

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5301 PCB JUA 18-01 Judges
SPONSOR(S): Justice Appropriations Subcommittee, Hager
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1396

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee	12 Y, 0 N	Smith	Gusky
1) Appropriations Committee	27 Y, 0 N	Smith	Leznoff

SUMMARY ANALYSIS

The Supreme Court issued Order No. SC17-1936, dated November 22, 2017, certifying the need for two additional circuit court judges, two additional county court judges, and decertifying the need for 13 county court judges.

In accordance with the Supreme Court's order, HB 5301 establishes two new circuit court judgeships, two new county court judgeships, and decertifies 13 existing county court judgeships.

The bill specifies the created judicial offices must be filled through the electoral process in the 2018 general election and not by gubernatorial appointment. Additionally, the bill provides guidelines for the elimination of the decertified judicial offices.

The bill would result in a net reduction of state expenditures by:

- \$900,262 in FY 2018-19,
- \$955,852 in FY 2019-20,
- \$286,353 in FY 2020-21, and
- \$286,353 in FY 2021-22.

The bill conforms to the FY 2018-2019 proposed House General Appropriations Act.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Certification of Need for Additional Judges

Section 9, Article V of the State Constitution requires the Florida Supreme Court to recommend to the Legislature the need for additional judges.¹ To determine a need for trial court judgeships, the Office of State Courts Administrator (OSCA) relies on an analysis of weighted caseload filings per judge. In 1999, at the request of the Florida Legislature, OSCA contracted with the National Center for State Courts (NCSC) to develop and validate a Delphi-based Weighted Caseload System.²

The weighted caseload system assigns a time value to cases by their case type, based on the various kinds and complexity of the cases that are filed. The case type time value, or case weight, establishes an approximate workload value per case filing by case type, which is used to determine the number of judges required to handle these cases. The weighted caseload system is revised periodically to account for changes in procedure and case complexity. The system was updated by OSCA and NCSC in 2007 and most recently in 2016.

The Supreme Court issued Order No. SC17-1936, dated November 22, 2017, in regard to the Certification of Need for Additional Judges.³ In the certification, the court recommended 2 new circuit judgeships, 2 new county judgeships, and the decertification of 13 existing county court judgeships.

Effect of the Proposed Bill

HB 5301 establishes, effective January 8, 2019:

- 2 new circuit court judgeships in the Ninth Judicial Circuit (Orange and Osceola counties), and
- 2 new county court judgeships in Hillsborough County.

The bill also eliminates the following decertified existing county judgeships upon the expiration of the next judicial term, as provided in s. 9, Article V of the State Constitution:

- Alachua County - one
- Brevard County - three

¹ Section 9, Article V, State Constitution, states:

Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

² National Center for State Courts, *Florida Judicial Workload Assessment Final Report*, Office of the State Courts Administrator (May 16, 2016), <http://www.flcourts.org/core/fileparse.php/558/urlt/Final-Florida-Judicial-Workload-Assessment-Final-report.pdf>

³ *Certification of Need for Additional Judges, SC17-1936* (Fla. SC 2017)

- Charlotte County - one
- Collier County - one
- Escambia County - one
- Leon County - one
- Monroe County - one
- Pasco County - two
- Polk County - one
- Putnam County - one

With the exception of Alachua and Monroe counties, all counties subject to judicial decertification have a sufficient number of terms expiring in January of 2019 to implement the Court's decertification recommendation. The first term will expire for both Alachua and Monroe County in January of 2021.

The bill specifies that the new judgeships are to be filled through the electoral process in the 2018 general election and not by gubernatorial appointment. Candidates for the circuit and county court judicial offices created in the bill must qualify as provided in ch. 105, F.S., with the exception that the candidates qualifying under this bill shall qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the primary election.

The bill directs the Chief Justice of the Supreme Court to determine the specific judicial office(s) to be eliminated in a county subject to decertification if there is a greater number of judicial terms expiring on the same day than the number of judicial offices eliminated.

B. SECTION DIRECTORY:

Section 1. Amends s. 26.031, F.S., establishing new circuit judgeships.

Section 2. Amends s. 34.022, F.S., establishing new county court judgeships and eliminating existing county court judgeships.

Section 3. Provides guidelines for the creation and elimination of the judgeships.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Upon full implementation, the bill would result in a net reduction of 18 full-time equivalent positions (9 judges and 9 judicial assistants). The bill's impact on expenditures will be spread over multiple fiscal years due to the expiration of existing judicial terms.

	Certified			Decertified			Net		
	Judgeships	Judicial Assistant FTE	Expense	Judgeships	Judicial Assistant FTE	Expense	Judgeships	Judicial Assistant FTE	Expense
FY 18-19	4	4	\$ 674,677	(11)	(11)	\$ (1,574,939)	(7)	(7)	\$ (900,262)
FY 19-20			\$ 619,087			\$ (1,574,939)			\$ (955,852)
FY 20-21				(2)	(2)	\$ (286,353)	(2)	(2)	\$ (286,353)
FY 21-22						\$ (286,353)			\$ (286,353)
Total	4	4	\$ 1,293,764	(13)	(13)	\$ (3,722,584)	(9)	(9)	\$ (2,428,820)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The cost of county judges and judicial assistants are paid for by the state. Under s. 29.008, F.S., counties are responsible for facilities, security, communications and information technology costs for county and circuit courts. For circuit and county courts receiving additional judges and associated staff, this bill could result in additional costs in these areas. County courts that are losing judges and associated staff may experience reduced costs in these areas.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES