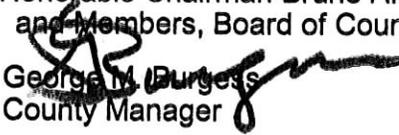


Memorandum

MIAMI-DADE
COUNTY

Date: January 28, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: 
George M. Burgess
County Manager

Subject: Regional Conflict Counsel – Supplemental Information

BFC
Agenda Item No:
7(A) Supplement

This supplemental report was prepared to bring the Board of County Commissioners current regarding court decisions rendered subsequent to the submission of the report placed on the December 11, 2007 Budget and Finance Committee meeting. This report was deferred at the request of Joseph P. George, Regional Counsel, Third District.

On December 20, 2007, a trial court in Tallahassee ruled in favor of the Florida Association of Criminal Defense Lawyers in the Association's lawsuit against the Governor, Senate President, and the Regional Conflict Counsels. The court held that SB 1088, which was the bill that created the Regional Counsel Offices, amounted to an attempt to amend the Florida Constitution by "legislative fiat" when the Legislature created "hybrid" state offices that are Public Defenders for some purposes, such as funding, but not for others, such as the constitutional requirement that Public Defenders be elected in each judicial circuit. With this ruling, the court quashed the Governor's appointment and Senate's confirmation of the five Regional Counsels and enjoined the five Regional Counsels from taking any further action.

The court's decision did not address SB 1088's requirement that counties provide funding for facilities, computers and other aspects of the Regional Counsel Offices. The court's decision also does not apply to all aspects of the Regional Counsel Offices. Only the criminal conflict counsel function of the Regional Counsel Offices was at issue in the lawsuit. The criminal conflict counsel function makes up two-thirds or more of the workload of the Regional Counsel Offices. But the Regional Counsel Offices also are responsible for representing indigent people in certain civil proceedings, such as dependency and termination of parental rights cases and these civil functions of the Offices are not affected by the court's decision.

The state filed an appeal of the ruling on December 20, 2007, the day after the trial court issued its ruling. The appeal automatically stayed the trial court's order, so the Regional Counsel Offices continue to function so long as the stay remains in place. According to Mr. George, leased space has been acquired, funded through the State budget at this point, and the Office of the Regional Counsel, Third District, opened officially on January 2, 2008.



Jennifer Glazer-Moon, Director
Office of Strategic Business Management

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