

Brent Batten: Lawmaker wants more accountability for court clerks

By BRENT BATTEN

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Ellyn Bogdanoff, the state representative sponsoring House Bill 1121, which would eviscerate clerks of courts duties statewide, rises to defend the legislation.

Facing opposition from the State Clerk of Courts Association, Bogdanoff knows her proposed bill faces an uphill fight in Tallahassee.

"Everyone keeps telling me how powerful the clerks are," she said.

For four years, she says, she has fought unsuccessfully for similar legislation. She sees it primarily as a way of saving money by streamlining court operations and taking money away from locally elected Clerks of Courts, whom she sees as lacking in accountability.

Given the state's bleak economic picture, looking for ways to save makes sense, she says.

Clerks collect millions of dollars in court fees and fines, get to keep what they deem appropriate to run their offices, and turn the rest over to state and local governments. Other agencies start the budget process with no money, build a case for doing the things they need to do, then are funded by bodies such as the Legislature or county commissions.

Putting functions such as maintaining court records and processing appeals directly in the hands of court administration would be more efficient, Bogdanoff argues. She estimates, without much in the way of tangible proof, that the move would save about \$200 million annually statewide.

A detailed financial impact statement is being prepared, Bogdanoff said.

Judges and The Florida Bar have joined Bogdanoff's cause this year, seeing the legislation as a way to secure a steady stream of money for the courts.

H.B. 1121 says that the job of collecting court fees and fines will be taken away from the clerk

and given to court administrators. Courts then will use the money to fund their operation, rather than going hat-in-hand to the Legislature every year seeking money that always seems to be in short supply.

Bogdanoff sees it as a way to make the users of the court system pay for the court system.

One of Collier Clerk of Courts Dwight Brock's primary complaints against H.B. 1121 is that it creates at least the appearance of checkbook justice. By handing out heavier fines, judges are bringing more money into the pot from which they draw their pay.

Bogdanoff says she never intended for fines to go into the State Courts Revenue Trust Fund, only filing fees. But the law as drafted says "Collection and distribution of fines, fees, services charges and court costs" will be transferred to the state court system.

While it is specific about the amount of certain court fees that are to go to the trust fund, it does not mention fines. That's a lot of money out there floating around without a destination.

Are we really to believe that courts can be fully funded by filing fees from those who use the courts? Does the \$295 fee to institute a civil lawsuit cover the cost of a judge to rule on motions and ultimately preside over a trial as well as the cost of clerks to maintain the file?

Brock also disputes Bogdanoff's claim that Florida's clerks of courts are not subject to scrutiny, especially when it comes their court-related services.

By law, the state Auditor General, the Chief Financial Officer, the Department of Revenue and an outside independent auditor all conduct regular reviews of his records, Brock said.

"I (as Clerk of Courts) am the most looked-at agency in the state of Florida," Brock said, adding he welcomes the scrutiny.

Bogdanoff, a Republican from Fort Lauderdale, cites the behavior of Broward County's Clerk of Courts, Democrat Howard Forman, as one justification for H.B. 1121.

She points to Forman's awarding of nearly \$800,000 in bonuses as an example of a clerk being a poor steward of public resources.

But statewide change to a system that shows little evidence of being broken is a poor way of dealing with one official's judgment.

The courts require adequate funding. There has to be a way to accomplish that without an unnecessary legislative overhaul of a statewide constitutional office.