



THE JAC EXPRESS

Volume I, Issue 5

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Executive Director

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State of Florida

A Word From JAC's Executive Director

It was a pleasure to present the latest Executive Director's Report for the October 17th Commission meeting, as a lot has transpired since my last report. I provided an update on administrative issues, legislative committee activities and appropriations, accounting and budgeting accomplishments, upcoming human resource activities, operational audit activities, the Capital Collateral Registry, and gubernatorial appointments. Some of these issues are highlighted below.

Administrative Issues

The first annual evaluation of each Justice Administrative Commission (JAC) staff member in several years was recently completed. While this process required a tremendous amount of time and effort by the managers to accomplish this task, it provided an opportunity to document staff's strengths and accomplishments, as well as opportunities for improvement. It was my goal that these evaluations not result in surprises, but rather affirmations of the employee's performance.

The organizational structure of the Justice Administrative Commission has been under consideration for revision for the past several months. It is my anticipation to reorganize the staff in a more logical manner with some consolidation of like functions taking place. Because our core func-



Rip Colvin
JAC Executive Director

tions are accounting, budgeting, human resources, and court appointed compliance and review, it should not be difficult to imagine where we are heading with this reorganization.

Over the next several months, in addition to reorganization, we are going to be investing in staff in the form of training for both our managers and our general staff. From a managerial perspective, we will be focusing on how to work cohesively as a team and on leadership skills. In support of that effort, on the morning of November 3rd, all staff participated in a mandatory training session. This was communicated to the circuits in advance and we had a mechanism in place for any emergencies that required JAC involvement during that time.

Recent memoranda from and interaction with the Auditor General's staff led JAC to expect that the preliminary and tentative

findings, if any, for the operational audit are forthcoming. We are hopeful that the audit will come to a close in the near future.

One of the many items being reviewed was the Fraud Policy for the JAC and each of the agencies it administratively serves. As a result of the inquiry, a formal Fraud Policy was implemented at JAC. All employees attended a presentation on this important topic and formally acknowledged receipt of the written policy. This policy was also forwarded to the circuits for consideration and adoption.

Budget

The Justice Administrative Commission submitted its Fiscal Year 2012-2013 Legislative Budget Request (LBR) and Long Range Program Plan (LRPP) as required by ch. 216, F.S. These documents have also been compiled and submitted on behalf of the agencies we administratively serve and are currently posted on the Florida Fiscal Portal.

On September 21, the Governor's Office of Policy and Budget (OPB) contacted JAC's budget office and inquired as to whether or not any offices we serve had an issue for consideration by the Legislative Budget Commission (LBC). No October LBC meeting was held. There is a possibility of a mid-December or early January LBC Meeting. Subsequently, the (Continued on Page 2)

Other Recent Or Developing Issues

- On October 5, 2011, the President signed a Continuing Resolution (CR; P.L. 112-36) to fund the Federal Government until November 18, 2011. The CR includes a

1.503% across-the-board cut to all discretionary programs (FFIS, October 2011). A plan to reduce the Federal deficit is expected by November 23, 2011.

- The 2012 Florida Legislative Session will begin earlier than usual—January 10, 2012. March 9, 2012 will be the last day of regular session.

A Word from JAC's Executive Director — Continued from Page 1



The appointment of two Regional Counsels has been announced. Congratulations to Jeff Lewis and Eugene Zenobi.

Regional Counsel's Office in the 2nd District indicated that they may have a need and were referred to OPB for follow up. Any agencies with items for LBC consideration are encouraged to file their requests immediately.

Some agencies have already discussed with JAC budget staff a desire to modify their LBRs. The opportunity to amend LBRs will be available shortly after the Governor's Budget Recommendations are released, which is currently anticipated to be in early December.

The FY 2011-2012 Conference Report on Senate Bill 2000 (or *General Appropriations Act*) required a trust fund sweep of \$2.0 Million from the State Attorneys Revenue Trust Fund to General Revenue via quarterly journal transfers of cash. The Florida Prosecuting Attorneys Association met in July and provided JAC's Budget Office with a breakdown, by circuit, of the amounts to be taken. JAC has processed the 1st Quarter's transfer to GR.

Accounting

JAC's accounting staff have just completed running dual accounting years for FY 2010-11 and FY 2011-12. As a part of this process coming to a close, both certified forward transactions were finalized and Financial Statements submitted to the Department of Financial Services (DFS).

As we have previously communicated, DFS has notified all state agencies that vendors and individuals receiving payments from the State of Florida must submit a State of Florida Substitute Form W-9 to DFS in order to validate ven-

dor and individual Taxpayer Identification Numbers (TIN). The federal W-9 form will no longer be sufficient; only the Substitute Form W-9 will be accepted by DFS. The deadline for online submission of the Substitute Form W-9 on the DFS website was extended from November 7, 2011 to March 5, 2012. Thereafter, certain vendors will be subject to payments (from any state agency) being withheld by DFS until the vendor has completed the required Substitute Form W-9.

Appointments to the Offices of Criminal Conflict and Civil Regional Counsel and Capital Collateral Regional Counsel

The appointment of two Regional Counsels (RCs) has been announced. Jeff Lewis, the current Regional Counsel for the First District, was reappointed. Eugene Zenobi was appointed as the Regional Counsel for the Third District. At this time, we are awaiting the Governor's appointment, or reappointment, of Regional Counsels in the Second, Fourth, and Fifth Districts, as well as Capital Collateral Regional Counsels for the Middle and Southern Regions.

As with any transition of appointed or elected officials, JAC has an obligation to assist new hires for an agency with all administrative aspects of the daily operations for their office. We are working closely with Mr. Zenobi and his staff at this time, and anticipate the need to do so with other RC offices in the near future.

Implementation of Electronic Submission of Court Appointed Attorney Contracts

In seeking to maximize efficien-

cies and quality service delivery, we are pleased to report the implementation of an online contract submission system for private court appointed attorneys. Attorneys may now electronically submit a contract in the morning and it is executed and returned to them by the afternoon. No re-keying or scanning of the information is required by JAC staff.

This action reduced the timeframe for processing attorney contracts from ten-days to a few hours. Production costs were instantly reduced from \$16,000 from the previous fiscal year to \$300 for the current fiscal year, derived from reductions in paper purchases, copying, scanning, postage, processing time, and any needed overtime compensation for data entry. When expanded to Indigent for Costs and Due Process Vendor Agreements next fiscal year, JAC anticipates an added value of \$63,000 and an estimated \$189,000 over the next three years. It is important to note that another significant savings was realized by not hiring an outside contractor to program this system, as our internal IT Section accomplished the design and implementation of this new system in two and half months. Because of this, JAC saved approximately \$75,000.

Given the existing fiscal climate, this project has far-reaching cost-saving implications. Based on this success, additional electronic contracts will be implemented that will net even greater savings to JAC. Without the exemplary performance of our staff, this accomplishment would not have been possible.

Federal Focus

The *3% Withholding Repeal and Job Creation Act*, H.R. 674, was passed by the U.S. House of Representatives by a vote of 405 to 16 on October 27, 2011. The Act, that repeals imposition of 3 percent withholding on certain payments made to vendors by state and local government

entities, must now be taken up by the U.S. Senate.

Enacted in 2006, implementation of the 3 percent withholding provision has been delayed until January 1, 2013, due to several postponements. The intent of the withholding requirement was to ensure that all vendors remitted taxes owed. However, as indicated by

Federal Funds Information for States Policy Reports, "The costs to all governments from implementing the requirement are projected greater than the total revenues collected" (2011, November 1).

If signed into law, the Act will be effective as of January 1, 2012, making the 2013 extension a moot point.



JAC inherits the maintenance of the Capital Collateral Registry

Earlier this year the Legislature passed HB 5011, which repealed s. 27.709, F.S., effectively eliminating the Commission on Capital Cases (COCC). Although many of the COCC's previous duties were not addressed by the legislation, the JAC became responsible for maintaining the statewide registry of attorneys in private practice available for court appointment to represent persons convicted and

sentenced to death in postconviction collateral proceedings.

Pursuant to s. 27.710(1), F.S. (2011), in order to remain on the registry an attorney must have attended a continuing legal education program of at least 10 hours' duration devoted specifically to the defense of capital cases, within the last year, if available. Failure to comply with this requirement may be cause for the attorney's removal from the

registry until the requirement is fulfilled. Persons interested in reviewing the statewide Capital Collateral Registry can view it on the JAC's website at <http://www.justiceadmin.org/coccregistry/index.aspx>. JAC anticipates updating the registry several times a year.

Courtesy of Cris Martinez, JAC General Counsel



2012 Florida Legislative Bills of Interest

SB 210 — Costs of Prosecution, Investigation, and Representation

Introduced by State Senator Stephen Wise, Senate Bill 210 provides for the withholding of unpaid costs of prosecution and representation from the return of a cash bond on behalf of a criminal defendant.

The bill also requires a notice on bond forms of possible withholding, providing liability for the cost of prosecution and investigation for persons whose cases are dis-

posed of under specified provisions.

Further, under the terms of this bill, the costs of prosecution and investigation may not be converted to any form of court-ordered community service to be served in lieu of the obligation to pay the costs of prosecution and investigation. The measure clarifies the types of cases that are subject to the collection and

dispensing of cost payments by the clerk of the court and provides an effective date of July 1, 2012.

A companion measure, House Bill 135, was passed by the Criminal Justice Subcommittee in the Florida House on October 18th and is now pending before the Justice Appropriations Subcommittee.

Source: Florida Senate

SB 542 — Death Benefits for State Employees

Senate Bill 542 was introduced by State Senator Christopher Smith and relates to death benefits for state employees.

It amends ss. 112.363, 121.052,

121.091, and 121.40, F.S., providing that a designated beneficiary of a member of the State Retirement System is eligible to receive the same death benefits as a joint an-

nuitant of the member. Conditions of state interest are imposed.

The measure also provides an effective date of July 1, 2012.

Source: Florida Senate

HB 525 — Florida Retirement System

Introduced by State Representative Ritch Workman, House Bill 525 revises definitions for the terms *normal retirement date*, *vested*, and *vesting*. The measure also revises provisions relating to the manner in which early retirement benefits are calculated, to conform to changes made by the act and stipulates that new employees, by default, be enrolled in the Investment Plan if hired by a state

employer on or after July 1, 2012. Additionally, the bill extends the period during which an employee may elect to participate in the Pension Plan and prohibits certain employees from choosing to move to the pension plan after a certain period. It amends ss. 121.021, 121.091, and 121.4501, F.S.

As indicated in the bill, "Any member initially enrolled in the Florida Retirement System on or

after July 1, 2011, but before July 1 2012, shall be vested upon completion of eight years of creditable service. Any member initially enrolled in the Florida Retirement System on or after July 1, 2012, shall be vested upon completion of ten years of creditable service."

The measure provides for an effective date of July 1, 2012.

Source: Florida Senate

*SB 210, SB 542,
HB 525, and other
companions
are bills
you may want to
monitor during the
2012 Florida
Legislative Session.*

FLAIR Facts and Fiction

Substitute Form W-9 - Follow-Up

Since March 2011 the Department of Financial Services (DFS) has been communicating to all state agencies the requirement that vendors receiving payments from the State Treasury must complete an electronic, Substitute Form W-9 via a website established by DFS: <https://flvendor.myfloridacfo.com/>

Why is this so important to DFS?

The collection and verification of taxpayer identification numbers is driven by: *The Tax Increase Prevention and Reconciliation Act of 2005* that requires Federal, State, and local government entities to withhold 3% income tax when making (certain) payments to persons providing property or services.

✦ The Substitute Form W-9 is a request for a taxpayer identification number and it requires the company/person to indicate the business type. Examples include: partnerships, sole proprietors, and S- corporations.

✦ The 3% withholding will not be implemented until January 2013.

✦ The 3% withholding only applies to single payments of \$10,000 or greater.

✦ Therefore, DFS is requiring the verification of taxpayer IDs in advance of the 3% withholding.

✦ Verification of taxpayer IDs is accomplished through the DFS website, which also produces the Substitute Form W-9.

✦ Beginning **March 5, 2012***, certain vendor payments will be stopped in FLAIR and will not be paid if a Substitute Form W-9 *has not* been submitted (payment of any amount).

✦ Vendors or persons receiving 1099s from DFS are primarily those to be affected.

Examples of payments that may be stopped (payment of any amount):

Services: court reporters, contracted attorneys, expert witnesses, investigators, other contracted services

Other: rent, background checks, printing

Briefings and training provided by JAC regarding the Substitute Form W-9 requirement for the offices administratively served by JAC:

JAC Memo to agency administrators (May 2011)

Year-end meetings with agency administrators (June 2011)

LBR meetings with agency administrators (July-Aug 2011)

FLAIR Forum – online forum with agency administrators and payment processors with training to discuss FLAIR issues; chief topic: Substitute Form W-9 (Sept 2011)

Documents provided to agencies:

Sample letter to vendors, flyer to insert with payments, list of vendors with W-9 status, JAC website containing information and assistance, and JAC Express Newsletters

Communications regarding the Substitute Form W-9 requirements for court appointed attorneys and contracted due process providers:

Contract requirement for contracts signed after June 15, 2011

Email correspondence to remind vendors

Information posted to JAC website

Monitoring and follow-up with attorneys and vendors

***JAC was informed by the DFS Vendor Processing Office that the deadline for completing the electronic Substitute Form W-9 has been extended to March 5, 2012. It was originally scheduled to go into effect November 7, 2011.**

Courtesy of Vicki Nichols, JAC

Human Resources — Open Enrollment

Open Enrollment will be held from November 7th through November 18th. Normally, Open Enrollment is held during October for 30 days. This year's enrollment period was delayed and shortened due to contract negotiations with the Department of Management Services (DMS) and the Health Maintenance Organizations (HMOs). Due to the reduced timeframe for Open Enrollment, this year we would like to remind everyone of a few simple tips on preparing for Open Enrollment:

Know your People First Password

- If you do not know your People First ID, please see any member of the Human Resource staff.
- Visit the [People First](#) website to establish your password if you have not already done so.
- Check your home address and mailing address.

View the "How to Make Elections" video

- [Video How to Make Elections Using the People First Website](#)

Understand the Plan Changes for 2012

- [2012 Plan Changes](#)
- [HMO Service Areas by County for 2012 Plan Year](#)

Contact Insurance Companies Directly

- [If you have questions about a specific plan](#)

Review the Frequently Asked Questions

- [FAQ Regarding Open Enrollment](#)

JAC Human Resources staff held WebEx training sessions for the offices we serve on October 17th, 18th, and 19th. Each session lasted approximately 3 hours. Beginning next year, DMS has indicated that Open Enrollment will be electronic and paper enrollment packages will no longer be sent out. To assist the circuits with this transition, JAC is working with DMS to provide secure access for their Human Resources and Budget staff. JAC began People First access training the last week of October. Access to the People First system will be unique to each circuit. This access will allow HR staff to view all employee information including salary and benefits. The budget staff will be able to run reports such as rate, turnover, and new hires from their People First login. Prior to providing access to People First, all individuals identified by the circuit as needing access will be required to attend a WebEx training and sign a confidentiality statement.

During the month of November, visitors to JAC will be greeted by this lovely pumpkin arrangement in JAC's reception area. This skillful artwork is complements of Shellie Shelton, JAC.



HMO Service Areas for 2012

HMO Service Areas by County for the 2012 Plan Year

REVISED 09-22-2011

| | | | |
|--|---|--|--|
| ALACHUA AvMed | GLADES UnitedHealthcare | MARTIN AvMed | TAYLOR UnitedHealthcare |
| BAKER AvMed | GULF UnitedHealthcare | MIAMI-DADE AvMed Coventry | UNION AvMed |
| BAY UnitedHealthcare | HAMILTON AvMed | MONROE UnitedHealthcare | VOLUSIA AvMed Florida Health Care Plans |
| BRADFORD AvMed | HARDEE AvMed | NASSAU AvMed | WAKULLA Capital Health Plan |
| BREVARD Aetna | HENDRY Coventry | OKALOOSA UnitedHealthcare | WALTON UnitedHealthcare |
| BROWARD AvMed Coventry | HERNANDO AvMed | OKEECHOBEE UnitedHealthcare | WASHINGTON UnitedHealthcare |
| CALHOUN Capital Health Plan | HIGHLANDS AvMed | ORANGE AvMed | |
| CHARLOTTE UnitedHealthcare | HILLSBOROUGH AvMed | OSCEOLA AvMed | |
| CITRUS AvMed | HOLMES UnitedHealthcare | PALM BEACH AvMed Coventry | |
| CLAY AvMed | INDIAN RIVER AvMed | PASCO AvMed | |
| COLLIER UnitedHealthcare | JACKSON UnitedHealthcare | PINELLAS AvMed | |
| COLUMBIA AvMed | JEFFERSON Capital Health Plan | POLK AvMed | |
| DESOTO UnitedHealthcare | LAFAYETTE UnitedHealthcare | PUTNAM UnitedHealthcare | |
| DIXIE AvMed | LAKE AvMed | SANTA ROSA Coventry | |
| DUVAL AvMed | LEE UnitedHealthcare | SARASOTA UnitedHealthcare | |
| ESCAMBIA Coventry | LEON Capital Health Plan | SEMINOLE AvMed | |
| FLAGLER AvMed Florida Health Care Plans | LEVY AvMed | ST. JOHNS AvMed | |
| FRANKLIN Capital Health Plan | LIBERTY Capital Health Plan | ST. LUCIE AvMed Coventry | |
| GADSDEN Capital Health Plan | MADISON Coventry | SUMTER AvMed | |
| GILCHRIST AvMed | MANATEE AvMed | SUWANNEE AvMed | |
| | MARION AvMed | | |

JAC Staff Have a Special Touch

*Shellie Shelton
and
Vicki Nichols
Proudly Display
JAC's Seal and
Photos that were
Framed by Staff.
The Seal was also
Created by Staff.*



Human Resources — Public Pension Lawsuit Update

An issue that is being closely observed by state and local public employees involves the recently enacted law (ch. 2011-68, L.O.F.) that requires, among other Florida Retirement System (FRS) policy changes, public employees to contribute 3 percent of their salaries towards their retirement. The law became effective July 1, 2011.

At a Second Judicial Circuit Court hearing in Tallahassee on October 26, 2011, attorneys for the Florida Education Association (FEA), and other union groups, argued that the mandatory 3 percent contributions required from FRS participants are unconstitutional. Lead FEA attorney, Ron Meyer, argued that requiring employees to put 3 percent of their salaries towards their pensions violates the state constitution's right to collectively bargain. Public employees also contend that the state violated the original terms of their employment by imposing the new requirements. In its counter argument, the state asserted that it has the right to change the pension plan for future years. The case was heard by Judge Jackie Fulford and a ruling is expected soon.

It has been reported that the new pension law will generate well over \$800 million a year from state and local government workers toward their retirement accounts. Should challengers to the new pension law — also including, firefighters, police officers, and other public employees — prevail in their lawsuit, and if it is upheld by the higher courts, there would be a significant impact on Florida's budget.

In a recent briefing for reporters, Florida House budget analysts indicated that, "the 3 percent contribution represented a \$456 million savings for the state, while the COLA limit represented another \$404 million." Budget analysts added, "Those savings, which reflect pension costs for state workers, university employees and school workers, would be wiped out if the lawsuit is successful, forcing the state to scramble to make up those funds. An additional impact of about \$597 million would face county governments, whose workers also participate in the state retirement plan but their funding is not part of the state budget."

According to Governor Rick Scott, "If the state gets an adverse ruling, which is upheld on appeal, it could force the [state and local] governments to cut back other programs;...it will come out of some other pocket." Florida House and Senate leaders are also waiting to see how Judge Fulford will rule on this important case.

2012 Flexible Spending Accounts

For updated information on 2012 Flexible Spending Accounts, you may click on the following link: <http://www.justiceadmin.com/jac/JAC%20Express/2011/FSAPresentation2012.ppt>. This informative presentation was prepared by JAC's Human Resources Department and may serve as a useful resource for anyone who has questions regarding Flexible Spending Account issues. Please direct further inquiries to Bobbie Chappell at Bobbiiec@justiceadmin.org or via telephone at (850)488-2415.

Human Resources — GINA's Safe Harbor Language

“Incorporating safe harbor language is a wise choice for employers.”

Family Medical Leave Act (FMLA) - Leave Policies – Leave Request Forms

The *Genetic Information Nondiscrimination Act of 2008* (GINA) prohibits discriminating against employees and potential employees based on genetic information. This law also prohibits employers with 15 or more employees from requesting or requiring genetic information from an employee or potential employee.

Genetic information protected by GINA includes:

- Family medical history;
- Results of genetic tests;
- Questions regarding genetic testing services; and
- Genetic information of a fetus carried by an individual or an individual's family member.

To limit liability under GINA, employers may want to add safe harbor language to their employment policies and medical-related forms (i.e., FMLA, Leave Request, Return to Work Policy, etc.). Below is an example of the suggested language you may want to consider adding to your forms requesting medical information from an employee or potential employee.

FMLA: Safe Harbor Genetic Information Nondiscrimination Act (GINA) FMLA Certification Disclosure

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. ‘Genetic information,’ as defined by GINA, includes an individual’s family medical history, the results of an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Incorporating safe harbor language is a wise choice for employers. Adding this language may save employers from the litigation costs and damages associated with GINA claims filed by employees.

Courtesy of Bobbie Chappell, JAC Human Resources Director



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BOARDING THE EDMS TRAIN

The Electronic Document Management System (EDMS) Team at JAC continues to do an outstanding job. Since going “live” on June 8, the LaserFiche system (software name for JAC’s EDMS) has proven to be a successful implementation process for initial units and users.



Happy Veterans Day & Thanksgiving From JAC



The EDMS Mission

*“Excellent service
delivery enhanced by
an efficient
Electronic Document
Management
System, which meets
the requirements of
Florida law.”*

JAC in Brief

The Justice Administrative Commission administratively serves the Offices of State Attorneys, Public Defenders, Capital Collateral Regional Councils, the Statewide Guardian ad Litem Program, Criminal Conflict and Civil Regional Councils, and the Clerks of Court Operations Corporation; and, provides compliance and financial review of the court-appointed attorney due process costs.

The membership of the Justice Administrative Commission consists of two State Attorneys, appointed by the President of the Florida Prosecuting Attorneys Association and two Public Defenders, appointed by the President of the Florida Public Defender Association. Although members may be reappointed, each term spans a period of two years (s. 43.16, F.S., (2010)).

Vision: *Our vision is to be a model of exemplary state government and provide unparalleled services.*

Mission: *The mission of the Justice Administrative Commission is to be responsible stewards of taxpayer dollars, while providing the highest quality service to the 49 judicial entities we serve, by ensuring compliance with Florida Statutes and Generally Accepted Accounting Principles.*