

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CJS 13-03 Judicial Nominating Commissions

SPONSOR(S): Civil Justice Subcommittee

TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee		Ward	Bond

SUMMARY ANALYSIS

Trial court judgeships that become vacant during a judge's term and all appellate judgeships are filled by the Governor from a list of nominees provided by a judicial nominating commission (JNC). The number of members and composition of each JNC is provided for by statute. There is also a separate statewide nominating commission for Judges of Compensation Claims (JCC). The number of members and the composition of the commission are provided for by statute.

The bill:

- Provides that certain members of the JNC serve at the pleasure of the governor;
- Provides that each expired term or vacancy on a JNC is filled by appointment in the same manner as the member whose position is being filled;
- Deletes an obsolete provision regarding rule-making.
- Eliminates the statewide nominating commission for JCC's and provides that JCC's be appointed by the Governor from a list of persons nominated by the JNC for the First District Court of Appeal.

The bill does not appear to have a fiscal impact on state or local governments.

The bill becomes effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Judicial Nominating Commission

Trial court judgeships that become vacant during a judge's term and all appellate judgeships are filled by the Governor from a list of nominees provided by a judicial nominating commission (JNC).¹ The number of members and composition of each JNC is provided for by statute.² When an appellate judgeship becomes vacant, candidates submit their applications to the JNC for that court. The commission sends a list of three to six nominees to the Governor and the Governor fills the vacancy by selecting from that list.³ Circuit and county court judges are determined by election,⁴ but vacancies on the circuit or county courts that occur between elections are filled in the same manner as vacancies on the appellate bench.⁵

Article V, s. 11(d), Fla. Const., provides that a JNC must be created by general law for the Supreme Court, each district court of appeal, and each judicial circuit for all trial courts within that circuit. Section 43.291, F.S., implements the constitutional provisions. Each JNC consists of nine members appointed by the Governor.⁶ Members serve 4 year terms.⁷ All JNC members must be residents of the territorial jurisdiction serviced by the JNC to which the member is appointed.⁸

The Governor may appoint five of the nine members of each JNC without input from the Board of Governors of the Florida Bar. Two of those five appointees must be members of the Florida Bar who are engaged in the practice of law.⁹ The remaining four members are appointed by the Governor from a list of nominees selected and provided by the Board of Governors of the Florida Bar, which nominates three candidates for each position. The Governor may reject all of the nominees recommended for the position and request that the Board submit a new list of three different nominees who have not previously been recommended by the Board. These four members of the JNC must be members of the Florida Bar engaged in the practice of law.

The bill provides that members of the JNC, except the four members selected from a list provided by the Florida Bar, serve at the pleasure of the Governor. The bill also:

- Provides that each current member, other than those nominated by the Board of Governors, also serve at the pleasure of the Governor.
- Updates provisions relating to the staggering of terms for members selected from the list provided by the Board of Governors of the Florida Bar.
- Provides that an appointment to a JNC of a member selected from a list of nominees provided by the Board of Governors of the Florida Bar — unless it is to a vacant, unexpired term — is for 4 years;
- Provides that each expired term or vacancy is filled by appointment in the same manner as the member whose position is filled.
- Deletes an obsolete requirement that the Executive Office of the Governor establish uniform rules of procedure.

¹ See art. V, s.11(a), Fla. Const.

² See s. 43.291, F.S.

³ See art. V, s. 11(a), Fla. Const.

⁴ Circuits and counties may, by local option, choose to select judges in the same manner as appellate judges are selected. See art. V, s.10, Fla. Const.

⁵ See art. V, s. 11(b), Fla. Const.

⁶ Section 43.291(1), F.S.

⁷ Section 43.291(3), F.S.

⁸ Section 43.291(1)(a), (b), F.S.

⁹ Section 43.291(1)(b), F.S.

Statewide Nominating Commission for Judges of Compensation Claims (JCC)

There is a separate statewide nominating commission for JCC's.¹⁰ The Office of Compensation Claims is responsible for adjudicating disputes over workers' compensation benefits.¹¹ The number of members and the composition of the nominating commission are provided for in s. 440.45, F.S. Under current law, the commission must be composed of:

- Five members appointed by the Board of Governors of the Florida Bar from among Florida Bar members engaged in the practice of law.
- Five electors appointed by the Governor.
- Five electors selected and appointed by a majority vote of the other ten members of the commission.

Each group must contain at least one member of a minority group as defined in statute. In addition, an individual from each five-member group must live in each territorial jurisdiction of one of the five district courts of appeal. The statute also provides for staggered terms.

The bill eliminates the current commission and provides that a JCC must be appointed by the Governor from a list of three persons nominated by the JNC for the First District Court of Appeal.

B. SECTION DIRECTORY:

Section 1 amends s. 43.291, F.S., relating to judicial nominating commissions.

Section 2 amends s. 440.45, F.S., relating to the office of the judges of compensation claims.

Section 3 provides that the act takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

¹⁰ The Office of the Judges of Compensation Claims operates 17 district offices; there are 31 JCC's throughout the state. Office of the Judges of Compensation Claims, <http://www.jcc.state.fl.us/JCC/> (last visited Feb. 18, 2013).

¹¹ *Id.*

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a