

By Representative Brummer

House Joint Resolution

A joint resolution proposing an amendment to Section 11 of Article V of the State Constitution; requiring judicial nominating commissions to forward to the Governor a list of all eligible candidates for judicial vacancies rather than a list of three to six persons; requiring judicial nominating commissions to provide the Governor with information relative to each eligible person; requiring that judicial appointees be confirmed by the State Senate; authorizing the convening of the Senate in special session for such purpose; transferring rulemaking authority for judicial nominating commissions to the Governor from the commissions; permitting the Legislature to repeal any portion of such rules by joint resolution.

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

That the amendment to Section 11 of 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:

SECTION 11. Vacancies.--

(a) Whenever a vacancy occurs in a judicial office to which election for retention applies, the governor shall fill the vacancy by nominating and appointing, by and with the advice and consent of the senate, for a term ending on the first Tuesday after the first Monday in January of the year

1 following the next general election occurring at least one
2 year after the date of appointment, a person approved as
3 eligible one of not fewer than three persons nor more than six
4 persons nominated by the appropriate judicial nominating
5 commission.

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

18 (c) Each commission shall approve and certify to the
19 governor a list of all eligible applicants for a judicial
20 vacancy and a report containing any information required by
21 the rules governing the commission and any other information
22 which the commission deems useful to the governor in filling
23 the vacancy. ~~The list of eligible applicants nominations~~ shall
24 be certified to the governor by the judicial nominating
25 commission ~~made~~ within thirty days from the occurrence of a
26 vacancy unless the period is extended by the governor for a
27 time not to exceed thirty days. The governor shall make the
28 nomination ~~appointment~~ within sixty days after the list has
29 ~~nominations have~~ been certified to the governor. The
30 nomination shall be transmitted to the senate with the
31 governor's signature. If the senate is not in session at the

1 time the governor transmits the nomination, the senate may be
2 convened in special session by its president, or as otherwise
3 provided in its rules, to consider the nomination. If the
4 senate is not in session, or is not convened in special
5 session, within thirty days after the transmission by the
6 governor, the nomination shall be deemed confirmed. If the
7 senate is in session, or is convened in special session,
8 within thirty days after the transmission by the governor, and
9 does not give its consent to such nomination by a majority
10 vote of senators voting on the question prior to the
11 adjournment of such session, the nomination shall be deemed
12 rejected. A person nominated to judicial office and rejected
13 by the senate shall not be eligible for nomination to any
14 judicial office until the next following general election.

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

28 BE IT FURTHER RESOLVED that in accordance with the
29 requirements of section 101.161, Florida Statutes, the title
30 and substance of the amendment proposed herein shall appear on
31 the ballot as follows:

JUDICIAL APPOINTMENTS

Proposes to change the method for appointment of judges; requires judicial nominating commissions to forward to the Governor a list of all applicants eligible for appointment; permits the Governor to nominate and, upon confirmation by the Senate, appoint any listed applicant; transfers the commissions' authority to adopt rules to the Governor; eliminates the Supreme Court's ability to repeal such rules, but authorizes repeal, not subject to gubernatorial veto, by simple majority of the Legislature.