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MEMORANDUM

TO: Lawrence E. Sellers, Chair
The Florida Bar Legislation Committee

FROM: Jim Daughton
Aimee Diaz Lyon

DATE: January 31, 2020

SUBJECT: Legislative Update – Week Three

With the legislative session officially one-third complete, the policy focus of the legislature shrinks considerably, and the budget focus intensifies. One should consider the legislative process as a funnel, with the breadth of bills narrowing as legislative committees finish their agendas and some committees conclude their meetings as early as next week. Bills which have not received a hearing at this point have very little chance of passing. Of course, this funnel-like process is designed to focus legislative priorities and helps explain why roughly 10% of all bills filed actually pass.

Conversely, the only bill that must pass the legislature is the state budget. The budget process is moving along at its typical frenetic pace. This past week the Senate released its initial budget proposal, a spending plan totaling in \$92.8 billion. The House released its proposal as well, a spending plan totaling \$91.3 billion. In the next few weeks House and Senate “budgeteers” will reconcile their differences, starting with the \$1.5 billion difference in the totals, and then work on the details, hopefully with an on-time conclusion.

State Courts System Budget

This week, House and Senate appropriations subcommittees released their initial budget drafts. This follows the budget milestones which occurred last fall: the agencies released their legislative budget requests in September and the Governor released his “[Bolder](#).”

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[Brighter, Better Future](#)” budget recommendations in December. Both chambers will continue to build independent budgets that incorporate the subcommittee drafts into a General Appropriations Act which will be heard in the respective Appropriations Committees next week, and then on the respective chamber floors for final passage. The chambers will then move to the budget conference process later in session.

Of particular interest, on January 28th, the House Justice Appropriations Subcommittee proposed a \$5.5 billion total budget for the justice appropriations silo of the state budget – a net increase of \$154.3 million. This total represents a 2.5% increase in General Revenue over the current fiscal year, which ends on June 30, 2020.

On the same day, the Senate Criminal and Civil Justice Appropriations Subcommittee also released the Senate’s Chair’s budget plan for this portion of the budget. The Senate budget proposal totals \$5.564 billion.

Below is a budget comparison of issues and allocated funding amounts for the judicial branch by the Senate and House Appropriations subcommittees, as compared to the actual State Courts System’s Legislative Budget Request (LBR).

Issues	Senate Criminal & Civil Justice Appropriations Subcommittee	House Justice Appropriations Subcommittee	State Courts System LBR Request
Timely Resolution of Cases Initiatives	\$5,050,069 (64 FTEs)	-0-	\$13,512,798 (157 FTEs)
Court Interpreting Resources & Remote Technology	\$5,005,356 (37 FTEs)	\$1,735,889 (17 FTEs)	\$5,470,209 (40.5 FTEs)
2nd District Court of Appeals Courthouse Construction	\$20 million	\$21 million	\$21 million
Problem Solving Court Database	\$308,542 (2 FTEs)	\$581,568 (4 FTEs)	\$581,568 (4 FTEs)
Family Court Operational Support	\$317,446 (2 FTEs)	\$317,446 (2 FTEs)	\$317,446 (2 FTEs)
Certification of Additional Judges	\$2,139,090 (15 FTEs)	\$3,418,513 (21 FTEs)	\$3,496,422 (22 FTEs)
Appellate Judiciary Travel	\$125,000	\$125,000	\$125,000
Appellate Court Security	\$516,139	\$516,139 (6.5 Marshalls)	\$516,139
Judicial Data Management for Florida Courts Statewide Network (CJNet)	\$448,696	\$448,696	\$448,696

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Bar Dues Proviso	<i>Each agency, at the discretion of the agency head, may expend funds provided in this act for bar dues and for legal education courses for employees who are required to be a member of the Florida Bar as a condition of employment.</i>	<i>Each agency, at the discretion of the agency head, may expend funds provided in this act for bar dues and for legal education courses for employees who are required to be a member of the Florida Bar as a condition of employment.</i>	
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Also this week, the House Justice Appropriations Committee released **HB 5301** which aligns with the Supreme Court’s certification opinion for new judges recommending 4 new judicial circuit judges in the First (1), Ninth (2), and Fourteenth (1) Circuits and 6 new county court judges for Hillsborough County (4), Lee County (1), and Orange County (1).

The Senate budget proposal, **SB 2500**, contains proviso language which recommends 5 additional circuit court judgeships – one judge in each of the First, Fourth, and Fourteenth Judicial Circuits, and two in the Ninth Judicial Circuit, contingent upon passage of substantive legislation.

Link to Senate’s Budget Bill, SPB 2500:

<http://www.flsenate.gov/Session/Bill/2020/2500/BillText/pb/>

Link to House’s Budget Bill, PCB APC 20-01:

[https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2991&Session=2020&DocumentType=Proposed+Committee+Bills+\(PCBs\)&FileName=PCB+APC+20-01_GAA](https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2991&Session=2020&DocumentType=Proposed+Committee+Bills+(PCBs)&FileName=PCB+APC+20-01_GAA)

Link to Budget Conforming Bill, HB 5301:

<http://www.flsenate.gov/Session/Bill/2020/5301/BillText/Filed>

Legislation of Interest to The Florida Bar

Following is a summary of key information and issues in Florida government which impact The Florida Bar.

Judicial Nominating Commissions – *No Action*

SB 86 by Senator Perry Thurston (D-Fort Lauderdale) and **HB 379** by Rep. Al Jacquet (D-Lantana) reinstate the composition of the judicial nominating commissions as it existed in § 20(5), Fla. Const. and § 43.29, Fla. Stat. (2000). Currently, the governor appoints nine

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members to each of the 26 JNCs. Three of those members are from a list recommended from The Florida Bar. Under the legislation, the governor would only appoint three members to each nine-member nominating commission. Three other members would be appointed by The Florida Bar, and then the six members of each JNC panel would select the remaining three members.

Link to SB 86: <http://www.flsenate.gov/Session/Bill/2020/86>

Link to HB 379: <http://www.flsenate.gov/Session/Bill/2020/379>

Public Records Exemption for County Attorneys & Assistant County Attorneys – *Senate Bill Passes Final Committee*

HB 63 by Rep. Randy Maggard (R-Dade City) and **SB 248** by Senator Ed Hooper (R-Clearwater) provide an exemption from the public records requirements for personal identifying and location information of current and former county attorneys and assistant county attorneys and their spouses & children.

On January 29th, SB 248 passed its final committee referral, the Rules Committee, by a vote of 12 to 3.

Link to HB 63: <http://www.flsenate.gov/Session/Bill/2020/63>

Link to SB 248: <http://www.flsenate.gov/Session/Bill/2020/248>

Public Records Exemption for Judicial Assistants – *Senate Bill Clears Final Committee*

SB 128 by Senator Tom Wright (R-New Smyrna Beach) and **HB 479** by Rep. Elizabeth Fetterhoff (R-DeLand) provide an exemption from the public records requirements for certain identifying and location information of current and former judicial assistants and their spouses and children. The legislation provides for the retroactive application of the exemption.

On January 29th, SB 128 passed the Rules Committee by a vote of 13 to 3. HB 479 has passed the Civil Justice Subcommittee and has two committee hearings remaining.

Link to SB 128: <http://www.flsenate.gov/Session/Bill/2020/128>

Link to HB 479: <http://www.flsenate.gov/Session/Bill/2020/479>

Constitution Revision Commission Proposals – *Senate CRC Bill Clears Final Committee*

SJR 142 by Senator Jeff Brandes (R-St. Petersburg) and **HJR 301** by Rep. Brad Drake (R-Eucheeanna) would abolish the CRC entirely and remove any statutory references to the Commission. The proposals would require a change to the Florida Constitution approved by the voters. **After passing the full House on January 22nd, HJR 301 resides in the Senate**

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awaiting action. On January 29th, SJR 142 passed the Rules Committee by a vote of 16 to 0. The Senate bill is now on the calendar ready to be scheduled for consideration by the full Senate.

HB 303 filed separately by Rep. Drake would repeal all statutory references to the Constitution Revision Commission once any constitutional amendment abolishing the CRC is passed by voters. After passing the full House on January 22nd, HB 303 resides in the Senate awaiting action.

SJR 176 by Senator Jose Javier Rodriguez (D-Miami) limits any amendment to the Constitution proposed by the Constitution Revision Commission to “one subject and matter connected therewith.” Under current law, each proposal of the Commission may embrace multiple subjects, and the Commission may even propose a singular revision of the entire Constitution. The Senate joint resolution would be voted on by the voters in 2020 and, if approved, would apply to the next CRC which is slated to meet in 2037, in advance of placing measures on the 2038 ballot. SJR 176 had passed two Senate committees and has one hearing remaining in the Rules Committee.

A parallel constitutional ballot initiative is seeking to make it harder to amend Florida’s Constitution by having voters approve constitutional amendments twice in two elections, instead of one election, in order for them to officially take effect. On January 30th, the state Division of Elections announced that the Keep Our Constitution Clean political committee had met the legal requirement for submitting the necessary amount of petition signatures. The political committee submitted 769,769 valid petition signatures, over and above the 766,200 signature requirement. The committee submitted the requisite number of signatures prior to the deadline of Saturday, February 1st. The political committee will now also need Florida Supreme Court approval of the proposed ballot wording. If the Florida Supreme Court approves the proposal’s wording, the initiative will go on the November 2020 ballot.

Link to SJR 176: <http://www.flsenate.gov/Session/Bill/2020/176>

Link to SB 142: <http://www.flsenate.gov/Session/Bill/2020/142>

Link to HB 301: <http://www.flsenate.gov/Session/Bill/2020/301>

Link to HB 303: <http://www.flsenate.gov/Session/Bill/2020/303>

Link to Amendment 19-08: <https://dos.elections.myflorida.com/initiatives/>

Court Jurisdiction – House Committee Introduces Proposal

SB 1510 by Senator Jeff Brandes (R-St. Petersburg) revises the jurisdiction of circuit courts and the authority of county court judges temporarily designated to preside over circuit court cases. As originally filed, the bill also transferred jurisdiction for appeals of final administrative orders of local government code enforcement boards from the circuit court

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to the district court of appeal. **On January 21st, SB 1510 passed the Judiciary Committee by a vote of 4 to 0.**

SB 1510 was amended to limit the scope of the original bill. Originally, the bill provided district courts of appeal jurisdiction to hear appeals of decisions of county courts in criminal and civil cases and to hear appeals relating to a variety of administrative decisions and noncriminal infractions. The amended bill does not transfer to the district courts of appeal the appellate jurisdiction of circuit courts to hear administrative decisions and appeals relating to noncriminal infractions.

Also last week, the House Judiciary Committee filed a companion measure, **PCB JDC 20-05** relating to appellate court jurisdiction, which is identical to the amended Senate proposal. **On January 30th, the Judiciary Committee voted unanimously to officially introduce the committee bill.**

Link to SB 1510: <http://www.flsenate.gov/Session/Bill/2020/1510>

Link to PCB JDC 20-05:

[https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2998&Session=2020&DocumentType=Proposed%20Committee%20Bills%20\(PCBs\)&FileName=PCB%20JDC%2020-05](https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2998&Session=2020&DocumentType=Proposed%20Committee%20Bills%20(PCBs)&FileName=PCB%20JDC%2020-05)

Statewide Council on Prosecutorial Misconduct – *No Action*

SB 262 by Senator Randolph Bracy (D-Orlando) creates the Statewide Council on Prosecutorial Misconduct within the Department of Legal Affairs. The council will provide recommendations and findings relating to prosecutorial misconduct to the Department of Lawyer Regulation within The Florida Bar and to the Supreme Court's Chief Justice. The council's membership includes four prosecutors, four public defenders or assistant public defenders, a district court of appeal judge, and two county or circuit court judges. By January 14th of each year, the council is required to submit an annual report to the Governor, Legislature, and Chief Justice summarizing the council's recommendations and findings during the previous calendar year.

There has been no action on SB 262 and a House companion bill has not been filed to-date.

Link to SB 262: <http://www.flsenate.gov/Session/Bill/2020/262>

Legal Notices – *House Bill Passes*

HB 7 by Rep. Randy Fine (R-Palm Bay) and **SB 1340** by Senator Joe Gruters (R-Sarasota) provide for the website publication of legal notices, provide criteria for such publication, authorize fiscally constrained counties to use publicly accessible websites to publish the legally required advertisements and public notices, and require governmental agencies to

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provide specified notice to residents concerning the alternative methods of receiving legal notices. The House adopted technical amendments to the bill which clarify that the publication requirement only applies to a governmental entity who uses a website to publish notices and that the notice of proposals for any public-private partnership still has to be published in the Florida Administrative Register and in the local county in which the project would be located.

There was no movement on the Senate legislation this week. On January 30th, HB 7 passed the Judiciary Committee by a vote of 11 to 7. The bill goes next to the State Affairs Committee. The House bill was amended with a language dealing with notices for property tax increases.

Link to HB 7: <http://www.flsenate.gov/Session/Bill/2020/7>

Link to SB 1340: <http://www.flsenate.gov/Session/Bill/2020/1340>

Legal Advertising – *No Action*

The legislature is also considering certain restrictions of legal advertising. While generally in the purview of the Florida Supreme Court, some state legislatures across the country have passed certain restrictions on legal advertising, typically under unfair and deceptive practices statutes. Senator Tom Wright (R-New Smyrna Beach) filed **SB 1288** pertaining to the solicitation of legal services. Specifically, the bill focuses on advertisements featuring “medical alerts” or “consumer alerts” using the names or logos of a regulatory agency.

Also on January 16th, the House Subcommittee on Civil Justice held a workshop on legal advertising. The Florida Bar’s Ethics Counsel, Elizabeth Tarbert, participated in the workshop and discussed the role of the Bar in lawyer advertising and served as an excellent resource to the committee members and staff.

There was no movement on the Senate legislation and a House companion bill has not been filed to-date.

Link to SB 1288: <http://www.flsenate.gov/Session/Bill/2020/1288>

Trial Court Security – *House Bill Passes Committee*

HB 131 by Rep. Stan McClain (R-Ocala) and **SB 118** by Senator Joe Gruters (R-Sarasota) require each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive court security plan for trial court facilities. The sheriff retains authority over the implementation of security, and the chief judge retains decision-making authority to protect due process rights. The legislation also clarifies that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities.

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On January 28th, HB 131 passed the Justice Appropriations Subcommittee by a vote of 12 to 0 and the bill is now in the Judiciary Committee.

Link to SB 118: <http://www.flsenate.gov/Session/Bill/2020/118>

Link to HB 131: <http://www.flsenate.gov/Session/Bill/2020/131>

Jury Service – *Both Bills Pass Committees*

SB 738 by Senator Gayle Harrell (R-Stuart) and **HB 393** by Rep. Charlie Stone (R-Ocala) require students between 18 and 21 years of age who are actively enrolled as a full-time student in high school or at any state university, private postsecondary educational institution, Florida College System institution, or career center to be excused from jury service upon request.

On January 27th, SB 738 passed the Education Committee by a vote of 7 to 0 and is now in the Rules Committee, its final committee reference. On January 29th, HB 393 passed the Civil Justice Subcommittee by a vote of 14 to 0.

Link to SB 738: <http://www.flsenate.gov/Session/Bill/2020/738>

Link to HB 393: <http://www.flsenate.gov/Session/Bill/2020/393>

Early Childhood Courts – *SB 1324 Advances This Week*

SB 236 by Senator Lauren Book and **HB 449** by Rep. Amber Mariano (R-Port Richey) create a new problem-solving court to support an Early Childhood Court (ECC) program for cases involving children under the age of three and uses specialized dockets, multidisciplinary teams, evidence-based treatment and a non-adversarial approach. Currently, there are 22 ECC sites throughout Florida serving 350 children aged 0-3. The legislation expands ECC access while standardizing procedures for the court throughout the state.

SB 236 previously passed the Children, Families, and Elder Affairs Committee by a vote of 6 to 0, and has two remaining committee references – the Appropriations Subcommittee on Criminal and Civil Justice and the Appropriations Committee. **HB 449** has not been heard in committees.

SB 1324 by Senator Wilton Simpson (R-Trilby) makes a number of changes to the child welfare laws. Among the provisions, the bill:

- Requires circuit and county court dependency judges to receive education relating to the value of secure attachments, stable placements and the impact of trauma on children in out-of-home care.

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- Codifies the creation and establishment of Early Childhood Court (ECC) programs in the circuit courts that serve cases involving children typically under the age of three by using specialized dockets, multidisciplinary teams, evidence-based treatment and a non-adversarial approach.
- Requires DCF to notify the court of any report to the central abuse hotline that involves a child under court jurisdiction.
- Provides circumstances under which a court may remove a child and place he or she in out-of-home care if a child was placed in the child's own home with an in-home safety plan or was reunited with a parent with an in home safety plan.

A comparable bill, **HB 1105** by Rep. Josie Tomkow (R-Polk City), also requires certain training to be offered to dependency court judges that informs them of the benefits of stable placements and related issues. It also requires judges to consider certain factors related to placement stability when determining whether to change a child's placement and requires judges to be notified of all central abuse hotline reports that are accepted for an investigation and the report involves a child over whom the court has jurisdiction.

On January 28th, SB 1324 passed the Appropriations Subcommittee on Health and Human Services by a vote of 10 to 0 and is now in the full Appropriations Committee. HB 1105 has two remaining committees – the Appropriations and Health and Human Services Committees.

Link to SB 236: <http://www.flsenate.gov/Session/Bill/2020/236>

Link to HB 449: <http://www.flsenate.gov/Session/Bill/2020/449>

Link to SB 1324: <http://www.flsenate.gov/Session/Bill/2020/1324>

Link to HB 1105: <http://www.flsenate.gov/Session/Bill/2020/1105>

Judicial Travel Reimbursement – *House Committee Bill Introduced*

SB 1392 by Senator David Simmons (R-Altamonte Springs) revises the provisions governing the payment of subsistence and travel reimbursement for Supreme Court justices who designate an official headquarters other than the headquarters of the Supreme Court. Most importantly, the bill authorizes district court of appeal judges who reside within 50 miles of his or her DCA headquarters and meet certain other criteria to have an appropriate facility in their county of residence designated as their official headquarters. The Senate bill was amended to authorize the Chief Justice to set policies and parameters for the use of alternative headquarters and travel reimbursement by eligible justices. Additionally, the Senate bill specifies that its provisions control over any conflicting provision in the travel-reimbursement statute that applies to all state employees and officers.

SB 1392 has two remaining committees of reference – the Appropriations Subcommittee on Criminal and Civil Justice and Appropriations Committee.

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On January 30th, the House Judiciary Committee officially introduced a committee proposal, **PCB JDC 20-04**, relating to appellate court headquarters and travel which closely aligns to the Senate proposal. The committee proposal will now be officially introduced and receive a bill number.

Link to SB 1392: <http://www.flsenate.gov/Session/Bill/2020/1392>

Link to PCB JDC 20-04:

[https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2998&Session=2020&DocumentType=Proposed%20Committee%20Bills%20\(PCBs\)&FileName=PCB%20JDC%2020-04](https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2998&Session=2020&DocumentType=Proposed%20Committee%20Bills%20(PCBs)&FileName=PCB%20JDC%2020-04)

Legislative Session Communication

The preceding bills and any other newly-filed bills are tracked each week and are available to monitor on The Florida Bar Legislation Committee's website:

<https://www.floridabar.org/member/legact/legact001/>

Moreover, each week during the legislative session each member of the Board of Governors will receive a brief legislative update which will also be posted to the Legislation Committee's website.