

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB JUAS 12-02 State Courts Foreclosure Revenue

**SPONSOR(S):** Justice Appropriations Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee	12 Y, 0 N	Toms	Jones Darity

### SUMMARY ANALYSIS

The proposed committee bill conforms to the House of Representatives proposed Fiscal Year 2012-13 General Appropriations Act. PCB JUAS 12-02 proposes to redirect revenues associated with mortgage foreclosure filing fees and mortgage foreclosure counterclaims filing fees from the State Courts Revenue Trust Fund into the General Revenue Fund. This will redirect revenues generated from mortgage foreclosure filing fees and mortgage foreclosure counterclaims filing fees from the State Courts Revenue Trust Fund (SCRTF) to the General Revenue Fund.

The House of Representative proposed FY 2012-13 GAA fund-shifts \$224.3 million from the State Courts Revenue Trust Fund to the General Revenue Fund. The redirection of revenues will offset deficits in the State Courts Revenue Trust Fund and provide stable funds to support and operate the State Courts System.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The 2009 Florida Legislature passed Senate Bill 14-A (Ch. 2009-7, L.O.F.) creating the State Courts Revenue Trust Fund during a special session called to address current year budget shortfalls. The bill was passed with Senate Bill 12-A (Ch. 2009-6, L.O.F.) which redirected fines, fees and revenues into the State Courts Revenue Trust Fund. The two bills significantly altered how the State Court System is funded. In Fiscal Year 2008-09, 90 percent of the State Court System's budget was funded with General Revenue and the remaining 10 percent was funded with trust funds; currently, only 10 percent of the State Court System's budget is funded with General Revenue and 90 percent is funded with trust funds.

The SCRTF funds 83 percent of the total State Court System's budget. The trust fund receives revenues from probate fees<sup>1</sup>, circuit filing fees<sup>2</sup>, mortgage foreclosure filing fees<sup>3</sup>, mortgage foreclosure counterclaim filing fees<sup>4</sup>, appellate fees<sup>5</sup> and traffic fines<sup>6</sup>. The largest revenue source for the trust fund comes from mortgage foreclosure filing fees. In FY 2009-10, foreclosure filing fees made up 80% of the entire trust fund and in FY 2010-11, foreclosure filing fees made up 67%<sup>7</sup> of the total trust fund.

Since the creation of the State Courts Revenue Trust Fund, there has been a steep decline in mortgage foreclosure filing fee revenue. The February 2010 Revenue Estimating Conference projected revenue of \$379.8<sup>8</sup> million for FY 2010-11. The February 2011 Revenue Estimating Conference projected revenue of \$216.7<sup>9</sup> million for the same fiscal year. In one year, the projected revenue dropped \$163.1 million. An appropriation of \$38.9 million in General Revenue was necessary in the 2011-12 GAA to cover the State Court's System budget deficit for FY 2010-11<sup>10</sup>.

Similar trends continue for Fiscal Year 2011-12. The February 2011 Revenue Estimating Conference projected revenue of \$415.7<sup>11</sup> million for FY 2011-12. The December 2011 Revenue Estimating Conference projected revenue of \$260.3<sup>12</sup> million for the same fiscal year. In ten months, the projected revenue dropped \$155.4 million. The House proposed 2012-13 GAA appropriates \$121.7 million in General Revenue to fulfill the State Court System's current year budget deficit.

The December 2011 Revenue Estimating Conference has made an official estimate of \$298.7<sup>13</sup> million for Fiscal Year 2012-13. Currently the base budget for the SCRTF is \$359.9 million. If trends continue, the Legislature will need to continue to fund the SCRTF shortfall with General Revenue in order to maintain current funding levels.

The table below further illustrates the continuing decline in revenue for the State Courts Revenue Trust Fund as projected by the Revenue Estimating Conferences. The table also shows the appropriated budget for each fiscal year.

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<sup>1</sup>Section 28.2401(1), F.S.

<sup>2</sup>Section 28.241(1)(a)1.a., F.S. and section 28.241(1)(a)1.b., F.S.

<sup>3</sup>Section 28.241(1)(a)2.d., F.S.

<sup>4</sup>Section 28.241(1)(c)2, F.S.

<sup>5</sup>Section 25.241, F.S. and 35.22, F.S.

<sup>6</sup>Section 318.14, F.S., 318.18(19)(a), F.S., and 318.21(20), F.S.

<sup>7</sup>Office of Economic and Demographic Research, Article V Revenues breakdown spreadsheet, on file with the Justice Appropriations Subcommittee Staff

<sup>8</sup>Estimating Conference, Article V Fees & Transfers, Executive Summary, February 2010

<sup>9</sup>Estimating Conference, Article V Fees & Transfers, Executive Summary, February 2011

<sup>10</sup>Ch. 2011-69, L.O.F.

<sup>11</sup>Estimating Conference, Article V Fees & Transfers, Executive Summary, February 2011

<sup>12</sup>Estimating Conference, Article V Fees & Transfers, Executive Summary, December 2011

<sup>13</sup>Estimating Conference, Article V Fees & Transfers, Executive Summary, December 2011

### State Courts Revenue Trust Fund Projected Revenues

Fiscal Year	REC Feb 2010	REC Feb 2011	REC Dec 2011	Budget
2010-11	\$379.8	\$216.7	N/A	\$370.4
2011-12	\$291.8	\$415.7	\$260.3	\$361.2
2012-13	\$229.3	\$309.4	\$298.7	\$359.9 <sup>14</sup>

Source: Revenue Estimating Conference, Article V Fees & Transfers, Executive Summaries - Feb 2010, Feb 2011, Dec 2011

### **Effect of Proposed Bill**

PCB JUAS 12-02 proposes to redirect revenues associated with mortgage foreclosure filing fees and mortgage foreclosure counterclaims filing fees from the State Courts Revenue Trust Fund into the General Revenue Fund. Due to the instability of revenue from mortgage foreclosure filing fees, the current revenue stream is not sufficient to fund the State Court System at current levels. Fund shifting the revenues and providing the State Court System with General Revenue will stabilize the Court System's budget.

As a result of this statute change, revenues will be deposited into the General Revenue Fund from foreclosure filing fees, totaling \$224.3 million<sup>15</sup>. Trust fund authority would be reduced from the State Court's budget and General Revenue would be appropriated. The SCRTF would continue to be funded with probate fees, circuit fees, appellate fees and traffic fines. This change in statute and budget should mitigate the need for the legislature to cover a budget deficit with General Revenue and stabilize the operations of the courts due to increased funding predictability.

#### B. SECTION DIRECTORY:

Section 1: Amends section 28.241 related to filing fees for trial and appellate proceedings.

Section 2: Provides an effective date of June 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

See "fiscal comments" section.

##### 2. Expenditures:

See "fiscal comments" section.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

<sup>14</sup> Base Budget

<sup>15</sup> Office of Economic and Demographic Research, Article V Revenue Estimates breakdown spreadsheet, on file with the Justice Appropriations Subcommittee Staff

None. The filing fees are not being increased or decreased, simply redirected.

**D. FISCAL COMMENTS:**

A fund shift of \$224.3 million will be redirected from the State Courts Revenue Trust Fund to the General Revenue Fund to fund the State Court System. The mortgage foreclosure filing fees will be redirected into the General Revenue Fund. In order to fund the deficit caused by the revenue shortfall, an additional \$63.8 million in General Revenue is needed.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**