

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.)

BILL: CS/SB 1334

SPONSOR: The Committee on Fiscal Policy and Senator Grant

SUBJECT: Judiciary/Number of Judges Increased

DATE: April 8, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Johnson</u>	<u>JU</u>	<u>Fav/1 Amendment</u>
2.	<u>Mannelli</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1334 authorizes the one district court of appeals judge, the 25 circuit court and the 6 county court judges certified by the Supreme Court of Florida and provides that the judges filling the new judgeships created by the bill will be phased-in effective August 1 and October 1, 1999.

This bill substantially amends sections 26.031, 34.022, and 35.06 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.*

Section 11 of Article V of the State Constitution requires that a judicial nominating commission make the nominations for a judicial office within 30 days of the occurrence of a vacancy unless the Governor extends the period. The Governor may extend the time for the submission of the nominations up to 30 days.

The Governor must make the appointment to a position within sixty days after the nominations have been certified to him.

Currently, there are 61 district court of appeal judges, 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 1999-2000, all of which are proposed by the bill.

The following judgeships are created effective August 1, 1999:

Circuit Courts	Judgeships	County Courts	Judgeships
Second	1		
Third	1		
Fourth	1		
Seventh	1		
Ninth	2		
Tenth		Polk	2
Twelfth	1		
Thirteenth	2		
Eighteenth	1		
Nineteenth	2		
Twentieth	1		
Totals	13		2

The following judgeships are created effective October 1, 1999:

Fifth District Court of Appeal	1
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Circuit Courts	Judgeships	County Courts	Judgeships
First	1		
Second		Leon	1
Fourth		Duval	1

First	1		
Fifth	2		
Sixth	2		
Seventh		Putnam	1
Eighth	1		
Tenth	1		
Eleventh	1		
Thirteenth		Hillsborough	1
Fifteenth	1		
Seventeenth	1		
Nineteenth	2		
Totals	12		4

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Although the salaries and benefits of the positions created by the bill are paid by the state, counties may incur expenses for the impact of the new circuit and county court positions. The Florida Constitution as amended November 1998, requires the counties to fund communications services and the cost of facilities including construction or lease, maintenance, utilities, and security. s.14, Art. V, Fla. Const. The amount is indeterminate as it has not been determined what facilities are currently available.

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:

The 1999-2000 request for certification creates 32 new judgeships: one for appellate courts, 25 for circuit courts (with nine law clerks to retain the work load formula of one law clerk for every three circuit judges), and 6 for county courts. Each appellate judgeship includes one judge, one judicial assistant, and two appellate law clerks at a unit cost of \$335,637. Each circuit court judgeship includes one judge and one judicial assistant at a unit cost of \$206,998. Each county court judgeship includes one judge and one judicial assistant at a unit cost of \$190,144. The nine law clerks cost \$558,621 and will be established in the First, Sixth, Eighth, Ninth, Eleventh, Thirteenth, Fifteenth, Seventeenth, and Nineteenth Judicial Circuits.

The twelve-month cost for the 1999-2000 certification is \$7,321,470 and 75 FTE. Based on the effective dates contained in CS/SB 1334, \$4,581,345 will be necessary to fund the FY 99-2000 judicial certification. Funding is included in the general appropriations bills of both the Senate and the House for the certification of judges.

VI. Technical Deficiencies:

None.

VII. Related Issues:**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 eighteen circuits. *In re Certification of the Need for Additional Judges*, No. 94,890 at 6 (Fla. Sup. Ct. Feb. 18, 1999). Ten of the courts certified by the Supreme Court as needing one or more additional judges are projected to exceed the 1,865 filings per judge threshold in 1999. *Id.* at 7. "The First, Fourth, Seventh, Eighth, Eleventh, Thirteenth, Fifteenth, and Seventeenth judicial circuits . . . are

expected to have 1999 workloads slightly below the threshold.” *Id.* at 8. Additional factors considered in certifying these judges were the significant workload impact of domestic violence cases, the “Jimmy Ryce Act,” and significant changes in the child welfare system including an increase in foster care cases. *Id.* at 7. The Court has also stated in additional rational that specific factors considered for the eight circuits not exceeding the cap included, geographic size of the circuit and the number of courthouse facilities, limited senior judge availability, complexity of cases, foreign language interpretation, and significant post judgment litigation.

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. 94,890 at 8 (Fla. Sup. Ct. Feb. 18, 1999).

C. Review of Methodology

In compliance with proviso language in the FY 1998/99 General Appropriations Act, the Office of the State Courts Administrator issued an RFP for a consultant to assist the court in developing a Delphi based weighted caseload method for assessing judicial workload and the certification of the need for additional judges. There was no responsive bidder to the RFP and the consultants making proposals indicated that the work requested could not be performed in the time allotted or within the budget allocated. The Court then consulted with the National Center for State Courts and based on a proposal from the center requested an extension of time for completion of the project and the approval of additional funding. The courts have contracted with the center for the initial development of the Delphi case weighting project and have requested funding for the completion of the project during the 1999/00 fiscal year. The courts’ Delphi Policy Committee had its first meeting February 3-5, 1999. The estimated cost for the completed study is \$251,000 plus judicial time required for the project.

VIII. Amendments:

None.