

STORAGE NAME: h1877.jud

DATE: March 17, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: HB 1877

RELATING TO: Judicial Appointments

SPONSOR(S): Representative Warner

COMPANION BILL(S): SB 1334(s)

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

- (1) JUDICIARY
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 1877 authorizes 25 circuit judges, 6 county judges, and 1 district court of appeal judge certified by the Florida Supreme Court as well as support staff. The bill is phased over a 2 year period (1999-2000), with 15 positions authorized in 1999 and 17 positions authorized in 2000. The bill additionally requires the judicial nominating commission to make nominations by October 1, 1999 for the 1999 authorized vacancies.

The bill has an effective date of September 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Constitution directs the Supreme Court to certify to the Legislature its findings and recommendations concerning the need for an increase or decrease in the number of judges, excluding supreme court justices, in Florida. 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 61 appellate judges, 468 circuit court judges, and 263 county court judges.

The Supreme Court entered a Certification Order on February 18, 1999, which the Bill implements. That order certified a total of 25 circuit judges, 6 county judges, and one district court of appeal judge. *In re Certification of the Need for Additional Judges*, No. 94,890 (Fla. Feb. 18, 1999).

Threshold for Appellate Judges

The Supreme Court has directed the Judicial Management Council to evaluate appellate workload and propose a new workload standard. The Council's Committee on Appellate Court Workload and Jurisdiction has proposed a new workload standard of 225 dispositions after submission on the merits per judge and an additional appellate court workload of 385 case filings per judge. These standards are higher than the present 250 case filing standard. *In re Certification of the Need for Additional Judges*, No. 94,890 at 3 (Fla. Feb. 18, 1999). The Court has determined that the Fifth District Court of Appeal exceeds both the current and proposed standards and has certified that court for an additional appellate judge.

Threshold for Circuit Court Judges

The Florida Supreme Court uses 1,865 unweighted case filings per circuit judge as the threshold at which it presumes there is a need for an additional judge in a circuit. *See Fla. R. Jud. Admin. 2.035*. 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. Feb. 18, 1999). Ten of the courts certified by the Supreme Court as needing additional judges are projected to exceed the 1,865 filings per judge threshold in 1998. *Id.* at 7. However, the First, Fourth, Seventh, Eighth, Eleventh, Thirteenth, Fifteenth, and Seventeenth judicial circuits have received certification for new judges even though they are expected to have 1999 workloads 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. The Court singled out Chapter 98-403 (juvenile justice) and Chapter 98-64 (Jimmy Ryce Act), Laws of Florida, as sources of increased judicial workload.

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. 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. Feb. 18, 1999).

B. EFFECT OF PROPOSED CHANGES:

Sections 1 and 3 of the Bill amend s. 26.031, F.S., by authorizing 25 additional circuit judges as follows:

Judicial Circuit	Authorized 1999	Authorized 2000
First		1
Second	1	
Third	1	
Fourth	1	
Fifth		2
Sixth		2
Seventh	1	
Eighth		1
Ninth	2	
Tenth		1
Eleventh		1
Twelfth	1	
Thirteenth	2	
Fourteenth		
Fifteenth		1
Sixteenth		
Seventeenth	2	1
Eighteenth	1	
Nineteenth		2
Twentieth	1	

Sections 3 and 4 of the Bill amend s. 34.022, F.S., to authorize 6 additional county judges as follows:

County	Authorized 1999	Authorized 2000
Duval		1
Hillsborough		1
Leon		1
Polk	2	
Putnam		1

Section 5 of the Bill amends s. 35.06, F.S., to authorize an additional district court of appeal judge as follows:

District Court of Appeal	Authorized 2000
Fifth	1

Section 6 of the bill provides that the judicial nominating commission shall make nominations for the authorized vacancies identified in sections 1 and 3 (the 1999 authorizations) no later than October 1, 1999, unless the Governor extends that deadline pursuant to Article V, Section 11(c) of the Florida Constitution.

The bill will create a total of 75 full time equivalent (FTE) positions, which include the judges and support staff.

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?

By increasing the number of sitting judges in the state, the bill will increase the judiciary's ability to process and resolve civil and criminal cases.

(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?

No agency program is eliminated or reduced.

(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?

The bill does not purport to provide services to families or children.

(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?

The bill does not create or change a program providing services to families or children.

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 26.031, 34.022, and 35.06, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Authorizes an increase of 13 circuit judges in 1999.

Section 2. Authorizes an increase of 12 circuit judges in 2000.

Section 3. Authorizes an increase of 2 county judges in 1999.

Section 4. Authorizes an increase of 4 county judges in 2000.

Section 5. Authorizes an increase of 1 district court of appeal judge in 2000.

Section 6. Provides that the judicial nominating commission shall make nominations for the 1999 vacancies no later than October 1, 1999, unless that period is extended by the Governor.

Section 7. Provides an effective date of September 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	Amount Year 1 (FY 99-2000)	Amount Year 2 (FY 00-01)	Amount Year 3 (FY 01-02)
Revenues:	-0-		
Expenditures:			
General Revenue - Expenses	142,425		
General Revenue - OCO	<u>349,000</u>		

TOTAL	491,425		
2. <u>Recurring Effects:</u>			
Revenues:	-0-	-0-	-0-
Expenditures:			
General Revenue-Salaries/Benefits (75.0 FTE)	3,684,535	6,582,647	6,780,126
General Revenue-Expenses	389,536	389,536	389,536
Special Category-FL Cases	<u>49,600</u>	<u>49,600</u>	<u>49,600</u>
TOTAL	4,123,671	7,021,783	7,219,262
3. <u>Long Run Effects Other Than Normal Growth:</u>			
None.			
4. <u>Total Revenues and Expenditures:</u>			
General Revenue - Revenues	-0-	-0-	-0-
Expenditures	<u>4,615,096</u>	<u>7,021,783</u>	<u>7,219,262</u>
TOTAL	(4,615,096)	(7,021,783)	(7,219,262)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:
See Section IV.
2. Recurring Effects:
See Section IV.
3. Long Run Effects Other Than Normal Growth:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
None.
2. Direct Private Sector Benefits:
The bill will help increase the pace at which the courts administer lawsuits, thereby helping citizens and business to protect their rights and seek compensation for losses more efficiently and effectively.
3. Effects on Competition, Private Enterprise and Employment Markets:
The bill will create 75 Full Time Equivalent positions over a two year period.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Although the salaries and benefits of the 75 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. 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. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

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

The bill does not reduce the state tax shared by any city or county.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

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