

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: SB 522

INTRODUCER: Senator Braynon

SUBJECT: Judicial Census Commissions

DATE: November 21, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Connor	Maclure	JU	Favorable
2.	Harkness	Sadberry	BJA	Pre-meeting
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Legislature created the judicial census commissions to determine the population of a given judicial circuit because the Florida Constitution formerly required one circuit judge for every 50,000 people in a circuit. The Constitution was amended in 1973 to provide for a different method of determining the number of circuit judges, making the judicial census commissions unnecessary. Thus, Senate Bill 522 repeals the statute that outlines the makeup and responsibilities of such a commission and the Governor's actions pursuant to the commission's findings.

This bill repeals section 26.011, Florida Statutes.

II. Present Situation:

Section 26.011, F.S., authorizes the Legislature to create "judicial census commissions" from time to time as it deems advisable, to determine the population of any judicial circuit. Under the statute, these judicial census commissions are required to report to the Governor, and the Governor will then, by proclamation, announce the population of the circuit.

Judicial census commissions were once useful because prior versions of the Florida Constitution provided for one circuit judge for every 50,000 people. For example, article V, section 6 of the 1968 Constitution, as originally adopted, provided:

(2) Circuit Judges. The legislature shall provide for one circuit judge in each circuit for each fifty thousand inhabitants or major fraction thereof according to the last census authorized by law. In circuits having more than one judge the

legislature may designate the place of residence of any such additional judge or judges.

This provision was removed from the Constitution effective in 1973 as part of a revision of article V¹ and replaced with the current system, which specifies that if the Florida Supreme Court determines that there is a need to increase or decrease the number of judges, then the Court is directed to certify its recommendations to the Legislature prior to the next regular session.² The Legislature may then accept the Supreme Court's certification in whole or in part by majority vote or refuse it entirely. The Legislature may also increase or further decrease the number of judicial offices recommended by the Court by a two-thirds vote of both houses.³

Rule 2.240 of the Florida Rules of Judicial Administration implements article V, section 9 of the current constitution and states the criteria for determination of need for additional trial and appellate judges and the process for certifying that need to the Legislature.⁴ Under the rule, judicial need is based on an assessment of enumerated factors related to workload.⁵ As described by former Florida Supreme Court Chief Justice B.K. Roberts, the change resulted in judgeships being created on the basis of need, eliminating "any arbitrary population limitation on the number of judges."⁶

III. Effect of Proposed Changes:

Senate Bill 522 repeals s. 26.011, F.S., a provision that authorizes judicial census commissions and is no longer consistent with the current system for determining the need for a change in the number of judges, as outlined in the Florida Constitution. The current system entails a Supreme Court determination of judicial need rather than the calculation of circuit populations and trumps s. 26.011, F.S., rendering it obsolete and no longer used in practice.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹ SJR 52-D (1971), adopted in 1972 and effective January 1, 1973.

² FLA. CONST., art. V, s. 9.

³ *Id.*

⁴ Office of the State Courts Administrator, *House Bill 4047 Judicial Impact Statement* (Oct. 12, 2011) (on file with the Senate Committee on Judiciary).

⁵ Fla. R. Jud. Admin. 2.240(b)-(c).

⁶ B.K. Roberts, *The Judicial System*, in ALLEN MORRIS' FLORIDA HANDBOOK 191, 195 (1973-74).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of the State Courts Administrator, this bill has no fiscal or workload impact on the judiciary.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

Amen

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷ Office of the State Courts Administrator, *supra* note 4.