

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Ways and Means Committee

BILL: SB 14-B

INTRODUCER: Senators Saunders and Aronberg

SUBJECT: Judges

DATE: December 6, 2005

REVISED: 12/07/05

|    | ANALYST                     | STAFF DIRECTOR              | REFERENCE                   | ACTION                      |
|----|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 1. | <u>Cibula</u>               | <u>Maclure</u>              | <u>JU</u>                   | <b>Favorable</b>            |
| 2. | <u>Hendon</u>               | <u>Coburn</u>               | <u>WM</u>                   | <b>Fav/2 amendments</b>     |
| 3. | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |
| 4. | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |
| 5. | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |
| 6. | <u>                    </u> | <u>                    </u> | <u>                    </u> | <u>                    </u> |

## Please see last section for Summary of Amendments

Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

## I. Summary:

This bill creates two new circuit court judgeships for the Twentieth Judicial Circuit and two new county court judgeships for Collier County. The judgeships must be filled by an appointment by the Governor. The judgeships take effect on January 1, 2006. Additionally, the bill authorizes nine full-time, but unspecified positions.

This bill substantially amends sections 26.031 and 34.022, Florida Statutes, as amended by sections 2 and 4 of chapter 2005-150, Laws of Florida.

## II. Present Situation:

### Vacancies Created During 2005 Regular Session

Last session, the Legislature partially filled the latest request made by the Florida Supreme Court for additional judges.<sup>1</sup> The Court requested 67 circuit court judges, 41 county court judges, and two district court judges. In ch. 2005-150, L.O.F., the Legislature provided for 35 circuit court judgeships and 20 county court judgeships to be filled by the Governor. About half of these judgeships took effect on November 1, 2005. The rest will take effect on January 2, 2006.

<sup>1</sup> See ch. 2005-150, L.O.F.

Almost all of the circuit and county courts for which judges were requested by the Court received at least one judgeship. The Twentieth Judicial Circuit and the Collier and Lee County courts, however, did not receive any. Collier and Lee Counties are located within the Twentieth Judicial Circuit.

### **Certification of Need for Additional Judges**

Section 9, Article V of the State Constitution requires the Florida Supreme Court to recommend to the Legislature the need for additional judges.<sup>2</sup> The Florida Supreme Court was directed in budget proviso to the 1998 General Appropriations Act to develop “a Delphi-based case load weighting system to determine the optimum caseloads for circuit and county judges and, in conjunction with other factors, to determine the need for additional circuit and county court judges.”<sup>3</sup> The resulting system was used to develop the Court’s latest request for new trial court judgeships.<sup>4</sup> For the district court of appeal judgeships, the Court relied on average case filings per judge per district court of appeal to determine additional judges were needed.

As a result of the Court’s need analysis, the Court:

certif.[ied] the need for sixty-seven new circuit court judges for fiscal year 2005-2006 as follows:

1. Seven additional circuit judges each for the Fifth, Tenth, and Eleventh Circuits;
2. Six additional circuit judges each for the Thirteenth and Seventeenth Circuits;
3. Five additional circuit judges each for the Sixth and Ninth Circuits;
4. Four additional circuit judges each for the Seventh and Nineteenth Circuits;
5. Three additional circuit judges each for the First and Twentieth Circuits;

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<sup>2</sup> SECTION 9, ART. V, STATE CONST., states:

**Determination of number of judges.**—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

<sup>3</sup> Budget proviso to Specific Appropriation 2217, ch. 98-422, L.O.F.

<sup>4</sup> *In Re: Certification of Need for Additional Judges*, 889 So. 2d 734, 737 (Fla. 2004).

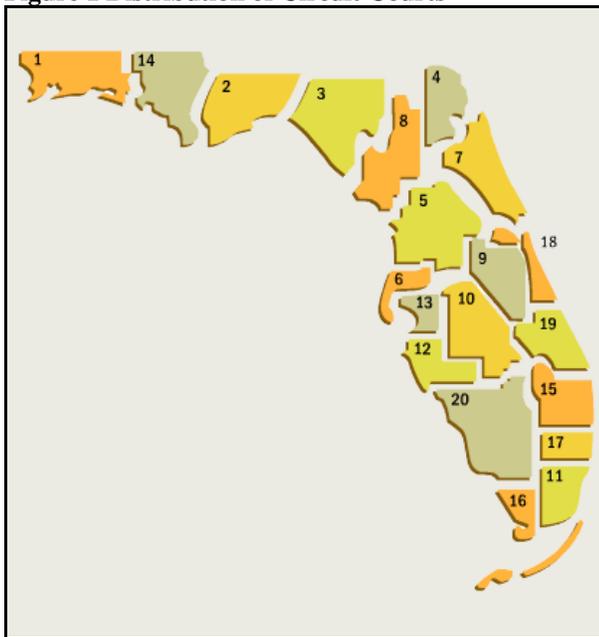
6. Two additional circuit judges each for the Second, Fourth, and Eighteenth Circuits; and
7. One additional circuit judge each for the Third, Eighth, Fourteenth, and Fifteenth Circuits.

Further, after reviewing the requests of the trial courts and in light of the above considerations, we certify the need for forty-one new county court judges for fiscal year 2005-2006 as follows:

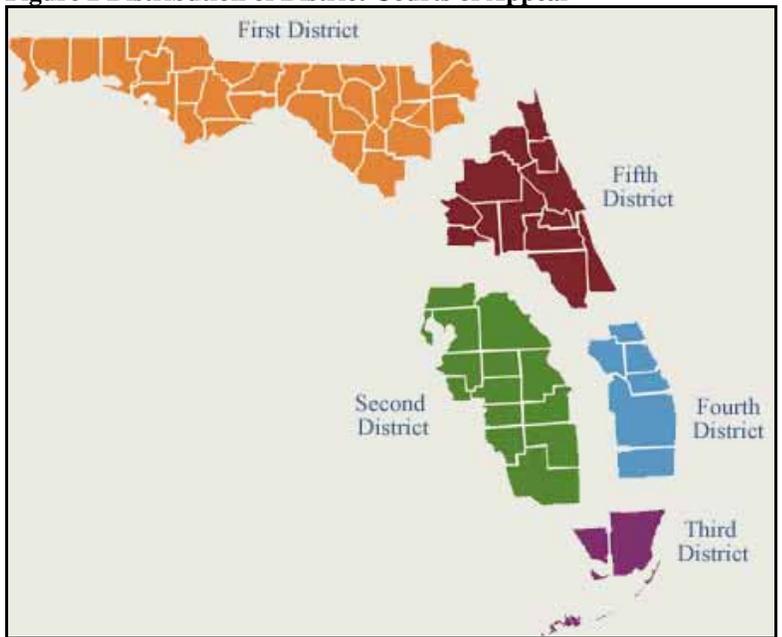
1. Six additional county judges for Broward County;
2. Four additional county judges each for Pinellas, Hillsborough, and Brevard Counties;
3. Three additional county judges for Orange County;
4. Two additional county judges each for Marion, Pasco, Miami-Dade, Palm Beach, and Collier Counties; and
5. One additional county judge each for Duval, Hernando, Lake, Volusia, Manatee, Bay, Seminole, Martin, Saint Lucie, and Lee Counties.<sup>5</sup>

The Court also certified the need for one additional appellate judge in the Second and Fifth Districts.<sup>6</sup> Figures 1 and 2 below show the geographic boundaries of each judicial circuit and appellate district.

**Figure 1 Distribution of Circuit Courts**



**Figure 2 Distribution of District Courts of Appeal**



Source: Florida State Courts at <http://www.flcourts.org/courts/circuit/circuit.shtml>.

### Judicial Nominating Commissions

<sup>5</sup> *Id.* at 740-741.

<sup>6</sup> *Id.* at 741.

The Office of Program, Policy Analysis, and Government Accountability has described the process by which the Governor fills vacancies in judicial offices as follows:

Judicial vacancies are filled by the Governor from a list of three candidates nominated by the appropriate Judicial Nominating Commission (JNC). There are separate nominating commissions for the Supreme Court, district courts of appeal, and for each judicial circuit. The circuit court commissions make nominations for both circuit and county judges. Judicial Nominating Commissions are made up of nine members. The Governor has the sole authority to appoint JNC members. Four of the six Florida Bar members must be selected from nominees from the Board of Governors of The Florida Bar. The Board of Governors must submit a list of three recommended nominees for each of the positions, from which the Governor may select his appointment. The Governor may reject all nominees and request a new list of persons who have not been previously nominated. For the remaining five JNC positions, the Governor directly appoints the member, of whom at least two must be Florida Bar members. In making appointments, consideration should be given to ethnic, racial and gender composition, along with the geographic distribution of the population within the JNC and the adequacy of the representation of each county. The term of office for commission members is four years, appointed to staggered terms. JNC members are also required to comply with financial reporting standards under the definition of “state officers” as specified in s. 112.3145, Florida Statutes.<sup>7</sup>

Under s. 11(b), Art. V, State Const., terms of judges appointed to circuit and county courts end “on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment.”

### **III. Effect of Proposed Changes:**

This bill creates two new circuit court judgeships for the Twentieth Judicial Circuit and two new county court judgeships for Collier County. The judgeships must be filled by an appointment by the Governor. The judgeships take effect on January 1, 2006. Additionally, the bill authorizes nine full-time, but unspecified positions.

Table 1 and Table 2 on the next page summarize the latest request of the Florida Supreme Court for additional circuit and county court judges and the Legislature’s response to that request. Table 2 shows only the counties for which additional judges were requested by the Court.

Except as otherwise provided by the bill, the bill takes effect upon becoming a law.

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<sup>7</sup> THE OFFICE OF PROGRAM, POLICY ANALYSIS, AND GOVERNMENT ACCOUNTABILITY, JUDICIAL NOMINATING COMMISSION *at* <http://www.oppaga.state.fl.us/profiles/1072/02/>, last updated September 15, 2005.

**Table 1 Circuit Judges**

**Table 2 County Judges**

| Circuit       | Additional Judges Certified | Judges Provided by 2005-150 | Judges Provided by SB 14-B |
|---------------|-----------------------------|-----------------------------|----------------------------|
| 1st           | 3                           | 1                           |                            |
| 2nd           | 2                           | 1                           |                            |
| 3rd           | 1                           | 1                           |                            |
| 4th           | 2                           | 1                           |                            |
| 5th           | 7                           | 3                           |                            |
| 6th           | 5                           | 3                           |                            |
| 7th           | 4                           | 2                           |                            |
| 8th           | 1                           | 1                           |                            |
| 9th           | 5                           | 2                           |                            |
| 10th          | 7                           | 4                           |                            |
| 11th          | 7                           | 3                           |                            |
| 12th          |                             |                             |                            |
| 13th          | 6                           | 4                           |                            |
| 14th          | 1                           | 1                           |                            |
| 15th          | 1                           | 1                           |                            |
| 16th          |                             |                             |                            |
| 17th          | 6                           | 3                           |                            |
| 18th          | 2                           | 1                           |                            |
| 19th          | 4                           | 3                           |                            |
| 20th          | 3                           |                             | 2                          |
| <b>Totals</b> | <b>67</b>                   | <b>35</b>                   | <b>2</b>                   |

| County        | Additional Judges Certified | Judges Provided by 2005-150 | Judges Provided by SB 14-B |
|---------------|-----------------------------|-----------------------------|----------------------------|
| Bay           | 1                           | 1                           |                            |
| Brevard       | 4                           | 1                           |                            |
| Broward       | 6                           | 2                           |                            |
| Collier       | 2                           |                             | 2                          |
| Duval         | 1                           | 1                           |                            |
| Hernando      | 1                           | 1                           |                            |
| Hillsborough  | 4                           | 2                           |                            |
| Lake          | 1                           | 1                           |                            |
| Lee           | 1                           |                             |                            |
| Manatee       | 1                           | 1                           |                            |
| Marion        | 2                           | 1                           |                            |
| Martin        | 1                           | 1                           |                            |
| Miami-Dade    | 2                           | 1                           |                            |
| Orange        | 3                           | 1                           |                            |
| Palm Beach    | 2                           | 1                           |                            |
| Pasco         | 2                           | 1                           |                            |
| Pinellas      | 4                           | 1                           |                            |
| St. Lucie     | 1                           | 1                           |                            |
| Seminole      | 1                           | 1                           |                            |
| Volusia       | 1                           | 1                           |                            |
| <b>Totals</b> | <b>41</b>                   | <b>20</b>                   | <b>2</b>                   |

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

Under, s. 29.008(1), F.S., counties must fund the following:

the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders’ offices, state attorneys’ offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

As a result of the bill, the costs for which the effected counties are responsible may increase. According a representative of the Office of the State Courts Administrator, these costs are not likely to be significant.

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:

Litigants in the areas affected by the bill may have their cases resolved faster.

C. Government Sector Impact:

The bill appropriates \$517,568 in recurring funds and \$20,214 in non-recurring funds from the General Revenue Fund for FY 2005-2006. Additionally, the bill authorizes nine full-time, but unspecified positions.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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## VIII. Summary of Amendments:

**Barcode 774490 by Ways and Means:**

The amendment changes the effective date of the changes made in the bill from January 1, 2006 to January 2, 2006.

**Barcode 780480 by Ways and Means:**

The amendment authorizes a salary rate of 705,157 to the courts for the nine positions provided in the bill. It also provides two positions and \$41,846 in salaries and benefits, along with the salary rate of 58,791 to the Office of the State Attorney in the 20<sup>th</sup> Circuit.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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