

By Representative Baker

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House Joint Resolution

A joint resolution proposing amendments to Sections 3, 10, and 11 of Article V and the creation of Section 26 of Article XII of the State Constitution relating to the election of justices of the Supreme Court.

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

That the amendments to Sections 3, 10, and 11 of Article V and the creation of Section 26 of Article XII of the State Constitution set forth below are 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 3. Supreme court.--

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

(b) JURISDICTION.--The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from decisions of

1 district courts of appeal declaring invalid a state statute or
2 a provision of the state constitution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (3)a. A vote to exercise a local option to select
25 circuit court judges and county court judges by merit
26 selection and retention rather than by election shall be held
27 in each circuit and county at the general election in the year
28 2000. If a vote to exercise this local option fails in a vote
29 of the electors, such option shall not again be put to a vote
30 of the electors of that jurisdiction until the expiration of
31 at least two years.

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

8 c. After the year 2000, a county may initiate the
9 local option for merit selection and retention or the election
10 of county court judges, whichever is applicable, by filing
11 with the supervisor of elections a petition signed by the
12 number of electors equal to at least ten percent of the votes
13 cast in the county in the last preceding election in which
14 presidential electors were chosen.

15 d. The terms of circuit judges and judges of county
16 courts shall be for six years.

17 (c) Justices of the supreme court shall be elected by
18 vote of the qualified electors statewide to a single term of
19 eight years, commencing on the first Tuesday after the first
20 Monday in January following the general election. After
21 having been elected to a term of office as a justice of the
22 supreme court as provided in this subsection, the justice may
23 neither be elected to such office again nor be appointed to
24 fill any vacancy in such office at any time.

25 SECTION 11. Vacancies.--

26 (a) Whenever a vacancy occurs in a judicial office to
27 which election for retention applies, the governor shall fill
28 the vacancy by appointing for a term ending on the first
29 Tuesday after the first Monday in January of the year
30 following the next general election occurring at least one
31 year after the date of appointment, one of not fewer than

1 three persons nor more than six persons nominated by the
2 appropriate judicial nominating commission.

3 (b) The governor shall fill each vacancy in judicial
4 office ~~on a circuit court or on a county court~~, wherein the
5 justices or judges are elected by a majority vote of the
6 electors, by appointing for a term ending on the first Tuesday
7 after the first Monday in January of the year following the
8 next primary and general election occurring at least one year
9 after the date of appointment, one of not fewer than three
10 persons nor more than six persons nominated by the appropriate
11 judicial nominating commission. An election shall be held to
12 fill that judicial office for the term of the office beginning
13 at the end of the appointed term.

14 (c) The nominations shall be made within thirty days
15 from the occurrence of a vacancy unless the period is extended
16 by the governor for a time not to exceed thirty days. The
17 governor shall make the appointment within sixty days after
18 the nominations have been certified to the governor.

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

31 ARTICLE XII

