

By Senator Garcia

39-949-01

See HB

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Senate Joint Resolution No. \_\_\_\_

A joint resolution proposing the revision of Article V of the State Constitution, relating to the judiciary.

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

That the following revision of Article V of the State Constitution is agreed to and shall be submitted to the electors of Florida 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 1. Courts.--

(a) The judicial power shall be vested in a supreme court, district courts of appeal, circuit courts and county courts. Subject to any additional limitations established in this constitution, the jurisdiction of such courts shall extend only to actual cases in law, equity, admiralty and maritime jurisdiction, and to actual controversies arising under the constitution and the laws of the State of Florida and of the United States. No other courts may be established by the state, any political subdivision or any municipality. The legislature shall, by general law, divide the state into appellate court districts and judicial circuits following county lines, except that a district court of appeal may have geographical jurisdiction up to and including the entire state respecting any subject matter granted within such jurisdiction exclusively to that court by general law. Commissions

1 established by law, or administrative officers or bodies may  
2 be granted quasi-judicial power in matters connected with the  
3 functions of their offices. The legislature may establish by  
4 general law a civil traffic hearing officer system for the  
5 purpose of hearing civil traffic infractions. The legislature  
6 may, by general law, authorize a military court-martial to be  
7 conducted by military judges of the Florida National Guard,  
8 with direct appeal of a decision to the District Court of  
9 Appeal, First District.

10 (b) The power granted in this article to issue any  
11 writ does not in and of itself grant a court jurisdiction over  
12 a case or controversy. Some legal or equitable claim otherwise  
13 cognizable by such court is required to establish the  
14 jurisdictional basis for the issuance of a writ. The power to  
15 issue a writ of quo warranto does not establish power to  
16 review any right, power, or duty of a public official other  
17 than the right to hold the particular office claimed by such  
18 official, and the writ of quo warranto shall not be used for  
19 any purpose except to test a person's authority to continue  
20 holding an office when challenged by a competing claimant to  
21 such office. All writs except those directed to judicial  
22 officers shall be subject to statutes of limitation as  
23 provided by general law.

24 SECTION 2. Administration; practice and procedure.--

25 (a) The supreme court may ~~shall~~ adopt rules for the  
26 practice and procedure in all courts including the time for  
27 seeking appellate review, the administrative supervision of  
28 all courts, the transfer to the court having jurisdiction of  
29 any proceeding when the jurisdiction of another court has been  
30 improvidently invoked, and a requirement that no cause shall  
31 be dismissed because an improper remedy has been sought. The

1 supreme court shall adopt rules to allow the court and the  
2 district courts of appeal to submit questions relating to  
3 military law to the federal Court of Appeals for the Armed  
4 Forces for an advisory opinion. Rules of court may not be  
5 inconsistent with statutes in place at the time of adoption of  
6 such rules, shall be revised to conform to subsequently  
7 adopted statutes that regulate substantive rights, and may be  
8 repealed by general law ~~enacted by two-thirds vote of the~~  
9 ~~membership of each house of the legislature.~~ Rules adopted  
10 pursuant to this section shall neither abridge, enlarge, nor  
11 modify the substantive rights of any litigant, but additional  
12 rulemaking power may be expressly delegated to courts by  
13 general law.

14 (b) The chief justice of the supreme court shall be  
15 chosen by a majority of the members of the court; shall be the  
16 chief administrative officer of the courts established by this  
17 constitution ~~judicial system~~; and shall have the power to  
18 assign justices or judges, including consenting retired  
19 justices or judges, to temporary duty in any court for which  
20 the judge is qualified and to delegate to a chief judge of a  
21 judicial circuit the power to assign judges for duty in that  
22 circuit.

23 (c) A chief judge for each district court of appeal  
24 shall be chosen by a majority of the judges thereof or, if  
25 there is no majority, by the chief justice. The chief judge  
26 shall be responsible for the administrative supervision of the  
27 court.

28 (d) A chief judge in each circuit shall be chosen from  
29 among the circuit judges as provided by supreme court rule.  
30 The chief judge shall be responsible for the administrative  
31

1 supervision of the circuit courts and county courts in his  
2 circuit.

3 SECTION 3. Supreme court.--

4 (a) ORGANIZATION.--The supreme court shall consist of  
5 seven justices. ~~Of the seven justices, each appellate district~~  
6 ~~shall have at least one justice elected or appointed from the~~  
7 ~~district to the supreme court who is a resident of the~~  
8 ~~district at the time of the original appointment or election.~~  
9 Five justices shall constitute a quorum. The concurrence of  
10 four justices shall be necessary to a decision. When recusals  
11 for cause would prohibit the court from convening because of  
12 the requirements of this section, judges assigned to temporary  
13 duty may be substituted for justices.

14 (b) JURISDICTION.--Subject to the limitations provided  
15 in Section One of this Article,the supreme court:

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

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

25 (3) May review any decision of a district court of  
26 appeal that expressly declares valid a state statute, or that  
27 expressly construes a provision of the state or federal  
28 constitution, or that expressly affects a class of  
29 constitutional or state officers, or that expressly and  
30 directly conflicts with a decision of another district court  
31 of appeal or of the supreme court on the same question of law.

1           (4) May review any decision of a district court of  
2 appeal that passes upon a question certified by it to be of  
3 great public importance, or that is certified by it to be in  
4 direct conflict with a decision of another district court of  
5 appeal.

6           (5) May review any order or judgment of a trial court  
7 certified by the district court of appeal in which an appeal  
8 is pending to be of great public importance, or to have a  
9 great effect on the proper administration of justice  
10 throughout the state, and certified to require immediate  
11 resolution by the supreme court. When a case is certified as  
12 requiring immediate resolution by the supreme court, the  
13 district court's jurisdiction shall be retained unless and  
14 until the supreme court issues an order accepting  
15 jurisdiction.

16           (6) May review a question of law certified by the  
17 Supreme Court of the United States or a United States Court of  
18 Appeals which is determinative of the cause and for which  
19 there is no controlling precedent of the supreme court of  
20 Florida.

21           (7) May issue writs of prohibition to courts and all  
22 writs necessary to the complete exercise of its jurisdiction,  
23 provided that the reference to "all writs" does not grant  
24 jurisdiction in any case or controversy not otherwise within  
25 the court's jurisdiction under paragraphs (1) through (5) of  
26 this subsection.

27           (8) May issue writs of mandamus and quo warranto to  
28 state officers and state agencies in cases or controversies  
29 otherwise properly before the court.

30           (9) May, or any justice may, issue writs of habeas  
31 corpus returnable before the supreme court or any justice, a

1 district court of appeal or any judge thereof, or any circuit  
2 judge, provided that such writs are subject to statutes of  
3 limitation of not less than two years from the final judgment  
4 or mandate on direct appeal in a criminal case.

5 (10) Shall, when requested by the attorney general  
6 pursuant to the provisions of Section 10 of Article IV, render  
7 an advisory opinion of the justices, addressing issues as  
8 provided by general law. This provision constitutes an  
9 exception to the case and controversy limitation provided in  
10 Section One of this Article and such opinion shall be binding  
11 upon all citizens of this state.

12 (11) Shall, when requested by the governor pursuant to  
13 the provisions of Article IV, Section 1(c), render an advisory  
14 opinion of the justices as therein provided. This provision  
15 constitutes an exception to the case and controversy  
16 limitation provided in Section One of this Article; however,  
17 such opinion shall not be binding upon any party not  
18 voluntarily participating in such proceeding.

19 (12) Shall not have jurisdiction to hear original  
20 proceedings unless instituted against or relating to a  
21 judicial officer or officer of the court pursuant to paragraph  
22 (7) of this subsection, or sections 12 and 15 of this article,  
23 including claims ancillary to such case or controversy, or  
24 unless instituted pursuant to paragraph (2), paragraph (6),  
25 paragraph (9), paragraph (10) or paragraph (11) of this  
26 subsection.

27 (c) CLERK AND MARSHAL.--The supreme court shall  
28 appoint a clerk and a marshal who shall hold office during the  
29 pleasure of the court and perform such duties as the court  
30 directs. Their compensation shall be fixed by general law.  
31 The marshal shall have the power to execute the process of the

1 court throughout the state, and in any county may deputize the  
2 sheriff or a deputy sheriff for such purpose.

3 SECTION 4. District courts of appeal.--

4 (a) ORGANIZATION.--There shall be a district court of  
5 appeal serving each appellate district. Each district court  
6 of appeal shall consist of at least three judges. Three judges  
7 shall consider each case and the concurrence of two shall be  
8 necessary to a decision.

9 (b) JURISDICTION.--

10 (1) Unless the subject matter of the case is assigned  
11 by general law to another district court of appeal, and unless  
12 otherwise limited by general law, district courts of appeal  
13 shall have jurisdiction to hear appeals, that may be taken as  
14 a matter of right, from final judgments or orders of trial  
15 courts, including those entered on review of administrative  
16 action, not directly appealable to the supreme court or a  
17 circuit court. They may review interlocutory orders in such  
18 cases to the extent provided by rules adopted by the supreme  
19 court.

20 (2) District courts of appeal shall have the power of  
21 direct review of administrative action, as prescribed by  
22 general law.

23 (3) A district court of appeal or any judge thereof  
24 may issue writs of habeas corpus returnable before the court  
25 or any judge thereof or before any circuit judge within the  
26 territorial jurisdiction of the court, provided that such  
27 writs are subject to statutes of limitation of not less than  
28 two years from the final judgment or mandate on direct appeal  
29 in a criminal case. A district court of appeal may issue  
30 writs of mandamus, certiorari, prohibition, quo warranto, and  
31 other writs necessary to the complete exercise of its

1 jurisdiction, provided that this sentence does not grant  
2 jurisdiction in any case or controversy not otherwise within  
3 the court's jurisdiction pursuant to paragraphs (1) and (2) of  
4 this subsection. To the extent necessary to dispose of all  
5 issues in a cause properly before it, a district court of  
6 appeal may exercise any of the appellate jurisdiction of the  
7 circuit courts.

8 (c) CLERKS AND MARSHALS.--Each district court of  
9 appeal shall appoint a clerk and a marshal who shall hold  
10 office during the pleasure of the court and perform such  
11 duties as the court directs. Their compensation shall be  
12 fixed by general law. The marshal shall have the power to  
13 execute the process of the court throughout the territorial  
14 jurisdiction of the court, and in any county may deputize the  
15 sheriff or a deputy sheriff for such purpose.

16 SECTION 5. Circuit courts.--

17 (a) ORGANIZATION.--There shall be a circuit court  
18 serving each judicial circuit.

19 (b) JURISDICTION.--The circuit courts shall have all  
20 original jurisdiction not vested in the county courts, and  
21 jurisdiction of appeals when provided by general law. They  
22 shall have the power, subject to the restrictions set forth in  
23 Section One of this Article,to issue writs of mandamus, quo  
24 warranto, certiorari, prohibition and habeas corpus, and all  
25 writs necessary or proper to the complete exercise of their  
26 jurisdiction. Jurisdiction of the circuit court shall be  
27 uniform throughout the state. They shall have the power of  
28 direct review of administrative action prescribed by general  
29 law.

30 SECTION 6. County courts.--

31



1 (a) ORGANIZATION.--There shall be a county court in  
2 each county. There shall be one or more judges for each  
3 county court as prescribed by general law.

4 (b) JURISDICTION.--The county courts shall exercise  
5 the jurisdiction prescribed by general law. Such jurisdiction  
6 shall be uniform throughout the state.

7 SECTION 7. Specialized divisions.--All courts except  
8 the supreme court may sit in divisions as may be established  
9 by general law. A circuit or county court may hold civil and  
10 criminal trials and hearings in any place within the  
11 territorial jurisdiction of the court as designated by the  
12 chief judge of the circuit.

13 SECTION 8. Eligibility.--No person shall be eligible  
14 for office of justice or judge of any court unless the person  
15 is an elector of the state and resides in the territorial  
16 jurisdiction of the court. No justice or judge shall serve  
17 after attaining the age of seventy years except ~~upon temporary~~  
18 ~~assignment or~~ to complete a term, one-half of which has been  
19 served. No person is eligible for the office of justice of  
20 the supreme court or judge of a district court of appeal  
21 unless the person is, and has been for the preceding ten  
22 years, a resident authorized to practice law in ~~member of the~~  
23 ~~bar of~~ Florida. No person is eligible for the office of  
24 circuit judge unless the person is, and has been for the  
25 preceding five years, a resident authorized to practice law in  
26 ~~member of the bar of~~ Florida. Unless otherwise provided by  
27 general law, no person is eligible for the office of county  
28 court judge unless the person is, and has been for the  
29 preceding five years, a resident authorized to practice law in  
30 ~~member of the bar of~~ Florida. Unless otherwise provided by  
31 general law, a person shall be eligible for election or

1 appointment to the office of county court judge in a county  
2 having a population of 40,000 or less if the person is a  
3 resident authorized to practice law in ~~member in good standing~~  
4 ~~of the bar of Florida.~~

5 SECTION 9. Establishment of number of judges  
6 ~~Determination of number of judges.--Subject to the limitation~~  
7 ~~on supreme court justices established in Section 3(a) of this~~  
8 ~~Article, the number of judges for all courts shall be~~  
9 ~~established by general law. The supreme court may make~~  
10 ~~recommendations to the legislature regarding any need for an~~  
11 ~~increase or decrease in the number of judges or a change in~~  
12 ~~judicial districts or judicial circuits.~~The supreme court  
13 ~~shall establish by rule uniform criteria for the determination~~  
14 ~~of the need for additional judges except supreme court~~  
15 ~~justices, the necessity for decreasing the number of judges~~  
16 ~~and for increasing, decreasing or redefining appellate~~  
17 ~~districts and judicial circuits. If the supreme court finds~~  
18 ~~that a need exists for increasing or decreasing the number of~~  
19 ~~judges or increasing, decreasing or redefining appellate~~  
20 ~~districts and judicial circuits, it shall, prior to the next~~  
21 ~~regular session of the legislature, certify to the legislature~~  
22 ~~its findings and recommendations concerning such need. Upon~~  
23 ~~receipt of such certificate, the legislature, at the next~~  
24 ~~regular session, shall consider the findings and~~  
25 ~~recommendations and may reject the recommendations or by law~~  
26 ~~implement the recommendations in whole or in part; provided~~  
27 ~~the legislature may create more judicial offices than are~~  
28 ~~recommended by the supreme court or may decrease the number of~~  
29 ~~judicial offices by a greater number than recommended by the~~  
30 ~~court only upon a finding of two-thirds of the membership of~~  
31 ~~both houses of the legislature, that such a need exists. A~~

1 ~~decrease in the number of judges shall be effective only after~~  
2 ~~the expiration of a term. If the supreme court fails to make~~  
3 ~~findings as provided above when need exists, the legislature~~  
4 ~~may by concurrent resolution request the court to certify its~~  
5 ~~findings and recommendations and upon the failure of the court~~  
6 ~~to certify its findings for nine consecutive months, the~~  
7 ~~legislature may, upon a finding of two-thirds of the~~  
8 ~~membership of both houses of the legislature that a need~~  
9 ~~exists, increase or decrease the number of judges or increase,~~  
10 ~~decrease or redefine appellate districts and judicial~~  
11 ~~circuits.~~

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

13 (a) Any justice or judge of a district court of appeal  
14 may qualify for retention by a vote of the electors in the  
15 general election next preceding the expiration of the  
16 justice's or judge's term in the manner prescribed by law. If  
17 a justice or judge of a district court of appeal is ineligible  
18 or fails to qualify for retention, a vacancy shall exist in  
19 that office upon the expiration of the term being served by  
20 the justice or judge. When a justice or judge so qualifies,  
21 the ballot shall read substantially as follows: "Shall Justice  
22 (or Judge) ...(name of justice or judge)... of the ...(name of  
23 the court)... be retained in office?" If two-thirds ~~a majority~~  
24 of the qualified electors voting within the territorial  
25 jurisdiction of the court vote to retain, the justice or judge  
26 shall be retained for a term of six years. The term of the  
27 justice or judge retained shall commence on the first Tuesday  
28 after the first Monday in January following the general  
29 election. If more than one-third ~~a majority~~ of the qualified  
30 electors voting on the question of retention within the  
31 territorial jurisdiction of the court vote to not retain, a

1 vacancy shall exist in that office upon the expiration of the  
2 term being served by the justice or judge.

3           (b)(1) ~~The election of circuit judges shall be~~  
4 ~~preserved notwithstanding the provisions of subsection (a)~~  
5 ~~unless a majority of those voting in the jurisdiction of that~~  
6 ~~circuit approves a local option to select circuit judges by~~  
7 ~~merit selection and retention rather than by election. The~~  
8 ~~election of circuit judges shall be by a vote of the qualified~~  
9 ~~electors within the territorial jurisdiction of the court.~~

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

18           (3)a. ~~A vote to exercise a local option to select~~  
19 ~~circuit court judges and county court judges by merit~~  
20 ~~selection and retention rather than by election shall be held~~  
21 ~~in each circuit and county at the general election in the year~~  
22 ~~2000. If a vote to exercise this local option fails in a vote~~  
23 ~~of the electors, such option shall not again be put to a vote~~  
24 ~~of the electors of that jurisdiction until the expiration of~~  
25 ~~at least two years.~~

26           b. ~~After the year 2000, a circuit may initiate the~~  
27 ~~local option for merit selection and retention or the election~~  
28 ~~of circuit judges, whichever is applicable, by filing with the~~  
29 ~~secretary of state a petition signed by the number of electors~~  
30 ~~equal to at least ten percent of the votes cast in the circuit~~

31

1 ~~in the last preceding election in which presidential electors~~  
2 ~~were chosen.~~

3 ~~c. After the year 2000, a county may initiate the~~  
4 ~~local option for merit selection and retention or the election~~  
5 ~~of county court judges, whichever is applicable, by filing~~  
6 ~~with the supervisor of elections a petition signed by the~~  
7 ~~number of electors equal to at least ten percent of the votes~~  
8 ~~cast in the county in the last preceding election in which~~  
9 ~~presidential electors were chosen.~~The terms of circuit judges  
10 and judges of county courts shall be for six years.

11 SECTION 11. Vacancies.--

12 (a) Whenever a vacancy occurs in a judicial office to  
13 which election for retention applies, the governor shall fill  
14 the vacancy by nominating and appointing, by and with the  
15 advice and consent of the senate,for a term ending on the  
16 first Tuesday after the first Monday in January of the year  
17 following the next general election occurring at least one  
18 year after the date of appointment, a person eligible to fill  
19 the vacancy ~~one of not fewer than three persons nor more than~~  
20 ~~six persons~~ nominated by the appropriate judicial nominating  
21 commission.

22 (b) The governor shall fill each vacancy on a circuit  
23 court or on a county court, ~~wherein the judges are elected by~~  
24 ~~a majority vote of the electors,~~by nominating and appointing,  
25 by and with the advice and consent of the senate,for a term  
26 ending on the first Tuesday after the first Monday in January  
27 of the year following the next primary and general election  
28 occurring at least one year after the date of appointment, a  
29 person eligible to fill the vacancy ~~one of not fewer than~~  
30 ~~three persons nor more than six persons~~ nominated by the  
31 appropriate judicial nominating commission. An election shall

1 be held to fill that judicial office for the term of the  
2 office beginning at the end of the appointed term.

3       (c) The governor shall make the nomination within  
4 ninety days after the occurrence of a vacancy, unless the  
5 governor certifies to the supreme court a need to extend the  
6 period to a time certain, not to exceed one hundred eighty  
7 days after the occurrence of the vacancy. The nomination shall  
8 be transmitted to the senate with the governor's signature.  
9 If the senate is not in session at the time the governor  
10 transmits the nomination, the senate may call itself into  
11 session, by proclamation of the president of the senate, or as  
12 otherwise provided by its rules, to consider the nomination.  
13 If the senate is not in session during the thirty-day period  
14 following the governor's transmission of a judicial  
15 nomination, and the senate does not convene within such  
16 thirty-day period, the nomination shall be deemed confirmed.  
17 If the senate is in session at any time during such thirty-day  
18 period and does not confirm such nomination by majority vote  
19 of senators voting on the question within such thirty-day  
20 period, the nomination shall be rejected, unless the rules of  
21 the senate in effect immediately prior to the nomination  
22 provide for confirmation in such circumstances. A person  
23 nominated to judicial office and rejected by the senate shall  
24 not be eligible for nomination to any judicial office until  
25 the next following general election.~~The nominations shall be~~  
26 ~~made within thirty days from the occurrence of a vacancy~~  
27 ~~unless the period is extended by the governor for a time not~~  
28 ~~to exceed thirty days. The governor shall make the~~  
29 ~~appointment within sixty days after the nominations have been~~  
30 ~~certified to the governor.~~

31

1           (d) No judicial rule of conduct or other court rule  
2 may limit the political rights of candidates for election or  
3 appointment to judicial office, including, but not limited to,  
4 serving a political organization, endorsing or opposing other  
5 candidates for public office, making speeches, attending  
6 political functions, or making statements with respect to  
7 issues; however, such limits not inconsistent with other  
8 provisions of this constitution may be imposed by general law.

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

21           SECTION 12. Discipline; removal and retirement.--

22           (a) JUDICIAL QUALIFICATIONS COMMISSION.--A judicial  
23 qualifications commission is created.

24           (1) There shall be a judicial qualifications  
25 commission vested with jurisdiction to investigate and  
26 recommend to the Supreme Court of Florida the removal from  
27 office of any justice or judge whose conduct, during term of  
28 office or otherwise occurring on or after November 1, 1966,  
29 (without regard to the effective date of this section)  
30 demonstrates a present unfitness to hold office, and to  
31 investigate and recommend the discipline of a justice or judge

1 whose conduct, during term of office or otherwise occurring on  
2 or after November 1, 1966 (without regard to the effective  
3 date of this section), warrants such discipline. For purposes  
4 of this section, discipline is defined as any or all of the  
5 following: reprimand, fine, suspension with or without pay, or  
6 lawyer discipline. The commission shall have jurisdiction over  
7 justices and judges regarding allegations that misconduct  
8 occurred before or during service as a justice or judge if a  
9 complaint is made no later than one year following service as  
10 a justice or judge. The commission shall have jurisdiction  
11 regarding allegations of incapacity during service as a  
12 justice or judge. The commission shall be composed of:

13       a. Two judges of district courts of appeal selected by  
14 the judges of those courts, two circuit judges selected by the  
15 judges of the circuit courts and two judges of county courts  
16 selected by the judges of those courts;

17       b. Four electors who reside in the state, who are  
18 authorized to practice law in the courts ~~members of the bar~~ of  
19 Florida, and who shall be chosen by the legislature by  
20 concurrent or joint resolution ~~governing body of the bar of~~  
21 ~~Florida~~; and

22       c. Five electors who reside in the state, who have  
23 never held judicial office or been authorized to practice law  
24 in the courts ~~members of the bar~~ of Florida, and who shall be  
25 appointed by the governor.

26       (2) The members of the judicial qualifications  
27 commission shall serve staggered terms, not to exceed six  
28 years, as prescribed by general law. No member of the  
29 commission except a judge shall be eligible for state judicial  
30 office while acting as a member of the commission and for a  
31 period of two years thereafter. No member of the commission



1 shall hold office in a political party or participate in any  
2 campaign for judicial office or hold public office; provided  
3 that a judge may campaign for judicial office and hold that  
4 office. The commission shall elect one of its members as its  
5 chairperson.

6 (3) Members of the judicial qualifications commission  
7 not subject to impeachment shall be subject to removal from  
8 the commission pursuant to the provisions of Article IV,  
9 Section 7, Florida Constitution.

10 (4) The commission shall adopt rules regulating its  
11 proceedings, the filling of vacancies by the appointing  
12 authorities, the disqualification of members, the rotation of  
13 members between the panels, and the temporary replacement of  
14 disqualified or incapacitated members. The commission's  
15 rules, or any part thereof, may be repealed by general law  
16 enacted by a majority vote of the membership of each house of  
17 the legislature, or by the supreme court, five justices  
18 concurring. The commission shall have power to issue  
19 subpoenas. Until formal charges against a justice or judge are  
20 filed by the investigative panel with the clerk of the supreme  
21 court of Florida all proceedings by or before the commission  
22 shall be confidential; provided, however, upon a finding of  
23 probable cause and the filing by the investigative panel with  
24 said clerk of such formal charges against a justice or judge  
25 such charges and all further proceedings before the commission  
26 shall be public.

27 (5) The commission shall have access to all  
28 information from all executive, legislative and judicial  
29 agencies, including grand juries, subject to the rules of the  
30 commission. At any time, on request of the speaker of the  
31 house of representatives or the governor, the commission shall

1 make available all information in the possession of the  
2 commission for use in consideration of impeachment or  
3 suspension, respectively.

4 (b) PANELS.--The commission shall be divided into an  
5 investigative panel and a hearing panel as established by rule  
6 of the commission. The investigative panel is vested with the  
7 jurisdiction to receive or initiate complaints, conduct  
8 investigations, dismiss complaints, and upon a vote of a  
9 simple majority of the panel submit formal charges to the  
10 hearing panel. The hearing panel is vested with the authority  
11 to receive and hear formal charges from the investigative  
12 panel and upon a two-thirds vote of the panel recommend to the  
13 supreme court the removal of a justice or judge or the  
14 involuntary retirement of a justice or judge for any permanent  
15 disability that seriously interferes with the performance of  
16 judicial duties. Upon a simple majority vote of the membership  
17 of the hearing panel, the panel may recommend to the supreme  
18 court that the justice or judge be subject to appropriate  
19 discipline.

20 (c) SUPREME COURT.--The supreme court shall receive  
21 recommendations from the judicial qualifications commission's  
22 hearing panel.

23 (1) The supreme court may accept, reject, or modify in  
24 whole or in part the findings, conclusions, and  
25 recommendations of the commission and it may order that the  
26 justice or judge be subjected to appropriate discipline, or be  
27 removed from office with termination of compensation for  
28 willful or persistent failure to perform judicial duties or  
29 for other conduct unbecoming a member of the judiciary  
30 demonstrating a present unfitness to hold office, or be  
31 involuntarily retired for any permanent disability that

1 seriously interferes with the performance of judicial duties.  
2 Malafides, scienter or moral turpitude on the part of a  
3 justice or judge shall not be required for removal from office  
4 of a justice or judge whose conduct demonstrates a present  
5 unfitness to hold office. After the filing of a formal  
6 proceeding and upon request of the investigative panel, the  
7 supreme court may suspend the justice or judge from office,  
8 with or without compensation, pending final determination of  
9 the inquiry.

10 (2) The supreme court may award costs to the  
11 prevailing party.

12 (d) The power of removal conferred by this section  
13 shall be both alternative and cumulative to the power of  
14 impeachment.

15 (e) Notwithstanding any of the foregoing provisions of  
16 this section, if the person who is the subject of proceedings  
17 by the judicial qualifications commission is a justice of the  
18 supreme court of Florida all justices of such court  
19 automatically shall be disqualified to sit as justices of such  
20 court with respect to all proceedings therein concerning such  
21 person and the supreme court for such purposes shall be  
22 composed of a panel consisting of the seven chief judges of  
23 the judicial circuits of the state of Florida most senior in  
24 tenure of judicial office as circuit judge. For purposes of  
25 determining seniority of such circuit judges in the event  
26 there be judges of equal tenure in judicial office as circuit  
27 judge the judge or judges from the lower numbered circuit or  
28 circuits shall be deemed senior. In the event any such chief  
29 circuit judge is under investigation by the judicial  
30 qualifications commission or is otherwise disqualified or  
31 unable to serve on the panel, the next most senior chief

1 circuit judge or judges shall serve in place of such  
2 disqualified or disabled chief circuit judge.

3 (f) All other matters of procedure and organization of  
4 the commission and any panels thereof, the selection of judges  
5 to serve on the commission, and the power to recover costs of  
6 an investigation shall be governed by rules adopted by the  
7 supreme court.~~SCHEDULE TO SECTION 12.--~~

8 ~~(1) Except to the extent inconsistent with the~~  
9 ~~provisions of this section, all provisions of law and rules of~~  
10 ~~court in force on the effective date of this article shall~~  
11 ~~continue in effect until superseded in the manner authorized~~  
12 ~~by the constitution.~~

13 ~~(2) After this section becomes effective and until~~  
14 ~~adopted by rule of the commission consistent with it:~~

15 ~~a. The commission shall be divided, as determined by~~  
16 ~~the chairperson, into one investigative panel and one hearing~~  
17 ~~panel to meet the responsibilities set forth in this section.~~

18 ~~b. The investigative panel shall be composed of:~~

19 ~~1. Four judges,~~

20 ~~2. Two members of the bar of Florida, and~~

21 ~~3. Three non-lawyers.~~

22 ~~c. The hearing panel shall be composed of:~~

23 ~~1. Two judges,~~

24 ~~2. Two members of the bar of Florida, and~~

25 ~~3. Two non-lawyers.~~

26 ~~d. Membership on the panels may rotate in a manner~~  
27 ~~determined by the rules of the commission provided that no~~  
28 ~~member shall vote as a member of the investigative and hearing~~  
29 ~~panel on the same proceeding.~~

30 ~~e. The commission shall hire separate staff for each~~  
31 ~~panel.~~

1           ~~f. The members of the commission shall serve for~~  
2 ~~staggered terms of six years.~~

3           ~~g. The terms of office of the present members of the~~  
4 ~~judicial qualifications commission shall expire upon the~~  
5 ~~effective date of the amendments to this section approved by~~  
6 ~~the legislature during the regular session of the legislature~~  
7 ~~in 1996 and new members shall be appointed to serve the~~  
8 ~~following staggered terms:~~

9           ~~1. Group I.--The terms of five members, composed of~~  
10 ~~two electors as set forth in s. 12(a)(1)c. of Article V, one~~  
11 ~~member of the bar of Florida as set forth in s. 12(a)(1)b. of~~  
12 ~~Article V, one judge from the district courts of appeal and~~  
13 ~~one circuit judge as set forth in s. 12(a)(1)a. of Article V,~~  
14 ~~shall expire on December 31, 1998.~~

15           ~~2. Group II.--The terms of five members, composed of~~  
16 ~~one elector as set forth in s. 12(a)(1)c. of Article V, two~~  
17 ~~members of the bar of Florida as set forth in s. 12(a)(1)b. of~~  
18 ~~Article V, one circuit judge and one county judge as set forth~~  
19 ~~in s. 12(a)(1)a. of Article V shall expire on December 31,~~  
20 ~~2000.~~

21           ~~3. Group III.--The terms of five members, composed of~~  
22 ~~two electors as set forth in s. 12(a)(1)c. of Article V, one~~  
23 ~~member of the bar of Florida as set forth in s. 12(a)(1)b.,~~  
24 ~~one judge from the district courts of appeal and one county~~  
25 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~  
26 ~~on December 31, 2002.~~

27           ~~h. An appointment to fill a vacancy of the commission~~  
28 ~~shall be for the remainder of the term.~~

29           ~~i. Selection of members by district courts of appeal~~  
30 ~~judges, circuit judges, and county court judges, shall be by~~  
31 ~~no less than a majority of the members voting at the~~

1 ~~respective courts' conferences. Selection of members by the~~  
2 ~~board of governors of the bar of Florida shall be by no less~~  
3 ~~than a majority of the board.~~

4 ~~j. The commission shall be entitled to recover the~~  
5 ~~costs of investigation and prosecution, in addition to any~~  
6 ~~penalty levied by the supreme court.~~

7 ~~k.~~ The compensation of members and referees shall not  
8 exceed ~~be~~ the travel expenses or transportation and per diem  
9 allowance as may be provided by general law.

10 SECTION 13. Prohibited activities.--All justices and  
11 judges shall devote full time to their judicial duties. They  
12 shall not engage in the practice of law or hold office in any  
13 political party.

14 SECTION 14. Judicial salaries.--All justices and  
15 judges shall be compensated only by state salaries fixed by  
16 general law. The judiciary shall have no power to fix  
17 appropriations.

18 SECTION 14. Funding.--

19 (a) All justices and judges shall be compensated only  
20 by state salaries fixed by general law. Funding for the  
21 operation of state courts established by this constitution  
22 ~~system~~, state attorneys' offices, public defenders' offices,  
23 and court-appointed counsel, except as otherwise provided in  
24 subsection (c), shall be provided from state revenues  
25 appropriated by general law.

26 (b) All funding for the offices of the clerks of the  
27 circuit and county courts performing court-related functions,  
28 except as otherwise provided in this subsection and subsection  
29 (c), shall be provided by adequate and appropriate filing fees  
30 for judicial proceedings and service charges and costs for  
31 performing court-related functions as required or authorized

1 by general law. Selected salaries, costs, and expenses of the  
2 ~~state~~ courts established by this constitution ~~system~~ may be  
3 funded from appropriate filing fees for judicial proceedings  
4 and service charges and costs for performing court-related  
5 functions, as provided by general law. Where the requirements  
6 of either the United States Constitution or the Constitution  
7 of the State of Florida preclude the imposition of filing fees  
8 for judicial proceedings and service charges and costs for  
9 performing court-related functions sufficient to fund the  
10 court-related functions of the offices of the clerks of the  
11 circuit and county courts, the state may ~~shall~~ provide, as  
12 determined by the legislature, adequate and appropriate  
13 supplemental funding from state revenues appropriated by  
14 general law. Any nonprevailing party in any civil proceeding  
15 or any defendant convicted in any criminal proceeding may be  
16 assessed, as provided by general law, the full cost of all  
17 services utilized and expenses incurred in such proceeding as  
18 determined by the clerk of the circuit or county court, to the  
19 extent that such services or expenses are provided by  
20 appropriations, fees, or service charges pursuant to this  
21 subsection or subsection (a). Such assessments may be  
22 enforced in the same manner as any money judgment or tax  
23 obligation.

24 (c) No county or municipality, except as provided in  
25 this subsection, shall be required to provide any funding for  
26 the ~~state~~ courts established by this constitution ~~system~~,  
27 state attorneys' offices, public defenders' offices,  
28 court-appointed counsel or the offices of the clerks of the  
29 circuit and county courts performing court-related functions.  
30 Counties shall be required to fund the cost of communications  
31 services, existing radio systems, existing multi-agency

1 criminal justice information systems, and the cost of  
2 construction or lease, maintenance, utilities, and security of  
3 facilities for the trial courts, public defenders' offices,  
4 state attorneys' offices, and the offices of the clerks of the  
5 circuit and county courts performing court-related functions.  
6 Counties shall also pay reasonable and necessary salaries,  
7 costs, and expenses of the ~~state~~ courts established by this  
8 constitution system to meet local requirements as determined  
9 by general law.

10 (d) The judiciary shall have no power to fix or order  
11 any modification of appropriations.

12 SECTION 15. Attorneys; admission and discipline.--The  
13 supreme court shall have exclusive jurisdiction to regulate  
14 the admission of persons to the practice of law before the  
15 courts of this state and the discipline of persons admitted.  
16 The cost of such regulation and discipline shall be funded by  
17 appropriations, disciplinary penalties, and fees paid to the  
18 supreme court as authorized by general law. No attorney may  
19 be required to pay dues to any organization and no fees may be  
20 otherwise assessed by the court as a condition to admission to  
21 practice law before the courts of this state. The  
22 professional practice of law other than before the courts of  
23 this state may be regulated by general law.

24 SECTION 16. Clerks of the circuit courts.--There shall  
25 be in each county a clerk of the circuit court who shall be  
26 selected pursuant to the provisions of Article VIII section 1.  
27 Notwithstanding any other provision of the constitution, the  
28 duties of the clerk of the circuit court may be divided by  
29 special or general law between two officers, one serving as  
30 clerk of court and one serving as ex officio clerk of the  
31 board of county commissioners, auditor, recorder, and



1 | custodian of all county funds. There may be a clerk of the  
2 | county court if authorized by general or special law.

3 |         SECTION 17. State attorneys.--In each judicial circuit  
4 | a state attorney shall be elected for a term of four years.  
5 | Except as otherwise provided in this constitution, the state  
6 | attorney shall be the prosecuting officer of all trial courts  
7 | in that circuit and shall perform other duties prescribed by  
8 | general law; provided, however, when authorized by general  
9 | law, the violations of all municipal ordinances may be  
10 | prosecuted by municipal prosecutors. A state attorney shall  
11 | be an elector of the state and reside in the territorial  
12 | jurisdiction of the circuit; shall be and have been authorized  
13 | to practice law in a member of the bar of Florida for the  
14 | preceding five years; shall devote full time to the duties of  
15 | the office; and shall not engage in the private practice of  
16 | law. State attorneys shall appoint such assistant state  
17 | attorneys as may be authorized by law.

18 |         SECTION 18. Public defenders.--In each judicial  
19 | circuit a public defender shall be elected for a term of four  
20 | years, who shall perform duties prescribed by general law. A  
21 | public defender shall be an elector of the state and reside in  
22 | the territorial jurisdiction of the circuit and shall be and  
23 | have been authorized to practice law in a member of the Bar of  
24 | Florida for the preceding five years. Public defenders shall  
25 | appoint such assistant public defenders as may be authorized  
26 | by law.

27 |         SECTION 19. Judicial officers as conservators of the  
28 | peace.--All judicial officers in this state shall be  
29 | conservators of the peace.

30 |         ~~SECTION 20. Schedule to Article V.--~~

31 |

1           ~~(a) This article shall replace all of Article V of the~~  
2 ~~Constitution of 1885, as amended, which shall then stand~~  
3 ~~repealed.~~

4           ~~(b) Except to the extent inconsistent with the~~  
5 ~~provisions of this article, all provisions of law and rules of~~  
6 ~~court in force on the effective date of this article shall~~  
7 ~~continue in effect until superseded in the manner authorized~~  
8 ~~by the constitution.~~

9           ~~(c) After this article becomes effective, and until~~  
10 ~~changed by general law consistent with sections 1 through 19~~  
11 ~~of this article:~~

12           ~~(1) The supreme court shall have the jurisdiction~~  
13 ~~immediately theretofore exercised by it, and it shall~~  
14 ~~determine all proceedings pending before it on the effective~~  
15 ~~date of this article.~~

16           ~~(2) The appellate districts shall be those in~~  
17 ~~existence on the date of adoption of this article. There~~  
18 ~~shall be a district court of appeal in each district. The~~  
19 ~~district courts of appeal shall have the jurisdiction~~  
20 ~~immediately theretofore exercised by the district courts of~~  
21 ~~appeal and shall determine all proceedings pending before them~~  
22 ~~on the effective date of this article.~~

23           ~~(3) Circuit courts shall have jurisdiction of appeals~~  
24 ~~from county courts and municipal courts, except those appeals~~  
25 ~~which may be taken directly to the supreme court; and they~~  
26 ~~shall have exclusive original jurisdiction in all actions at~~  
27 ~~law not cognizable by the county courts; of proceedings~~  
28 ~~relating to the settlement of the estate of decedents and~~  
29 ~~minors, the granting of letters testamentary, guardianship,~~  
30 ~~involuntary hospitalization, the determination of~~  
31 ~~incompetency, and other jurisdiction usually pertaining to~~

1 ~~courts of probate; in all cases in equity including all cases~~  
2 ~~relating to juveniles; of all felonies and of all misdemeanors~~  
3 ~~arising out of the same circumstances as a felony which is~~  
4 ~~also charged; in all cases involving legality of any tax~~  
5 ~~assessment or toll; in the action of ejectment; and in all~~  
6 ~~actions involving the titles or boundaries or right of~~  
7 ~~possession of real property. The circuit court may issue~~  
8 ~~injunctions. There shall be judicial circuits which shall be~~  
9 ~~the judicial circuits in existence on the date of adoption of~~  
10 ~~this article. The chief judge of a circuit may authorize a~~  
11 ~~county court judge to order emergency hospitalizations~~  
12 ~~pursuant to Chapter 71-131, Laws of Florida, in the absence~~  
13 ~~from the county of the circuit judge and the county court~~  
14 ~~judge shall have the power to issue all temporary orders and~~  
15 ~~temporary injunctions necessary or proper to the complete~~  
16 ~~exercise of such jurisdiction.~~

17 ~~(4) County courts shall have original jurisdiction in~~  
18 ~~all criminal misdemeanor cases not cognizable by the circuit~~  
19 ~~courts, of all violations of municipal and county ordinances,~~  
20 ~~and of all actions at law in which the matter in controversy~~  
21 ~~does not exceed the sum of two thousand five hundred dollars~~  
22 ~~(\$2,500.00) exclusive of interest and costs, except those~~  
23 ~~within the exclusive jurisdiction of the circuit courts.~~  
24 ~~Judges of county courts shall be committing magistrates. The~~  
25 ~~county courts shall have jurisdiction now exercised by the~~  
26 ~~county judge's courts other than that vested in the circuit~~  
27 ~~court by subsection (c)(3) hereof, the jurisdiction now~~  
28 ~~exercised by the county courts, the claims court, the small~~  
29 ~~claims courts, the small claims magistrates courts,~~  
30 ~~magistrates courts, justice of the peace courts, municipal~~  
31 ~~courts and courts of chartered counties, including but not~~

1 ~~limited to the counties referred to in Article VIII, sections~~  
2 ~~9, 10, 11 and 24 of the Constitution of 1885.~~

3 ~~(5) Each judicial nominating commission shall be~~  
4 ~~composed of the following:~~

5 ~~a. Three members appointed by the Board of Governors~~  
6 ~~of The Florida Bar from among The Florida Bar members who are~~  
7 ~~actively engaged in the practice of law with offices within~~  
8 ~~the territorial jurisdiction of the affected court, district~~  
9 ~~or circuit;~~

10 ~~b. Three electors who reside in the territorial~~  
11 ~~jurisdiction of the court or circuit appointed by the~~  
12 ~~governor; and~~

13 ~~c. Three electors who reside in the territorial~~  
14 ~~jurisdiction of the court or circuit and who are not members~~  
15 ~~of the bar of Florida, selected and appointed by a majority~~  
16 ~~vote of the other six members of the commission.~~

17 ~~(6) No justice or judge shall be a member of a~~  
18 ~~judicial nominating commission. A member of a judicial~~  
19 ~~nominating commission may hold public office other than~~  
20 ~~judicial office. No member shall be eligible for appointment~~  
21 ~~to state judicial office so long as that person is a member of~~  
22 ~~a judicial nominating commission and for a period of two years~~  
23 ~~thereafter. All acts of a judicial nominating commission~~  
24 ~~shall be made with a concurrence of a majority of its members.~~

25 ~~(7) The members of a judicial nominating commission~~  
26 ~~shall serve for a term of four years except the terms of the~~  
27 ~~initial members of the judicial nominating commissions shall~~  
28 ~~expire as follows:~~

29 ~~a. The terms of one member of category a. b. and c. in~~  
30 ~~subsection (c)(5) hereof shall expire on July 1, 1974;~~

31

1           ~~b. The terms of one member of category a. b. and c. in~~  
2 ~~subsection (c)(5) hereof shall expire on July 1, 1975.~~

3           ~~c. The terms of one member of category a. b. and c. in~~  
4 ~~subsection (c)(5) hereof shall expire on July 1, 1976.~~

5           ~~(8) All fines and forfeitures arising from offenses~~  
6 ~~tried in the county court shall be collected, and accounted~~  
7 ~~for by clerk of the court, and deposited in a special trust~~  
8 ~~account. All fines and forfeitures received from violations~~  
9 ~~of ordinances or misdemeanors committed within a county or~~  
10 ~~municipal ordinances committed within a municipality within~~  
11 ~~the territorial jurisdiction of the county court shall be paid~~  
12 ~~monthly to the county or municipality respectively. If any~~  
13 ~~costs are assessed and collected in connection with offenses~~  
14 ~~tried in county court, all court costs shall be paid into the~~  
15 ~~general revenue fund of the state of Florida and such other~~  
16 ~~funds as prescribed by general law.~~

17           ~~(9) Any municipality or county may apply to the chief~~  
18 ~~judge of the circuit in which that municipality or county is~~  
19 ~~situated for the county court to sit in a location suitable to~~  
20 ~~the municipality or county and convenient in time and place to~~  
21 ~~its citizens and police officers and upon such application~~  
22 ~~said chief judge shall direct the court to sit in the location~~  
23 ~~unless the chief judge shall determine the request is not~~  
24 ~~justified. If the chief judge does not authorize the county~~  
25 ~~court to sit in the location requested, the county or~~  
26 ~~municipality may apply to the supreme court for an order~~  
27 ~~directing the county court to sit in the location. Any~~  
28 ~~municipality or county which so applies shall be required to~~  
29 ~~provide the appropriate physical facilities in which the~~  
30 ~~county court may hold court.~~

31

1           ~~(10) All courts except the supreme court may sit in~~  
2 ~~divisions as may be established by local rule approved by the~~  
3 ~~supreme court.~~

4           ~~(11) A county court judge in any county having a~~  
5 ~~population of 40,000 or less according to the last decennial~~  
6 ~~census, shall not be required to be a member of the bar of~~  
7 ~~Florida.~~

8           ~~(12) Municipal prosecutors may prosecute violations of~~  
9 ~~municipal ordinances.~~

10           ~~(13) Justice shall mean a justice elected or appointed~~  
11 ~~to the supreme court and shall not include any judge assigned~~  
12 ~~from any court.~~

13           ~~(d) When this article becomes effective:~~

14           ~~(1) All courts not herein authorized, except as~~  
15 ~~provided by subsection (d)(4) of this section shall cease to~~  
16 ~~exist and jurisdiction to conclude all pending cases and~~  
17 ~~enforce all prior orders and judgments shall vest in the court~~  
18 ~~that would have jurisdiction of the cause if thereafter~~  
19 ~~instituted. All records of and property held by courts~~  
20 ~~abolished hereby shall be transferred to the proper office of~~  
21 ~~the appropriate court under this article.~~

22           ~~(2) Judges of the following courts, if their terms do~~  
23 ~~not expire in 1973 and if they are eligible under subsection~~  
24 ~~(d)(8) hereof, shall become additional judges of the circuit~~  
25 ~~court for each of the counties of their respective circuits,~~  
26 ~~and shall serve as such circuit judges for the remainder of~~  
27 ~~the terms to which they were elected and shall be eligible for~~  
28 ~~election as circuit judges thereafter. These courts are: civil~~  
29 ~~court of record of Dade county, all criminal courts of record,~~  
30 ~~the felony courts of record of Alachua, Leon and Volusia~~  
31 ~~Counties, the courts of record of Broward, Brevard, Escambia,~~

1 ~~Hillsborough, Lee, Manatee and Sarasota Counties, the civil~~  
2 ~~and criminal court of record of Pinellas County, and county~~  
3 ~~judge's courts and separate juvenile courts in counties having~~  
4 ~~a population in excess of 100,000 according to the 1970~~  
5 ~~federal census. On the effective date of this article, there~~  
6 ~~shall be an additional number of positions of circuit judges~~  
7 ~~equal to the number of existing circuit judges and the number~~  
8 ~~of judges of the above named courts whose term expires in~~  
9 ~~1973. Elections to such offices shall take place at the same~~  
10 ~~time and manner as elections to other state judicial offices~~  
11 ~~in 1972 and the terms of such offices shall be for a term of~~  
12 ~~six years. Unless changed pursuant to section nine of this~~  
13 ~~article, the number of circuit judges presently existing and~~  
14 ~~created by this subsection shall not be changed.~~

15         ~~(3) In all counties having a population of less than~~  
16 ~~100,000 according to the 1970 federal census and having more~~  
17 ~~than one county judge on the date of the adoption of this~~  
18 ~~article, there shall be the same number of judges of the~~  
19 ~~county court as there are county judges existing on that date~~  
20 ~~unless changed pursuant to section 9 of this article.~~

21         ~~(4) Municipal courts shall continue with their same~~  
22 ~~jurisdiction until amended or terminated in a manner~~  
23 ~~prescribed by special or general law or ordinances, or until~~  
24 ~~January 3, 1977, whichever occurs first. On that date all~~  
25 ~~municipal courts not previously abolished shall cease to~~  
26 ~~exist. Judges of municipal courts shall remain in office and~~  
27 ~~be subject to reappointment or reelection in the manner~~  
28 ~~prescribed by law until said courts are terminated pursuant to~~  
29 ~~the provisions of this subsection. Upon municipal courts~~  
30 ~~being terminated or abolished in accordance with the~~  
31 ~~provisions of this subsection, the judges thereof who are not~~

1 ~~members of the bar of Florida, shall be eligible to seek~~  
2 ~~election as judges of county courts of their respective~~  
3 ~~counties.~~

4 ~~(5) Judges, holding elective office in all other~~  
5 ~~courts abolished by this article, whose terms do not expire in~~  
6 ~~1973 including judges established pursuant to Article VIII,~~  
7 ~~sections 9 and 11 of the Constitution of 1885 shall serve as~~  
8 ~~judges of the county court for the remainder of the term to~~  
9 ~~which they were elected. Unless created pursuant to section~~  
10 ~~9, of this Article V such judicial office shall not continue~~  
11 ~~to exist thereafter.~~

12 ~~(6) By March 21, 1972, the supreme court shall certify~~  
13 ~~the need for additional circuit and county judges. The~~  
14 ~~legislature in the 1972 regular session may by general law~~  
15 ~~create additional offices of judge, the terms of which shall~~  
16 ~~begin on the effective date of this article. Elections to~~  
17 ~~such offices shall take place at the same time and manner as~~  
18 ~~election to other state judicial offices in 1972.~~

19 ~~(7) County judges of existing county judge's courts~~  
20 ~~and justices of the peace and magistrates' court who are not~~  
21 ~~members of bar of Florida shall be eligible to seek election~~  
22 ~~as county court judges of their respective counties.~~

23 ~~(8) No judge of a court abolished by this article~~  
24 ~~shall become or be eligible to become a judge of the circuit~~  
25 ~~court unless the judge has been a member of bar of Florida for~~  
26 ~~the preceding five years.~~

27 ~~(9) The office of judges of all other courts abolished~~  
28 ~~by this article shall be abolished as of the effective date of~~  
29 ~~this article.~~

30 ~~(10) The offices of county solicitor and prosecuting~~  
31 ~~attorney shall stand abolished, and all county solicitors and~~



1 ~~prosecuting attorneys holding such offices upon the effective~~  
2 ~~date of this article shall become and serve as assistant state~~  
3 ~~attorneys for the circuits in which their counties are situate~~  
4 ~~for the remainder of their terms, with compensation not less~~  
5 ~~than that received immediately before the effective date of~~  
6 ~~this article.~~

7 ~~(e) LIMITED OPERATION OF SOME PROVISIONS.--~~

8 ~~(1) All justices of the supreme court, judges of the~~  
9 ~~district courts of appeal and circuit judges in office upon~~  
10 ~~the effective date of this article shall retain their offices~~  
11 ~~for the remainder of their respective terms. All members of~~  
12 ~~the judicial qualifications commission in office upon the~~  
13 ~~effective date of this article shall retain their offices for~~  
14 ~~the remainder of their respective terms. Each state attorney~~  
15 ~~in office on the effective date of this article shall retain~~  
16 ~~the office for the remainder of the term.~~

17 ~~(2) No justice or judge holding office immediately~~  
18 ~~after this article becomes effective who held judicial office~~  
19 ~~on July 1, 1957, shall be subject to retirement from judicial~~  
20 ~~office because of age pursuant to section 8 of this article.~~

21 ~~(f) Until otherwise provided by law, the nonjudicial~~  
22 ~~duties required of county judges shall be performed by the~~  
23 ~~judges of the county court.~~

24 ~~(g) All provisions of Article V of the Constitution of~~  
25 ~~1885, as amended, not embraced herein which are not~~  
26 ~~inconsistent with this revision shall become statutes subject~~  
27 ~~to modification or repeal as are other statutes.~~

28 ~~(h) The requirements of section 14 relative to all~~  
29 ~~county court judges or any judge of a municipal court who~~  
30 ~~continues to hold office pursuant to subsection (d)(4) hereof~~  
31

1 ~~being compensated by state salaries shall not apply prior to~~  
2 ~~January 3, 1977, unless otherwise provided by general law.~~

3 ~~(i) DELETION OF OBSOLETE SCHEDULE ITEMS.--The~~  
4 ~~legislature shall have power, by concurrent resolution, to~~  
5 ~~delete from this article any subsection of this section 20~~  
6 ~~including this subsection, when all events to which the~~  
7 ~~subsection to be deleted is or could become applicable have~~  
8 ~~occurred. A legislative determination of fact made as a basis~~  
9 ~~for application of this subsection shall be subject to~~  
10 ~~judicial review.~~

11 ~~(j) EFFECTIVE DATE.--Unless otherwise provided herein,~~  
12 ~~this article shall become effective at 11:59 o'clock P.M.,~~  
13 ~~Eastern Standard Time, January 1, 1973.~~

14 BE IT FURTHER RESOLVED that the following statement be  
15 placed on the ballot:

16  
17 CONSTITUTIONAL AMENDMENT  
18 ARTICLE V  
19

20 REVISION OF ARTICLE V.--Proposing a revision of Article  
21 V of the State Constitution, relating to the Judiciary, to:

22 1. Limit the jurisdiction of the courts, including  
23 the jurisdiction to issue most writs, to actual cases in  
24 law, equity, admiralty, and maritime jurisdiction and to  
25 actual controversies arising under the Constitution and  
26 the laws of the State of Florida and the United States.

27 2. Prohibit rules of the Supreme Court from being  
28 inconsistent with statutes in place at the time of the  
29 adoption of the rules, and provide that the rules must be  
30 revised to conform to subsequently adopted statutes that  
31 regulate substantive rights and that rules may be

1 repealed by general law adopted by a majority, rather  
2 than 2/3, of each house of the Legislature.

3 3. Provide that rules adopted by the court shall  
4 neither abridge, enlarge, nor modify the substantive  
5 rights of any litigant, but additional rulemaking power  
6 may be delegated to courts by general law.

7 4. Limit the District Courts of Appeal jurisdiction  
8 to appeals and the Supreme Court jurisdiction to appeals,  
9 advisory opinions authorized by the constitution, writs  
10 of habeas corpus, and prohibitions and adoption of rules,  
11 discipline, and review of questions certified by the  
12 Supreme Court of the United States or a United States  
13 Court of Appeal.

14 5. Provide that writs issued by the Supreme Court  
15 are subject to statutes of limitation and that in a  
16 criminal case the statute of limitation shall be for a  
17 period no shorter than 2 years from the final judgment or  
18 mandate on direct appeal in a criminal case.

19 6. Provide for the retention of Supreme Court  
20 justices and District Courts of Appeal judges by a  
21 two-thirds vote rather than a majority vote, and  
22 eliminate local option for retention elections for county  
23 and circuit court judges.

24 7. Provide that the Governor shall nominate and  
25 appoint applicants for a court vacancy with the advice  
26 and consent of the Senate with a provision for  
27 confirmation when the Senate is not in session, and  
28 eliminate judicial nominating commissions.

29 8. Provide that any nonprevailing party in any  
30 civil proceeding or any defendant convicted in any  
31 criminal proceeding may be assessed, as provided by

1 general law, the full cost of all services used and  
2 expenses incurred in such proceeding as determined by the  
3 clerk of the circuit or county court, to the extent that  
4 such services or expenses are provided by certain  
5 appropriations, fees, or service charges.

6 9. Provide for the state funding of "courts  
7 established by the Constitution" rather than state  
8 funding of the "state court system."

9 10. Provide that the judiciary shall have no power  
10 to set or modify legislative appropriations.

11 11. Grant the Supreme Court exclusive jurisdiction  
12 to discipline and regulate the admission of persons to  
13 practice law before the courts and provide for regulation  
14 by general law of the professional practice of law other  
15 than before the courts.

16 12. Provide that no attorney shall be required to  
17 pay dues to any organization as a condition to admission  
18 to practice law before the courts of the state and  
19 prohibit the court from assessing any fee as a condition  
20 to admission to practice law before the courts of the  
21 state, and conform provisions relating to judges, state  
22 attorneys, public defenders, and members of the Judicial  
23 Qualifications Commission.

24 13. Remove The Florida Bar from the appointment of  
25 members of the Judicial Nominating Commission and allow  
26 the Legislature to appoint attorney members to the  
27 commission.

28 14. Reduce judicial certification to optional  
29 advice rather than constitutional determination of need.  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

15. Restore the election of county and circuit judges by eliminating the 1998 amendment allowing local option for appointment and retention of such judges.

16. Eliminate judicial power to impose a gag rule on judicial candidates and allow political limitations by general law not inconsistent with other provisions of the Constitution.