

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 21, 1998 Revised: _____

Subject: Judiciary/Numbers of Judges Increased

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Moody	Moody	JU	Favorable/CS
2.			WM	
3.				
4.				
5.				

I. Summary:

The bill authorizes the 13 circuit and 5 county judges certified by the Supreme Court of Florida and provides that the judges filling the new offices created by the bill will be appointed and will take office in April 1999.

The bill provides for additional funding of Civil Traffic Infraction Hearing Officers, and for the funding of a study to develop a weighted caseload system to measure judicial workload.

This bill substantially amends sections 26.031, 34.022, 318.32, and 318.37 of the Florida Statutes. The bill also creates two yet unnumbered sections of the Florida Statutes.

II. Present Situation:

The Florida Constitution provides that if the Supreme Court finds that a need exists for increasing or decreasing the number of judges, except Supreme Court justices, it shall certify to the Legislature its findings and recommendations concerning such need. s. 9, Art. V, Fla. Const. Upon receipt of the certificate, the Legislature, at the next regular session, must consider the court's findings and recommendations and may reject them, in whole or in part, or may implement them. Id. The Legislature may deviate from the Supreme Court's recommendations with respect to an increase or decrease in the number of judicial offices only upon a finding of two-thirds of the membership of both houses that such need exists. Id.

Currently, there are 468 circuit court judges and 263 county court judges.

III. Effect of Proposed Changes:

Listed below are the number of judges certified by the Supreme Court for fiscal year 1998-1999, all of which are proposed by the bill.

<u>Judicial Circuit</u>	<u>Certified</u>
Third	1
Fourth	1
Sixth	2
Ninth	1
Tenth	1
Twelfth	1
Thirteenth	1
Seventeenth	2
Eighteenth	1
Nineteenth	1
<u>Twentieth</u>	<u>1</u>
Total	13

<u>County Court</u>	<u>Certified</u>
(Circuit)	
(2) Leon	1
(4) Duval	1
(10) Polk	1
(13) Hillsborough	1
<u>(17) Broward</u>	<u>1</u>
Total	5

The effective date of the new judgeships is April 1, 1999, which will create the judicial vacancies in mid-term, accordingly, pursuant to s. 11, Art. V, Fla. Const., the new judges would be appointed.

The bill amends s. 318.37, F.S., to provide state matching funds to counties establishing civil traffic hearing officer programs and establishes limits on compensation for traffic hearing officers. The bill also provides for a study to develop a weighted caseload system to measure judicial workloads.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Although the salaries and benefits of the 18 positions created by the bill are paid by the state, counties may incur expenses for the impact of these new positions, such as additional office space. The Florida Constitution prohibits legislation requiring municipalities or counties to spend funds or to take action requiring expenditure of funds unless certain exceptions have been met. s. 18, Art. VII, Fla. Const. The expenses incurred due to the additional positions are exempt to the extent that these are a result of the defense, prosecution, adjudication, sentencing, and implementation of criminal sanctions. See s. 18, Art. VII, Fla. Const. and Joint Letter of President and Speaker, March 21, 1991 at 3 (hereinafter Joint Letter). The amount is indeterminate.

The expense of the positions related to civil actions may or may not be exempt. If these activities are not exempt, the Legislature can exempt them from the mandate restrictions if it determines that the additional judgeships fulfill an important state interest and the bill passes by a two-thirds vote. s. 18(a), Art. VII, Fla. Const. The mandate restriction could also be avoided if the Legislature determines that the bill fulfills an important state interest and funds are appropriated that are estimated to be sufficient to fund the expenditure. *Id.*

However, the mandate restriction does not apply to “laws having insignificant fiscal impact.” s. 18, Art. VII, Fla. Const. It cannot be determined whether the impact of this bill would be subject to the mandate restriction as the aggregate impact may be insignificant.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of the State Court Administrator, creation of the 18 new judicial positions would require the creation of a total of 39 positions, including 13 circuit judges, 13 circuit judicial assistants, 5 county judges, 5 judicial assistants, and 3 trial court law clerks. The 3 trial court law clerks are necessary to comply with the standard work load formula of 3 circuit judges for every 1 law clerk. One law clerk will be funded in each of the Sixth, Seventeenth, and Nineteenth judicial circuits. The total cost of creating these 39 positions would be \$1,984,102 for the period January 1, 1999 to June 30, 1999. The annual cost to fund the positions is \$3,422,794.

The fiscal impact of the bill on counties cannot be determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Several observations can be made regarding the Supreme Court's process of certification of need for additional judges.

A. Threshold for Circuit Court Judges

The Florida Supreme Court uses 1,865 unweighted case filings per circuit judge as the threshold beyond which it presumes there is a need for an additional judge in a circuit. *See Amendment to Fla. R. Jud. Admin. 2.035*, No. 86,880 (Fla. Sup. Ct. Dec. 21, 1995). To calculate the number of projected case filings per judge in a circuit in a future year, the total number of case filings projected for the year is divided by the number of circuit judges in the circuit.

The Supreme Court has certified the need for additional circuit judges in thirteen circuits. *In re Certification of the Need for Additional Judges*, No. 92,389 at 6 (Fla. Sup. Ct. Feb. 20, 1998). Seven of the courts certified by the Supreme Court as needing an additional judge are projected to exceed the 1,865 filings per judge threshold in 1998. *Id.* at 7. However, "the Fourth, Thirteenth,

Eighteenth, and Nineteenth judicial circuits . . . are expected to have 1998 workloads slightly below the threshold.” *Id.* at 8. Additional factors considered in certifying these judges were the significant workload impact of reopened cases, variations in the complexity of caseloads, the severity of criminal offenses in these jurisdictions, more numerous and lengthy jury trials, and dramatic increases in self-represented litigants. *Id.* at 7.

B. Threshold for County Court Judges

In December 1995, the Supreme Court formally adopted the 6,114 filings per county judge threshold. *Amendment to Fla. R. Jud. Admin. 2.035*, No. 86,880 at 4 (Fla. Sup. Ct. Dec. 21, 1995). All of the counties for which a need was certified are projected to meet this threshold. *In re Certification of the Need for Additional Judges*, No. 92,389 at 10 (Fla. Sup. Ct. Feb. 20, 1998).

C. Review of Methodology

Chapter 97-257, Laws of Florida, directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to “study the judicial efficiency and cost effectiveness of Florida’s two-tiered trial court system and the jurisdictional distinctions between county and circuit courts. Alternatives, such as full or part-time magistrates for small claims and civil traffic infractions, changes in jurisdiction, and unified trial court system, should be included in the study. This study should also include an examination of the state case reporting system currently used by the Florida Supreme Court to determine judicial workload.”

As a result, OPPAGA made two recommendations:

Recommendation #1- Florida should use a Delphi process to determine case weights.

Recommendation #2- Develop case-based weights rather than event-based weights.

In its response to the OPPAGA report, the Supreme Court concurred with the consultants’ recommendation that the development and application of case weighting should be explored.

VIII. Amendments:

None.