1   A bill to be entitled

2   An act relating to judicial selection; amending

3   s. 34.021, F.S.; authorizing retention of

4   county court judges; amending s. 105.031, F.S.;

5   providing requirements to qualify for election

6   or retention to judicial office; amending s.

7   105.041, F.S.; providing form of ballot for

8   retention votes on county and circuit court

9   judges; amending s. 105.051, F.S.; providing

10   for 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   penalties; providing for petitions and

23   certification of ballot position; establishing

24   deadlines; amending s. 101.161, F.S.; placing

25   the issue of the method of selection of judges

26   on the general election ballot in the year

27   2000; establishing manner for placing judicial

28   selection initiatives on subsequent general

29   election ballots; providing ballot language;

30   providing for impact on sitting judges;

31   repealing s. 25.021, F.S.; deleting terms of

1

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1   elected Supreme Court justices; amending s.
2   35.06, F.S.; deleting terms of elected district
3   court of appeal judges; amending s. 101.151,
4   F.S.; conforming provisions; providing an
5   effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9   Section 1. Section 34.021, Florida Statutes, is
10 amended to read:
11   34.021 Qualifications of county court judges.--
12   (1) No person is eligible for election or appointment
13 to the office of county court judge unless the person is, and
14 has been for the preceding 5 years, a member in good standing
15 of the bar of Florida prior to qualifying for election to such
16 office or submitting his or her name to the appropriate
17 judicial nominating commission for appointment. However, a
18 person is eligible for election or appointment to the office
19 of county court judge in a county having a population of
20 40,000 or less if he or she is a member in good standing of
21 the bar of Florida.
22   (2) A county court judge is eligible to seek
23 reelection or retention, notwithstanding the provisions of
24 subsection (1), if, on the first day of the qualification
25 period for election to such office or a retention vote, such
26 judge is actively serving in such office and is not under
27 suspension or disqualification.
28   (3) Any person who was a county court judge prior to
29 July 1, 1978, in any county having a population of 40,000 or
30 less, according to the last decennial census, and who has
31 successfully completed a 3-year law training program approved

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 1 by the Supreme Court for the training of county court judges
 2 who are not members of The Florida Bar is <u>eligible to seek</u>
 3 <s>entitled to such</s> election <u>or retention</u> and to serve as a
 4 county court judge in any county having a population of 40,000
 5 or less, the provisions of subsection (1) to the contrary
 6 notwithstanding.
 7   (4) Any county judge who is not a member of the bar,
 8 in any county having a population of 40,000 or less, according
 9 to the last decennial census, and who has successfully
10 completed a law training program approved by the Supreme Court
11 for the training of county court judges who are not members of
12 The Florida Bar is entitled to serve as a county court judge
13 in any county encompassed in the circuit in which the judge
14 has been elected <u>or retained in a retention vote</u>, when
15 assigned thereto.
16   Section 2. Paragraph (a) of subsection (5) of section
17 105.031, Florida Statutes, is amended to read:
18   105.031 Qualification; filing fee; candidate's oath;
19 items required to be filed.--
20   (5) ITEMS REQUIRED TO BE FILED.--
21   (a) In order for a candidate for judicial office to be
22 qualified, the following items must be received by the filing
23 officer by the end of the qualifying period:
24   1. <u>Except for candidates for retention to judicial</u>
25 <u>office</u> <s>For each candidate qualifying for the office of circuit</s>
26 <s>judge or county court judge</s>, a properly executed check drawn
27 upon the candidate's campaign account in an amount not less
28 than the fee required by subsection (3) or, in lieu thereof,
29 the copy of the notice of obtaining ballot position pursuant
30 to s. 105.035. If a candidate's check is returned by the bank
31 for any reason, the filing officer shall immediately notify

3

1 the candidate and the candidate shall, the end of qualifying

2 notwithstanding, have 48 hours from the time such notification

3 is received, excluding Saturdays, Sundays, and legal holidays,

4 to pay the fee with a cashier's check purchased from funds of

5 the campaign account. Failure to pay the fee as provided in

6 this subparagraph shall disqualify the candidate.

7   2. The candidate's oath required by subsection (4),

8 which must contain the name of the candidate as it is to

9 appear on the ballot; the office sought, including the

10 district or group number if applicable; and the signature of

11 the candidate, duly acknowledged.

12   3. The loyalty oath required by s. 876.05, signed by

13 the candidate and duly acknowledged.

14   4. The completed form for the appointment of campaign

15 treasurer and designation of campaign depository, as required

16 by s. 106.021.

17   5. The full and public disclosure of financial

18 interests required by s. 8, Art. II of the State Constitution.

19   Section 3. Section 105.041, Florida Statutes, is

20 amended to read:

21   105.041 Form of ballot.--

22   (1) BALLOTS.--The names of candidates for judicial

23 office which appear on the ballot at the first primary

24 election shall either be grouped together on a separate

25 portion of the ballot or on a separate ballot. The names of

26 candidates for election to judicial office which appear on the

27 ballot at the general election and the names of justices and

28 judges seeking retention to office shall be grouped together

29 on a separate portion of the general election ballot.

30   (2) LISTING OF CANDIDATES.--The names of all

31 candidates for election to the office of circuit judge or the

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1 office of county court judge shall be listed in alphabetical
2 order. With respect to <u>retention of</u> justices and judges <s>of</s>
3 <s>district courts of appeal</s>, the question "Shall Justice (or
4 Judge) (name of justice or judge) of the (name of the court)
5 be retained in office?" shall appear on the ballot <u>in</u>
6 <u>alphabetical order</u> and thereafter the words "Yes" and "No."
7   (3) REFERENCE TO PARTY AFFILIATION PROHIBITED.--No
8 reference to political party affiliation shall appear on any
9 ballot with respect to any nonpartisan judicial office or
10 candidate.
11   (4) WRITE-IN CANDIDATES.--Space shall be made
12 available on the general election ballot for an elector to
13 write in the name of a write-in candidate for judge of a
14 circuit court or county court if a candidate has qualified as
15 a write-in candidate for such office pursuant to s. 105.031.
16 <u>This subsection does not apply to the offices of justices and</u>
17 <u>judges seeking retention.</u>
18   Section 4. Section 105.051, Florida Statutes, is
19 amended to read:
20   105.051 Determination of election <u>or retention</u> to
21 office.--
22   (1) <u>ELECTION.--In circuits and counties holding</u>
23 <u>elections:</u>
24   (a) The name of an unopposed candidate for the office
25 of circuit judge or county court judge shall not appear on any
26 ballot, and such candidate shall be deemed to have voted for
27 himself or herself at the general election.
28   (b) If two or more candidates, neither of whom is a
29 write-in candidate, qualify for such an office, the names of
30 those candidates shall be placed on the ballot at the first
31 primary election. If any candidate for such office receives a

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1 majority of the votes cast for such office in the first
2 primary election, the name of the candidate who receives such
3 majority shall not appear on any other ballot unless a
4 write-in candidate has qualified for such office. An
5 unopposed candidate shall be deemed to have voted for himself
6 or herself at the general election. If no candidate for such
7 office receives a majority of the votes cast for such office
8 in the first primary election, the names of the two candidates
9 receiving the highest number of votes for such office shall be
10 placed on the general election ballot. If more than two
11 candidates receive an equal and highest number of votes, the
12 name of each candidate receiving an equal and highest number
13 of votes shall be placed on the general election ballot. In
14 any contest in which there is a tie for second place and the
15 candidate placing first did not receive a majority of the
16 votes cast for such office, the name of the candidate placing
17 first and the name of each candidate tying for second shall be
18 placed on the general election ballot.
19   (c) The candidate who receives the highest number of
20 votes cast for the office in the general election shall be
21 elected to such office. If the vote at the general election
22 results in a tie, the outcome shall be determined by lot.
23   (2) RETENTION.--With respect to any justice ~~of the~~
24 ~~Supreme Court~~ or judge ~~of a district court of appeal~~ who
25 qualifies to run for retention in office, the question
26 prescribed in s. 105.041(2) shall be placed on the ballot at
27 the general election. If a majority of the qualified electors
28 voting on such question within the territorial jurisdiction of
29 the court vote for retention, the justice or judge shall be
30 retained for a term of 6 years commencing on the first Tuesday
31 after the first Monday in January following the general

1 election. If less than a majority of the qualified electors
2 voting on such question within the territorial jurisdiction of
3 the court vote for retention, a vacancy shall exist in such
4 office upon the expiration of the term being served by the
5 justice or judge.
6   Section 5. Section 105.061, Florida Statutes, is
7 amended to read:
8   105.061 Electors qualified to vote.--Each qualified
9 elector of the territorial jurisdiction of a court shall be
10 eligible to vote for a candidate for each judicial office of
11 such court or, in the case of a justice ~~of the Supreme Court~~
12 or ~~a~~ judge seeking retention ~~of a district court of appeal~~,
13 for or against retention of such justice or judge.
14   Section 6. Subsection (2) of section 105.08, Florida
15 Statutes, is amended to read:
16   105.08 Campaign contribution and expense; reporting.--
17   (2) Notwithstanding any other provision of this
18 chapter or chapter 106, a candidate for retention as a justice
19 ~~of the Supreme Court~~ or ~~a~~ judge ~~of a district court of appeal~~
20 who has not received any contribution or made any expenditure
21 may file a sworn statement at the time of qualifying that he
22 or she does not anticipate receiving contributions or making
23 expenditures in connection with the candidacy for retention to
24 office. Such candidate shall file a final report pursuant to
25 s. 106.141, within 90 days following the general election for
26 which the candidate's name appeared on the ballot for
27 retention. Any such candidate for retention to judicial office
28 who, after filing a statement pursuant to this subsection,
29 receives any contribution or makes any expenditure in
30 connection with the candidacy for retention shall immediately
31 file a statement to that effect with the qualifying officer

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1 and shall begin filing reports as an opposed candidate
2 pursuant to s. 106.07.
3   Section 7. Subsection (15) of section 106.011, Florida
4 Statutes, is amended to read:
5   106.011 Definitions.--As used in this chapter, the
6 following terms have the following meanings unless the context
7 clearly indicates otherwise:
8   (15) "Unopposed candidate" means a candidate for
9 nomination or election to an office who, after the last day on
10 which any person, including a write-in candidate, may qualify,
11 is without opposition in the election at which the office is
12 to be filled or who is without such opposition after such date
13 as a result of any primary election or of withdrawal by other
14 candidates seeking the same office. A candidate is not an
15 unopposed candidate if there is a vacancy to be filled under
16 s. 100.111(4), if there is a legal proceeding pending
17 regarding the right to a ballot position for the office sought
18 by the candidate, or if the candidate is seeking retention as
19 a justice ~~of the Supreme Court~~ or ~~as a~~ judge ~~of a district~~
20 ~~court of appeal~~.
21   Section 8. Subsection (1) of section 106.08, Florida
22 Statutes, is amended to read:
23   106.08 Contributions; limitations on.--
24   (1)(a) Except for political parties, no person,
25 political committee, or committee of continuous existence may,
26 in any election, make contributions in excess of $500 to any
27 candidate for election to or retention in office or to any
28 political committee supporting or opposing one or more
29 candidates. Candidates for the offices of Governor and
30 Lieutenant Governor on the same ticket are considered a single
31 candidate for the purpose of this section.

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1   (b)1. The contribution limits provided in this
2 subsection do not apply to contributions made by a state or
3 county executive committee of a political party regulated by
4 chapter 103 or to amounts contributed by a candidate to his or
5 her own campaign.
6   2. Notwithstanding the limits provided in this
7 subsection, an unemancipated child under the age of 18 years
8 of age may not make a contribution in excess of $100 to any
9 candidate or to any political committee supporting one or more
10 candidates.
11   (c) The contribution limits of this subsection apply
12 to each election. For purposes of this subsection, the first
13 primary, second primary, and general election are separate
14 elections so long as the candidate is not an unopposed
15 candidate as defined in s. 106.011(15). However, for the
16 purpose of contribution limits with respect to candidates for
17 retention as a justice ~~of the Supreme Court~~ or judge ~~of a~~
18 ~~district court of appeal~~, there is only one election, which is
19 the general election. ~~, and~~ With respect to candidates in a
20 circuit holding an election for circuit judge or in a county
21 holding an election for county court judge, there are only two
22 elections, which are the first primary election and general
23 election.
24   Section 9. Initiative for method of selection for
25 circuit or county court judges; procedures for placement on
26 ballot.--
27   (1) Subsequent to the general election in the year
28 2000, a local option for merit selection and retention or the
29 election of circuit or county court judges may be placed on
30 the ballot for the general election occurring in excess of 90
31 days from the certification of ballot position by the

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1 Secretary of State for circuit court judges or the county
2 supervisor of elections for county court judges. The ballot
3 shall provide for a vote on the method for selection of judges
4 not currently used for filling judicial offices in the county
5 or circuit.
6   (2) Certification of ballot position for the method of
7 selection of circuit court judges shall be issued when the
8 Secretary of State has received a verification certificate
9 from each supervisor of elections in a circuit indicating that
10 the requisite number of valid signatures of electors in the
11 circuit has been submitted and verified by the supervisor or
12 supervisors of that circuit. Certification of ballot position
13 for the method of selection of county court judges shall be
14 issued when the supervisor of elections in a county indicates
15 that the requisite number of signatures of electors in the
16 county has been submitted to and verified by the supervisor.
17 Each signature shall be dated when made and shall be valid for
18 a period of 2 years following such date, provided all
19 requirements of law are complied with.
20   (3) The sponsor of an initiative for merit selection
21 and retention or election of circuit or county court judges
22 must register as a political committee pursuant to s. 106.03.
23   (4) The Secretary of State shall adopt rules pursuant
24 to ss. 120.536(1) and 120.54 prescribing the style and
25 requirements of the circuit court and county court forms for
26 collection of signatures.
27   (5) No later than 5 p.m. 151 days prior to the general
28 election at which the proposed judicial selection initiative
29 is to be voted on, the sponsor shall submit signed and dated
30 forms to the appropriate supervisor of elections for
31 verification as to the number of registered electors whose

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1 valid signatures appear thereon. The supervisor shall promptly
2 verify the signatures upon payment of the fee or filing of the
3 undue burden oath required by s. 99.097. Verification must be
4 completed at least 91 days prior to the general election. Upon
5 completion of verification, the supervisor shall execute a
6 certificate indicating the total number of signatures checked
7 and the number of signatures verified as valid and as being of
8 registered electors of the applicable county or circuit. This
9 certificate must be immediately transmitted to the Secretary
10 of State for petitions related to the method of selection of
11 circuit court judges. The supervisor must retain the signature
12 forms for at least 1 year following the election in which the
13 issue appeared on the ballot or until the committee that
14 circulated the petition is no longer seeking to obtain ballot
15 position as determined by the Division of Elections for
16 circuit court petitions or by the supervisor of elections for
17 county court petitions.
18   (6) Upon a determination by the Secretary of State for
19 circuit court petitions or by the supervisor of elections for
20 county court petitions that the requisite number of valid
21 signatures has been obtained, a certification of ballot
22 position must be issued for the proposed method of selection
23 of judges. A request to exercise a local option to change the
24 method for selection of circuit or county court judges is
25 deemed filed with the Secretary of State for circuit court
26 judges or the supervisor of elections for county court judges
27 upon the date of the receipt of a certificate or certificates
28 indicating the petition has been signed by the
29 constitutionally required number of electors.
30   (7) Within 10 days after each general election for
31 which an initiative to change the method of selection of

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 1 circuit or county court judges was placed on the ballot in any
 2 circuit or county in the state, the Secretary of State must
 3 notify the Chief Justice of the Supreme Court of Florida of
 4 the changed method for selection of judges for any circuit or
 5 county where the initiative passed.
 6   (8) The Department of State shall have the authority
 7 to promulgate rules in accordance with ss. 120.536(1) and
 8 120.54 to carry out the provisions of this section.
 9   Section 10. Subsection (3) is added to section
10 101.161, Florida Statutes, to read:
11   101.161 Referenda; ballots.--
12   (3)(a) The ballot for the general election in the year
13 2000 must contain a statement allowing voters to determine
14 whether circuit or county court judges will be selected by
15 merit selection and retention as provided in Section 10 of
16 Article V of the State Constitution. The ballot in each
17 circuit must contain the statement in paragraph (c). The
18 ballot in each county must contain the statement in paragraph
19 (e).
20   (b) For any general election in which the Secretary of
21 State, for any circuit, or the supervisor of elections, for
22 any county, has certified the ballot position for an
23 initiative to change the method of selection of judges, the
24 ballot for any circuit must contain the statement in paragraph
25 (c) or paragraph (d) and the ballot for any county must
26 contain the statement in paragraph (e) or paragraph (f).
27   (c) In any circuit where the initiative is to change
28 the selection of circuit court judges to selection by merit
29 selection and retention, the ballot shall state: "Shall
30 circuit court judges in the ...(number of the circuit)...
31 judicial circuit be selected through merit selection and

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1 retention?" This statement must be followed by the word "yes"
2 and also by the word "no."
3   (d) In any circuit where the initiative is to change
4 the selection of circuit court judges to election by the
5 voters, the ballot shall state: "Shall circuit court judges in
6 the ...(number of the circuit)... judicial circuit be selected
7 by vote of the electorate of the circuit?" This statement must
8 be followed by the word "yes" and also by the word "no."
9   (e) In any county where the initiative is to change
10 the selection of county court judges to merit selection and
11 retention, the ballot shall state: "Shall county court judges
12 in ...(name of county)... be selected through merit selection
13 and retention?" This statement must be followed by the word
14 "yes" and also by the word "no."
15   (f) In any county where the initiative is to change
16 the selection of county court judges to election by the
17 voters, the ballot shall state: "Shall county court judges in
18 ...(name of the county)... be selected by vote of the
19 electorate of the county?" This statement must be followed by
20 the word "yes" and also by the word "no."
21   Section 11. No county court judge elected prior to or
22 at the election that approves any revision to the selection of
23 county court judges shall be affected in his or her term of
24 office. Any county judge wishing to apply for a subsequent
25 term will be elected or retained pursuant to the method of
26 election or selection and retention of county court judges in
27 effect in the county for the election preceding the end of the
28 judge's term of office.
29   Section 12. No circuit court judge elected prior to or
30 at the election that approves any revision to the selection of
31 circuit court judge shall be affected in his or her term of

1 office. Any circuit court judge wishing to apply for a
2 subsequent term will be elected or retained pursuant to the
3 method of election or selection and retention of circuit court
4 judges in effect in the circuit for the election preceding the
5 end of the judge's term of office.
6   Section 13. Section 35.06, Florida Statutes, is
7 amended to read:
8   35.06 Organization of district courts of appeal.--A
9 district court of appeal shall be organized in each of the
10 five appellate districts to be named District Court of Appeal,
11 .... District. The number of judges of each district court of
12 appeal shall be as follows:
13   (1) In the first district there shall be 15 judges.
14   (2) In the second district there shall be 14 judges.
15   (3) In the third district there shall be 11 judges.
16   (4) In the fourth district there shall be 12 judges.
17   (5) In the fifth district there shall be 9 judges.
18
19 The successors of the original and additional judges of the
20 district courts of appeal shall be elected at the general
21 election next preceding the expiration of their respective
22 terms of office to serve for full terms of 6 years.
23   Section 14. Subsection (6) of section 101.151, Florida
24 Statutes, is amended to read:
25   101.151 Specifications for general election
26 ballot.--In counties in which voting machines are not used,
27 and in other counties for use as absentee ballots not designed
28 for tabulation by an electronic or electromechanical voting
29 system, the general election ballot shall conform to the
30 following specifications:
31

 1   (6) Except for justices ~~of the Supreme Court and~~ or

 2   judges <u>seeking retention</u> ~~of district courts of appeal~~, the

 3   names of unopposed candidates shall not appear on the general

 4   election ballot. Each unopposed candidate shall be deemed to

 5   have voted for himself or herself.

 6   Section 15. <u>Section 25.021, Florida Statutes, is</u>

 7   <u>repealed.</u>

 8   Section 16. This act shall take effect January 1,

 9   2000.

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11   **

12   HOUSE SUMMARY

13

14   Amends various provisions of the statutes to conform to
     the recently approved constitutional amendment that
     allows electors in judicial circuits and counties to

15   elect to have their county court judges and circuit court
     judges chosen by merit selection and retention.

16

17   Requires the ballot for the general election in the year
     2000 to contain questions regarding the selection of

18   circuit and county court judges through merit selection
     and retention rather than elections.

19

20   Subsequent to the general election in the year 2000,
     establishes the process by which political organizations

21   may be created for the collection of petitions to place
     the method for selection of circuit and county court

22   judges on the ballot in any general election. Specifies
     the process for verification of the petitions,

23   certification of ballot position, and ballot language for
     both circuit and county court judges. Requires the

24   Secretary of State to notify the Supreme Court after each
     general election of those counties and circuits where the

25   method of judicial selection has changed. Provides that
     circuit and county court judges holding office at the

26   time of a change in the selection process will not be
     affected by the change until the end of their term. Also

27   provides that at the election prior to the end of a
     judge's term of office the judge wishing to remain in

28   office will be required to either stand for election or a
     retention vote depending on which process is to be used

29   for selection of judges at that election.

30

31   Deletes current provisions of law relating to the terms
     of office for elected Supreme Court justices and district
     court of appeal judges. See bill for details.

                            15