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Courts foresee staff reductions *30 percent of the workforce is at risk*

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Asking the Florida court system to cut its budget by 10 percent next year — on top of 6 percent cuts this year — would be asking the third branch of government to commit suicide, Supreme Court Chief Justice Fred Lewis told a key Senate committee.

"I don't believe any of you wish to undermine an entire branch of government," Lewis told the Senate Criminal and Civil Justice Appropriations Committee March 20. "I plead with you to work with us to find other ways to address this problem other than a 10 percent across-the-board cut."

That 10 percent reduction, the chief justice said, "is placing an arrow through the heart of the branch. I can tell you the soul of the branch will remain strong and we will continue to strive to serve the people of Florida. But now with the 10 percent, if we come forward and say we can sustain the 10 percent, then we're saying we'll commit suicide."

Lewis made his pitch, and then representatives from state attorneys, public defenders, guardians ad litem, the offices of capital collateral regional counsel, and other court and law enforcement related agencies told the committee how they would cope with a further 10 percent budget reduction for the 2008-09 fiscal year on top of already deep cuts for the current year.

There was a glimmer of hope given by the committee members. Chair Victor Crist, R-Tampa, said the panel had no choice within its budget allotment but to cut 10 percent across the board from the courts and the state agencies it oversees. But he noted that the committee's budget could be amended once it goes to the Senate floor and would likely be changed again during budget negotiations with the House.

Some committee members said they would try to take funds from other state programs to lessen the impact on the courts.

"Some things are more important than others. I think we should all keep in mind that on the floor we can find more sources of money," said Sen. Alex Villalobos, R-Miami.

"There's no way that I would be able to live with myself if I didn't fight to preserve the judiciary at the level where it would be effective for the people of the state of Florida," said Sen. Arthenia Joyner, D-Tampa. "I have no problems with raiding

someone else's budget to save a branch of government."

Added Sen. Charles Dean, R-Inverness: "If I've got to make a choice between spending hundreds of millions of dollars to protect a frog or a gator and funding the courts . . . the frog has got to find a new pond."

Those appearing before the committee presented a bleak picture of the impact of the proposed 10 percent budget cuts, which came on top of two budget reductions imposed for the 2007-08 budget year (the second approved only the week before).

Lewis told the committee that in the first round of cuts last September, the courts lost more than \$9 million, and in the cuts approved March 12, another \$17.2 million was sliced. The only way furloughs were avoided with the latter cut was by shuffling the court's trust funds and finding an additional \$2.1 million. Cutting 20 percent would cost the courts an additional \$41.2 million, he said.

The cuts for the current year required a work force reduction of more than 240 positions (met by not filling existing positions), Lewis said. The 10 percent cut would require laying off another 727 employees — a total loss of 971 positions in about a year, or a total of 30 percent of the judicial system's work force. He noted the court system added about 1,200 employees under Revision 7 when the state assumed many functions that had been funded by counties.

Cuts that deep, Lewis said, would set the courts back 30 years.

He explained that 87 percent of the court budget is in salaries and, of that, 42 percent is for judges, who are constitutional officers and hence cannot be fired or have their salaries reduced. The cuts have to be concentrated on support staff, where the impact is, in effect, an 18 percent reduction, he said.

The impact on the courts would be incalculable, with delays for all types of cases, including high priority criminal and family proceedings that have statutory time limits, Lewis said.

Court mediation programs, which have dramatically reduced the number of trials, will be ended, which "would result in delays and higher costs for citizens," Lewis said.

Children in foster care, landlords looking to evict tenants, and foreclosure actions would all be delayed, Lewis said, warning it's even possible those charged with crimes might go free because the courts couldn't meet speedy trial deadlines.

Lewis pledged to work with legislators to find additional revenues for adequate sources of funds. "We must get through these troubled waters without sacrificing a branch of government," he said.

Other court-related agencies projected similar woes, but Crist repeated his message that budgets will be tight.

To state attorneys, Crist said, "You guys are going to have to do a better job of who you choose to prosecute.

"With the public defenders, you need to do a better job with those you provide service and determine if they truly meet the indigent standards."

Thirteenth Circuit State Attorney Mark Ober, president of the Florida Prosecuting Attorneys Association, said to meet the reductions of the current budget year, state attorneys have not filled 493 positions, both for prosecutors and support staff.

"We did that out of respect for this legislature and because we wanted to be part of the solution," Ober said. "That was done even though we are struggling more than ever."

But an additional 10 percent budget cut will mean laying off another 536 employees, he said. Combined with unfilled positions, that would be a 17 percent reduction for prosecutors.

"We would painfully and regretfully be compelled to terminate the employment of prosecutors, investigators, and staff. I am not telling you that for any shock value," he said.

"To do this would compromise public safety in the state of Florida."

Work loads for felony prosecutors would rise from 350 to 650 cases, he predicted, and lesser experienced prosecutors would have to take on more complex cases.

Fourth Circuit Public Defender Bill White, representing the Florida Public Defender Association, said PDs may have trouble meeting all of their constitutional functions with another 10 percent budget reduction.

"When you're looking at whether the lights are going to get turned out or the water turned off, well you can probably get some candles for light," White said. "What we're talking about is turning off the water taps with these 10 percent cuts. . . ."

"If you're jamming the whole system up with more cases and fewer people to do the job, then the quality of what we present to the judges goes down."

Public defenders may have to stop representing defendants in misdemeanor cases, although one option would be for the legislature to specify that no jail time would result from such a conviction, in which case public defenders would not be required, White said.

Angela Orkin, who runs the state's Guardian ad Litem Program, said to comply with budget cuts this year, 43 employees had to be laid off, which resulted in 2,000 children not having guardians ad litem. To meet the 10 percent reduction, she said, more staff would have to be let go, and another 2,300 children would not be represented. That would reverse the trend of the past four years where the state increased the percentage of children in court cases with guardians ad litem from 50 to more than 80 percent.

Bill Jennings, the capital collateral regional counsel for the middle region of Florida, said the committee's requested cuts would mean the loss of 10 positions for the middle and southern regional counsels. That in turn, he said, would reduce the ability

of those offices to appeal in the federal court system.

The hearing before the Criminal and Civil Justice Appropriations Committee came only eight days after the legislature approved cuts for the 2007-08 fiscal year that diminished the budgets for the courts, public defenders, and state attorneys by millions of dollars.

The latest 2007-08 fiscal year cuts for the courts and state attorneys were expected to be painful, but not cause the layoff of any employees. Several public defenders initially said they would have to furlough employees for a few to several days before the fiscal year ends June 30, but sharing funds among various circuits addressed that problem — for now.

“The future is going to be bleak for all of us,” said Eighth Circuit Public Defender Richard Parker, president of the Florida Public Defender Association.

State Courts Administrator Lisa Goodner said details on how the courts could meet the \$17.2 million in cuts for the current year were basically unchanged from earlier plans. (See story in the March 15 *Bar News*.) That involved taking monies from various trust funds plus another \$2.1 million in nonrecurring revenues for the courts. That avoided what was feared to be furloughs of court employees before the June 30 end of the fiscal year.

As it did for state attorneys and the courts, the legislature gave the public defenders permission to shift trust funds to meet their salary needs, and even move trust funds among various circuits. But the FPDA’s Parker said that wasn’t nearly enough.

As the legislature prepared to vote on its budget cuts on March 12, Parker said nine public defenders didn’t have enough money for the year and might have to furlough employees before the end of June. That was down from 13 a week or so earlier before the circuits began juggling trust funds and those with surpluses sharing with those who didn’t have enough.

Parker said the defenders were about \$2 million short of what would be needed to avoid furloughs.

He later said, at a subsequent conference among defenders, enough money was found to avoid all layoffs. For example, his office’s \$200,000 deficit was made up by surplus funds transferred from 13th Circuit Public Defender Julianne Holt.

All of the money transferred among public defender offices is coming from trust funds, Parker said, as no office has any extra general funds. In some cases, the sources of those trust funds could be local, such as a county which contributed money for technology or to defend those charged with violating local ordinances, but the money now might be sent to another circuit for salaries.

Even though the furloughs were avoided, “at the end of this budget year, we will have exhausted every dime in the association,” Parker said. “We will start next year [facing further budget cuts] with absolutely no reserves. . . .

“It was not without some significant difficulty, when you’re trying to get people to

identify funds," Parker said of what the defenders went through to avoid layoffs. "The effect is we are covered for this year, but, of course, the cut carries into next year. Any additional cut [in the 2008-09 fiscal year] for anybody will mean either not filling positions as they vacate or, depending on the depth of the cut, terminating employees."

"We're starting to run on fumes," Eighth Circuit State Attorney William Cervone, vice president of FPAA. "We are starting to be at a position where things are slowing down, things are not being processed. In many places, we are starting to look at what cannot be done."

The most immediate impact on prosecutors is a reduction in specialty operations. "I had two attorneys assigned to serious narcotics cases," Cervone said. "I'm down to one, and it may be none because I cannot afford specialization. These are the first kinds of things to be raided so you can keep up with the general work."

"We are going to have to start to triage cases and focus on cases we think are the greatest threat to public safety," he said, which means crimes against persons would likely take priority over property crimes. "People are not going to like that. I don't blame them. . . ."

"We have real concerns about public safety. No one is going to prison if there is not a prosecutor between the police and the gates of the prison."

Prosecutors will also have problems if public defenders are forced to make layoffs. Cervone said about 40 percent of defendants are represented by public defenders, and if those defenders are furloughed, it will impact state attorneys as well.