial Administration			
Personnel, Other Operating and Minor Capital Costs			
Salaries and fringe benefits for approximately 416 full time positions in 1996-97, not including costs of judges and judges' secretaries. Operating costs include rent, utilities, outside contracts, travel, equipment, supplies, building renovations, and capital purchases	25.050		25.050
Administration	*6.841*		
Witness Coordination	*0.263*		
Court Operations (excludes Juvenile and Family Courts)	*10.136*		
Mental Health Administration	*0.548*		
Jury Pool	*0.389*		
Grand Jury	*0.107*		
Guardian Ad Litem	*0.474*		
Juvenile Court (dependency, assessment, operations)	*1.964*		
Family Court	*0.795*		
Alternate Dispute Resolution (includes family mediation)	*3.532*		
Court-Ordered Costs (excluding conflict attorneys)			
Includes costs generated by the State Attorney's Office, the Public Defender's Office and the Court.	19.562	9.740	9.823
Court Reporting	*5.477*		
Attorney Fees (dependency and probate)	*0.905*		
Expert Witness Fees	*0.991*		
Mental Health and Psychological Evaluations	*1.323*		
Interpreters (court personnel and contracted interpreters)	*2.160*		
Service of Process	*4.206*		
Other Court Costs (includes filing fees, witness fees, photographic services, travel and transportation, etc.)	*2.953*		
Guardianship Program	*1.548*		

Recurring Article V-Related Costs
(dollars in millions)

Activity / Cost Description	FY 96-97 Actual		
	Gross cost	State/Local Revenue	Net Cod
Conflict Attorneys (Special Assistant Public Defenders)			
County Funded SAPDs (workload conflicts)	3.057		3.05
Wheel-appointed SAPDs (co-defendant conflicts)	6.031		6.03
Office of the Public Defender			
Operating costs associated with the Office of the Public Defender including rent, communications (data and voice), data processing services, and general and administrative services	2,117		2.11;
State Attorney's Office			
Personnel and operating costs associated with the State Attorney's Office, including the Victim Witness Coordination program; operating costs include rent, communications (data and voice), data processing services, travel, and general and administrative services	3.922		3.92
Personnel Costs (Victim Witness Program staff)	*0.743*		
Other Operating Costs	*2.879*		
Funding to the Children and Special Needs Center	*0.300*		
Other Court Programs			
Traffic School Programs	0253	0253	
Law Library	1.919	1.919	
Legal Aid Program	2.286	2.286	
Support for Court Computer Applications Residing on County Mainframe			
Costs associated with developing and maintaining court-related applications including the Criminal Justice Information System and the Traffic Information System	1.697		1.691
Clerk of the Courts			
Provides support to the courts (excludes County Recorder, Clerk of the Board of County Commissioners, Property Appraiser Value Adjustment Board, Code Enforcement, Parking Violations Bureau, and Marriage License Bureau)	48.700	16.314	32.386

Recurring Article V-Related Costs
(dollars in millions)

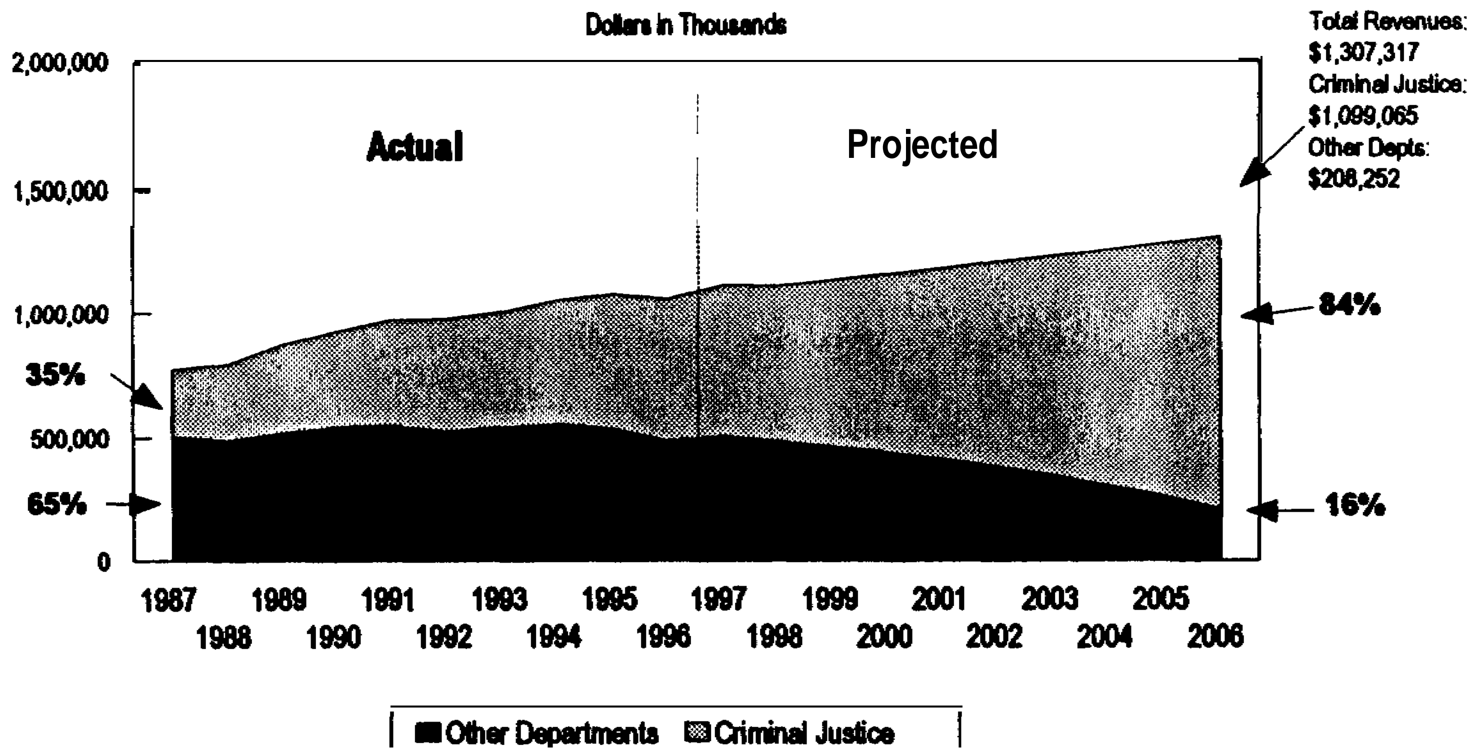
Activity / Cost Description	FY 96-97 Actual		
	Gross Cost	State/Local Revenue	Net cost
Corrections & Rehabilitation			
Housing state prisoners who are witnesses for cases in Dade or who are on appeal	3,577		3.577
Metro-Dade Police Department			
Court Services Bureau (provides court security for judges)	6.202		6.202
Court Facilities Improvement Fund			
Facility maintenance and renovation projects, partial funding for information technology support, special equipment purchases and support for optical imaging application funded by filing fees and other designated revenues	2.613	2.613	
Debt Service			
Court-related general obligation bond debt services payments	6.901		6.901
Special revenue bond debt service payments paid from civil filing fees for Courthouse Center and other Courts projects	2.062	2.662	
Pay-As-You-Go Capital **Projects**	1.538		1.538
Total	139.055	35.207	102.300

* adjusted to exclude costs associated with the Medical Examiner, Corrections & Rehabilitation Department (officers used as bailiffs), and Information Technology Department (countywide systems)

11/07/97

Appendix

Total General Revenues* and Criminal Justice Spending



* Countywide and UMSA General Fund

Criminal justice growth based on average for the period 1991 through 1998 (Proposed Budget):

Revenue growth: 2.0%

Department growth: Courts 4.8%, Clerk 4.0%, Corrections 10.6%, Police 5.9%