

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7199 PCB CVJS 11-07 Courts
SPONSOR(S): Judiciary Committee, Civil Justice Subcommittee, Eisnaugle
TIED BILLS: HJR 7111 **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee	10 Y, 5 N	Woodburn	Bond
1) Judiciary Committee	11 Y, 6 N, As CS	Woodburn	Havlicak

SUMMARY ANALYSIS

Pending before the Legislature is a joint resolution, CS/HJR 7111; a proposed constitutional amendment that, among other things, creates two separate divisions within the Supreme Court, a civil division and a criminal division. This bill is the implementing bill related to the constitutional amendment.

The bill amends Florida Statutes related to the Supreme Court to reflect the changes made by the constitutional amendment.

The related proposed constitutional amendment provides for three additional Supreme Court justices. This bill provides a yet to be determined contingent appropriation for funding of the additional justices and associated staff. This bill does not have a fiscal effect on local governments.

The bill is contingent upon passage by the electorate of the related proposed constitutional amendment, CS/HJR 7111.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Pending before the Legislature is a joint resolution, CS/HJR 7111; a proposed constitutional amendment that, among other things, creates two separate divisions within the Supreme Court, a civil division and a criminal division. This bill is the implementing bill related to the constitutional amendment. The bill is contingent upon passage by the electorate of the proposed constitutional amendment.

The bill does not specify how the two Supreme Court divisions are to share various duties, leaving it to the court and the two divisions to work out a means for sharing such duties. The bill does list the jurisdiction of the two divisions. The criminal division is assigned the following matters:

- Any case or controversy primarily involving the commission of a felony or misdemeanor, including juvenile delinquency, or any related action regarding the interpretation of or resolution of matters directly affecting the criminal law.
- Equitable relief related to the criminal law.
- Appeals from a military court martial.
- Any case filed by a prisoner under a penalty of death.
- Any criminal postconviction cases.
- Violation of a local ordinance where the imposition of a term of jail or prison is possible.
- Restitution ordered in a criminal case.
- Payment of fines, costs or fees imposed in a criminal case.

The civil division is assigned the following matters:

- Any case or controversy within the traditional concepts of civil law, including tort, contract, family law, probate, trusts, real property, employment law, taxation, and elections.
- Civil confinement.
- Civil forfeiture or civil penalties resulting from criminal activity.
- Noncriminal offenses, including traffic, vessel, and environmental noncriminal offenses.
- State budgeting and finance.
- Public records and public meetings laws.
- Regulation of businesses and professions.
- Confinement for contempt of court.
- Consumer protection pursuant to chapter 501.

The bill locates the Supreme Court in the building currently occupied by the First District Court of Appeal. The building would require some remodeling for use by the two division of the supreme court. The bill does not specify where the First District Court of Appeals is to be relocated. The bill allows the Supreme Court Library to be in a building other than the Supreme Court Building, giving the flexibility to leave the library in the existing building at 500 South Duval Street, Tallahassee.

The bill deletes outdated and unnecessary provisions of ch. 25, F.S., including: terms of the court, the restriction on practice of law by a retired justice, the location of the clerk's office, the provision requiring a clerk perform duties directed by the court, the provision requiring the clerk be paid a salary, and the provision requiring the marshal be paid a salary.

The bill amends s. 215.32, F.S., to include the State Courts Revenue Trust Fund in a provision relating to the segregation of trust funds. This change provides that the State Courts Revenue Trust Fund is not among the trust funds "that unappropriated cash balances... may be authorized by the Legislature

for transfer to the Budget Stabilization Fund and General Revenue Fund in the General Appropriations Act.”¹

The bill provides a yet to be determined contingent appropriation for funding of the additional justices and associated staff.

The bill is only effective should the proposed constitutional amendment be adopted by the voters.

B. SECTION DIRECTORY:

Section 1 creates s. 25.025, F.S., regarding to Supreme Court divisions; jurisdiction.

Section 2 amends s. 25.031, F.S., regarding Supreme Court authorized to receive and answer certificates as to state law from federal appellate courts; collaborations with other courts.

Section 3 repeals s. 25.032, F.S., regarding certification of questions of law.

Section 4 repeals s. 25.051, F.S., regarding regular terms.

Section 5 repeals s. 25.151, F.S., regarding practice of law.

Section 6 amends s. 25.191, F.S., regarding clerk of Supreme Court.

Section 7 repeals s. 25.201, F.S., regarding deputy clerk of Supreme Court.

Section 8 repeals s. 25.211, F.S., regarding location of the clerk's office.

Section 9 repeals s. 25.221, F.S., regarding custody of books and records.

Section 10 repeals s. 25.231, F.S., regarding duties of the clerk.

Section 11 amends s. 25.241, F.S., regarding duties of the clerk and filing fees.

Section 12 amends s. 25.251, F.S., regarding marshal of the Supreme Court.

Section 13 repeals s. 25.262, F.S., regarding duties of the marshal.

Section 14 creates s. 25.265, F.S., regarding the Supreme Court building.

Section 15 repeals s. 25.281, F.S., regarding compensation of the marshal.

Section 16 repeals s. 25.291, F.S., regarding fines for contempt.

Section 17 amends s. 25.341, F.S., regarding Supreme Court library.

Section 18 repeals s. 25.351, F.S., regarding acquisition of books.

Section 19 repeals s. 25.371, F.S., regarding effect of rules.

Section 20 amends s. 43.20, F.S., regarding the Judicial Qualifications Commission.

Section 21 amends s. 215.32, F.S., regarding state funds; segregation.

Section 22 amends s. 272.04, F.S., regarding department to allocate space.

¹ Section 215.32(2)(b)4.a., F.S.

Section 23 amends s. 440.29, F.S., regarding procedure before the judges of compensation claims.

Section 24 provides a contingent appropriation yet to be determined.

Section 25 provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides a yet to be determined contingent appropriation for funding of the additional justices and associated staff relating to the implementation of CS/HJR 7111, should it pass. CS/HJR 7111 increases the size of the Supreme Court to ten justices (adding three justices), therefore, creating the additional related expenditure for the new justices, their assistants, and work space. This is estimated to require approximately 15.0 FTE's and approximately \$1.6 million in salaries and benefits.

This bill would also require a nonrecurring expense in FY 2012-2013 related to the moving and building remodeling costs for the Supreme Court. It would also require expenditures for moving the First District Court of Appeal to another location that has not yet been determined. These costs have not been estimated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 7, 2011, the Judiciary Committee adopted a strike-all amendment to conform this implementing bill to the changes made in the same meeting to the related joint resolution. The implementing bill is much shorter since the joint resolution now proposes to leave a single Supreme Court.