

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 424
 SPONSOR: Judiciary Committee and Senator Jones
 SUBJECT: Retired Judges
 DATE: March 13, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Johnson	JU	Favorable/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill pertains to the assignment of retired justices or judges to temporary duty by the chief justice of the supreme court. The bill changes the definition of “retired judge” and “retired justice” for purposes of persons qualifying for temporary judicial duty. The bill provides that a retired judge or justice is someone who has served in a judicial office, who meets the supreme court’s criteria for approval to serve in temporary duty as a judge or justice, and who has limited their practice of law in accordance with the requirements of the supreme court for retired judges or justices.

This bill amends s. 25.073, Florida Statutes.

II. Present Situation:

The chief justice of the Supreme Court of Florida is authorized by section 2 of Article V of the Constitution of the State of Florida, to appoint retired judges to temporary duty in any court for which the judge is qualified.

The terms “retired justice” and “retired judge” are defined in s. 25.073, Florida Statutes, as any former justice or judge who is not practicing law and who in his or her last judicial office was not defeated in seeking reelection or who was not retained when seeking retention during a retention election.

The term “retired judge” is defined in Rule 2.030 (3)(B), Rules of Judicial Administration, as a judge who is not engaged in the practice of law and who has been a judicial officer of this state. The rule further requires that to be recalled, a retired judge must comply with all the requirements the supreme court deems necessary to the recall. In (3)(C), the rule states that a judge who is eligible to draw retirement but who entered the private practice of law may be eligible for recall

to judicial service upon cessation of the private practice of law and approval of the judge's application to the court. In information provided by the Office of the State Courts Administrator to judges who have applied for retirement, the judges or justices are informed about the ability to serve as retired judges or justices.

The information provided by the Office of the State Courts Administrator explains the process for approval. Upon receipt of an application to become a "retired judge" or "retired justice" the court will submit the applicants' name to the Judicial Qualifications Commission to determine if there is any reason why the applicant should not be approved as a retired judge or justice. After receiving a favorable response from the Judicial Qualifications Commission the court will consider the application in conference for approval or disapproval.

Once approved a retired judge or justice has specific responsibilities and authority. The retired judge must maintain membership in good standing in the Florida Bar and must complete 30-hours of continuing judicial education every three years. While a person serving as a retired judge may not practice law, the supreme court in an April 12, 1985 conference did approve retired judges or justices to be employed as arbitrators, masters, referees, and court commissioners as well as authorizing them to perform other types of state or federal judicial or quasi-judicial service that does not include the practice of law.

Judges or justices on temporary duty are to be paid no less than \$200 per day (See, 25.073, Florida Statutes), for no more than 60 days without the approval of the Chief Justice. Currently, the court appropriation includes funding for retired judge hours at \$275 per hour. Travel expenses are to be provided as detailed in s. 122.061, F.S.

III. Effect of Proposed Changes:

The bill amends s. 25.073, F.S., to provide that the statutory definition of retired judge or justice will not specifically exclude judges or justices who lost in a bid for reelection or who were not retained in a retention election for their last term in office. To serve as a retired judge or justice an individual will be required to have served in a judicial office, must meet the requirements of the supreme court for a retired judge or justice, and must limit their practice of law in accordance with the requirements of the supreme court for retired judges.

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:

The constitution specifically provides the authority to assign retired judges to the chief justice of the supreme court. (s. 2, Article V) Further, the court has exclusive jurisdiction of issues related to practice and procedure in all the courts pursuant to s. 2, Article V, including the administrative supervision of the courts. However, the constitution does not specifically define the term retired judge or justice and simply provides the chief justice the authority to appoint these judges or justices to duty in any court for which they are qualified. Currently, definitions for “retired judge” and “retired justice” are provided in s. 25.073, F.S., and in Rule 2.030 (a)(3)(B), Judicial Rules of Administration. Further, these definitions are in conflict in current law. With the amendments proposed in the bill the statute would not be in conflict.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to Charlotte Jerrett, Chief of Budget Services, “there should be no fiscal impact from SB 424, as it does not revise the compensation of senior judges.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.