

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: Justice Appropriations Committee

BILL: SB 1698

INTRODUCER: Senator Crist

SUBJECT: Judges

DATE: March 29, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cibula</u>	<u>Maclure</u>	<u>JU</u>	Withdrawn
2.	<u>Hendon</u>	<u>Sadberry</u>	<u>JA</u>	Favorable
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates 2 new District Court of Appeal judges, 40 new circuit court judges, and 26 new county judges. The bill provides that the new circuit and county court judges be elected in the 2006 general election.

This bill substantially amends ss. 26.031, 34.022, and 35.06 of the Florida Statutes.

II. Present Situation:

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.¹ The Florida Supreme Court was directed in

¹ 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

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.”² The resulting system was used to develop the Court’s latest request for new trial court judgeships.³ For the district court of appeal judgeships, the Court relied on an analysis of weighted caseload dispositions per judge.⁴

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

certif.[ied] the need for forty new circuit court judges for fiscal year 2006-07, distributed as follows:

1. Six additional circuit judges for the Twentieth Circuit;
2. Four additional circuit judges each for the Fifth, Eleventh, and Thirteenth Circuits;
3. Three additional circuit judges each for the Fourth, Ninth, and Seventeenth Circuits;
4. Two additional circuit judges each for the First, Seventh, Tenth, and Twelfth Circuits; and
5. One additional circuit judge each for the Second, Sixth, Fourteenth, Eighteenth, and Nineteenth Circuits.

Further, [the Court] certif[ied] the need for twenty-four new county court judges for fiscal year 2006-07, as follows:

1. Five additional county judges for Broward County;
2. Three additional county judges each for Pinellas and Brevard Counties;
3. Two additional county judges each for Pasco and Orange; and
4. One additional county judge each for Duval, Marion, Osceola, Polk, Miami-Dade, Palm Beach, Charlotte, Collier, and Lee Counties.

The Court also certified the need of an additional appellate judge in the Second and Fourth Districts.⁵

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.

² Budget proviso to Specific Appropriation 2217, ch. 98-422, L.O.F.

³ *In Re: Certification of Need for Additional Judges*, 918 So. 2d 283, 284 (Fla. 2005).

⁴ *Id.* at 289. In its prior certification order, Court examined the average case filings per judge per district court of appeal to determine additional appellate judges needed. See *In Re: Certification of Need for Additional Judges*, 889 So. 2d 734, 742 (Fla. 2004). Based on that analysis, the Court requested an appellate judge for the Second and Fifth Districts. The Legislature, however, declined to fill that request. The Court’s request for an appellate judge for the Fourth District rather than the Fifth District is based on its new methodology for calculating need. *In Re: Certification of Need for Additional Judges*, 918 So. 2d 283, 288-290 (Fla. 2005).

⁵ *Id.* at 290.

Figures 1. and 2. below show the geographic boundaries of each judicial circuit and district.

Figure 1 Distribution of Circuit Courts

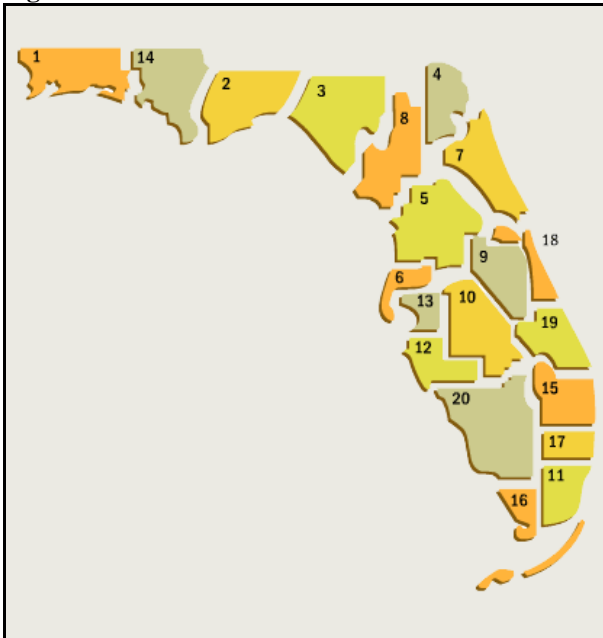
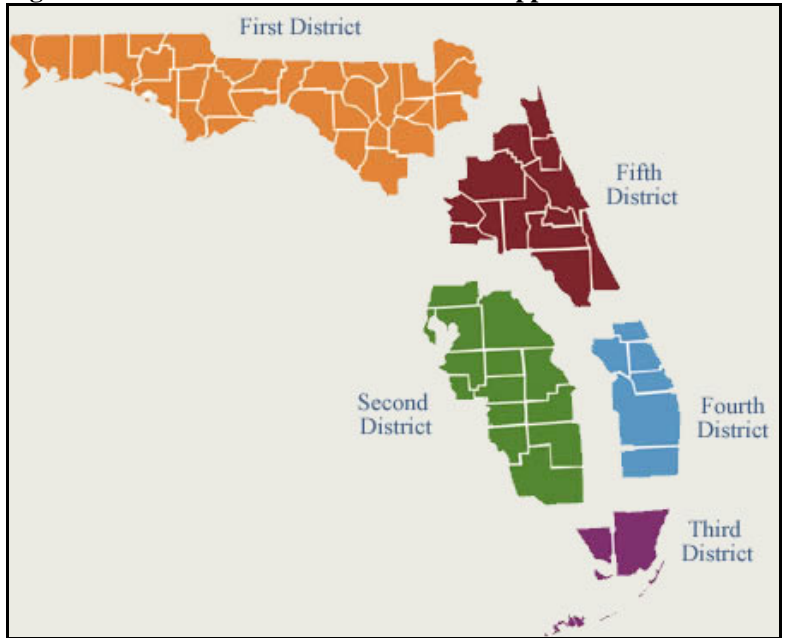


Figure 2 Distribution of District Courts of Appeal



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

Judicial Nominating Commissions

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 not 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, F.S.⁶

Under s. 11, 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.”

Judicial Elections

Under ch. 105, F.S., judicial elections are non-partisan. Candidates for judicial office during the next general election must qualify with the Division of Elections of the Department of State between noon, May 8, and noon, May 12, 2006.⁷ The next general election will be held on November 7, 2006.⁸ Judges elected in the next general election will take office on January 2, 2007.⁹

III. Effect of Proposed Changes:

Section 1. Section 26.031, F.S., is amended to increase the number of circuit judges by 40 (see the table below for the number of judges certified by the Supreme Court and the number of judges created in the bill).

Section 2. Section 34.022, F.S., is amended to increase the number of county judges by 26 (see the table below for the number of judges certified by the Supreme Court and the number of judges created in the bill).

Circuit	Judges Certified	Judges Created	County	Judges Certified	Judges Created
1	2	2	Brevard	3	3
2	1	1	Broward	5	4
3			Charlotte	1	1
4	3	3	Collier	1	1
5	4	4	Columbia		1
6	1	1	Duval	1	1
7	2	2	Hillsborough		2
8			Lee	1	1

⁶ THE OFFICE OF PROGRAM, POLICY ANALYSIS, AND GOVERNMENT ACCOUNTABILITY, JUDICIAL NOMINATING COMMISSION at <http://www.oppaga.state.fl.us/profiles/1019/02/>, last updated August 25, 2005.

⁷ FLORIDA DEPARTMENT OF STATE, DIVISION OF ELECTIONS, ELECTION DATES at <http://election.dos.state.fl.us/online/elecdate.shtml> and s. 105.031(1), F.S.

⁸ *Id.*; s. 100.031, F.S.; and s. 5, Art. VI, STATE CONST.

⁹ Section 100.041, F.S.

9	3	3		Marion	1	1
10	2	2		Miami-Dade	1	1
11	4	4		Orange	2	2
12	2	2		Osceola	1	1
13	4	4		Palm Beach	1	1
14	1	1		Pasco	2	2
15				Pinellas	3	3
16				Polk	1	1
17	3	3				
18	1	1				
19	1	1				
20	6	6				
Total	40	40			24	26

Section 3. Section 35.06, F.S., is amended to increase the number of district court of appeal judges in the second district by one for a total of 15 and the number of district court of appeal judges in the fourth district by one for a total of 13.

Section 4. The bill states that the Governor may not fill the circuit and county judgeships by appointment, rather these offices shall be filled by election in the 2006 general election. Candidates shall qualify as provided in chapter 105, Florida Statutes. The bill states that the Legislature finds that an emergency does not exist that would require the immediate appointment of new circuit and county judges and that these new judgeships shall constitute vacancies for the purposes of qualifying for the 2006 general election.

Section 5. The bill takes effect on July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 may have their cases resolved faster.

C. Government Sector Impact:

State Government. The bill establishes two new district court of appeal judges that could begin their term as early as July 1, 2006. The bill establishes 40 new circuit judges and 26 new county judges to be selected by the 2006 general election. Trial Court judges would likely serve terms beginning in January 2007. The fiscal impact of the bill would be 153 additional state FTE (including the 68 judges) and \$9,324,593 in general revenue for the fiscal year 2006-2007. Of the total general revenue, \$8,959,815 would be recurring and \$364,778 would be non-recurring. An additional \$8,377,187 in recurring general revenue would be required in the fiscal year 2007-2008. There may also be an increase in state paid due process costs, such as court reporting, if new judges result in the court system processing more cases.

In addition, the creation of new judgeships would create a fiscal impact on the state attorneys and public defenders as additional staff would be required to support new criminal divisions.

The clerks of the court provide excess fee revenue to the state to support the costs of the court system. Section 28.36(6), F.S., allows the clerks to request that the Legislative Budget Commission increase their budgets if they cannot support new judges within their existing budgets. If such action is approved, the state would experience a loss of revenue by the amount that the clerk budgets are increased.

Local Government. Under Article V of the Florida Constitution and s. 29.008, F.S., counties are required to provide the court system, including the state attorney and the public defender, with facilities, security, and communication services, including information technology. Under the bill, the counties would incur an indeterminate amount of costs associated with providing such services to the new judges and judicial staff. Clerk of the Courts would also be required to provide additional services to the new judges and the new court divisions established.

VI. Technical Deficiencies:

The bill provides for the election of judges during the 2006 General Election. The qualifying dates for that election are May 8-12, 2006. However, the bill takes effect July 1, 2006. The bill may need to be amended to provide for a special qualifying period.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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