

By Senator Dudley

25-919A-98

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Senate Joint Resolution No. \_\_\_\_

A joint resolution proposing amendments to Sections 3 and 10 of Article V of the State Constitution relating to election of supreme court justices and judges of a district court of appeal.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Sections 3 and 10 of Article V of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the general election to be held in November 1998:

ARTICLE V  
JUDICIARY

SECTION 3. Supreme court.--

(a) ORGANIZATION.--The supreme court shall consist of seven justices. ~~Of the seven justices, each appellate district shall have at least one justice elected or appointed from the district to the supreme court who is a resident of the district at the time of his original appointment or election.~~ Five justices shall constitute a quorum. The concurrence of four justices shall be necessary to a decision. When recusals for cause would prohibit the court from convening because of the requirements of this section, judges assigned to temporary duty may be substituted for justices.

(b) JURISDICTION.--The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from decisions of district courts of appeal declaring invalid a state statute or a provision of the state constitution.

1           (2) When provided by general law, shall hear appeals  
2 from final judgments entered in proceedings for the validation  
3 of bonds or certificates of indebtedness and shall review  
4 action of statewide agencies relating to rates or service of  
5 utilities providing electric, gas, or telephone service.

6           (3) May review any decision of a district court of  
7 appeal that expressly declares valid a state statute, or that  
8 expressly construes a provision of the state or federal  
9 constitution, or that expressly affects a class of  
10 constitutional or state officers, or that expressly and  
11 directly conflicts with a decision of another district court  
12 of appeal or of the supreme court on the same question of law.

13           (4) May review any decision of a district court of  
14 appeal that passes upon a question certified by it to be of  
15 great public importance, or that is certified by it to be in  
16 direct conflict with a decision of another district court of  
17 appeal.

18           (5) May review any order or judgment of a trial court  
19 certified by the district court of appeal in which an appeal  
20 is pending to be of great public importance, or to have a  
21 great effect on the proper administration of justice  
22 throughout the state, and certified to require immediate  
23 resolution by the supreme court.

24           (6) May review a question of law certified by the  
25 Supreme Court of the United States or a United States Court of  
26 Appeals which is determinative of the cause and for which  
27 there is no controlling precedent of the supreme court of  
28 Florida.

29           (7) May issue writs of prohibition to courts and all  
30 writs necessary to the complete exercise of its jurisdiction.

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1           (8) May issue writs of mandamus and quo warranto to  
2 state officers and state agencies.

3           (9) May, or any justice may, issue writs of habeas  
4 corpus returnable before the supreme court or any justice, a  
5 district court of appeal or any judge thereof, or any circuit  
6 judge.

7           (10) Shall, when requested by the attorney general  
8 pursuant to the provisions of Section 10 of Article IV, render  
9 an advisory opinion of the justices, addressing issues as  
10 provided by general law.

11           (c) CLERK AND MARSHAL.--The supreme court shall  
12 appoint a clerk and a marshal who shall hold office during the  
13 pleasure of the court and perform such duties as the court  
14 directs. Their compensation shall be fixed by general law.  
15 The marshal shall have the power to execute the process of the  
16 court throughout the state, and in any county may deputize the  
17 sheriff or a deputy sheriff for such purpose.

18           SECTION 10. Election;retention; ~~election~~ and terms.--

19           (a) Supreme court justices shall be elected for a term  
20 of six years by vote of the qualified electors within  
21 single-member supreme court election districts. The  
22 territorial limits of such districts shall be prescribed by  
23 law. Each justice shall reside in the supreme court election  
24 district from which he or she was elected at the time of  
25 election. Each supreme court justice shall exercise  
26 jurisdiction throughout the state, without regard to the  
27 election district from which he or she was elected.

28           ~~(a) Any justice of the supreme court or any judge of a~~  
29 ~~district court of appeal may qualify for retention by a vote~~  
30 ~~of the electors in the general election next preceding the~~  
31 ~~expiration of his term in the manner prescribed by law. If a~~

1 ~~justice or judge is ineligible or fails to qualify for~~  
2 ~~retention, a vacancy shall exist in that office upon the~~  
3 ~~expiration of the term being served by the justice or judge.~~  
4 ~~When a justice of the supreme court or a judge of a district~~  
5 ~~court of appeal so qualifies, the ballot shall read~~  
6 ~~substantially as follows: "Shall Justice (or Judge) ... (name~~  
7 ~~of justice or judge)... of the ... (name of the court)... be~~  
8 ~~retained in office?" If a majority of the qualified electors~~  
9 ~~voting within the territorial jurisdiction of the court vote~~  
10 ~~to retain, the justice or judge shall be retained for a term~~  
11 ~~of six years commencing on the first Tuesday after the first~~  
12 ~~Monday in January following the general election. If a~~  
13 ~~majority of the qualified electors voting within the~~  
14 ~~territorial jurisdiction of the court vote to not retain, a~~  
15 ~~vacancy shall exist in that office upon the expiration of the~~  
16 ~~term being served by the justice or judge.~~

17 (b) Judges of a district court of appeal, circuit  
18 judges, and judges of county courts shall be elected by vote  
19 of the qualified electors within the territorial jurisdiction  
20 of their respective courts. The terms of judges of a district  
21 court of appeal and circuit judges shall be for six years.  
22 The terms of judges of county courts shall be for four years.

23 BE IT FURTHER RESOLVED that the following statement be  
24 placed on the ballot:

25 CONSTITUTIONAL AMENDMENT  
26 ARTICLE V, SECTIONS 3 AND 10  
27 ELECTION OF SUPREME COURT JUSTICES AND APPELLATE  
28 JUDGES.--Proposing amendments to the State Constitution to  
29 eliminate retention elections for Supreme Court Justices and  
30 judges of district courts of appeal and to provide for the  
31 election of supreme court justices from single-member

1 districts prescribed by law and for the election of judges of  
2 district courts of appeal.  
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