

STORAGE NAME: h3271a.cp

DATE: April 2, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIME AND PUNISHMENT**

BILL #: HB 3271

RELATING TO: Grand Juries

SPONSOR(S): Representative Lippman

COMPANION BILL(S): SB 950 by Senator Campbell

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CIVIL JUSTICE AND CLAIMS YEAS 7 NAYS 0
 - (2) CRIME AND PUNISHMENT YEAS 7 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

HB 3271 amends s. 905.01(1), F.S. to increase the maximum number of persons serving on a grand jury from 18 to 21 grand jurors. The bill also makes a technical, grammatical change to the statute. It is expected that the increase will better accommodate attrition rates often associated with grand juries which may serve for six months or more.

The effective date is July 1 of the year in which enacted.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 905.01(1), F.S. provides that a grand jury shall consist of not fewer than 15 persons and not more than 18 persons. Section 905.23, F.S. provides that an indictment shall not be found without the concurrence of 12 grand jurors. Grand jurors are subject to the same qualifications as petit jurors, and selected in the same manner. Section 40.013, F.S. Grand jurors are also compensated in the same manner as petit jurors. Section 40.24, F.S. An elected public official is not eligible to serve as a member of a grand jury. Section 905.01(1), F.S. State attorneys have reported difficulties in convening grand juries at times due to absences and excusing of grand jurors.

B. EFFECT OF PROPOSED CHANGES:

HB 3271 amends s. 905.01(1), F.S. to increase the maximum number of grand jurors from 18 to 21 persons. The bill also makes a grammatical correction to the provision disqualifying elected public officials. The bill does not change the requirement that 12 grand jurors must concur for finding an indictment.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 905.01(1), F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 905.01 to increase the maximum number of grand jurors from 15 to 21.

Section 2: Provides an effective date.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

4. Total Revenues and Expenditures:

Minimal and indeterminate, see section III, A 2., above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See, Fiscal Comments.

2. Recurring Effects:

See, Fiscal Comments.

3. Long Run Effects Other Than Normal Growth:

See, Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See, Fiscal Comments.

2. Direct Private Sector Benefits:

See, Fiscal Comments.

3. Effects on Competition, Private Enterprise and Employment Markets:

See, Fiscal Comments.

D. FISCAL COMMENTS:

Section 40.24, F.S. provides that jurors who are regularly employed and continue to receive regular wages shall not be entitled to juror compensation for the first three days of service. Jurors who are not employed, or who are employed but not compensated for jury service receive \$15 per day for the first three days of service. Each juror who serves more than three days receives \$30 per day for each day of service in excess of three days. Jurors do not receive additional reimbursement for travel or other out-of-pocket expenses. Section 40.24(5), F.S. The increase of the maximum number of grand jurors from 18 to 21 will have a minimal fiscal impact for the additional costs of juror service. The amount will be dependent on the number of days in which a grand jury is convened.

The State Courts Administrator reports an annual impact of \$40,000.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

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A. APPLICABILITY OF THE MANDATES PROVISION:

Article VII, Section 18 does not apply to the bill because it pertains to the criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce anyone's revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

Section 905.23, F.S., requires a concurrence of 12 jurors to return a true bill of indictment. This means the state attorney must convince four-fifths (4/5) of the panel that a crime has been committed. One may presume it would be slightly easier to find 12 jurors who concur from a group of 21 than it would be to find 12 concurring jurors from a group of 15. This would constitute five-sevenths (5/7) of the panel.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON :

Prepared by:

Legislative Research Director:

Richard Hixson

Richard Hixson

AS REVISED BY THE COMMITTEE ON CRIME AND PUNISHMENT:

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