

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 815 Courts
SPONSOR(S): Harrison
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	11 Y, 2 N	King	Bond
2) Justice Appropriations Subcommittee	11 Y, 0 N	Smith	Lloyd
3) Judiciary Committee			

SUMMARY ANALYSIS

The Second District Court of Appeal (2nd DCA) is currently headquartered in Lakeland, Florida. The court has long since outgrown its building in Lakeland and has been renting additional space in the Tampa area for over 35 years. Today, most of the judges of the court have their office in the Tampa branch.

The bill moves the headquarters of the 2nd DCA to Tampa. It also provides for more flexibility to all of the state's appellate court clerks regarding where the court's records may be kept.

This bill has no fiscal impact on state or local government expenditures.

This bill becomes effective July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Second District Court of Appeal

The state's judicial landscape is split into counties, circuits, and districts. Counties are the smallest judicial unit. County judges have jurisdiction over civil claims under \$15,000 and criminal cases dealing with misdemeanors.¹ There are 67 counties in Florida. Judicial circuits are made up of between one² and seven³ counties and serve as the trial courts for civil claims over \$15,000, criminal cases dealing with felony charges, and are the first intermediate court of appeal for decisions of county courts.⁴ Florida has 20 circuits. Florida's circuits are divided into five appellate districts. These five districts serve as the intermediate and final appeal of right for many cases in Florida.⁵ These districts can be comprised of as few as two counties (3rd DCA) or as many as 32 counties (1st DCA).

The 2nd DCA is comprised of 12 counties and serves 28% of Florida's citizens. It is currently headquartered in Lakeland, Florida, 40 minutes east of Tampa, but the Court has had a branch in Tampa since 1980.⁶ Currently, 11 of the 16 judges and six of the 11 central staff attorneys have their offices at the Tampa branch⁷ in Stetson University's Tampa Law Center.⁸ It leases this space for \$513,324 per year.⁹

The Second District's geographical jurisdiction stretches from Pasco County in the north to Collier County in the South and over to Polk and Highlands Counties in the east. But, almost half of its cases come from Hillsborough and Pinellas Counties.

This bill moves the headquarters of the 2nd DCA from Lakeland to Tampa, which is more geographically central for the majority of the citizen's using the Court. This bill does not affect the court's ability to keep a branch office in Lakeland, and, because the bill no longer requires the clerk's office to be in the headquarters, the records could remain in Lakeland.

¹ s. 34.01, F.S.

² 3rd circuit.

³ 11th, 13th, 15th, 16th, and 17th circuits.

⁴ s. 26.012, F.S.

⁵ s. 35.01, F.S.

⁶ District Court of Appeal, Second District, *Facility Needs Assessment 3* (July 2015) (on file with the Civil Justice Subcommittee).

⁷ *Id.* at 1.

⁸ Stetson University, *About Tampa Law Center* (last visited Dec. 22, 2015) <http://www.stetson.edu/law/about/home/tampa-law-center.php>; Second District Court of Appeal, *Tampa Branch* (last visited Dec. 22, 2015) <http://www.2dca.org/Directions/tampa.shtml>.

⁹ *Id.* at 5, n.3. The lease is designed to gradually increase the price of rent until it reaches \$634,317 in FY 2022-23.

Figure 1 below shows the 2nd district by county with shading to illustrate the concentration of geographical origination of cases filed in the district.



Figure 2 below shows the counties in the 2nd DCA ranked by the percentage of the districts filings that come from that county.

Counties of the 2nd DCA Ranked by Percentage of Filings Made in That County		
Rank	County	%
1	Hillsborough	30.1
2	Pinellas	19.3
3	Polk	12.2
4	Lee	8.7
5	Pasco	6.1
6	Manatee	6.1
7	Sarasota	5.6
8	Collier	4.6
9	Charlotte	2.6
10	Highlands	2.3
11	DeSoto	1.1
12	Hendry	0.7
13	Hardee	0.5
14	Glades	0.2

Clerks of the Court

Background

Appellate court clerks are constitutional officers.¹⁰ However, the constitution says nothing about their duties. It only states that they serve at the pleasure of the Court they are attached to.¹¹ The duties of an appellate clerk are set forth in the Florida Judicial Rules of Administration.¹² The clerk collects filing fees, maintains the records of the Court, and issues mandates of the Court.¹³

¹⁰ FLA. CONST. art. V, ss. 3(c), 4(c).

¹¹ *Id.*

¹² FLA. R. J. ADMIN. 2.205(b), 2.210(b).

¹³ *Id.*

Current law provides that the clerk of the Supreme Court must maintain an office and keep custody of all the court's records in the Supreme Court building,¹⁴ while the clerk of a District Court must maintain an office and keep custody of all the court's records at the headquarters of the Court.¹⁵

Effect of the Bill

This bill removes the requirement that the clerks of the DCAs keep custody of the court's records at the headquarters. The bill provides that an appellate clerk should maintain the records of the court as directed by the Supreme Court but deletes the requirement that the clerk keep custody of the records in his or her office. The clerk of a district court is still required to have an office at the Court's headquarters, but it likewise deletes the requirement that the clerk keep custody of the Court's records in his or her office.

B. SECTION DIRECTORY:

Section 1 amends s. 25.221, F.S., regarding books and records of the Florida Supreme Court.

Section 2 amends s. 25.301, F.S., regarding decisions of the Florida Supreme Court.

Section 3 amends s. 35.05, F.S., regarding the headquarters of district courts of appeal.

Section 4 amends s. 35.15, F.S., regarding decisions of a district court of appeal.

Section 5 amends s. 35.23, F.S., regarding the location of the clerk's office of a district court of appeal.

Section 6 amends s. 35.24, F.S., regarding books and records of the district courts of appeal.

Section 7 provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill only changes the statute defined headquarters of the 2nd DCA from Lakeland to Tampa, where there is an existing branch location. The bill also removes the provision that all records must be located in the office of the Clerk of Court, and allows the records to be kept offsite under the control and maintenance of said Clerk.

This bill does not appear to have any impact on state expenditures.¹⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have any impact on local government revenues.

2. Expenditures:

This bill does not appear to have any impact on local government expenditures.

¹⁴ ss. 25.221, 25.211, 25.301, F.S.

¹⁵ ss. 35.15, 35.23, 35.24, F.S.

¹⁶ Office of State Courts Administrator, 2016 Judicial Impact Statement: House Bill 815, January 14, 2016 (on file with Justice Appropriations Subcommittee).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

B. RULE-MAKING AUTHORITY:

The Florida Rules of Judicial Administration require that the clerk of the Supreme Court and the clerk of a district court of appeal keep the court's records in the clerk's office, which office must be at the Court's headquarters.¹⁷ The Supreme Court may wish to amend its rules to allow the flexibility accorded by this bill. The court has sufficient rulemaking power to accomplish this.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹⁷ FLA. R. J. ADMIN. 2.205(b)(3), 2.210(b)(1).
STORAGE NAME: h0815c.JUAS
DATE: 1/20/2016