

By the Committee on Judiciary; and Senator Diaz de la Portilla

308-2205-02

1 A bill to be entitled
2 An act relating to district courts of appeal;
3 amending s. 35.01, F.S.; specifying minimum
4 membership of district courts of appeal;
5 providing construction and application;
6 providing criteria for selecting judges to fill
7 vacancies; requesting district courts of appeal
8 judicial nominating commissions to adopt
9 uniform rules of procedure; providing an
10 effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Section 35.01, Florida Statutes, is amended
15 to read:

16 35.01 District courts of appeal; districts.--Five
17 district courts of appeal are created, and the state is
18 divided into five appellate districts of contiguous circuits.
19 Each district court of appeal shall have at least one judge
20 appointed from each judicial circuit within the district who
21 is a resident of the circuit at the time of the original
22 appointment. This requirement is not applicable where the
23 Judicial Nominating Commission for the district court of
24 appeals has advertised a vacancy within an unrepresented
25 circuit and no applications from qualified applicants are
26 received from an unrepresented circuit.

27 Section 2. (1) This act shall not affect the term of
28 any district court of appeal judge who is serving at the time
29 of the effective date of this act or any district court of
30 appeal judgeship which is vacant and awaiting an appointment
31 by the Governor at the time of the effective date of this act.

1 Any such judge may be reelected to as many successive terms of
2 office for which the judge qualifies.

3 (2)(a) Upon the retirement, death, removal, or
4 expiration of the term of office without reelection of a judge
5 of a district court of appeal or upon the creation of an
6 additional judgeship on a district court of appeal for a
7 judicial circuit from which there is no judge then serving,
8 such vacancy shall be filled only by a qualified resident from
9 the geographical area of the unrepresented judicial circuit if
10 applications are received from qualified applicants within the
11 unrepresented circuit.

12 (b) If at the time of any vacancy on a district court
13 of appeal there is more than one judicial circuit that is
14 unrepresented by a judge on that district court of appeal,
15 such vacancy shall be filled by a qualified resident of the
16 judicial circuit having the lowest judicial circuit
17 designation number if applications are received from qualified
18 applicants within the unrepresented circuit.

19 Section 3. In order to fully implement the provisions
20 of this act, and in recognition of the rulemaking authority
21 conferred on the district courts of appeal judicial nominating
22 commissions by Section 11, Article V of the State
23 Constitution, the Legislature requests that these judicial
24 nominating commissions, by and through the Supreme Court of
25 Florida, adopt uniform rules of procedure in fulfilling the
26 provisions of this act.

27 Section 4. This act shall take effect upon becoming a
28 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1800

The committee substitute provides that a judge appointed to the district court of appeal must reside in the circuit he or she is appointed to represent at the time of appointment not during his or her term on the appellate court.

The Judicial Nominating Commission is relieved of the requirement to appoint a judge from each circuit within a district court of appeal when the Judicial Nominating Commission has advertised the vacancy within any unrepresented circuit and no applications are received from qualified applicants.