

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5301 PCB JUAS 14-01 Additional Judgeships

**SPONSOR(S):** Justice Appropriations Subcommittee, McBurney

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Justice Appropriations Subcommittee	11 Y, 1 N	deNagy	Lloyd
1) Appropriations Committee	25 Y, 0 N	deNagy	Leznoff

### SUMMARY ANALYSIS

The Supreme Court Order No. SC13-2296, dated December 19, 2013, certified the need for a total of forty-nine additional judges, three in the appellate courts, seven in the circuit courts and thirty-nine in the county courts.

The proposed committee bill conforms to the House of Representatives proposed Fiscal Year 2014-15 General Appropriations Act by creating twenty-one new judgeships within the state. PCB JUAS 14-01 establishes three additional appellate judgeships, seven additional circuit court judgeships, and eleven additional county court judgeships.

The House of Representatives proposed FY 2014-15 GAA appropriates \$5 million in recurring general revenue and 50 FTE with associated salary rate. See fiscal impact section.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **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>1</sup> Through proviso in the 1998 General Appropriations Act, the Legislature directed the Supreme Court to conduct a “Delphi-based caseload study 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>2</sup> In 2005, the Office of the State Courts Administrator (OSCA) staffed a workgroup of judges, general magistrates, hearing officers, and trial court administrators to review and update the case weights. The resulting 2007 Judicial Resource Study final report outlined the methodology and results.<sup>3</sup> This system was used to develop the Court’s latest request for additional trial court judgeships.

For the district court of appeal judgeships, OSCA relies on an analysis of weighted caseload dispositions per judge. In 2005, the Commission on District Court of Appeal Performance and Accountability (Commission) developed two processes to examine the uniform criteria applied by the Supreme Court in determining whether to certify the need for increasing or decreasing the number of judges on a district court of appeal:

1. An annual review of the need for new judges by each district court; and
2. Every four years, a review of the workload trends of the district courts of appeal and consideration of adjustments to the relative case weights by the Commission.<sup>4</sup>

This system was used to develop the Court’s latest request for new district court of appeal judgeships.

Supreme Court Order, No. SC13-2296; In Re: Certification of Need for Additional Judges, dated December 19, 2013, certifies the need for 49 additional judgeships throughout the state. Specifically, 3 additional District Courts of Appeals judgeships, 7 additional Circuit Court judgeships, and 39 additional County Court judgeships.

#### **Effect of the Bill**

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<sup>1</sup> Section 9, Article V, 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. 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>2</sup> Ch. 98-422, L.O.F.

<sup>3</sup> “Delphi-based Weighted Caseload Study Summary” by OSCA (on file with the Justice Appropriations Subcommittee)

<sup>4</sup> “District Courts of Appeal, History of Certification” by OSCA (on file with Justice Appropriations Subcommittee)

The bill amends s. 35.06, F.S., to establish two additional judges in the Second District Court of Appeal and one additional judgeship in the Fifth District Court of Appeal.

The bill amends s. 26.031, F.S., to establish two additional judgeships in the First Circuit<sup>5</sup>, three additional judgeships in the Fifth Circuit<sup>6</sup>; and one additional judgeship each in the Seventh<sup>7</sup> and Ninth<sup>8</sup> Circuits.

The bill amends s. 34.022, F.S., to establish one additional judgeship each in Duval, Citrus, Lake, Osceola, Miami-Dade, Seminole, and Lee Counties; and two additional judgeships each in Hillsborough and Palm Beach Counties.

In total, the bill establishes 21 new judgeships.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 35.06, F.S., relating to the organization of the district courts of appeal.

Section 2. Amends 26.031, F.S., relating to the number of circuit judges in each judicial circuit.

Section 3. Amends 34.022, F.S., relating to the number of county judges in each county.

Section 4. Provides and effective date of July 1, 2014

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

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

##### 2. Expenditures:

The House of Representatives proposed FY 2014-15 GAA appropriates \$5 million in recurring general revenue and 50 FTE with associated salary rate for the addition of 21 new judgeships. Each year, the GAA sets the salaries for judges. As of October 1, 2013 the judicial salaries are:

- District Courts of Appeal Judges - \$154,140
- Circuit Court Judges - \$146,080
- County Court Judges - \$138,020

Additional FTE and recurring general revenue are provided for support staff for each additional judge. One appellate judicial assistant and two appellate court law clerks are provided for each additional judge in the appellate court for a total of 12 FTE including the judges. One judicial assistant is provided for each additional judge in the trial courts for a total of 36 FTE including the judges. Also, 2 additional law clerks are provided for the circuit courts. The \$5 million is appropriated to the salaries and benefits, expenses, and HR services categories to each county, circuit, and appellate court receiving additional judgeships.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

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

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<sup>5</sup> Counties in the First Circuit: Escambia, Okaloosa, Santa Rosa, and Walton

<sup>6</sup> Counties in the Fifth Circuit: Citrus, Hernando, Lake, Marion, and Sumpter

<sup>7</sup> Counties in the Seventh Circuit: Flagler, Putnam, St. Johns, and Volusia

<sup>8</sup> Counties in the Ninth Circuit: Orange and Osceola

2. Expenditures:

The bill may create an increase in the workload of the clerk of the courts. In addition, additional trial court judges will require an increase in facilities, security and information technology to support new judges. Such costs for trial court judges are the responsibility of the counties.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in litigants' cases being resolved faster.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take 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:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create an additional need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES