

By Senator Grant

308-973-99

1                                   A bill to be entitled  
 2           An act relating to judicial selection; amending  
 3           s. 34.021, F.S.; authorizing continued service  
 4           of judges; amending s. 105.031, F.S.; providing  
 5           for retention votes or election of county and  
 6           circuit court judges; amending s. 105.041,  
 7           F.S.; providing form of ballot for retention  
 8           votes on county and circuit court judges;  
 9           amending s. 105.051, F.S.; providing for  
 10          determination of retention for county and  
 11          circuit court judges; amending s. 105.061,  
 12          F.S.; authorizing electors to vote for  
 13          retention of circuit and county court judges;  
 14          amending s. 105.08, F.S.; providing for  
 15          campaign contribution and expense reporting for  
 16          circuit and county court judges subject to vote  
 17          of retention; amending s. 106.011, F.S.;  
 18          redefining the term "unopposed candidate";  
 19          amending s. 106.08, F.S.; providing  
 20          contribution limits for election and retention  
 21          of circuit and county court judges; providing  
 22          an effective date.

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 24 Be It Enacted by the Legislature of the State of Florida:  
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26           Section 1. Section 34.021, Florida Statutes, is  
 27 amended to read:

28           34.021 Qualifications of county court judges.--

29           (1) No person is eligible for election or appointment  
 30 to the office of county court judge unless the person is, and  
 31 has been for the preceding 5 years, a member in good standing

1 of the bar of Florida prior to qualifying for election to such  
2 office or submitting his or her name to the appropriate  
3 judicial nominating commission for appointment. However, a  
4 person is eligible for election or appointment to the office  
5 of county court judge in a county having a population of  
6 40,000 or less if he or she is a member in good standing of  
7 the bar of Florida.

8 (2) A county court judge is eligible to seek  
9 reelection or retention, notwithstanding the provisions of  
10 subsection (1), if, on the first day of the qualification  
11 period for election to such office or a retention vote, such  
12 judge is actively serving in such office and is not under  
13 suspension or disqualification.

14 (3) Any person who was a county court judge prior to  
15 July 1, 1978, in any county having a population of 40,000 or  
16 less, according to the last decennial census, and who has  
17 successfully completed a 3-year law training program approved  
18 by the Supreme Court for the training of county court judges  
19 who are not members of The Florida Bar is entitled to such  
20 election or retention and to serve as a county court judge in  
21 any county having a population of 40,000 or less, the  
22 provisions of subsection (1) to the contrary notwithstanding.

23 (4) Any county judge who is not a member of the bar,  
24 in any county having a population of 40,000 or less, according  
25 to the last decennial census, and who has successfully  
26 completed a law training program approved by the Supreme Court  
27 for the training of county court judges who are not members of  
28 The Florida Bar is entitled to serve as a county court judge  
29 in any county encompassed in the circuit in which the judge  
30 has been elected or retained in a retention vote, when  
31 assigned thereto.

1           Section 2. Paragraph (a) of subsection (5) of section  
2 105.031, Florida Statutes, is amended to read:

3           105.031 Qualification; filing fee; candidate's oath;  
4 items required to be filed.--

5           (5) ITEMS REQUIRED TO BE FILED.--

6           (a) In order for a candidate for judicial office to be  
7 qualified, the following items must be received by the filing  
8 officer by the end of the qualifying period:

9           1. Except for candidates for retention to judicial  
10 office ~~For each candidate qualifying for the office of circuit~~  
11 ~~judge or county court judge~~, a properly executed check drawn  
12 upon the candidate's campaign account in an amount not less  
13 than the fee required by subsection (3) or, in lieu thereof,  
14 the copy of the notice of obtaining ballot position pursuant  
15 to s. 105.035. If a candidate's check is returned by the bank  
16 for any reason, the filing officer shall immediately notify  
17 the candidate and the candidate shall, the end of qualifying  
18 notwithstanding, have 48 hours from the time such notification  
19 is received, excluding Saturdays, Sundays, and legal holidays,  
20 to pay the fee with a cashier's check purchased from funds of  
21 the campaign account. Failure to pay the fee as provided in  
22 this subparagraph shall disqualify the candidate.

23           2. The candidate's oath required by subsection (4),  
24 which must contain the name of the candidate as it is to  
25 appear on the ballot; the office sought, including the  
26 district or group number if applicable; and the signature of  
27 the candidate, duly acknowledged.

28           3. The loyalty oath required by s. 876.05, signed by  
29 the candidate and duly acknowledged.

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1           4. The completed form for the appointment of campaign  
2 treasurer and designation of campaign depository, as required  
3 by s. 106.021.

4           5. The full and public disclosure of financial  
5 interests required by s. 8, Art. II of the State Constitution.

6           Section 3. Section 105.041, Florida Statutes, is  
7 amended to read:

8           105.041 Form of ballot.--

9           (1) BALLOTS.--The names of candidates for judicial  
10 office which appear on the ballot at the first primary  
11 election shall either be grouped together on a separate  
12 portion of the ballot or on a separate ballot. The names of  
13 candidates for judicial office which appear on the ballot at  
14 the general election and the names of justices and judges  
15 seeking retention to office shall be grouped together on a  
16 separate portion of the general election ballot.

17           (2) LISTING OF CANDIDATES.--The names of all  
18 candidates for election to the office of circuit judge or the  
19 office of county court judge shall be listed in alphabetical  
20 order. With respect to retention of justices and judges ~~of~~  
21 ~~district courts of appeal~~, the question "Shall Justice (or  
22 Judge) (name of justice or judge) of the (name of the court)  
23 be retained in office?" shall appear on the ballot and  
24 thereafter the words "Yes" and "No."

25           (3) REFERENCE TO PARTY AFFILIATION PROHIBITED.--No  
26 reference to political party affiliation shall appear on any  
27 ballot with respect to any nonpartisan judicial office or  
28 candidate.

29           (4) WRITE-IN CANDIDATES.--Space shall be made  
30 available on the general election ballot for an elector to  
31 write in the name of a write-in candidate for judge of a

1 circuit court or county court if a candidate has qualified as  
2 a write-in candidate for such office pursuant to s. 105.031.  
3 This subsection does not apply to the offices of justices and  
4 judges seeking retention.

5 Section 4. Section 105.051, Florida Statutes, is  
6 amended to read:

7 105.051 Determination of election or retention to  
8 office.--

9 (1) ELECTION.--In circuits and counties holding  
10 elections:

11 (a) The name of an unopposed candidate for the office  
12 of circuit judge or county court judge shall not appear on any  
13 ballot, and such candidate shall be deemed to have voted for  
14 himself or herself at the general election.

15 (b) If two or more candidates, neither of whom is a  
16 write-in candidate, qualify for such an office, the names of  
17 those candidates shall be placed on the ballot at the first  
18 primary election. If any candidate for such office receives a  
19 majority of the votes cast for such office in the first  
20 primary election, the name of the candidate who receives such  
21 majority shall not appear on any other ballot unless a  
22 write-in candidate has qualified for such office. An  
23 unopposed candidate shall be deemed to have voted for himself  
24 or herself at the general election. If no candidate for such  
25 office receives a majority of the votes cast for such office  
26 in the first primary election, the names of the two candidates  
27 receiving the highest number of votes for such office shall be  
28 placed on the general election ballot. If more than two  
29 candidates receive an equal and highest number of votes, the  
30 name of each candidate receiving an equal and highest number  
31 of votes shall be placed on the general election ballot. In

1 any contest in which there is a tie for second place and the  
2 candidate placing first did not receive a majority of the  
3 votes cast for such office, the name of the candidate placing  
4 first and the name of each candidate tying for second shall be  
5 placed on the general election ballot.

6 (c) The candidate who receives the highest number of  
7 votes cast for the office in the general election shall be  
8 elected to such office. If the vote at the general election  
9 results in a tie, the outcome shall be determined by lot.

10 (2) RETENTION.--With respect to any justice of the  
11 Supreme Court, ~~or~~ judge of a district court of appeal, judge  
12 of a circuit court, or judge of a county court who qualifies  
13 to run for retention in office, the question prescribed in s.  
14 105.041(2) shall be placed on the ballot at the general  
15 election. If a majority of the qualified electors voting on  
16 such question within the territorial jurisdiction of the court  
17 vote for retention, the justice or judge shall be retained for  
18 a term of 6 years commencing on the first Tuesday after the  
19 first Monday in January following the general election. If  
20 less than a majority of the qualified electors voting on such  
21 question within the territorial jurisdiction of the court vote  
22 for retention, a vacancy shall exist in such office upon the  
23 expiration of the term being served by the justice or judge.

24 Section 5. Section 105.061, Florida Statutes, is  
25 amended to read:

26 105.061 Electors qualified to vote.--Each qualified  
27 elector of the territorial jurisdiction of a court shall be  
28 eligible to vote for a candidate for each judicial office of  
29 such court or, in the case of a justice ~~of the Supreme Court~~  
30 or a judge ~~of a district court of appeal~~, for or against  
31 retention of such justice or judge.

1           Section 6. Subsection (2) of section 105.08, Florida  
2 Statutes, is amended to read:

3           105.08 Campaign contribution and expense; reporting.--

4           (2) Notwithstanding any other provision of this  
5 chapter or chapter 106, a candidate for retention as a justice  
6 of the Supreme Court, or a judge of a district court of  
7 appeal, a judge of a circuit court, or judge of a county court  
8 who has not received any contribution or made any expenditure  
9 may file a sworn statement at the time of qualifying that he  
10 or she does not anticipate receiving contributions or making  
11 expenditures in connection with the candidacy for retention to  
12 office. Such candidate shall file a final report pursuant to  
13 s. 106.141, within 90 days following the general election for  
14 which the candidate's name appeared on the ballot for  
15 retention. Any such candidate for retention to judicial office  
16 who, after filing a statement pursuant to this subsection,  
17 receives any contribution or makes any expenditure in  
18 connection with the candidacy for retention shall immediately  
19 file a statement to that effect with the qualifying officer  
20 and shall begin filing reports as an opposed candidate  
21 pursuant to s. 106.07.

22           Section 7. Subsection (15) of section 106.011, Florida  
23 Statutes, is amended to read:

24           106.011 Definitions.--As used in this chapter, the  
25 following terms have the following meanings unless the context  
26 clearly indicates otherwise:

27           (15) "Unopposed candidate" means a candidate for  
28 nomination or election to an office who, after the last day on  
29 which any person, including a write-in candidate, may qualify,  
30 is without opposition in the election at which the office is  
31 to be filled or who is without such opposition after such date

1 as a result of any primary election or of withdrawal by other  
2 candidates seeking the same office. A candidate is not an  
3 unopposed candidate if there is a vacancy to be filled under  
4 s. 100.111(4), if there is a legal proceeding pending  
5 regarding the right to a ballot position for the office sought  
6 by the candidate, or if the candidate is seeking retention as  
7 a justice of the Supreme Court, or as a judge of a district  
8 court of appeal, as a judge of a circuit court, or as a judge  
9 of a county court.

10 Section 8. Subsection (1) of section 106.08, Florida  
11 Statutes, is amended to read:

12 106.08 Contributions; limitations on.--

13 (1)(a) Except for political parties, no person,  
14 political committee, or committee of continuous existence may,  
15 in any election, make contributions in excess of \$500 to any  
16 candidate for election to or retention in office or to any  
17 political committee supporting or opposing one or more  
18 candidates. Candidates for the offices of Governor and  
19 Lieutenant Governor on the same ticket are considered a single  
20 candidate for the purpose of this section.

21 (b)1. The contribution limits provided in this  
22 subsection do not apply to contributions made by a state or  
23 county executive committee of a political party regulated by  
24 chapter 103 or to amounts contributed by a candidate to his or  
25 her own campaign.

26 2. Notwithstanding the limits provided in this  
27 subsection, an unemancipated child under the age of 18 years  
28 of age may not make a contribution in excess of \$100 to any  
29 candidate or to any political committee supporting one or more  
30 candidates.

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