

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1396

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Judiciary Committee; and Senators Steube and Brandes

SUBJECT: Judicial Branch

DATE: March 6, 2018

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cibula</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2. <u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Recommend: Fav/CS</u>
3. <u>Harkness</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1396 revises a number of statutes affecting the judicial branch. The primary changes in the bill:

- Raise the county court's jurisdictional amount for civil cases demanding money from \$15,000 to \$50,000, effective January 1, 2020. The ceiling on the county court's jurisdiction is also the floor of the circuit court's monetary jurisdiction.
- Add two circuit judges to the ninth circuit, add two county court judges in Hillsborough County, and add one county court judge in each of the following counties: Citrus, Columbia, and Flagler Counties. The cost to fund these seven judgeships and support staff is \$2.37 million in recurring general revenue funds.
- Authorize a supreme court justice who resides outside of Tallahassee to maintain his or her headquarters in a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice's district and be reimbursed for travel and subsistence while in Tallahassee.
- Clarify that sheriffs when providing security in court facilities remain in operational control over the manner in which security is provided.

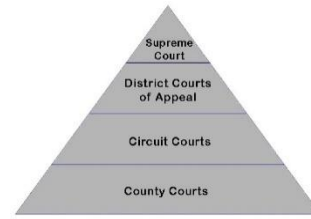
The first three main components of the bill which are described above will increase state government expenditures and reduce state trust fund revenues. *See Section V. Fiscal Impact Statement.*

II. Present Situation:

Florida’s Court System

The Florida Constitution vests all judicial power in:

- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.¹



The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”² Additionally, the Constitution vests the Florida Supreme Court with broad authority to administer the State court system and establish court rules of procedure.³

Legislative Powers Concerning Court Jurisdiction

The constitution confers some authority over the jurisdiction of the courts to the Legislature. Although the territorial and subject matter jurisdiction of the Florida Supreme Court is primarily defined by the Constitution, the Legislature has constitutional authority to provide for the territorial jurisdiction and the subject matter jurisdiction of the courts.⁴

Territorial Jurisdiction

The Legislature is constitutionally required to establish the territorial or geographic jurisdiction of the appellate court districts and the judicial circuits “following county lines.”⁵ Currently, there are five district courts of appeal,⁶ 20 judicial circuits, and 67 county courts, one in each of Florida’s 67 counties⁷ as constitutionally required.⁸

The following maps illustrate the territorial jurisdictions of these courts:⁹

¹ Art. V, s. 1, FLA. CONST.

² *Id.* (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).

³ FLA. CONST. art. V, s. 2.

⁴ “Jurisdiction” is defined as “[a] government’s general power to exercise authority over all persons and things within its territory; esp., a state’s power to create interests that will be recognized under common-law principles as valid in other states <New Jersey’s jurisdiction>.” BLACK’S LAW DICTIONARY (10th ed. 2014). For courts, jurisdiction is defined as “[a] court’s power to decide a case or issue a decree <the constitutional grant of federal-question jurisdiction>.” *Id.* Additionally, jurisdiction is defined geographically: “A geographic area within which political or judicial authority may be exercised <the accused fled to another jurisdiction>.” *Id.*

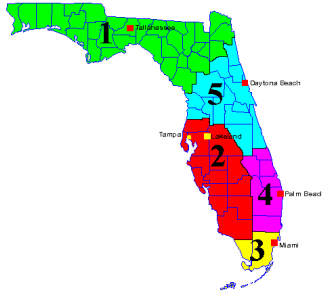
⁵ FLA. CONST. art. V, s. 1.

⁶ Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Feb. 7, 2018). The First District sits in Tallahassee; the Second District sits in Lakeland; the Third District sits in Miami; the Fourth District sits in West Palm Beach; and the Fifth District sits in Dayton Beach. *Id.*

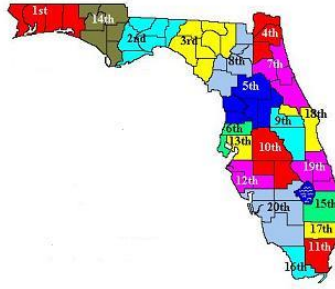
⁷ Florida Courts, *Court System Organization & Structure*, <http://www.flcourts.org/florida-courts/> (last visited Feb. 7, 2018).

⁸ FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).

⁹ Rick Scott, 45th Governor of Florida, Judicial and Judicial Nominating Commission Information, *The Florida Court System*, <https://www.flgov.com/judicial-and-judicial-nominating-commission-information/> (last visited Feb. 7, 2018).



Five District Courts of Appeal



Twenty Judicial Circuits



Sixty-Seven Counties

Subject Matter Jurisdiction

The Legislature’s authority over the subject matter jurisdiction of the Florida Supreme Court and district courts of appeal is fairly limited. With a few exceptions,¹⁰ the Constitution sets out the subject matter jurisdiction of the Supreme Court and the appellate courts.

On the other hand, under the Constitution, the Legislature is granted broad authority to define the jurisdiction¹¹ of the county courts: “The county courts shall exercise the jurisdiction *prescribed by general law*. Such jurisdiction shall be uniform throughout the state.”¹²

Because the jurisdiction of the circuit court is limited by the jurisdiction of the county courts under the Constitution, the Legislature’s authority to define the jurisdiction of the circuit courts is also fairly broad:

The circuit courts shall have original jurisdiction not vested in the county courts, and jurisdiction of appeals *when provided by general law*. They shall have the power to issue writs of mandamus, quo warranto, certiorari, prohibition and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction. Jurisdiction of the circuit court shall be uniform throughout the state. They shall have the power of direct review of administrative action *prescribed by general law*.¹³

¹⁰ See Art. V, s. 3(b)(2), FLA. CONST. (“When provided by *general law*, [the supreme court] shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.”) (emphasis added); FLA. CONST. art. V, s. 4(b)(2) (“District courts of appeal shall have the power of direct review of administrative action, *as prescribed by general law*.”) (emphasis added).

¹¹ See *Alexdex Corp. v. Nachon Enterprises, Inc.*, 641 So. 2d 858, 861 (Fla. 1994) (“The jurisdiction of the courts of the state is broadly defined by our State Constitution; however, the legislature may further define a court’s jurisdiction so long as the jurisdiction, as redefined, is not in conflict with the Constitution. . . . Absent a constitutional prohibition or restriction, the legislature is free to vest courts with exclusive, concurrent, original, appellate, or final jurisdiction.”) (citing *State v. Sullivan*, 95 Fla. 191, 116 So. 255 (1928)).

¹² FLA. CONST. art. V, s. 6(b) (emphasis added). Additionally, the Legislature establishes the number of judges to serve in each county. *Id.* at s. 6(a).

¹³ FLA. CONST. art. V, s. 5(b) (emphasis added).

County Court Jurisdiction

As provided by the Legislature in s. 34.01, F.S., the county court is a trial court that has jurisdiction over the following subject matters within its jurisdictional (monetary) amount of \$15,000:

- All criminal misdemeanor cases not cognizable by the circuit courts;
- All violations of municipal and county ordinances;
- All actions at law involving damages up to \$15,000, not including interest, costs, and attorney's fees, unless the cause of action is within the exclusive jurisdiction of the circuit courts;
- Concurrent jurisdiction with the circuit courts over disputes between homeowners' associations and parcel owners;
- Concurrent jurisdiction with circuit courts to hear uncontested dissolution of marriage petitions under the simplified dissolution procedures;
- Any subject matter jurisdiction previously exercised by the county courts prior to the adoption of the 1968 Constitution, including that of the small claims courts; and
- Any matter in equity (such as an eviction)¹⁴ that is within the jurisdictional amount of the county court, \$15,000.

The effective date of the last increase to the monetary limit on the jurisdiction of the county courts was July 1, 1992.¹⁵ If adjusted for inflation to December 2017, the \$15,000 jurisdictional limit would be \$26,319.29 as of December 2017.¹⁶

The county court is also the small claims court. Small claims courts are not separate, constitutionally recognized courts;¹⁷ rather, they are the county courts functioning under the Florida Small Claims Rules of procedure adopted by Supreme Court.¹⁸ The goal of the Small Claims Rules is to “reach a ‘simple, speedy, and inexpensive’ resolution of [small claims] cases” in which the parties often represent themselves.¹⁹ The court rules apply to civil actions in county courts where money is demanded,²⁰ and set the jurisdictional limit of small claims demands at

¹⁴ Section 34.011, F.S. (providing that county and circuit courts generally have concurrent jurisdiction over landlord tenant cases, although county court will have exclusive jurisdiction over proceedings relating to the right of possession so long as matter is under \$15,000.).

¹⁵ Chapter 90-269, Laws of Fla.

¹⁶ The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at https://www.bls.gov/data/inflation_calculator.htm.

¹⁷ *LaSalla v. Pools by George of Pinellas County, Inc.*, 125 So. 3d 1016, 1016 (Fla. 2d DCA 2013) (“[F]or purposes of the concept of subject matter jurisdiction, a county court that applies the Florida Small Claims Rules in a particular proceeding is not a separate court from a county court that applies the Florida Rules of Civil Procedure. This is true even if a county court has elected to create a ‘small claims division’ to handle cases under the Florida Small Claims Rules. To the extent that *Tax Certificate Redemption’s, Inc. v. Meitz*, 705 So. 2d 64 (Fla. 4th DCA 1997), discusses the ‘jurisdiction’ of a small claims court as distinct from the jurisdiction of county court, we believe that discussion is incorrect.”).

¹⁸ *Id.* at 1017 (The Small Claims Rules “do not create a ‘small claims court.’ They simply create rules of procedure for use in county court when the amount in controversy is small.”). When the amount in controversy exceeds the jurisdictional limits of the Small Claims Rules, the more complex requirements of the Rules of Civil Procedure apply. *See Hilton v. Florio*, 317 So. 2d 83 (Fla. 3d DCA 1975).

¹⁹ *In re Amendments to Florida Small Claims Rule 7.090*, 64 So. 3d 1196 (Fla. 2011); Fla. Sm. Cl. R. 7.010(a).

²⁰ *In re Amendments to Florida Small Claims Rules*, 123 So. 3d 41, 43 (Fla. 2013) (amending Fla. Sm. Cl. R. 7.010).

\$5,000²¹ where it has remained since January 1, 1997.²² If adjusted for inflation to December 2017, the jurisdictional limit of the Small Claims Rules would be \$7,747.15.²³

Circuit Court Jurisdiction

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the circuit court’s current jurisdictional amount is \$15,000 or above for cases demanding money judgments.²⁴

Additionally, with two exceptions, the circuit court has appellate jurisdiction over county court cases. Under the two exceptions, the district court of appeal has appellate jurisdiction over a county court case when a county court either declares a statute or constitutional provision invalid or certifies a question of great public importance.²⁵ Additionally, if the law applied by the circuit court sitting in its appellate capacity is in question, a party may seek review by the appropriate district court of appeal by filing a petition for writ of certiorari.²⁶

Notably, foreclosure cases, which are cases in equity, are not one of the subject areas statutorily defined as being within the exclusive jurisdiction of the circuit court.²⁷ Rather, the Florida Supreme court in *Alexdex Corp. v. Nachon Enterprises, Inc.*, concluded in resolving a conflict between the statutes setting forth the county court’s and the circuit court’s equity jurisdiction in foreclosure cases, “the legislature intended to provide concurrent equity jurisdiction in circuit and county courts, except that equity cases filed in county courts must fall within the county court’s monetary jurisdiction, as set by statute.”²⁸

Filing Fees

Filing fees are constitutionally required to fund the clerks of the circuit and county courts,²⁹ and vary depending on the court. In **county court**, the filing fee for civil actions at law demanding money judgments vary based on the amount:

- For all claims less than \$100..... \$50.
- For all claims of \$100 or more but not more than \$500..... \$75.
- For all claims of more than \$500 but not more than \$2,500..... \$170.
- For all claims of more than \$2,500..... \$295.³⁰

²¹ Fla. Sm. Cl. R. 7.010(b).

²² *In re Amendments to the Florida Small Claims Rules*, 682 So. 2d 1075, 1076 (Fla. 1996) (raising amount from \$2,500 to \$5,000).

²³ The inflation adjusted figure was determined by the Bureau of Labor Statistics, United States Department of Labor, CPI Inflation Calculator, which is available at https://www.bls.gov/data/inflation_calculator.htm.

²⁴ Section 26.012(2)(a), F.S.

²⁵ Section 26.012(1), F.S.

²⁶ FLA. CONST. art. V, s. 4(b)(3) (authorizing district courts of appeal to issue writs of certiorari among others). Philip J. Padovano, *Appellate Practice*, 2 Fla. Prac., § 30:5 (2017 ed.) (“A party may file a petition for writ of certiorari to review . . . an appellate decision of a lower court[.]”). On petition for writ of certiorari, the district court reviews for whether the circuit court departed from the essential requirements of the law; or, put another way, whether the circuit court “(1) afforded the parties due process of law[,] and (2) applied the correct law.” *Id.*

²⁷ Section 26.012(2), F.S.

²⁸ 641 So. 2d 858, 862 (Fla. 1994).

²⁹ FLA. CONST. art. V, s. 14(b) (requiring that all funding for clerks of circuit and county courts come from adequate filing fees).

³⁰ Section 34.041(1)(a), F.S.

The clerk of court also collects an additional \$4 filing fee.³¹

When the clerk of court collects the \$295 filing fee, the fee is allocated as follows:

- The first \$15 of the filing fee is deposited in the State Courts Revenue Trust Fund.
- \$3.50 is transferred to the Department of Revenue (DOR) for deposit in the Court Education Trust Fund.
- Another \$0.50 is transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.³²

Additionally, any portion of fees for court functions collected in excess of one-twelfth of the clerk's total budget from the prior month is transferred to the DOR for deposit into the Clerks of the Court Trust Fund.³³

In **circuit court**, the filing fee for civil actions at law demanding money judgments vary based on the type of action filed³⁴ and the number of defendants, but is generally \$395 for the first five defendants.³⁵ Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher.³⁶ The filing fee collected by the clerk of court is allocated as follows:

- Of the first \$200 in filing fees, \$195 must be remitted to the DOR for deposit into the State Courts Revenue Trust Fund.
- \$4 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services and used to fund the contract with the Florida Clerks of Court Operations Corporation.
- \$1 must be remitted to the DOR for deposit into the Administrative Trust Fund within the Department of Financial Services to fund audits of individual clerks' court-related expenditures conducted by the Department of Financial Services.³⁷

Additionally, like the county court, the circuit court must transfer any portion of fees for court functions collected in excess of one-twelfth of the clerk's total budget from the prior month to the DOR for deposit into the Clerks of the Court Trust Fund.³⁸

The clerk of court also collects an additional \$4 fee. Of that \$4 fee, \$3.50 is transferred to the DOR for deposit into the Court Education Trust Fund, and the other \$0.50 is also transferred to the DOR for deposit into the Administrative Trust Fund within the Department of Financial

³¹ Section 34.041(1)(b), F.S.

³² *Id.*

³³ *Id.*

³⁴ Section 28.421(a)1.a., F.S. The filing fee is only \$295 for civil suits filed under chapters 39 (dependency), 61 (family law), 741 (domestic violence), 742 (determination of parentage), 747 (conservatorship), 752 (grandparental visitation rights), or 753 (supervised visitation). Section 28.421(a)1.b., F.S. Additionally, there are graduated filing fees for real property and mortgage foreclosure cases which can reach as high as \$1,900 for claims valued at \$250,000 and higher. Section 28.421(a)2, F.S..

³⁵ *Id.* It is \$2.50 per defendant in excess of five. *Id.*

³⁶ Section 28.421(a)2., F.S.

³⁷ *Id.*

³⁸ *Id.*

Services to fund clerk education provided by the Florida Clerks of Court Operations Corporation.³⁹

For **appeals** from the **county to the circuit court**, the clerk of the circuit court may collect up to \$280.⁴⁰

For appeals to the **district court of appeal**, the circuit court charges a \$100 fee for filing a notice of appeal,⁴¹ and the clerk of the district court of appeal collects a filing fee of \$300 for civil cases.⁴² Of the district court filing fee, \$50 is deposited into the State Courts Revenue Trust Fund and the remainder is deposited into the State Treasury to be credited to the General Revenue Fund.⁴³

Legislative Powers Concerning Certification of Need for Additional Judges

Article V, s. 9 of the Florida Constitution requires the Florida Supreme Court to submit recommendations to the Legislature when there is a need to increase or decrease the number of judges.⁴⁴ The constitutional provision further directs the Court to base its recommendations on uniform criteria adopted by court rule.⁴⁵

The Legislature may, after considering the Court's recommendations and findings, either implement or reject those findings. If the Legislature rejects the Court's findings and

³⁹ Section 28.421(a)1.c., F.S.

⁴⁰ Section 28.421(2), F.S.

⁴¹ *Id.*

⁴² Section 35.22(2)(a), F.S.

⁴³ Section 35.22(5), F.S. The clerk of the district court of appeal also collects \$295 for cross-appeals or additional parties, and this fee is remitted entirely to the DOR for deposit into the General Revenue fund. Section 35.255(2)(b), F.S.

⁴⁴ FLA. CONST. art. V, s. 9.

⁴⁵ *Id.* The Court's rule setting forth criteria for assessing judicial need at the trial court level is based primarily upon the application of case weights to circuit and county court caseload statistics. *See* Fla. R. Jud. Adm. 2.240(b)(1)(A). These weights are a quantified measure of judicial time spent on case-related activity. The judicial workload is then based on judicial caseloads adjusted in the relative complexity of various case types. In addition to the statistical information, the Court, in weighing the need for trial court judges, will also consider the factors below which primarily relate to the resources available to a judicial circuit:

- (i) The availability and use of county court judges in circuit court.
- (ii) The availability and use of senior judges to serve on a particular court.
- (iii) The availability and use of magistrates and hearing officers.
- (iv) The extent of use of alternative dispute resolution.
- (v) The number of jury trials.
- (vi) Foreign language interpretations.
- (vii) The geographic size of a circuit, including travel times between courthouses in a particular jurisdiction.
- (viii) Law enforcement activities in the court's jurisdiction, including any substantial commitment of additional resources for state attorneys, public defenders, and local law enforcement.
- (ix) The availability and use of case-related support staff and case management policies and practices.
- (x) Caseload trends.

See Fla. R. Jud. Admin. 2.240(b)(1)(B). In addition to the weighted caseload statistics, the Court will also consider the time to perform other judicial activities, such as reviewing appellate decisions, reviewing petitions and motions for post-conviction relief, hearing and disposing motions, and participating in meetings with those involved in the justice system. *See* Fla. R. Jud. Admin. 2.240(c). Finally, the Court will consider any request for an increase or decrease in the number of judges that the chief judge of the circuit "feels are required." *See* Fla. R. Jud. Admin. 2.240(d).

recommendations by legislation creating additional judgeships in jurisdictions not requested by the Court, the legislation must be approved by two-thirds of the membership of both houses.⁴⁶

Certification of Need for Additional Judges for FY 2018-2019

Following its criteria for determining the need for judges, the Florida Supreme Court recently issued an order certifying the need for additional judges for the 2018-2019 fiscal year.⁴⁷ In the order, the Court requested two additional judgeships for the Ninth Judicial Circuit, which encompasses Orange and Osceola Counties, and two additional county court judgeships in Hillsborough County.⁴⁸

The Court also *decertified* the need for 13 county court judgeships as follows: one from Escambia County, two from Pasco County, one from Putnam County, one from Alachua County, one from Polk County, one from Monroe County, three from Brevard County, one from Charlotte County, and one from Collier County.⁴⁹

Supreme Court Headquarters

Article II, s. 2 of the Florida Constitution designates Tallahassee as the seat of state government “where the *offices* of the governor, lieutenant governor, cabinet members and *the supreme court shall be maintained* and the sessions of the legislature shall be held[.]”⁵⁰ Article V, s. 3 of the Florida Constitution provides that the Supreme Court will consist of seven justices, and that each of the five appellate districts “shall have at least one justice elected or appointed from the district at the time of the original appointment or election.” The chambers of all seven justices are on the fourth floor of the Florida Supreme Court building,⁵¹ and all official Supreme Court business is conducted in Tallahassee.⁵²

⁴⁶ *In re Advisory Opinion to the Governor Request of June 29, 1979*, 374 So. 2d 959 (Fla. 1979); Article V, s. 9 of the Florida Constitution provides in pertinent part:

Determination of number of judges.— . . . 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.

⁴⁷ *In Re: Certification of Need for Additional Judges*, 2017 WL 5623576 (Fla. 2017).

⁴⁸ *Id.* at *3.

⁴⁹ *Id.* at *4.

⁵⁰ FLA. CONST. art. II, s. 2 (emphasis added).

⁵¹ Florida Supreme Court, Manual of Internal Operating Procedures, *Section 1. Court Structure*, p. 1 (Rev. Sept. 21, 2016), http://www.floridasupremecourt.org/pub_info/documents/IOPs.pdf (last visited Feb. 14, 2018).

⁵² “[T]he Florida Supreme Court, comprised of its Justices, has only one “office” — the Supreme Court Building, located in the Northern District.” *Castro v. Labarga*, 16-22297-CIV, 2016 WL 6565946, at *5 (S.D. Fla. Nov. 3, 2016) (citing FLA. CONST. art. II, s. 2). “In my view, the mere fact that a Florida Supreme Court justice may periodically travel outside of the Northern District of Florida to attend bar functions or educational seminars and obtains travel reimbursements does not translate the trip into an ‘official duty’ trip sufficient to generate venue in the other districts.” *Id.* “If the Florida Supreme

Headquarters for Purposes of Travel Reimbursement

Section 112.061, F.S., concerns the reimbursement of travel expenses to public employees and officers. To that end, s. 112.061(4), F.S. provides that while “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” there are some exceptions:

- (a) The official headquarters of a person located in the field shall be the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area as may be designated by the agency head provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the person.
- (b) When any state employee is stationed in any city or town for a period of over 30 continuous workdays, such city or town shall be deemed to be the employee’s official headquarters, and he or she shall not be allowed per diem or subsistence, as provided in this section, after the said period of 30 continuous workdays has elapsed, unless this period of time is extended by the express approval of the agency head or his or her designee.
- (c) A traveler may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but any time lost from regular duties shall be taken as annual leave and authorized in the usual manner. The traveler shall not be reimbursed for travel expenses in excess of the established rate for per diem allowable had he or she remained at his or her assigned post. However, when a traveler has been temporarily assigned away from his or her official headquarters for an approved period extending beyond 30 days, he or she shall be entitled to reimbursement for travel expenses at the established rate of one round trip for each 30-day period actually taken to his or her home in addition to pay and allowances otherwise provided.⁵³

Additionally, s. 112.061(1)(b)1., F.S., provides that

To preserve the standardization established by this law . . . The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.

Court maintained major offices, courtrooms or staff in other districts, then the result about venue and venue discovery might be different. But those significant facts, which Castro relies on when citing other cases, are absent here.” *Id.* (holding the proper venue of a disgruntled bar candidate suing the Florida Supreme Court is the northern district of Florida). *See also Uberoi v. Labarga*, 8:16-CV-1821-T-33JSS, 2016 WL 5914922, at *2 (M.D. Fla. Oct. 11, 2016) (transferring another disgruntled bar candidate’s case to the Northern District based a motion to dismiss filed by Justice Labarga noting that official acts by the Florida Supreme Court concerning the candidate’s admission to the bar are done in Tallahassee; citing FLA. CONST. art. II, s. 2, noting that Tallahassee “is where the offices of the Florida Supreme Court shall be maintained.”).

⁵³ Section 112.061(4)(a)-(c), F.S.

Section 112.061, F.S. applies to the court system. In particular, a district court of appeal—the headquarters of which is defined by the Legislature, not the Constitution⁵⁴—is authorized by the current version of s. 35.05(2), F.S. to “designate other locations within its district as branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees pursuant to s. 112.061.”⁵⁵ However, a prior version of s. 35.05, F.S. contained no such authorization and designated one city as the headquarters for each district court of appeal.⁵⁶

On the other hand, prior versions of s. 112.061(4), in particular the 1973 version, is substantially similar if not identical to the current version of the statute.⁵⁷ The reason this matters is that the 1973 version of s. 112.061(4) was interpreted by the Attorney General’s office to mean that a district court of appeal judge could *not* designate the city of his or her residence as his or her official headquarters for purposes of travel expenses.⁵⁸ As explained by the AG opinion:

Section 112.061, F.S., has been uniformly interpreted by this office as authorizing reimbursement for travel expense only from the official headquarters of the public officer or employee; and, as defined in subsection 112.061(4), the official headquarters “of an officer or employee assigned to an office shall be the city or town in which the office is located” (The provisions of paragraphs (4)(a), (b), and (c), relating to public officers or employees “located in the field” or “stationed” in another city or town, are not applicable here for obvious reasons.) The official headquarters of each district court of appeal is designated by statute, s. 35.05, F.S., and that is where the majority of the work of the court is performed.⁵⁹

Notably, the AG Opinion relied on the fact that s. 35.05, F.S., designated the official headquarters of each district court of appeal in specific cities. However, as already noted, s. 35.05, F.S., has since been amended and now permits a district court of appeal to “designate other locations within its district as branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees pursuant to s. 112.061.”⁶⁰

Currently, it appears that only the Second District Court of Appeal has designated a second branch office, in Tampa on the Stetson University campus.⁶¹ However, the Second District’s clerk’s office is at the official headquarters in Lakeland.⁶²

⁵⁴ Section 35.05(1), F.S. (designating the city in which the headquarters for each appellate district must be located).

⁵⁵ Section 35.05(2), F.S.

⁵⁶ See s. 35.05, F.S., <http://fall.law.fsu.edu/FIStatutes/docs/1973/1973TVC35.pdf> (last visited Feb. 15, 2018).

⁵⁷ See s. 112.061, F.S., <http://fall.law.fsu.edu/FIStatutes/docs/1973/1973TXC112.pdf> (last visited Feb. 15, 2018).

⁵⁸ Op. Att’y Gen. Fla. 74-132 (1974).

⁵⁹ *Id.*

⁶⁰ Section 35.05(2), F.S.

⁶¹ Florida Second District Court of Appeal, <http://www.2dca.org/Directions/tampa.shtml> (last visited Feb. 15, 2018).

⁶² *Id.*

As of 2015, justices of the Florida Supreme Court and the judges for the district courts of appeal residing outside the city where their respective courts are headquartered were not receiving travel and subsistence reimbursement.⁶³

Qualifying for Judicial Elections; Fees

A person seeking to become a candidate for a judicial office must qualify with the Division of Elections of the Department of State between noon of the 120th day and noon of the 116th day before the primary election.⁶⁴ To qualify as a candidate, the person must file the required paperwork⁶⁵ and submit a check for the qualifying fee. This fee consists of a filing fee in the amount of 3 percent of the annual salary for the office sought and an election assessment in the amount of 1 percent of the annual salary for the office sought. The qualifying fees are deposited into the Elections Commission Trust Fund which are used by the Florida Elections Commission to investigate violations of the Election Code and campaign financing laws.⁶⁶

County Responsibilities for Funding Court-Related Functions

Under Article V, s. 14 of the Florida Constitution, the state is responsible for most of the costs of the state courts system. However, the Constitution requires counties to:

...fund the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions.⁶⁷

The constitutional responsibility for counties to fund court-related functions is implemented in s. 29.008, F.S., which also defines many of the key terms from the constitutional provision above.

A recent appellate court opinion relied on the definitions of "facility" and "security" in s. 29.008, F.S., as the basis for allowing the chief judge of a circuit court to order the sheriff to secure a building used by the court.⁶⁸ This building did not include courtrooms. The Sheriff objected to the amount of control that the chief judge exerted over the Sheriff and potential funding issues caused by the security requirements in the judge's order.

⁶³ SB 2506 (2015 Reg. Session) (proposing creation of s. 25.025, F.S.; died on calendar).

⁶⁴ Section 105.031, F.S.

⁶⁵ The required paperwork includes: the candidate's oath, which states that the candidate meets the constitutional and statutory requirements for the judicial office and that he or she will support the Constitution of the United States and the Constitution of the State of Florida; a loyalty oath; forms related to the appointment of a campaign treasurer and the designation of a campaign depository, including a statement that the candidate has read and understands the Florida Code of Judicial Conduct; and a full and public disclosure of financial interests.

⁶⁶ Sections 106.24(6) and 106.25(1), F.S.

⁶⁷ FLA. CONST. art. V, s. 14(c).

⁶⁸ *Knight v. Chief Judge of Florida's Twelfth Judicial Circuit*, 2017 WL 6598638 (Fla. 2d DCA 2017).

III. Effect of Proposed Changes:

Jurisdictional Amount of the County Courts: Section 5 of the bill raises the jurisdictional amount of the county court from \$15,000 to \$50,000. The bill also requires that the jurisdictional amount be adjusted for inflation or deflation every 5 years after January 1, 2020, rounded to the nearest \$5,000, using the reports and data provided by the United States Department of Labor, Bureau of Labor Statistics or its predecessor.

Because the circuit courts have exclusive jurisdiction over “all actions at law not cognizable by the county courts,” the bill also effectively raises the jurisdictional amount of the circuit courts to cases demanding money judgments over \$50,000. However, the bill provides that the filing fees for civil lawsuits demanding more than \$15,000 will not change even though suit is filed in the county court. Rather, filing fee amounts and allocation for suits demanding \$15,000 or more will continue to be governed by ss. 28.241 and 35.22, F.S.

Additional Judges: Section 6 of the bill provides for additional judges. Section 2 of the bill also adds two judges to the ninth circuit, as certified and requested by the Florida Supreme Court.

Section 6 of the bill adds two county judges to Hillsborough County, as certified and requested by the Florida Supreme Court. However, in light of the increase in the jurisdictional amount of the county courts, the bill rejects the Florida Supreme Court’s decertification of 13 county court judges and adds three more county court judges: one in Citrus, Columbia, and Flagler counties. The addition of the three county court judges not requested by the Court requires approval by a two-thirds vote of the membership of each house.

Headquarters of Supreme Court Justices: Section 1 of the bill creates s. 25.025, F.S., providing that a Supreme Court justice who permanently resides outside of Tallahassee may:

- Request that a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice’s district be designated as his or her official headquarters and serve as the justice’s private chambers; and
- Be reimbursed for travel and subsistence while in Tallahassee to the extent funding is available, as determined by the Chief Justice.

The bill also provides that the Chief Justice is required to coordinate with the justice seeking a private chamber in his or her district and any state and local officials as necessary. The Supreme Court and a county courthouse may enter into an agreement to establish private chambers at the county courthouse for a justice, but the courthouse is under no obligation to provide space for the justice. Additionally, the Supreme Court may *not* use state funds to lease space in a county courthouse for use as a private chamber.

Funding of Court-Related Functions by Counties: Section 3 of the bill provides that the definitions of the terms used in s. 29.008, F.S., which are used to implement and define county responsibilities for funding court-related functions do not apply in other contexts. The definitions “may not be construed to enhance, limit, or define the authority of any court.”

Counties under the Florida Constitution are required to fund the costs of security for courts. Section 4 of the bill provides that sheriffs are responsible for providing security for trial court

facilities, but the sheriff remains in operational control over the manner in which security is provided.

Refunds of Qualifying Fees of Unopposed Judicial Candidates: Section 7 of the bill provides that the qualifying fees of unopposed candidates for judicial office must be refunded to them within 20 days after the close of the qualifying period for the election. This section takes effect upon becoming a law.

Effective Date: Section 8 provides that except for section 7, the bill takes effect on July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Addition of Judges Not Certified by the Florida Supreme Court- In order to create the three additional county court judgeships in Citrus, Columbia, and Flagler Counties, Art. V, s. 9 of the Florida Constitution requires that these additions be approved by a two-thirds vote of each house.

Headquarters of the Florida Supreme Court Justices- It is unclear whether the Legislature has the authority to authorize the Chief Justice of the Florida Supreme Court to establish “headquarters” under s. 112.061, F.S., for any justice outside of Tallahassee, even if it is within the justice’s district.

Article II, s. 2 of the Florida Constitution designates Tallahassee as the seat of state government “where the *offices* of the governor, lieutenant governor, cabinet members and *the supreme court shall be maintained* and the sessions of the legislature shall be held[.]”⁶⁹ Under the rule of construction, “*expressio unius est exclusio alterius*” (the expression of one thing is the exclusion of the other), it appears by excluding the word “offices” for the legislature and only requiring that session be held in Tallahassee, the drafters of Art. II, s. 2 understood that legislators must have offices within their districts around the state. However, the word “offices” is specifically used in reference to the governor, lieutenant governor, cabinet members, and the Florida Supreme Court in Article II, s. 2, and specifically requires that those offices be located at the seat of government in Tallahassee.

⁶⁹ FLA. CONST. art. II, s. 2 (emphasis added).

While permitting a justice to work remotely or establish a private chamber in another courthouse in the state does not appear to be problematic, it appears that another “headquarters” outside of Tallahassee may not be constitutionally permissible.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the bill results in an increase in the jurisdictional limit of the Small Claims Rules, more cases will be expeditiously resolved in the county courts under the expedited procedures of those rules.

C. Government Sector Impact:

State Government

New Circuit Court Judgeships

When circuit court judgeships are created, other costs must be incurred in addition to the salary and benefits for each new judge. The largest of these costs are for the salary and benefits of a judicial assistant and a law clerk for each judge. According to the Office of the State Courts Administrator, the total costs to fund the addition of the two circuit court judgeships created by the bill are \$815,862 from the General Revenue Fund, of which \$14,394 are non-recurring costs.⁷⁰

New County Court Judgeships

When county court judgeships are created, the state must incur other costs in addition to the salary and benefits of each new judge. The largest of these costs are for the salary and benefits for a judicial assistant for each judge. Based on figures from the Office of the State Courts Administrator, the total costs to fund the addition of the five county court judgeships created by the bill are \$1,556,890 from the General Revenue Fund, of which \$23,990 are non-recurring costs.

County Court Jurisdiction

Raising the jurisdictional amount of the county courts is expected to have a positive fiscal impact.⁷¹ However, by increasing the workload of county courts, there will likely be a reduction in some of the costs to operate the judicial system in the future. County courts operate with judges who have lower salaries than circuit courts and with fewer staff than

⁷⁰ Office of the State Courts Administrator, *Judicial Impact Statement* (Nov. 22, 2017) (on file with the Senate Committee on Judiciary).

⁷¹ See the companion bill analysis, HB 7061, which reports that raising the jurisdictional amount to \$50,000 without adjusting filing fees should result in an increase of \$2.3 million in revenue for FY 2018-2019.

the circuit courts. Additionally, by shifting workloads to the county courts, there may be less need to create circuit court judgeships in the future.

Travel and Subsistence Costs

According to the Office of the State Court Administrator, the travel and subsistence provisions have an annual fiscal impact of \$209,930 in recurring general revenue funds. Supreme Court travel costs are based on official state mileage, assuming 40 round trips yearly per justice between Tallahassee and the DCA headquarters in the justice's home appellate district. Subsistence costs assume 77 meeting days at \$131 per day and 80 travel days at \$98.25 per day, or \$17,947 per justice.⁷²

Local Government

Under article V section 14(c) 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 will incur an indeterminate amount of costs associated with providing those services to the new judges and judicial staff. The clerks of the court will also be required to provide additional services to the new judges. However, counties having fewer county court judges as a result of the bill may have a reduction in costs.

Elections Commission Trust Fund

The operations of the Florida Elections Commission are funded by the Elections Commission Trust Fund, which is funded by qualifying fees (see sections 99.092, 99.093, and 105.031, F.S.) The commission's revenue streams mirror the election cycle; in off years, revenue is relatively low, but the overall trust fund balance is maintained by the increased revenue generated during election years. The agency is self-sustaining - the trust fund covers the commission's approximately \$1.5 million appropriation (15 FTEs) each fiscal year and the commission deposits fines into the General Revenue Fund.

According to the Florida Elections Commission, a majority of candidates for the office of circuit judge ran unopposed in 2016. If there are similar proportions of unopposed judicial elections in the future, the refunds of qualifying fees required by the bill will make the funds in the Elections Commission Trust Fund insufficient for the Elections Commission to conduct its work.⁷³

VI. Technical Deficiencies:

None.

⁷² Office of the State Court Administrator, *Supreme Court Headquarter Travel Analysis* (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

⁷³ Email from Amy McKeever Toman, JD, CPM, Executive Director, Florida Elections Commission on March 3, 2018.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.031, 29.008, 30.15, 34.01, 34.022, and 105.031.

The bill creates section 25.025, Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on March 2, 2018:

The committee substitute:

- Creates several additional county court judgeships and no longer reduces the number of county court judgeships in any county.
- Increases the county court's jurisdiction by increasing monetary threshold separating the jurisdiction of circuit and county courts to \$50,000.
- Requires refunds of qualifying fees to candidates for circuit or county court judge who are unopposed.
- Clarify the responsibility for defining and supervising security at court facilities and funding the resulting costs.

CS by Judiciary on January 25, 2018:

The committee substitute no longer includes a provision that would have reduced the number of county court judges in Monroe County.

B. Amendments:

None.