

## *Power Grab Threatens Checks and Balances*

Legislation was recently filed in both the Florida House and Senate which, if passed, would shift court related services and responsibilities from the locally elected Clerks of Court (who answer to the citizens of their respective counties), to the delegated employees of the Office of State Court Administration.

This change, if enacted, would eliminate the system of checks and balances within the judicial branch of government as intended by the Florida Constitution. The Office of the Clerk of Courts was created as the independent check and balance, apart from the direct control of lawyers and the judiciary.

As the impartial officer of the court, custodian of court records, and the entity that collects and disburses the fees and costs imposed by the court, the clerk performs these court related services on behalf of the public.

If such duties and services were administered by an employee of the judges, I believe significant abuses of the court system and the public could result.

In 2006, the Miami Herald reported that Broward County judges had sealed more than 400 civil cases, many of them involving prominent local people, not individuals entitled to privacy under the law. As part of its investigation, the Herald learned that this practice was being followed statewide. The Clerks recommended new rules to restrict a judge's ability to seal court records without the public's knowledge. The role of the Clerk in enforcing a system of checks and balances helped to correct a situation where judges were abusing their position.

What if judges in each county were given the ability to set and collect fines and costs and then dictate how the funds were to be spent for their own salaries, their support staff and their office expenses.....would you be comfortable with "cash register justice?" Imagine traffic fines or court filing fees being determined based upon the amount of money that is required to satisfy the court's constantly expanding budget requirements.

Over the past 5 years in Collier County, the Clerk's court expenditures increased by less than 1% per year; with one exception. In FY 2006, 6 new judges were appointed in Collier County increasing the number of judges from 8 to 14 and the Clerk's Office had to hire additional staff to support those judges. Last month, the Florida Supreme Court filed a report requesting 68 new judges. It is troubling that the cost of running the courts keeps growing while this proposed legislation purports to ... "enable greater access to justice and bring appropriate efficiencies to the administration of justice..."

So, why this bill and why now?

Perhaps the answer to this question lies within the very comments of the bill's sponsor Representative Ellyn Bogdanoff (an attorney) from Broward County. This is about "systemic change", something the judiciary has sought for more than three decades, occasioned by what Bogdanoff referred to as "the perfect storm with the economy."

The severe economic downturn has created an opportunity for the courts to accomplish a long desired goal of creating a dedicated pool of funds that they generate and can control. Under the guise of efficiency and reform, this legislation could lead to giving the courts control of most of the funds collected from fines, filing fees, service charges and court costs. The bill would remove the system of checks and balances established by our citizens through our constitution, and by legislative fiat, without any public input, would create the conditions for the potential abuse of power by the courts at the public's expense.

The Clerk's Office has no preference for how its court services are funded because it has always followed the law as defined by the Florida Constitution and Statutes. While the funding model is not a major concern for me, as Clerk of Courts in Collier County, I am very concerned about losing a fundamental principle of our democratic system of government. Without an effective system of checks and balances in government, the public, in my opinion, will lose in more ways than one.

As a concerned citizen and public official, I urge you to contact your local legislators and tell them that you want checks and balances in state government including the court system, and that you support an independently elected Clerk of Courts who performs these functions today on behalf of the public.

Respectfully,

Dwight E. Brock, Clerk of Courts  
Collier County

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