



The Florida Senate

Interim Project Report 2004-207

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Committee on Judiciary

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REVIEW FOR CONTINUED EXISTENCE-JOINT LEGISLATIVE COMMITTEE ON ARTICLE V

SUMMARY

Section 11.75 provides for the mandatory review in 2004 of The Joint Legislative Committee on Article V to determine the need for its continued existence. In 2000, the Legislature provided for the creation of this Committee and charged it with the coordination and oversight of the implementation of Revision 7. *See* ch. 2000-237, Laws of Florida. The President of the Senate and the Speaker of the House of Representatives each appointed 4 legislative members from their respective chambers to form the committee. The committee was also directed to make recommendations including proposed legislation to the Legislature, and submit a report annually on October 15.

During its tenure, the Committee only convened during the calendar year 2002. The Committee undertook only one formal action which involved the approval to contract with MGT of America, Inc., to collect information and data to assist with the implementation of Revision 7 to Article V. The Committee never submitted any annual reports.

Since the Committee has been inactive since 2002 and Senate and House of Representatives have undertaken the Committee's statutory responsibilities independently of each other, staff recommends that section 11.75, F.S., be repealed. Staff also recommends that issue-specific task forces or ad hoc committees be appointed as needed to study and develop legislation for outstanding issues or issues that develop beyond the transition date of July 1, 2004.

BACKGROUND

In 1998, voters approved Revision 7 to Article V of the *Florida Constitution* based on a proposal by the 1997 Constitution Revision Commission. The crux of Revision 7 provided primarily for the funding re-allocation of the state courts system among state, counties, and users of courts. The emphasis was

towards major cost-shifting from the county level to the state level. On October 25, 1999, both the President of the Senate and the Speaker of the House of Representatives appointed a joint task force to initiate implementation of Revision 7.

The *Joint Task Force on State Court Funding/Article V* was charged with developing a schedule by which the state would assume primary responsibility for funding the state court system to be fully effectuated by the constitutional deadline of July 1, 2004. Over the course of six meetings, the task force took testimony from the major stakeholders directly affected by Revision 7 including the Office of State Court Administrator, the State Association of Counties, the Public Defenders, the State Attorneys and the Association of Court Clerks and Comptrollers. The testimony addressed current funding of the state court system, the state attorney, public defenders, and clerks of the court, and the structure and programs provided by these offices. The task force also received information on available data regarding revenue, funding and costs of the judicial system and court-related functions. The task force submitted a proposed plan and approved draft legislation addressing the requirements of Revision 7 including the development of a schedule to implement the state assumption of additional funding of the state court system.

The proposed legislation culminated in the enactment of Chapter 2000-237, Laws of Florida.¹ The law established the basic framework for defining the elements of a state courts system, the public defenders' offices, the state attorneys' offices, court appointed counsel, and those functions that were to be the responsibility of the state versus those court-related functions that were to be the responsibility of the counties for funding purposes. The law also set forth a

¹ For more details, see staff analysis SB 1212 (2000), by the Senate Judiciary Committee.

four-year phase-in schedule, requiring the Legislature to review:

- By the fiscal year 2000-2001, the state court system to determine what functions should be funded by the state and the most appropriate manner for providing that funding.
- By fiscal year 2001-2002, the revenue generated by the court system and redirect the appropriate revenue to the state.
- By fiscal year 2002/2003, the state attorneys' offices and the public defenders' offices, and the use of civil indigence counsel and conflict counsel to determine what functions should be funded by the state.
- By fiscal year 2003/2004, the offices of the clerks of the circuit and county courts to define court-related activities performed by the clerks. Where there is appropriate data the Legislature should also determine the appropriate levels of filing fees, service charges, and court costs to fund the assigned activities.

To coordinate and oversee the four-year implementation, the Legislature statutorily created The *Joint Legislative Committee on Article V*. See s. 11.75, F.S. This committee consisted of 8 members, 4 members appointed by the President of the Senate and 4 members appointed by the Speaker of the House of Representatives.² The law required the chair to be appointed alternatively by the Senate President in even-numbered years and by the Speaker of the House of Representatives in odd-numbered years. The law also required that the committee to submit reports with recommendations and proposed legislation annually on October 15.

METHODOLOGY

Staff reviewed current law on Revision 7 to Article V, read available reports and files relating to the Joint Legislative Committee on Article V, and the House Select Committee on Article V, and consulted informally with staff supporting these respective committees.

FINDINGS

Revision 7 to Article V of the *Florida Constitution* solely addressed the revamping of the funding structure of the state courts system. Although unaddressed in the

constitutional amendment, the extent to which funding scheme is influenced by or influences function and form, Revision 7 also implicitly required a re-examination, if not some revamping, of 'the administrative structure, operational efficiencies, and functional responsibilities of the various stakeholders in the state courts system'. The appropriate scope of examination and the degree of needed change to the state courts system resulted in philosophical and political differences between each legislative chamber's approach to the implementation of Revision 7. These unresolved conflicts appear to have constrained the collaborative effort and effectiveness of the *Joint Legislative Committee on Article V*.

The *Joint Legislative Committee on Article V* did not convene until 2002.³ During its tenure, the Committee undertook only one formal action: the approval of a contract to obtain and evaluate information for the implementation of Revision 7. Based on the Committee's recommendation, the Legislature awarded an \$800,000 contract to MGT of America, Inc., in August, 2002. The overall project consisted of five phases, briefly described as follows:

- Phase I-Description of court system operations
- Phase II- Recommendations to increase efficiency/reduce the costs of essential activities
- Phase III-Standardized staffing and cost models
- Phase IV-Recommendations on court related revenues
- Phase V- Policy and structural options (optional contract provision that the Legislature never exercised)

Since the approval of the contract with MGT of America, Inc. in 2002, the *Joint Legislative Committee on Article V* has not formally reconvened. Instead, each respective legislative chamber has undertaken the statutory duty of the committee, to work independently of each other to develop legislation in the continuing implementation of Revision 7.

In lieu of appointing a chair to the *Joint Legislative Committee on Article V* during 2003 as dictated by law, the Speaker of the House of Representatives opted to create the *House Select Committee on Article V* in January, 2003.⁴ The select committee, consisting solely

²Members of the Committee: Senator Victor Crist, Senator Alex Villalobos, Senator Walter "Skip Campbell", Senator John Laurent, Representative (and then-speaker designate Johnnie Byrd), Representative Holly Benson, Representative Larry Crow and Representative Dan Gelber

³ The Senate President appointed Senator Victor Crist as the chair for 2002.

⁴ The House Speaker Johnnie Byrd appointed

of House members, was directed to recommend legislation for 2003, that would:

- Delineate the specific funding responsibilities of the state, counties, and users;
- Identify ways to fund these responsibilities;
- Address the functional management structure and functional responsibilities and staffing including, where appropriate, privatization of functions;
- Establish the budget and financial management structure;
- Identify any necessary funding methodologies;
- Identify any operational efficiencies; and
- Identify state data needs for system management and assigning responsibility for collecting and reporting information

The Senate did not appoint a comparable committee instead choosing to develop legislation within the confines of two existing Senate committees and with input from the various stakeholders. The Senate introduced SB 1184 (2003), which contained changes to substantive law as developed through the Committee on Judiciary and SB 1492 (2003), which contained changes needed to the funding structure as developed through the Senate Appropriations Subcommittee on Article V Implementation and Judiciary. Although both bills passed the Senate, the bills died on the House calendar.

Meanwhile, during the 2003 legislative session, MGT of America, Inc., made various presentations to the Legislature as it completed and submitted comprehensive reports on each of the four contract phases. Unfortunately, the completion dates of the four contract phases and the respective reports did not coincide timely with the Legislature's need for the information as legislation was developed. This was a contractual flaw of the original contract.

Almost two weeks before MGT submitted its final report, the *House Select Committee on Article V* submitted its final report on April 8, 2003. Many of the select committee's recommended legislative proposals emerged as the substance of HB 1929. HB 1929 was introduced late during the 2003 legislative session but

failed to pass. The bill was refiled as HB 113-A during Special Session A and constituted the second most comprehensive legislation to implement Revision 7 since 2000. HB 113-A was ultimately enacted as chapter 2003-402, Laws of Florida.

The Legislature is facing the fourth and final phase of its statutory implementation schedule for Revision 7 before the constitutional deadline of July 1, 2004. The *House Select Committee on Article V* remains in active existence for 2004 to continue oversight of the implementation of Revision and the transition period following July 1, 2004. The Senate continues working within the confines of its existing committees to address technical and substantive issues arising from ch. 2003-402, Laws of Florida.⁵

RECOMMENDATIONS

Based on the history of the committee and the final phase of the implementation of Revision 7, staff makes the following recommendations:

- Repeal s. 11.75, creating the *Joint Legislative Committee on Article V*.
- Consider the appointment of issue-specific task forces or ad hoc committees as needed to address outstanding or developing issues arising from the implementation of Revision 7 and the transition period beyond July 1, 2004, with as much coordination and collaboration with the House of Representatives to mitigate duplicative effort and resources by the various stakeholders, particularly governmental entities.

Representative Holly Benson as chair, who was already a member of the Joint Legislative Committee on Article V. Members of the House Select Committee: Representative Brummer, Representative Gelber, Representative Goodlette, Representative Joyner Representative Kottkamp, Representative Mahon, Representative Negron, Representative Planas, Representative Sansom, Representative Simmons and Representative Stansel.

⁵ See also House staff analysis for HB 1929, April 24, 2003, by House Judicial Appropriations, and for HB 113-A, May 14, 2003, by House Appropriations