

By Representative Brummer

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

House Joint Resolution

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

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

That the amendment to Article V of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2002:

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 established by law, or administrative officers or bodies may

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

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

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

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

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

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

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

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

1 SECTION 3. Supreme court.--
2 (a) ORGANIZATION.--The supreme court shall consist of
3 seven justices. ~~Of the seven justices, each appellate district~~
4 ~~shall have at least one justice elected or appointed from the~~
5 ~~district to the supreme court who is a resident of the~~
6 ~~district at the time of the original appointment or election.~~
7 Five justices shall constitute a quorum. The concurrence of
8 four justices shall be necessary to a decision. When recusals
9 for cause would prohibit the court from convening because of
10 the requirements of this section, judges assigned to temporary
11 duty may be substituted for justices.
12 (b) JURISDICTION.--Subject to the limitations provided
13 in Section One of this Article,the supreme court:
14 (1) Shall hear appeals from final judgments of trial
15 courts imposing the death penalty and from decisions of
16 district courts of appeal declaring invalid a state statute or
17 a provision of the state constitution.
18 (2) When provided by general law, shall hear appeals
19 from final judgments entered in proceedings for the validation
20 of bonds or certificates of indebtedness and shall review
21 action of statewide agencies relating to rates or service of
22 utilities providing electric, gas, or telephone service.
23 (3) May review any decision of a district court of
24 appeal that expressly declares valid a state statute, or that
25 expressly construes a provision of the state or federal
26 constitution, or that expressly affects a class of
27 constitutional or state officers, or that expressly and
28 directly conflicts with a decision of another district court
29 of appeal or of the supreme court on the same question of law.
30 (4) May review any decision of a district court of
31 appeal that passes upon a question certified by it to be of

1 great public importance, or that is certified by it to be in
2 direct conflict with a decision of another district court of
3 appeal.

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

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

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

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

28 (9) May, or any justice may, issue writs of habeas
29 corpus returnable before the supreme court or any justice, a
30 district court of appeal or any judge thereof, or any circuit
31 judge, provided that such writs are subject to statutes of

1 limitation of not shorter than two years from the final
2 judgment or mandate on direct appeal in a criminal case.

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

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

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

25 (c) CLERK AND MARSHAL.--The supreme court shall
26 appoint a clerk and a marshal who shall hold office during the
27 pleasure of the court and perform such duties as the court
28 directs. Their compensation shall be fixed by general law.
29 The marshal shall have the power to execute the process of the
30 court throughout the state, and in any county may deputize the
31 sheriff or a deputy sheriff for such purpose.

1 SECTION 4. District courts of appeal.--

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

7 (b) JURISDICTION.--

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

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

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

1 within the court's jurisdiction pursuant to paragraphs (1) and
2 (2) of this subsection. To the extent necessary to dispose of
3 all issues in a cause properly before it, a district court of
4 appeal may exercise any of the appellate jurisdiction of the
5 circuit courts.

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

14 SECTION 5. Circuit courts.--

15 (a) ORGANIZATION.--There shall be a circuit court
16 serving each judicial circuit.

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

28 SECTION 6. County courts.--

29 (a) ORGANIZATION.--There shall be a county court in
30 each county. There shall be one or more judges for each
31 county court as prescribed by general law.

1 (b) JURISDICTION.--The county courts shall exercise
2 the jurisdiction prescribed by general law. Such jurisdiction
3 shall be uniform throughout the state.

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

10 SECTION 8. Eligibility.--No person shall be eligible
11 for office of justice or judge of any court unless the person
12 is an elector of the state and resides in the territorial
13 jurisdiction of the court. No justice or judge shall serve
14 after attaining the age of seventy years except ~~upon temporary~~
15 ~~assignment or~~ to complete a term, one-half of which has been
16 served. No person is eligible for the office of justice of
17 the supreme court or judge of a district court of appeal
18 unless the person is, and has been for the preceding ten
19 years, a resident authorized to practice law in ~~member of the~~
20 ~~bar of~~ Florida. No person is eligible for the office of
21 circuit judge unless the person is, and has been for the
22 preceding five years, a resident authorized to practice law in
23 ~~member of the bar of~~ Florida. Unless otherwise provided by
24 general law, no person is eligible for the office of county
25 court judge unless the person is, and has been for the
26 preceding five years, a resident authorized to practice law in
27 ~~member of the bar of~~ Florida. Unless otherwise provided by
28 general law, a person shall be eligible for election or
29 appointment to the office of county court judge in a county
30 having a population of 40,000 or less if the person is a
31

1 resident authorized to practice law in ~~member in good standing~~
2 ~~of the bar of Florida.~~

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

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

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

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

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

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

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

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

31

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

9 SECTION 11. Vacancies.--

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

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

1 (c) The governor shall make the nomination within
2 ninety days after the occurrence of a vacancy, unless the
3 governor certifies to the supreme court a need to extend the
4 period to a time certain, not to exceed one hundred eighty
5 days after the occurrence of the vacancy. The nomination shall
6 be transmitted to the senate with the governor's signature.
7 If the senate is not in session at the time the governor
8 transmits the nomination, the senate may call itself into
9 session, by proclamation of the president of the senate, or as
10 otherwise provided by its rules, to consider the nomination.
11 If the senate is not in session during the thirty-day period
12 following the governor's transmission of a judicial
13 nomination, and the senate does not convene within such
14 thirty-day period, the nomination shall be deemed confirmed.
15 If the senate is in session at any time during such thirty-day
16 period and does not confirm such nomination by majority vote
17 of senators voting on the question within such thirty-day
18 period, the nomination shall be rejected, unless the rules of
19 the senate in effect immediately prior to the nomination
20 provide for confirmation in such circumstances. A person
21 nominated to judicial office and rejected by the senate shall
22 not be eligible for nomination to any judicial office until
23 the next following general election.~~The nominations shall be~~
24 ~~made within thirty days from the occurrence of a vacancy~~
25 ~~unless the period is extended by the governor for a time not~~
26 ~~to exceed thirty days. The governor shall make the~~
27 ~~appointment within sixty days after the nominations have been~~
28 ~~certified to the governor.~~
29 (d) No judicial rule of conduct or other court rule
30 may limit the political rights of candidates for election or
31 appointment to judicial office, including, but not limited to,

1 serving a political organization, endorsing or opposing other
2 candidates for public office, making speeches, attending
3 political functions, or making statements with respect to
4 issues; however, such limits consistent with other provisions
5 of this constitution may be imposed by general law. ~~There~~
6 ~~shall be a separate judicial nominating commission as provided~~
7 ~~by general law for the supreme court, each district court of~~
8 ~~appeal, and each judicial circuit for all trial courts within~~
9 ~~the circuit. Uniform rules of procedure shall be established~~
10 ~~by the judicial nominating commissions at each level of the~~
11 ~~court system. Such rules, or any part thereof, may be repealed~~
12 ~~by general law enacted by a majority vote of the membership of~~
13 ~~each house of the legislature, or by the supreme court, five~~
14 ~~justices concurring. Except for deliberations of the judicial~~
15 ~~nominating commissions, The proceedings of the commissions and~~
16 ~~their records shall be open to the public.~~

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

18 (a) JUDICIAL QUALIFICATIONS COMMISSION.--A judicial
19 qualifications commission is created.

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

1 following: reprimand, fine, suspension with or without pay, or
2 lawyer discipline. The commission shall have jurisdiction over
3 justices and judges regarding allegations that misconduct
4 occurred before or during service as a justice or judge if a
5 complaint is made no later than one year following service as
6 a justice or judge. The commission shall have jurisdiction
7 regarding allegations of incapacity during service as a
8 justice or judge. The commission shall be composed of:

9 a. Two judges of district courts of appeal selected by
10 the judges of those courts, two circuit judges selected by the
11 judges of the circuit courts and two judges of county courts
12 selected by the judges of those courts;

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

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

22 (2) The members of the judicial qualifications
23 commission shall serve staggered terms, not to exceed six
24 years, as prescribed by general law. No member of the
25 commission except a judge shall be eligible for state judicial
26 office while acting as a member of the commission and for a
27 period of two years thereafter. No member of the commission
28 shall hold office in a political party or participate in any
29 campaign for judicial office or hold public office; provided
30 that a judge may campaign for judicial office and hold that
31

1 office. The commission shall elect one of its members as its
2 chairperson.

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

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

24 (5) The commission shall have access to all
25 information from all executive, legislative and judicial
26 agencies, including grand juries, subject to the rules of the
27 commission. At any time, on request of the speaker of the
28 house of representatives or the governor, the commission shall
29 make available all information in the possession of the
30 commission for use in consideration of impeachment or
31 suspension, respectively.

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

17 (c) SUPREME COURT.--The supreme court shall receive
18 recommendations from the judicial qualifications commission's
19 hearing panel.

20 (1) The supreme court may accept, reject, or modify in
21 whole or in part the findings, conclusions, and
22 recommendations of the commission and it may order that the
23 justice or judge be subjected to appropriate discipline, or be
24 removed from office with termination of compensation for
25 willful or persistent failure to perform judicial duties or
26 for other conduct unbecoming a member of the judiciary
27 demonstrating a present unfitness to hold office, or be
28 involuntarily retired for any permanent disability that
29 seriously interferes with the performance of judicial duties.
30 Malafides, scienter or moral turpitude on the part of a
31 justice or judge shall not be required for removal from office

1 of a justice or judge whose conduct demonstrates a present
2 unfitness to hold office. After the filing of a formal
3 proceeding and upon request of the investigative panel, the
4 supreme court may suspend the justice or judge from office,
5 with or without compensation, pending final determination of
6 the inquiry.

7 (2) The supreme court may award costs to the
8 prevailing party.

9 (d) The power of removal conferred by this section
10 shall be both alternative and cumulative to the power of
11 impeachment.

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

31

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

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

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

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

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

17 1. ~~Four judges,~~

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

19 3. ~~Three non-lawyers.~~

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

21 1. ~~Two judges,~~

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

23 3. ~~Two non-lawyers.~~

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

28 e. ~~The commission shall hire separate staff for each~~
29 ~~panel.~~

30 f. ~~The members of the commission shall serve for~~
31 ~~staggered terms of six years.~~

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

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

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

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

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

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

1 ~~board of governors of the bar of Florida shall be by no less~~
2 ~~than a majority of the board.~~

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

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

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

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

17 SECTION 14. Funding.--

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

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

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

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

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

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

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

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

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

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

25 SECTION 19. Judicial officers as conservators of the
26 peace.--All judicial officers in this state shall be
27 conservators of the peace.

28 ~~SECTION 20. Schedule to Article V.--~~

29 ~~(a) This article shall replace all of Article V of the~~
30 ~~Constitution of 1885, as amended, which shall then stand~~
31 ~~repealed.~~

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

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

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

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

20 ~~(3) Circuit courts shall have jurisdiction of appeals~~
21 ~~from county courts and municipal courts, except those appeals~~
22 ~~which may be taken directly to the supreme court; and they~~
23 ~~shall have exclusive original jurisdiction in all actions at~~
24 ~~law not cognizable by the county courts; of proceedings~~
25 ~~relating to the settlement of the estate of decedents and~~
26 ~~minors, the granting of letters testamentary, guardianship,~~
27 ~~involuntary hospitalization, the determination of~~
28 ~~incompetency, and other jurisdiction usually pertaining to~~
29 ~~courts of probate; in all cases in equity including all cases~~
30 ~~relating to juveniles; of all felonies and of all misdemeanors~~
31 ~~arising out of the same circumstances as a felony which is~~

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

14 ~~(4) County courts shall have original jurisdiction in~~
15 ~~all criminal misdemeanor cases not cognizable by the circuit~~
16 ~~courts, of all violations of municipal and county ordinances,~~
17 ~~and of all actions at law in which the matter in controversy~~
18 ~~does not exceed the sum of two thousand five hundred dollars~~
19 ~~(\$2,500.00) exclusive of interest and costs, except those~~
20 ~~within the exclusive jurisdiction of the circuit courts.~~
21 ~~Judges of county courts shall be committing magistrates. The~~
22 ~~county courts shall have jurisdiction now exercised by the~~
23 ~~county judge's courts other than that vested in the circuit~~
24 ~~court by subsection (c)(3) hereof, the jurisdiction now~~
25 ~~exercised by the county courts, the claims court, the small~~
26 ~~claims courts, the small claims magistrates courts,~~
27 ~~magistrates courts, justice of the peace courts, municipal~~
28 ~~courts and courts of chartered counties, including but not~~
29 ~~limited to the counties referred to in Article VIII, sections~~
30 ~~9, 10, 11 and 24 of the Constitution of 1885.~~

31

1 ~~(5) Each judicial nominating commission shall be~~
2 ~~composed of the following:~~

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

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

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

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

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

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

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

31

1 ~~c. The terms of one member of category a. b. and c. in~~
2 ~~subsection (c)(5) hereof shall expire on July 1, 1976;~~
3 ~~(8) All fines and forfeitures arising from offenses~~
4 ~~tried in the county court shall be collected, and accounted~~
5 ~~for by clerk of the court, and deposited in a special trust~~
6 ~~account. All fines and forfeitures received from violations~~
7 ~~of ordinances or misdemeanors committed within a county or~~
8 ~~municipal ordinances committed within a municipality within~~
9 ~~the territorial jurisdiction of the county court shall be paid~~
10 ~~monthly to the county or municipality respectively. If any~~
11 ~~costs are assessed and collected in connection with offenses~~
12 ~~tried in county court, all court costs shall be paid into the~~
13 ~~general revenue fund of the state of Florida and such other~~
14 ~~funds as prescribed by general law.~~
15 ~~(9) Any municipality or county may apply to the chief~~
16 ~~judge of the circuit in which that municipality or county is~~
17 ~~situated for the county court to sit in a location suitable to~~
18 ~~the municipality or county and convenient in time and place to~~
19 ~~its citizens and police officers and upon such application~~
20 ~~said chief judge shall direct the court to sit in the location~~
21 ~~unless the chief judge shall determine the request is not~~
22 ~~justified. If the chief judge does not authorize the county~~
23 ~~court to sit in the location requested, the county or~~
24 ~~municipality may apply to the supreme court for an order~~
25 ~~directing the county court to sit in the location. Any~~
26 ~~municipality or county which so applies shall be required to~~
27 ~~provide the appropriate physical facilities in which the~~
28 ~~county court may hold court.~~
29 ~~(10) All courts except the supreme court may sit in~~
30 ~~divisions as may be established by local rule approved by the~~
31 ~~supreme court.~~

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

5 ~~(12) Municipal prosecutors may prosecute violations of~~
6 ~~municipal ordinances.~~

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

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

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

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

1 ~~a population in excess of 100,000 according to the 1970~~
2 ~~federal census. On the effective date of this article, there~~
3 ~~shall be an additional number of positions of circuit judges~~
4 ~~equal to the number of existing circuit judges and the number~~
5 ~~of judges of the above named courts whose term expires in~~
6 ~~1973. Elections to such offices shall take place at the same~~
7 ~~time and manner as elections to other state judicial offices~~
8 ~~in 1972 and the terms of such offices shall be for a term of~~
9 ~~six years. Unless changed pursuant to section nine of this~~
10 ~~article, the number of circuit judges presently existing and~~
11 ~~created by this subsection shall not be changed.~~

12 ~~(3) In all counties having a population of less than~~
13 ~~100,000 according to the 1970 federal census and having more~~
14 ~~than one county judge on the date of the adoption of this~~
15 ~~article, there shall be the same number of judges of the~~
16 ~~county court as there are county judges existing on that date~~
17 ~~unless changed pursuant to section 9 of this article.~~

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

1 ~~(5) Judges, holding elective office in all other~~
2 ~~courts abolished by this article, whose terms do not expire in~~
3 ~~1973 including judges established pursuant to Article VIII,~~
4 ~~sections 9 and 11 of the Constitution of 1885 shall serve as~~
5 ~~judges of the county court for the remainder of the term to~~
6 ~~which they were elected. Unless created pursuant to section~~
7 ~~9, of this Article V such judicial office shall not continue~~
8 ~~to exist thereafter.~~

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

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

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

24 ~~(9) The office of judges of all other courts abolished~~
25 ~~by this article shall be abolished as of the effective date of~~
26 ~~this article.~~

27 ~~(10) The offices of county solicitor and prosecuting~~
28 ~~attorney shall stand abolished, and all county solicitors and~~
29 ~~prosecuting attorneys holding such offices upon the effective~~
30 ~~date of this article shall become and serve as assistant state~~
31 ~~attorneys for the circuits in which their counties are situate~~

1 ~~for the remainder of their terms, with compensation not less~~
2 ~~than that received immediately before the effective date of~~
3 ~~this article.~~

4 ~~(e) LIMITED OPERATION OF SOME PROVISIONS.~~

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

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

18 ~~(f) Until otherwise provided by law, the nonjudicial~~
19 ~~duties required of county judges shall be performed by the~~
20 ~~judges of the county court.~~

21 ~~(g) All provisions of Article V of the Constitution of~~
22 ~~1885, as amended, not embraced herein which are not~~
23 ~~inconsistent with this revision shall become statutes subject~~
24 ~~to modification or repeal as are other statutes.~~

25 ~~(h) The requirements of section 14 relative to all~~
26 ~~county court judges or any judge of a municipal court who~~
27 ~~continues to hold office pursuant to subsection (d)(4) hereof~~
28 ~~being compensated by state salaries shall not apply prior to~~
29 ~~January 3, 1977, unless otherwise provided by general law.~~

30 ~~(i) DELETION OF OBSOLETE SCHEDULE ITEMS.~~ The
31 ~~legislature shall have power, by concurrent resolution, to~~

1 ~~delete from this article any subsection of this section 20~~
2 ~~including this subsection, when all events to which the~~
3 ~~subsection to be deleted is or could become applicable have~~
4 ~~occurred. A legislative determination of fact made as a basis~~
5 ~~for application of this subsection shall be subject to~~
6 ~~judicial review.~~

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

10 BE IT FURTHER RESOLVED that in accordance with the
11 requirements of section 101.161, Florida Statutes, the title
12 and substance of the amendment proposed herein shall appear on
13 the ballot as follows:

14
15 Proposing a series of amendments to Article V relating
16 to the Judiciary. The amendments include the following
17 provisions:

18 1. Limits the jurisdiction of the courts, including
19 the jurisdiction to issue most writs, to actual cases in
20 law, equity, admiralty, and maritime jurisdiction and to
21 actual controversies arising under the Constitution and
22 the laws of the State of Florida and the United States.

23 2. Prohibits rules of the Supreme Court from being
24 inconsistent with statutes in place at the time of the
25 adoption of the rules, and provides that the rules must
26 be revised to conform to subsequently adopted statutes
27 that regulate substantive rights and that rules may be
28 repealed by general law adopted by a majority, rather
29 than 2/3, of each house of the Legislature.

30 3. Provides that rules adopted by the court shall
31 neither abridge, enlarge, nor modify the substantive

1 | rights of any litigant, but additional rulemaking power
2 | may be delegated to courts by general law.

3 | 4. Limits the District Courts of Appeal
4 | jurisdiction to appeals and the Supreme Court
5 | jurisdiction to appeals, advisory opinions authorized by
6 | the constitution, writs of habeas corpus, and
7 | prohibitions and adoption of rules, discipline, and
8 | review of questions certified by the Supreme Court of the
9 | United States or a United States Court of Appeal.

10 | 5. Provides that writs issued by the Supreme Court
11 | are subject to statutes of limitation and that in a
12 | criminal case the statute of limitation shall be no
13 | shorter than 2 years from the final judgement or mandate
14 | on direct appeal in a criminal case.

15 | 6. Provides for the retention of Supreme Court
16 | justices and district courts of appeal judges by a
17 | two-thirds vote rather than a majority vote.

18 | 7. Provides that the Governor shall nominate and
19 | appoint applicants for a court vacancy with the advice
20 | and consent of the Senate with a provision for
21 | confirmation when the Senate is not in session.
22 | Eliminates judicial nominating commissions.

23 | 8. Provides that any nonprevailing party in any
24 | civil proceeding or any defendant convicted in any
25 | criminal proceeding may be assessed, as provided by
26 | general law, the full cost of all services utilized and
27 | expenses incurred in such proceeding as determined by the
28 | clerk of the circuit or county court, to the extent that
29 | such services or expenses are provided by certain
30 | appropriations, fees, or service charges.
31 |

- 1 9. Provides for the state funding of "courts
2 established by the Constitution" rather than state
3 funding of the "state court system."
4 10. Provides that the judiciary shall have no power
5 to set or modify legislative appropriations.
6 11. Grants the Supreme Court exclusive jurisdiction
7 to discipline and regulate the admission of persons to
8 practice law before the courts and provides for
9 regulation, by general law, of the professional practice
10 of law other than before the courts.
11 12. Provides that no attorney shall be required to
12 pay dues to any organization as a condition to admission
13 to practice law before the courts of the state and
14 prohibits the court from assessing any fee as a condition
15 to admission to practice law before the courts of the
16 state. Conforms provisions relating to judges, state
17 attorneys, public defenders, and members of the Judicial
18 Qualifications Commission.
19 13. Removes The Florida Bar from appointing members
20 of the Judicial Qualifications Commission and allows the
21 Legislature to appoint attorney members to the
22 commission.
23 14. Reduces judicial certification to optional
24 advice rather than constitutional determination of need.
25 15. Restores the election of county and circuit
26 judges by eliminating the 1998 amendment allowing local
27 option for appointment and retention of such judges.
28 16. Removes ability to limit by rule the political
29 rights of candidates for judicial office, but allows such
30 limits by general law if consistent with other provisions
31 of the constitution.