

By the Committee on Judiciary and Senator Grant

308-1827A-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 for petitions and certification of ballot
23 position; establishing deadlines; amending s.
24 101.161, F.S.; placing the issue of the method
25 of selection of judges on ballot; establishing
26 manner for placing judicial selection
27 initiatives on general election ballots;
28 providing ballot language; providing for impact
29 on sitting judges; repealing s. 25.021, F.S.;
30 providing terms of elected Supreme Court
31 Justices; amending s. 35.06, F.S.; deleting

1 terms of elected district court of appeal
2 judges; amending s. 101.151, F.S.; conforming
3 provisions; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Section 34.021, Florida Statutes, is
8 amended to read:

9 34.021 Qualifications of county court judges.--

10 (1) No person is eligible for election or appointment
11 to the office of county court judge unless the person is, and
12 has been for the preceding 5 years, a member in good standing
13 of the bar of Florida prior to qualifying for election to such
14 office or submitting his or her name to the appropriate
15 judicial nominating commission for appointment. However, a
16 person is eligible for election or appointment to the office
17 of county court judge in a county having a population of
18 40,000 or less if he or she is a member in good standing of
19 the bar of Florida.

20 (2) A county court judge is eligible to seek
21 reelection or retention, notwithstanding the provisions of
22 subsection (1), if, on the first day of the qualification
23 period for election to such office or a retention vote, such
24 judge is actively serving in such office and is not under
25 suspension or disqualification.

26 (3) Any person who was a county court judge prior to
27 July 1, 1978, in any county having a population of 40,000 or
28 less, according to the last decennial census, and who has
29 successfully completed a 3-year law training program approved
30 by the Supreme Court for the training of county court judges
31 who are not members of The Florida Bar is eligible to seek

1 ~~entitled to such~~ election or retention and to serve as a
2 county court judge in any county having a population of 40,000
3 or less, the provisions of subsection (1) to the contrary
4 notwithstanding.

5 (4) Any county judge who is not a member of the bar,
6 in any county having a population of 40,000 or less, according
7 to the last decennial census, and who has successfully
8 completed a law training program approved by the Supreme Court
9 for the training of county court judges who are not members of
10 The Florida Bar is entitled to serve as a county court judge
11 in any county encompassed in the circuit in which the judge
12 has been elected or retained in a retention vote, when
13 assigned thereto.

14 Section 2. Paragraph (a) of subsection (5) of section
15 105.031, Florida Statutes, is amended to read:

16 105.031 Qualification; filing fee; candidate's oath;
17 items required to be filed.--

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

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

22 1. Except for candidates for retention to judicial
23 office ~~For each candidate qualifying for the office of circuit~~
24 ~~judge or county court judge~~, a properly executed check drawn
25 upon the candidate's campaign account in an amount not less
26 than the fee required by subsection (3) or, in lieu thereof,
27 the copy of the notice of obtaining ballot position pursuant
28 to s. 105.035. If a candidate's check is returned by the bank
29 for any reason, the filing officer shall immediately notify
30 the candidate and the candidate shall, the end of qualifying
31 notwithstanding, have 48 hours from the time such notification

1 is received, excluding Saturdays, Sundays, and legal holidays,
2 to pay the fee with a cashier's check purchased from funds of
3 the campaign account. Failure to pay the fee as provided in
4 this subparagraph shall disqualify the candidate.

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

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

12 4. The completed form for the appointment of campaign
13 treasurer and designation of campaign depository, as required
14 by s. 106.021.

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

17 Section 3. Section 105.041, Florida Statutes, is
18 amended to read:

19 105.041 Form of ballot.--

20 (1) BALLOTS.--The names of candidates for judicial
21 office which appear on the ballot at the first primary
22 election shall either be grouped together on a separate
23 portion of the ballot or on a separate ballot. The names of
24 candidates for election to judicial office which appear on the
25 ballot at the general election and the names of justices and
26 judges seeking retention to office shall be grouped together
27 on a separate portion of the general election ballot.

28 (2) LISTING OF CANDIDATES.--The names of all
29 candidates for election to the office of circuit judge or the
30 office of county court judge shall be listed in alphabetical
31 order. With respect to retention of justices and judges ~~of~~

1 ~~district courts of appeal~~, the question "Shall Justice (or
2 Judge) (name of justice or judge) of the (name of the court)
3 be retained in office?" shall appear on the ballot in
4 alphabetical order and thereafter the words "Yes" and "No."

5 (3) REFERENCE TO PARTY AFFILIATION PROHIBITED.--No
6 reference to political party affiliation shall appear on any
7 ballot with respect to any nonpartisan judicial office or
8 candidate.

9 (4) WRITE-IN CANDIDATES.--Space shall be made
10 available on the general election ballot for an elector to
11 write in the name of a write-in candidate for judge of a
12 circuit court or county court if a candidate has qualified as
13 a write-in candidate for such office pursuant to s. 105.031.
14 This subsection does not apply to the offices of justices and
15 judges seeking retention.

16 Section 4. Section 105.051, Florida Statutes, is
17 amended to read:

18 105.051 Determination of election or retention to
19 office.--

20 (1) ELECTION.--In circuits and counties holding
21 elections:

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

26 (b) If two or more candidates, neither of whom is a
27 write-in candidate, qualify for such an office, the names of
28 those candidates shall be placed on the ballot at the first
29 primary election. If any candidate for such office receives a
30 majority of the votes cast for such office in the first
31 primary election, the name of the candidate who receives such

1 majority shall not appear on any other ballot unless a
2 write-in candidate has qualified for such office. An
3 unopposed candidate shall be deemed to have voted for himself
4 or herself at the general election. If no candidate for such
5 office receives a majority of the votes cast for such office
6 in the first primary election, the names of the two candidates
7 receiving the highest number of votes for such office shall be
8 placed on the general election ballot. If more than two
9 candidates receive an equal and highest number of votes, the
10 name of each candidate receiving an equal and highest number
11 of votes shall be placed on the general election ballot. In
12 any contest in which there is a tie for second place and the
13 candidate placing first did not receive a majority of the
14 votes cast for such office, the name of the candidate placing
15 first and the name of each candidate tying for second shall be
16 placed on the general election ballot.

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

21 (2) RETENTION.--With respect to any justice ~~of the~~
22 ~~Supreme Court~~ or judge ~~of a district court of appeal~~ who
23 qualifies to run for retention in office, the question
24 prescribed in s. 105.041(2) shall be placed on the ballot at
25 the general election. If a majority of the qualified electors
26 voting on such question within the territorial jurisdiction of
27 the court vote for retention, the justice or judge shall be
28 retained for a term of 6 years commencing on the first Tuesday
29 after the first Monday in January following the general
30 election. If less than a majority of the qualified electors
31 voting on such question within the territorial jurisdiction of

1 the court vote for retention, a vacancy shall exist in such
2 office upon the expiration of the term being served by the
3 justice or judge.

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

6 105.061 Electors qualified to vote.--Each qualified
7 elector of the territorial jurisdiction of a court shall be
8 eligible to vote for a candidate for each judicial office of
9 such court or, in the case of a justice ~~of the Supreme Court~~
10 or a judge seeking retention ~~of a district court of appeal~~,
11 for or against retention of such justice or judge.

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

14 105.08 Campaign contribution and expense; reporting.--

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

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

3 106.011 Definitions.--As used in this chapter, the
4 following terms have the following meanings unless the context
5 clearly indicates otherwise:

6 (15) "Unopposed candidate" means a candidate for
7 nomination or election to an office who, after the last day on
8 which any person, including a write-in candidate, may qualify,
9 is without opposition in the election at which the office is
10 to be filled or who is without such opposition after such date
11 as a result of any primary election or of withdrawal by other
12 candidates seeking the same office. A candidate is not an
13 unopposed candidate if there is a vacancy to be filled under
14 s. 100.111(4), if there is a legal proceeding pending
15 regarding the right to a ballot position for the office sought
16 by the candidate, or if the candidate is seeking retention as
17 a justice ~~of the Supreme Court~~ or as a judge ~~of a district~~
18 ~~court of appeal~~.

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

21 106.08 Contributions; limitations on.--

22 (1)(a) Except for political parties, no person,
23 political committee, or committee of continuous existence may,
24 in any election, make contributions in excess of \$500 to any
25 candidate for election to or retention in office or to any
26 political committee supporting or opposing one or more
27 candidates. Candidates for the offices of Governor and
28 Lieutenant Governor on the same ticket are considered a single
29 candidate for the purpose of this section.

30 (b)1. The contribution limits provided in this
31 subsection do not apply to contributions made by a state or

1 county executive committee of a political party regulated by
2 chapter 103 or to amounts contributed by a candidate to his or
3 her own campaign.

4 2. Notwithstanding the limits provided in this
5 subsection, an unemancipated child under the age of 18 years
6 of age may not make a contribution in excess of \$100 to any
7 candidate or to any political committee supporting one or more
8 candidates.

9 (c) The contribution limits of this subsection apply
10 to each election. For purposes of this subsection, the first
11 primary, second primary, and general election are separate
12 elections so long as the candidate is not an unopposed
13 candidate as defined in s. 106.011(15). However, for the
14 purpose of contribution limits with respect to candidates for
15 retention as a justice ~~of the Supreme Court~~ or judge ~~of a~~
16 ~~district court of appeal~~, there is only one election, which is
17 the general election, ~~and~~ With respect to candidates in a
18 circuit holding an election for circuit judge or in a county
19 holding an election for county court judge, there are only two
20 elections, which are the first primary election and general
21 election.

22 Section 9. Initiative for method of selection for
23 circuit or county court judges; procedures for placement on
24 ballot.--

25 (1) Subsequent to the 2000 general election, a local
26 option for merit selection and retention or the election of
27 circuit or county court judges may be placed on the ballot for
28 the general election occurring in excess of 90 days from the
29 certification of ballot position by the Secretary of State for
30 circuit court judges or the county supervisor of elections for
31 county court judges. The ballot shall provide for a vote on

1 the method for selection of judges not currently used for
2 filling judicial offices in the county or circuit.

3 (2) Certification of ballot position for the method of
4 selection of circuit court judges shall be issued when the
5 Secretary of State has received verification certificates from
6 the supervisor of elections in a circuit indicating that the
7 requisite number of valid signatures of electors in the
8 circuit has been submitted and verified by the supervisor.

9 Certification of ballot position for the method of selection
10 of county court judges shall be issued when the supervisor of
11 elections in a county indicates that the requisite number of
12 signatures of electors in the county has been submitted to and
13 verified by the supervisor. Each signature shall be dated when
14 made and shall be valid for a period of 2 years following such
15 date, provided all requirements of law are complied with.

16 (3) The sponsor of an initiative for merit selection
17 and retention or election of circuit or county court judges
18 must register as a political committee pursuant to s. 106.03.

19 (4) The Secretary of State shall adopt rules pursuant
20 to s. 120.54 prescribing the style and requirements of the
21 circuit court and county court forms for collection of
22 signatures.

23 (5) No later than 5 p.m. 151 days prior to the general
24 election at which the proposed judicial selection initiative
25 is to be voted on, the sponsor shall submit signed and dated
26 forms to the appropriate supervisor of elections for
27 verification as to the number of registered electors whose
28 valid signatures appear thereon. The supervisor shall promptly
29 verify the signatures upon payment of the fee or filing of the
30 undue burden oath required by s. 99.097. Verification must be
31 completed at least 91 days prior to the general election. Upon

1 completion of verification, the supervisor shall execute a
2 certificate indicating the total number of signatures checked
3 and the number of signatures verified as valid and as being of
4 registered electors of the applicable county or circuit. This
5 certificate must be immediately transmitted to the Secretary
6 of State for petitions related to the method of selection of
7 circuit court judges. The supervisor must retain the signature
8 forms for at least 1 year following the election in which the
9 issue appeared on the ballot or until the committee that
10 circulated the petition is no longer seeking to obtain ballot
11 position as determined by the Division of Elections for
12 circuit court petitions or by the supervisor of elections for
13 county court petitions.

14 (6) Upon a determination by the Secretary of State for
15 circuit court petitions or by the supervisor of elections for
16 county court petitions that the requisite number of valid
17 signatures has been obtained, a certification of ballot
18 position must be issued for the proposed method of selection
19 of judges. A request to exercise a local option to change the
20 method for selection of circuit or county court judges is
21 deemed filed with the Secretary of State for circuit court
22 judges or the supervisor of elections for county court judges
23 upon the date of the receipt of a certificate or certificates
24 indicating the petition has been signed by the
25 constitutionally required number of electors.

26 (7) Within 10 days after each general election for
27 which an initiative to change the method of selection of
28 circuit or county court judges was placed on the ballot in any
29 circuit or county in the state, the Secretary of State must
30 notify the Chief Justice of the Supreme Court of Florida of
31

1 the changed method for selection of judges for any circuit or
2 county where the initiative passed.

3 (8) The Department of State shall have the authority
4 to promulgate rules in accordance with s. 120.54 to carry out
5 the provisions of this section.

6 Section 10. Subsection (3) is added to section
7 101.161, Florida Statutes, to read:

8 101.161 Referenda; ballots.--

9 (3)(a) The ballot for the general election in 2000
10 must contain a statement allowing voters to determine whether
11 circuit or county court judges will be selected by merit
12 selection and retention as provided in Section 10 of Article V
13 of the State Constitution. The ballot in each circuit must
14 contain the statement in paragraph (c). The ballot in each
15 county must contain the statement in paragraph (e).

16 (b) For any general election in which the Secretary of
17 State, for any circuit, or the supervisor of elections, for
18 any county, has certified the ballot position for an
19 initiative to change the method of selection of judges, the
20 ballot for any circuit must contain the statement in paragraph
21 (c) or paragraph (d) and the ballot for any county must
22 contain the statement in paragraph (e) or paragraph (f).

23 (c) In any circuit where the initiative is to change
24 the selection of circuit court judges to selection by merit
25 selection and retention the ballot shall state: "Shall circuit
26 court judges in the ...(number of the circuit)... judicial
27 circuit be selected through merit selection and retention?"
28 This statement must be followed by the word "yes" and also by
29 the word "no."

30 (d) In any circuit where the initiative is to change
31 the selection of circuit court judges to election by the

1 voters the ballot shall state: "Shall circuit court judges in
2 the ...(number of the circuit)... judicial circuit be selected
3 by vote of the electorate of the circuit?" This statement must
4 be followed by the word "yes" and also by the word "no."

5 (e) In any county where the initiative is to change
6 the selection of county court judges to merit selection and
7 retention the ballot shall state: "Shall county court judges
8 in ...(name of county)... be selected through merit selection
9 and retention?" This statement must be followed by the word
10 "yes" and also by the word "no."

11 (f) In any county where the initiative is to change
12 the selection of county court judges to election by the voters
13 the ballot shall state: "Shall county court judges in ...(name
14 of the county)... be selected by vote of the electorate of the
15 county." This statement must be followed by the word "yes" and
16 also by the word "no."

17 Section 11. No county court judge elected prior to or
18 at the election that approves any revision to the selection of
19 county court judges shall be affected in his or her term of
20 office. Any county judge wishing to apply for a subsequent
21 term will be elected or retained pursuant to the method of
22 election or selection and retention of county court judges in
23 effect in the county for the election preceding the end of the
24 judge's term of office.

25 Section 12. No circuit court judge elected prior to or
26 at the election that approves any revision to the selection of
27 circuit court judge shall be affected in his or her term of
28 office. Any circuit court judge wishing to apply for a
29 subsequent term will be elected or retained pursuant to the
30 method of election or selection and retention of circuit court
31

1 judges in effect in the circuit for the election preceding the
2 end of the judge's term of office.

3 Section 13. Section 35.06, Florida Statutes, is
4 amended to read:

5 35.06 Organization of district courts of appeal.--A
6 district court of appeal shall be organized in each of the
7 five appellate districts to be named District Court of Appeal,
8 District. The number of judges of each district court of
9 appeal shall be as follows:

- 10 (1) In the first district there shall be 15 judges.
11 (2) In the second district there shall be 14 judges.
12 (3) In the third district there shall be 11 judges.
13 (4) In the fourth district there shall be 12 judges.
14 (5) In the fifth district there shall be 9 judges.

15
16 ~~The successors of the original and additional judges of the~~
17 ~~district courts of appeal shall be elected at the general~~
18 ~~election next preceding the expiration of their respective~~
19 ~~terms of office to serve for full terms of 6 years.~~

20 Section 14. Subsection (6) of section 101.151, Florida
21 Statutes, is amended to read:

22 101.151 Specifications for general election
23 ballot.--In counties in which voting machines are not used,
24 and in other counties for use as absentee ballots not designed
25 for tabulation by an electronic or electromechanical voting
26 system, the general election ballot shall conform to the
27 following specifications:

- 28 (6) Except for justices of the Supreme Court and or
29 judges seeking retention of ~~district courts of appeal~~, the
30 names of unopposed candidates shall not appear on the general
31

1 election ballot. Each unopposed candidate shall be deemed to
2 have voted for himself or herself.

3 Section 15. Section 25.021, Florida Statutes, is
4 repealed.

5 Section 16. This act shall take effect January 1,
6 2000.

7
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 SB 1210

11 The CS directs the Secretary of State to place on the ballot
12 for the 2000 general election questions regarding the
13 selection of circuit and county court judges through merit
14 selection and retention rather than elections.

15 Subsequent to the 2000 general election the CS establishes the
16 process by which political organizations may be created for
17 the collection of petitions to place the method for selection
18 of circuit and county court judges on the ballot in any
19 general election.

20 The CS specifies the process for verification of the
21 petitions, certification of ballot position, and ballot
22 language for both circuit and county court judges.

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

26 Circuit and county court judges holding office at the time of
27 a change in the selection process will not be affected by the
28 change until the end of their term. At the election prior to
29 the end of a judge's term of office the judge wishing to
30 remain in office will be required to either stand for election
31 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.