

By Representative Johnson

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House Joint Resolution

A joint resolution proposing the amendment of 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 and judges.

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

That the amendment of 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, and
21 limitations.--

22 (a) ELECTION.--All justices and judges shall be
23 elected by vote of the qualified electors of the territorial
24 jurisdiction of their respective courts.

25 (b) TERMS.--The terms of all justices and judges shall
26 be for four years.

27 (c) LIMITATIONS.--On or after January 1, 2005, no
28 person may appear on the ballot for re-election to the office
29 of supreme court justice, district court of appeals judge,
30 circuit court judge, or county court judge if, by the end of
31 the current term of office, the person will have served (or,

1 but for resignation, would have served) in that office for
2 eight consecutive years.

3 ~~(a) Any justice or judge may qualify for retention by~~
4 ~~a vote of the electors in the general election next preceding~~
5 ~~the expiration of the justice's or judge's term in the manner~~
6 ~~prescribed by law. If a justice or judge is ineligible or~~
7 ~~fails to qualify for retention, a vacancy shall exist in that~~
8 ~~office upon the expiration of the term being served by the~~
9 ~~justice or judge. When a justice or judge so qualifies, the~~
10 ~~ballot shall read substantially as follows: "Shall Justice (or~~
11 ~~Judge) ... (name of justice or judge) ... of the ... (name of the~~
12 ~~court) ... be retained in office?" If a majority of the~~
13 ~~qualified electors voting within the territorial jurisdiction~~
14 ~~of the court vote to retain, the justice or judge shall be~~
15 ~~retained for a term of six years. The term of the justice or~~
16 ~~judge retained shall commence on the first Tuesday after the~~
17 ~~first Monday in January following the general election. If a~~
18 ~~majority of the qualified electors voting within the~~
19 ~~territorial jurisdiction of the court vote to not retain, a~~
20 ~~vacancy shall exist in that office upon the expiration of the~~
21 ~~term being served by the justice or judge.~~

22 ~~(b)(1) The election of circuit judges shall be~~
23 ~~preserved notwithstanding the provisions of subsection (a)~~
24 ~~unless a majority of those voting in the jurisdiction of that~~
25 ~~circuit approves a local option to select circuit judges by~~
26 ~~merit selection and retention rather than by election. The~~
27 ~~election of circuit judges shall be by a vote of the qualified~~
28 ~~electors within the territorial jurisdiction of the court.~~

29 ~~(2) The election of county court judges shall be~~
30 ~~preserved notwithstanding the provisions of subsection (a)~~
31 ~~unless a majority of those voting in the jurisdiction of that~~

1 ~~county approves a local option to select county judges by~~
2 ~~merit selection and retention rather than by election. The~~
3 ~~election of county court judges shall be by a vote of the~~
4 ~~qualified electors within the territorial jurisdiction of the~~
5 ~~court.~~

6 ~~(3)a. A vote to exercise a local option to select~~
7 ~~circuit court judges and county court judges by merit~~
8 ~~selection and retention rather than by election shall be held~~
9 ~~in each circuit and county at the general election in the year~~
10 ~~2000. If a vote to exercise this local option fails in a vote~~
11 ~~of the electors, such option shall not again be put to a vote~~
12 ~~of the electors of that jurisdiction until the expiration of~~
13 ~~at least two years.~~

14 ~~b. After the year 2000, a circuit may initiate the~~
15 ~~local option for merit selection and retention or the election~~
16 ~~of circuit judges, whichever is applicable, by filing with the~~
17 ~~secretary of state a petition signed by the number of electors~~
18 ~~equal to at least ten percent of the votes cast in the circuit~~
19 ~~in the last preceding election in which presidential electors~~
20 ~~were chosen.~~

21 ~~c. After the year 2000, a county may initiate the~~
22 ~~local option for merit selection and retention or the election~~
23 ~~of county court judges, whichever is applicable, by filing~~
24 ~~with the supervisor of elections a petition signed by the~~
25 ~~number of electors equal to at least ten percent of the votes~~
26 ~~cast in the county in the last preceding election in which~~
27 ~~presidential electors were chosen. The terms of circuit judges~~
28 ~~and judges of county courts shall be for six years.~~

29 SECTION 11. Vacancies.--

30 ~~(a) Whenever a vacancy occurs in a judicial office to~~
31 ~~which election for retention applies, the governor shall fill~~

1 ~~the vacancy by appointing for a term ending on the first~~
2 ~~Tuesday after the first Monday in January of the year~~
3 ~~following the next general election occurring at least one~~
4 ~~year after the date of appointment, one of not fewer than~~
5 ~~three persons nor more than six persons nominated by the~~
6 ~~appropriate judicial nominating commission.~~

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

18 (b)~~(c)~~ The nominations shall be made within thirty
19 days from the occurrence of a vacancy unless the period is
20 extended by the governor for a time not to exceed thirty days.
21 The governor shall make the appointment within sixty days
22 after the nominations have been certified to the governor.

23 (c)~~(d)~~ There shall be a separate judicial nominating
24 commission as provided by general law for the supreme court,
25 each district court of appeal, and each judicial circuit for
26 all trial courts within the circuit. Uniform rules of
27 procedure shall be established by the judicial nominating
28 commissions at each level of the court system. Such rules, or
29 any part thereof, may be repealed by general law enacted by a
30 majority vote of the membership of each house of the
31 legislature, or by the supreme court, five justices

1 concurring. Except for deliberations of the judicial
2 nominating commissions, the proceedings of the commissions and
3 their records shall be open to the public.

4 ARTICLE XII

5 SCHEDULE

6 SECTION 26. Election of justices and judges.--The
7 amendment of Sections 3, 10, and 11 of Article V requiring the
8 election of all justices and judges shall take effect January
9 7, 2003, and shall first apply to the primary and general
10 elections held in 2004. All justices and judges in office on
11 January 7, 2003, shall retain their offices for the remainder
12 of their respective terms.

13 BE IT FURTHER RESOLVED that in accordance with the
14 requirements of section 101.161, Florida Statutes, the title
15 and substance of the amendments proposed herein shall appear
16 on the ballot as follows:

17 ELECTION OF JUSTICES AND JUDGES

18 Eliminates retention election of justices and judges,
19 and provides instead that all justices and judges shall be
20 directly elected by vote of the qualified electors of the
21 territorial jurisdiction of their respective courts to terms
22 of 4 years, beginning with the 2004 elections. Provides that
23 no person may appear on the ballot for re-election to a
24 judicial office if, by the end of the current term of office,
25 the person will have served (or, but for resignation, would
26 have served) in that office for 8 consecutive years. Allows
27 justices and judges in office at the time of such changes to
28 retain their offices through the remainder of their respective
29 terms.

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