

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1210

SPONSOR: Committee on Judiciary and Senator Grant

SUBJECT: Judicial Selection

DATE: March 22, 1999

REVISED: 3/30/99

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Bradshaw</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Fav/1 amendment</u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

## I. Summary:

Committee Substitute for Senate Bill 1210 implements the provisions of Amendment 7 to the Florida Constitution which provide that the voters of each judicial circuit or county must be provided the opportunity to determine if judges within the circuit or county will be elected by the voters or appointed through judicial selection and retention. The bill establishes the process by which the issue will be placed on the ballot. The bill requires that the 2000 general election ballot present to the voters the opportunity to change from election of judges to merit selection and retention. After the 2000 general election the question of the method of selection of circuit or county court judges may be placed on the ballot by petition.

This bill substantially amends ss. 34.021, 35.06, 101.151, 101.161, 105.031, 105.041, 105.051, 105.061, 105.08, 106.011, and 106.08, repeals s. 25.021 and creates three new sections of the Florida Statutes.

## II. Present Situation:

Under the Florida Constitution, a 37-member Constitution Revision Commission is appointed every 20 years to review the Constitution and to propose changes, if any, for a ballot vote. The last Florida Constitution Revision Commission convened in 1977-78. All revision proposals on the ballot at that time failed to pass.

The 1997-98 Florida Constitution Revision Commission met numerous times over the course of a year and held 12 public meetings statewide. The Commission narrowed the field of revision proposals from more than 500 to 9, addressing issues relating to the environment, education, courts, cabinet reform, basic rights, taxes, elections, gun control and technical revisions. Amendment 7 proposed by the Commission, revises the provisions of Article V of the Florida Constitution relating to the election of county and circuit court judges and to the funding of the state court system.

Amendment 7 allows citizens to determine at the general election in 2000 whether circuit and county court judges will be elected or appointed. At the general election the electorate will determine by circuit or county, whether their circuit and county court judges will continue to be elected or whether they will be selected through the merit selection process with the electorate provided the opportunity to vote for retention at the end of a judge's term.

After each circuit or county determines the method of selection of judges in 2000, the selected method, whether election or merit retention, can again come before the voters after two years and the filing with the Secretary of State of a petition. The petition must be signed by the number of electors equal to at least 10 percent of the votes cast in the circuit or county in the last presidential election. This will allow the citizens of a county or a circuit to change the method of selection of judges, but only every two years.

Amendment 7 also extends the terms for county court judges from four years to six years.

Chapter 105, F.S., establishes the process for election of judicial officers. The chapter provides for the election of circuit and county court judges and the retention for justices of the Supreme Court and judges of the District Courts of Appeal.

Section 34.021, F.S., establishes the qualifications of county court judges who are elected.

Section 101.151, F.S., provides for the placement on the ballot of the names of justices of the Supreme Court or judges of the District Courts of Appeal seeking retention.

Section 105.031, F.S., sets the filing fee and oaths for judges qualifying for election as a circuit or county court judge.

Section 105.041, F.S., describes the form of the ballot for judges qualifying for election and judges and justices placed on the ballot for retention votes.

Section 105.051, F.S., establishes the process for determining the outcome of a judicial election and a retention vote.

Section 105.061, F.S., describes those voters eligible to vote in a judicial election for circuit and county court judges or a retention election for a justice of the Supreme Court or a judge of a District Court of Appeal.

Section 105.08, F.S., provides for reporting of campaign contributions, including campaign contributions for justices of the Supreme Court or judges of a District Court of Appeal campaigning in a retention election.

Section 106.011, F.S., provides definitions for chapter 106, F.S., regarding campaign financing, including the definition of "unopposed candidate." The definition provides that justices of the Supreme Court or judges of a District Court of Appeal seeking retention are not unopposed candidates for purposes of campaign financing.

Section 106.08, F.S., describes the limitations on campaign financing, including how much may be contributed to justices of the Supreme Court or judges of the District Court of Appeal seeking retention.

Section 25.021, F.S., sets out the terms of office for justices of the Supreme Court when they are elected.

Section 35.06, F.S., specifies the organization of the District Courts of Appeal and provides for election of the judges and terms of office for the elected judges.

### **III. Effect of Proposed Changes:**

This bill amends those sections in chapters 34, 101, 105, and 106, F.S., which specifically address election of **only** circuit or county court judges or which refer to retention of **only** justices of the Supreme Court and judges of the District Court of Appeal to allow for election or retention votes for circuit and county court judges.

The bill directs the Secretary of State to place on the ballot for the 2000 general election the questions regarding circuit and county court judges being selected through merit selection and retention rather than election.

The bill establishes the process by which political committees may be created for the collection of petitions to place the method for selection of circuit and county court judges on the ballot in any general election subsequent to the 2000 election. This process provides for registration as a political committee, the petition form to be developed by the Secretary of State, and the process by which the Secretary of State and the supervisors of elections will verify the signatures and certify the ballot position of the question.

The bill specifies the ballot language for both circuit and county court judges.

The Secretary of State is to notify the Supreme Court after each general election of those counties and circuits where the method of judicial selection has changed.

Circuit and county court judges holding office at the time of a change in the selection process will not be affected by the change until the end of their term. At the election prior to the end of a judge's term of office the judge will be required to either stand for election or a retention vote depending on what process is to be used for selection of judges at that election.

The provisions in current law related to the term of office for elected Supreme Court justices and District Court of Appeals judges are repealed.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Those persons wanting to place a change to the process for selection of judges on the ballot in a general election, other than in the year 2000, will be required to register as a political committee, pay the cost of printing petitions and pay for other costs associated with the petition process.

## C. Government Sector Impact:

There will be some cost to the supervisors of elections and to the Secretary of State's Office associated with verifying signatures on the petitions and certifying the ballot position if any petitions are filed.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Ethics and Elections:

Provides a definition of "qualifying period." (WITH TITLE AMENDMENT)

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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