

STORAGE NAME: HB 1753

DATE: April 14, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CIVIL JUSTICE AND CLAIMS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1753

RELATING TO: Judicial Certification

SPONSOR(S): Committee on Civil Justice and Claims and Rep. Warner

STATUTE(S) AFFECTED: s. 26.031, F.S. and s. 34.022, F.S.

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON CIVIL JUSTICE AND CLAIMS YEAS 9 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 1753 incorporates the Florida Supreme Court's certification and request for 10 new judgeships. Seven of these judgeships are for the circuit courts, three are for county courts. Under this proposal, the second, fourth, seventh, ninth and seventeenth circuits each would receive one judge and one judicial assistant, should the Legislature enact PCB 1. The fifth circuit will receive two judges and two judicial assistants. The judiciary requests one judge and judicial assistant for Broward, Dade and Orange counties.

These new positions will cost approximately \$1,600,000 General Revenue for partial year funding. Anticipated 1998-99 full-year funding is \$1,900,000 General Revenue. These amounts do not include judicial costs borne by the counties.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The Florida Constitution grants the Florida Supreme Court responsibility for certifying to the Legislature the need for additional appellate, circuit and county judges. (FLA. CONST. art. V, s. 9). Upon certification, the Legislature, at the next regular session, must consider the Supreme Court's findings and recommendations. The Legislature may pass an amended certification by a 2/3 vote of both the House and Senate.

Presently, there are 61 District Court of Appeals judges, 448 circuit judges and 258 county judges. Yearly, each court forwards its upcoming fiscal year needs to the Supreme Court. There were 26 requests for new judgeships of which 10 were certified to the Legislature: seven circuit judges, three county judges and zero appellate judges. The second, fourth, seventh, ninth and seventeenth circuits each will receive one judge and one judicial assistant, should the Legislature enact HB 1753. The fifth circuit will receive two judges and two judicial assistants. Broward, Dade and Orange counties each have requested the need for one judge. One judicial assistant will be assigned to each county judge.

Judgeships consist of a judge, a judicial assistant and associated costs such as library materials, expenses, and operating capital outlay. Legislative precedent regarding support staff, provides one judicial assistant per judge.

The Florida Rules of Judicial Administration s. 2.035 (b) (1) and (2) provide the criteria used to determine certification needs. The Supreme Court has determined that caseload statistics and caseload trends are the most reliable and accurate measures of judicial workload. However, the court also considers other factors when assessing need such as whether county judges are available to serve in circuit court; the use of alternative dispute resolution; the availability and use of support staff; the number of jury trials; the nature and complexity of cases; and the use of senior judges.

B. EFFECT OF PROPOSED CHANGES:

The enactment of HB 1753 would increase the number of circuit judges by seven and county judges by three. The Office of State Courts Administrators (OSCA) estimates a \$1.6 million impact to the General Revenue fund. This figure includes the cost of 10 judgeships plus three trial court law clerks.¹ It is common knowledge that any increase in the Judiciary directly increases county expenditures for judicial matters. Counties paid \$561,479,607 toward judicial expenses in FY 1994-95, approximately 55 percent of total

¹ In the past, trial court law clerks were not included with judgeships. The Legislature maintains complete discretion as to whether funding will be provided for any positions other than judges.

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judicial costs. These costs include personnel services, expenses and operating capital outlay.²

The following chart details estimated expenditures resulting from the passage of PCB I.

JUDICIAL CERTIFICATIONS FY 1997-98						
Costs per Judgeship						
	FTEs	Salaries & Benefits	25% Lapse	Expenses	OCO	Total
Circuit Courts						
Judge - 2nd	1.0	138,713	104,035	4,620	4,415	113,070
Judge - 4th	1.0	138,713	104,035	4,620	4,415	113,070
Judge - 5th	1.0	138,713	104,035	4,620	4,415	113,070
Judge - 5th	1.0	138,713	104,035	4,620	4,415	113,070
Judge - 7th	1.0	138,713	104,035	4,620	4,415	113,070
Judge - Th	1.0	138,713	104,035	4,620	4,415	113,070
Judge - 17th	1.0	138,713	104,035	4,620	4,415	113,070
Judicial Asst. - 2nd	1.0	33,303	24,977	4,620	4,415	34,012
Judicial Asst. - 4th	1.0	33,303	24,977	4,620	4,415	34,012
Judicial Asst. - 5th	1.0	33,303	24,977	4,620	4,415	34,012
Judicial Asst. - 5th	1.0	33,303	24,977	4,620	4,415	34,012
Judicial Asst. - 7th	1.0	33,303	24,977	4,620	4,415	34,012
Judicial Asst. - 9th	1.0	34,808	26,106	4,620	4,415	35,141
Judicial Asst. - 17th	1.0	38,568	28,925	4,620	4,415	37,960
Trial Law Clerk - 4th	1.0	49,110	36,832	4,421	3,165	44,418
Trial Law Clerk - 5th	1.0	49,110	36,832	4,421	3,165	44,418

² Information provided by the Florida Legislative Committee on intergovernmental Relations.

JUDICIAL CERTIFICATIONS FY 1997-98						
TOTAL	16	1,309,102	981,825	73,522	68,140	1,123,487
Library materials				15,500		15,500
Costs per Judgeship						
County	FTEs	Salaries & Benefits	25% Lapse	Expenses	OCO	Total
Broward	1.0	124,020	93,015	4,620	4,415	102,050
Dade	1.0	124,020	93,015	4,620	4,415	102050
Orange	1.0	124,020	93,015	4,620	4,415	102050
Judicial Asst.Broward	1.0	37,095	27,821	4,620	4,415	36856
Judicial Asst.Dade	1.0	37,095	27,821	4,620	4,415	36856
Judicial Asst. Orange	1.0	33,336	25,002	4,620	4,415	34037
Total	6	479,586	359,689	27,720	26,490	413,899
Total Certifications	22	1,788,688	1,341,514	116,742	94,630	1,552,886

Information provided by the Office of State Courts Administrators (OSCA).

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

NA.

(2) what is the cost of such responsibility at the new level/agency?

NA.

(3) how is the new agency accountable to the people governed?

NA.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

NA.

b. Does the bill require or authorize an increase in any fees?

NA.

c. Does the bill reduce total taxes, both rates and revenues?

NA.

d. Does the bill reduce total fees, both rates and revenues?

NA.

e. Does the bill authorize any fee or tax increase by any local government?

NA.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

NA.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

NA.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

NA.

(2) Who makes the decisions?

NA.

(3) Are private alternatives permitted?

NA.

(4) Are families required to participate in a program?

NA.

(5) Are families penalized for not participating in a program?

NA.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

NA.

(2) service providers?

NA.

(3) government employees/agencies?

NA.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. amends s. 26.031, F.S. (Supp. I, 1996), adding seven more circuit judgeships. The second, fourth, seventh, ninth, and seventeenth circuits will each receive one new judge; the fifth will receive two new judgeships.

Section 2. amends s. 34.022, F.S. (Supp. I, 1996), adding three more county judgeships. Broward, Dade and Orange counties each will receive one new judgeship.

Section 3. provides an October 1, 1997 effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Non-recurring effects total \$32,574 from the General Revenue fund. These costs include expenses such as office supplies, furniture under \$500, computer software and general office supplies. They also include the cost of library materials.

2. Recurring Effects:

The estimated annual cost for fully funding the certification request is \$1,900,000. This amount is supplied by the OSCA on behalf of the Judiciary's total certification needs.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Total estimated expenditures for FY 1997-98 are \$1,500,000 and \$1,900,000 for FY 1998-99.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the percentage of a state tax shared with counties or municipalities. Therefore, it would not contravene the requirements of Article VII, Section 18 of the state constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill would not reduce the percentage of state tax shared with counties or municipalities. Therefore, it would not contravene the requirements of Article VII, Section 18, of the state constitution.

V. COMMENTS:

Key Issues - This subsection uses a question format to stimulate debate about judicial certification.

1. Should the Legislature increase the number of judicial seats by 10?
2. What effect could this increase have on county governments?
3. Is there a more cost effective alternative to handle the increasing judicial caseload?
4. Should the Legislature include trial court law clerks in the definition of "judgeships" and provide funding for those positions?

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON CIVIL JUSTICE AND CLAIMS:

Prepared by:

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