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## Brent Batten: Clerks assailed in Tallahassee

By BRENT BATTEN

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You'll forgive Dwight Brock if he's feeling set upon.

After a grueling legal battle with Collier County commissioners who want to limit his ability to look over their fiscal shoulder, he now sees the Florida Legislature threatening to take away his role as the court's clerk.

Bills introduced in the state House and Senate would move the job of court record keeper to the courts themselves, relieving Brock and the state's other elected clerks of one of their primary duties.

As is often the case, the motivation is money.

Supporters of House Bill 1121 and its Senate companion bill 2108, are looking for a better source of funding for the court system.

Tired of wrangling with the Legislature every year for adequate court finance, judges and the Florida Bar Association are promoting the bill as a way to guarantee income for the courts far into the future.

Under the present system, filing fees and fines levied by the courts are paid to the Clerk of Courts, who then disburses the money. Most of it goes to the state's general fund. Only a small percentage makes its way back to the actual operations of the court.

The proposed bills would direct most of the money from the fees into the State Courts Revenue Trust Fund.

Courts would then rely on the trust fund, rather than the largesse of the Legislature.

Brock, and just about anyone else who stops and thinks about it for a minute, sees a huge problem with that approach.

One of the cornerstones of the American judicial system is the notion that judges have no personal stake in the outcome of a case.

If court funding is dependant on money coming in from filing fees and fines, then the specter of "checkbook justice" arises.

There is certain to be at least the perception that judges are levying heavy fines to assure themselves and their staffs of handsome raises.

"It they're capable of generating the pool of money through court operations, they lose their historical independence as an impartial arbiter of disputes," Brock said.

House Bill 1121 would relieve the clerk of the job of, "Collection and distribution of fines, fees, service charges and court costs."

It specifically states which portion of certain filing fees would go to the newly created State Courts Revenue Trust Fund. For example, of the \$32.50 fee to file for dissolution of marriage, \$25 would go to the trust fund. About \$165 of the \$295 filing fee for a trial or appeal would go to the fund.

While the draft bill says collection of fines would be taken away from the Clerk of Courts, it does not specifically say what portion of fines would go to the trust fund. Brock says his reading of the law leads him to believe, "The objective is to take all of the money out of the Clerk of Courts system and have it available to the courts."

At a Florida Bar Association event in January, State Rep. Elyn Bogdanoff, R-Fort Lauderdale, the House sponsor of the bill, said legislators are tired of wrestling with courts every year over funding. Clerks duties are outlined by statute, meaning the Legislature can change them, she said.

Brock says the effort underway in Tallahassee has nothing to do with Collier County commissioners' lawsuits seeking to limit his ability to conduct audits of county expenditures. But if both efforts are successful he'd essentially be out of business.

While he laughs at the prospect of collecting his salary for doing nothing, he says the prospect of the courts having control over their own funding through fines and fees is no laughing matter.

The Legislature needs to adequately fund the courts without introducing the concept of checkbook justice.

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