

By Senator Cowin

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Senate Joint Resolution No. ____

A joint resolution proposing amendments to Sections 3, 10, and 11 of Article V of the State Constitution, relating to the judiciary, to provide a method for selection of Supreme Court justices and district court of appeal judges.

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

That the following amendments to Sections 3, 10, and 11 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 next general election or at an earlier special election specifically authorized by law for that purpose:

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

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

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

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

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

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

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

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

7 (9) May, or any justice may, issue writs of habeas
8 corpus returnable before the supreme court or any justice, a
9 district court of appeal or any judge thereof, or any circuit
10 judge.

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

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

22 SECTION 10. Retention; election and terms.--

23 (a) Any circuit judge or county court ~~justice or~~ judge
24 may qualify for retention by a vote of the electors in the
25 general election next preceding the expiration of the
26 ~~justice's or~~ judge's term in the manner prescribed by law. If
27 a ~~justice or~~ judge is ineligible or fails to qualify for
28 retention, a vacancy shall exist in that office upon the
29 expiration of the term being served by the ~~justice or~~ judge.
30 When a ~~justice or~~ judge so qualifies, the ballot shall read
31 substantially as follows: "Shall ~~Justice (or~~ Judge)...(name

1 of ~~justice or~~ judge)... of the ...(name of the court)... be
2 retained in office?" If a majority of the qualified electors
3 voting within the territorial jurisdiction of the court vote
4 to retain, the ~~justice or~~ judge shall be retained for a term
5 of six years. The term of the ~~justice or~~ judge retained shall
6 commence on the first Tuesday after the first Monday in
7 January following the general election. If a majority of the
8 qualified electors voting within the territorial jurisdiction
9 of the court vote to not retain, a vacancy shall exist in that
10 office upon the expiration of the term being served by the
11 ~~justice or~~ judge.

12 (b)

13 (1) The election of circuit judges shall be preserved
14 notwithstanding the provisions of subsection (a) unless a
15 majority of those voting in the jurisdiction of that circuit
16 approves a local option to select circuit judges by merit
17 selection and retention rather than by election. The election
18 of circuit judges shall be by a vote of the qualified electors
19 within the territorial jurisdiction of the court.

20 (2) The election of county court judges shall be
21 preserved notwithstanding the provisions of subsection (a)
22 unless a majority of those voting in the jurisdiction of that
23 county approves a local option to select county judges by
24 merit selection and retention rather than by election. The
25 election of county court judges shall be by a vote of the
26 qualified electors within the territorial jurisdiction of the
27 court.

28 (3)

29 a. A vote to exercise a local option to select circuit
30 court judges and county court judges by merit selection and
31 retention rather than by election shall be held in each

1 circuit and county at the general election in the year 2000.
2 If a vote to exercise this local option fails in a vote of the
3 electors, such option shall not again be put to a vote of the
4 electors of that jurisdiction until the expiration of at least
5 two years.

6 b. After the year 2000, a circuit may initiate the
7 local option for merit selection and retention or the election
8 of circuit judges, whichever is applicable, by filing with the
9 secretary of state a petition signed by the number of electors
10 equal to at least ten percent of the votes cast in the circuit
11 in the last preceding election in which presidential electors
12 were chosen.

13 c. After the year 2000, a county may initiate the
14 local option for merit selection and retention or the election
15 of county court judges, whichever is applicable, by filing
16 with the supervisor of elections a petition signed by the
17 number of electors equal to at least ten percent of the votes
18 cast in the county in the last preceding election in which
19 presidential electors were chosen. The terms of circuit judges
20 and judges of county courts shall be for six years.

21 SECTION 11. Vacancies.--

22 (a) Whenever a vacancy occurs in a judicial office to
23 which election for retention applies, the governor shall fill
24 the vacancy by appointing for a term ending on the first
25 Tuesday after the first Monday in January of the year
26 following the next general election occurring at least one
27 year after the date of appointment, one of not fewer than
28 three persons nor more than six persons nominated by the
29 appropriate judicial nominating commission.

30 (b) The governor shall fill each vacancy on a circuit
31 court or on a county court, wherein the judges are elected by

1 a majority vote of the electors, by appointing for a term
2 ending on the first Tuesday after the first Monday in January
3 of the year following the next primary and general election
4 occurring at least one year after the date of appointment, one
5 of not fewer than three persons nor more than six persons
6 nominated by the appropriate judicial nominating commission.
7 An election shall be held to fill that judicial office for the
8 term of the office beginning at the end of the appointed term.

9 (c) The nominations shall be made within thirty days
10 from the occurrence of a vacancy unless the period is extended
11 by the governor for a time not to exceed thirty days. The
12 governor shall make the appointment within sixty days after
13 the nominations have been certified to the governor.

14 (d) There shall be a separate judicial nominating
15 commission as provided by general law for the supreme court,
16 each district court of appeal, and each judicial circuit for
17 all trial courts within the circuit. Uniform rules of
18 procedure shall be established by the judicial nominating
19 commissions at each level of the court system. Such rules, or
20 any part thereof, may be repealed by general law enacted by a
21 majority vote of the membership of each house of the
22 legislature, or by the supreme court, five justices
23 concurring. Except for deliberations of the judicial
24 nominating commissions, the proceedings of the commissions and
25 their records shall be open to the public.

26 (e) Whenever a vacancy occurs in the office of justice
27 of the supreme court or judge of a district court of appeal,
28 or whenever a vacancy will occur in the office of justice of
29 the supreme court or judge of a district court of appeal due
30 to the expiration of the term of office of an incumbent
31 justice or judge, the governor shall fill the vacancy by

1 appointing a person from the list of persons nominated by the
2 respective judicial nominating commission; the appointee must
3 be confirmed by the senate. If the vacancy occurs before the
4 expiration of the term of office of the incumbent justice or
5 judge, the appointment shall be for the unexpired portion of
6 the term. A person may not be appointed to more than two
7 consecutive full terms as justice of the supreme court or
8 judge of a district court of appeal.

9 BE IT FURTHER RESOLVED that the following statement be
10 placed on the ballot:

11 CONSTITUTIONAL AMENDMENT

12 ARTICLE V, SECTIONS 3, 10, 11

13 SUPREME COURT JUSTICES, DISTRICT COURT OF APPEAL
14 JUDGES; APPOINTMENT, CONFIRMATION, TERMS.--Proposing an
15 amendment to the State Constitution to abolish retention
16 elections for the offices of Supreme Court justice and judge
17 of a district court of appeal and to make the offices
18 appointive by the Governor, subject to confirmation by the
19 Senate, with no one able to serve more than two consecutive
20 full terms.

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