

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SJR 1494

SPONSOR: Committee on Judiciary and Senator Smith

SUBJECT: Judicial Vacancies

DATE: March 25, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Greenbaum</u>	<u>Roberts</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Senate Joint Resolution (SJR) provides that the Governor is to forward to the Senate for confirmation a single nominee to fill a vacant office on the Florida Supreme Court or on a District Court of Appeal. If the senate conducts a hearing but does not act upon the nomination by the last day of the next scheduled regular session, then the result will be the appointment of the nominee. The Judicial Nominating Commissions for the Supreme Court and the appellate districts are eliminated.

If approved by the Legislature, this Senate Joint Resolution would go before the voters at the next general election, November 2004.

This bill amends Article V, section 11, Florida Constitution.

II. Present Situation:

Justices of the Supreme Court and judges of the District Courts of Appeal (DCA) are selected by what is commonly referred to as “merit selection and retention.” Justices are selected by the Governor from a list of three to six names provided by the Supreme Court Judicial Nominating Commission.¹ Each appellate district must have at least one Supreme Court Justice appointed from the district who is a resident of the district at the time of the original appointment.² District Courts of Appeal judges are selected from a list of three to six names provided by a Judicial Nominating Commission for the relevant appellate district.³ Circuit and county court judges are

¹ Art. V, s. 11, Fla. Const. See ss. VI – VIII, Supreme Court Judicial Nominating Commission Rules of Procedure.

² Art. V, s. 3, Fla. Const.

³ Art. V, s. 11, Fla. Const. See ss. VI – VII, Uniform Rules of Procedure for District Courts of Appeal Judicial Nominating Commissions.

appointed from a list of three to six names provided by a Judicial Nominating Commission for the relevant circuit.⁴ All justices and judges serve six year terms.⁵ At the end of a term, a Supreme Court Justice or DCA judge sits for a retention election. Voters determine by a majority whether the justice or judge should be retained in office.⁶ Trial court judges are re-elected by a majority of the voters.⁷ Any justice or judge may stay on the respective court for as long as he or she is retained or re-elected or until the justice or judge reaches his or her seventieth birthday.⁸

Historically, the Florida Constitution as well as the Florida Legislature have varied the appointment of Supreme Court Justices. In 1851, the Legislature established the Supreme Court and appointed the justices.⁹ The 1865 Florida Constitution provided that justices would be selected by the Governor with the advice and consent of the Senate.¹⁰ The Florida Constitution of 1885 changed the method of selection from appointment to direct election by the people.¹¹ In 1976, the Florida Constitution was amended to create the current merit selection and retention method of selecting Supreme Court Justices and DCA judges.¹²

III. Effect of Proposed Changes:

This Senate Joint Resolution revises the manner in which Supreme Court Justices and DCA judges are nominated to fill vacant judicial offices. The Joint Resolution provides that the Governor must forward to the Senate a single nominee for confirmation to the vacant judicial office. If the senate conducts a hearing but does not act upon the nomination by the last day of the next scheduled regular session, then the result will be the appointment of the nominee. If confirmed, the nominee would fill a term ending, as it now does, on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment.

The Judicial Nominating Commissions for the Supreme Court and the appellate districts are eliminated.

If approved by the Legislature, this Senate Joint Resolution would go before the voters at the next general election in November 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴ Art. V, s. 11, Fla. Const. *See ss. VI – VII, Uniform Rules of Procedure for Circuit Judicial Nominating Commissions.*

⁵ Art. V, s. 10, Fla. Const.

⁶ *Id.*

⁷ *Id.*

⁸ Art. V, s. 8, Fla. Const.

⁹ Act of 1850, §1, 1850 Fla. Laws 371.

¹⁰ Florida Constitution of 1865, Article V, s. 10.

¹¹ Florida Constitution of 1885, Article V, s. 2.

¹² Art. V, s. 11, Fla. Const.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and one in the tenth week preceding the general election. Costs for advertising vary depending on the length of the amendment; however, it is estimated that the cost per amendment averages about \$46,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.