

The Florida Bar

Pre-Session Legislative Update – Nov. 10, 2011



Michael J. Higer

Dear Colleagues:

Introduction

As the Board of Governors' liaison, below is a brief legislative update from The Florida Bar's legislative team.

Court Funding

A working group of the judiciary and the clerks of court has released its recommendations on stabilizing revenue for the state courts system. The report from the Revenue Stabilization Workgroup points out the challenges of the current system:

Under the current funding structure created by the Legislature, the funds collected by the Clerks from the prior month are sent to the state in order to be remitted back to the Clerks. This system creates three cash flow challenges for the Clerks: (1) insufficient revenue to fund the Clerks' appropriated budgets; (2) insufficient start-up funds at the beginning of each fiscal year; and (3) volatility of monthly revenue in relation to a constant expenditure need.

The Courts' revenue challenges result from the fact that the SCRTF [State Courts Revenue Trust Fund], which supports almost 83 percent of the entire State Courts System, is heavily reliant on an extremely volatile source: foreclosure filing fee revenue. Due to the substantial decrease in the number of foreclosure filings between FY 2009-10 and FY 2010-11, revenues deposited into the SCRTF have

fallen dramatically. In FY 2010-11, the appropriated budget greatly exceeded revenue collected every month.

Because of the significant problems both the Courts and the Clerks have been facing in accessing revenues sufficient to support their appropriated budgets, the Legislature and the Governor have been required to exercise their authority to cover the deficits through loans from other state funds and supplemental appropriations.

The report then makes five recommendations:

Recommendation 1: Proposed Core Court System - *The work of the courts and clerks is inter-related, and each entity depends on the other to provide justice to the people. The two entities should be considered the Core Court System for funding purposes.*

Recommendation 2: Proposed General Revenue Support for the State Courts – *Certain court costs, such as salaries for judges, court reporters and interpreters should remain a general obligation of state government and should be paid from the general revenue fund rather than from court user fees and costs.*

Recommendation 3: Proposed Operating Reserve – *Court related revenue should be distributed to the courts and clerks in an amount sufficient to support their authorized budgets before distributions are made to other government programs and services.*

Recommendation 4: Proposed Revenue Structure – *An operating reserve for the courts and clerks should be established to address monthly cash flow problems.*

Recommendation 5: Redirect Filing Fees and Service Charges in the Supreme Court and District Courts of Appeal and the Mediator Certification and Licensure Fees to the SCRTF through the Department of Revenue – *There are filing fees and service charges in the Supreme Court and district courts of appeal that should be redirected from the general revenue fund to the courts' trust funds.*

In essence, the above recommendations would require the Legislature to appropriate more general revenue dollars to the court up front and put less reliance on court fees.

The Senate Budget Committee heard testimony regarding the recommendations and appeared generally in agreement with the report. This issue will again be discussed at other House and Senate committee meetings in November and won't be fully determined until the regular session begins in January. We will be providing more detail and perspective in our next report.

Court Reform

House Speaker Dean Cannon was quoted in various newspapers as being “finished” with any further court reform measures. However, Speaker Cannon indicated he believed the composition of the judicial nominating commissions would continue to be discussed. This confirms what we have been hearing from legislators. No bills have yet surfaced, but are expected soon.

Business Community Alliance

We helped organize a meeting of the group that supports court funding, which includes Associated Industries of Florida, The Florida Chamber, Florida Retail Federation, Florida Bankers Association, and others. The group expressed support for the package of recommendations released by the Revenue Stabilization Workgroup and made plans to express support at future legislative committee meetings. We are proud and pleased to help coordinate these meetings.

Bar President and President-Elect Visits

Florida Bar President Scott Hawkins and President-Elect Gwynne Young continued their meetings with legislative leaders in Tallahassee during the interim committee week. They also had a very productive meeting with Attorney General Pam Bondi. They have been well received and these personal visits with legislators are vital to creating positive and long-term relationships for The Florida Bar.

For more detailed information on specific legislation being tracked by the Bar, visit the Legislation Committee’s webpage on the Bar website at this link:

<http://www.floridabar.org/cmdocs/bd160.nsf/WDOCS>

Information on all bills of general interest within the profession can be found in the Bar’s “2012 Bill Reports” at this link:

<http://www.floridabar.org/DIVEXE/GCBillReport.nsf/WDOCS?OpenView>