

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 5301 PCB JUA 20-01 Judges
SPONSOR(S): Justice Appropriations Subcommittee, Yarborough and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 7050

FINAL HOUSE FLOOR ACTION: 117 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 5301 passed the House on February 12, 2020. The Senate subsequently passed the bill with no amendments on March 12, 2020.

The Supreme Court issued Order No. SC19-1907, dated November 27, 2019 certifying the need for four additional circuit court judges, six additional county judges, and decertifying the need for four county court judges.

Article V of the Florida Constitution states the legislature may reject the recommendation or accept the recommendation in whole or in part, decreasing or increasing the number of judges by more or less than the judicial recommendation upon a two thirds finding of need by both chambers of the legislature.

HB 5301 established six new county court judgeships (four in Hillsborough County, one in Lee County and one in Orange County), and four new circuit court judgeships (one in the First Judicial Circuit, two in the Ninth Judicial Circuit and one in the Fourteenth Judicial Circuit).

The Governor line item vetoed the portion of the General Appropriations Act for Fiscal Year 2020-2021 which included 21 full-time equivalent (FTE) positions and \$3,418,513 of general revenue funds to establish the additional circuit and county judgeships. See Fiscal Impact.

The bill was approved by the Governor on June 29, 2020, ch. 2020-112, L.O.F., and became effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Article V, Section 9 of the State Constitution 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.”

To determine a need for trial court judgeships, the Office of State Courts Administrator (OSCA) relies on an analysis of weighted caseload filings per judge. In 1999, at the request of the Florida Legislature, OSCA contracted with the National Center for State Courts (NCSC) to develop and validate a Delphi-based Weighted Caseload System.¹

The weighted caseload system assigns a time value to cases by their case type, based on the various kinds and complexity of the cases that are filed. The case type time value, or case weight, establishes an approximate workload value per case filing by case type, which is used to determine the number of judges required to handle these cases. The weighted caseload system is revised periodically to account for changes in procedure and case complexity. The system was updated by OSCA and NCSC in 2007 and most recently in 2016.

The Supreme Court issued Order No. SC19-1907, dated November 27, 2019, in regard to the Certification of Need for Additional Judges.² In the certification, the court recommended four new circuit judgeships (one each in the First and Fourteenth judicial circuits and two in the Ninth Judicial Circuit), six county judgeships (one in Lee County, one in Orange County and four in Hillsborough County) and the decertification of four existing county court judgeships (one in Collier County, one in Monroe County and two in Brevard County).

Article V, Section 11 of the State Constitution requires the Governor to fill judicial office vacancies by appointment from a list of candidates nominated by a judicial nominating commission³, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment.

Effect of the Bill

¹ National Center for State Courts, *Florida Judicial Workload Assessment Final Report*, Office of the State Courts Administrator (May 16, 2016), <http://www.flcourts.org/core/fileparse.php/558/urlt/Final-Florida-Judicial-Workload-Assessment-Final-report.pdf>

² *Certification of Need for Additional Judges*, SC19-1907 (Fla. SC 2019)

³ Article V, Section 20, Subsection (5) of the State Constitution states that each judicial nomination commission shall be composed of nine members. Three members must be appointed by the Board of Governors of The Florida Bar from among The Florida Bar members who are actively engaged in the practice of law with offices within the territorial jurisdiction of the affected court, district or circuit. Three electors must reside in the territorial jurisdiction of the court or circuit appointed by the governor. And three of the electors must reside in the territorial jurisdiction of the court or circuit and who are not members of the bar of Florida, selected and appointed by a majority vote of the other six members of the commission.

HB 5301 established six new county court judgeships (four in Hillsborough County, one in Lee County and one in Orange County), and four new circuit court judgeships (one in the First Judicial Circuit, two in the Ninth Judicial Circuit and one in the Fourteenth Judicial Circuit).

The bill became effective July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The General Appropriations Act for Fiscal Year 2020-2021 (HB 5001) included 21 full-time equivalent (FTE) positions and \$3,418,513 of general revenue funds to establish the additional circuit and county judgeships (four circuit court judges, each with a judicial assistant and one law clerk; and six county court judges, each with a judicial assistant).

The funding and FTE provided in the General Appropriations Act for the establishment of the judgeships was line item vetoed by the Governor on June 29, 2020.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The cost of county judges, circuit judges, judicial assistants and law clerks are paid for by the state. Under s. 29.008, F.S., counties are responsible for facilities, security, communications and information technology costs for county courts. For counties receiving additional judges and associated staff, this bill may result in additional costs in these areas.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.