



291874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/18/2011	.	
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The Committee on Judiciary (Richter) recommended the following:

1 **Senate Substitute for Amendment (297918) (with title**
2 **amendment)**

3
4 Delete everything after the resolving clause
5 and insert:

6 That the following amendments to Sections 8 and 20 of
7 Article V of the State Constitution are agreed to and shall be
8 submitted to the electors of this state for approval or
9 rejection at the next general election or at an earlier special
10 election specifically authorized by law for that purpose:

11 ARTICLE V

12 JUDICIARY

13 SECTION 8. Eligibility.—No person shall be eligible for
14 office of justice or judge of any court unless the person is an



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

33 Section 20 Schedule to Article V.—

34 (a) This article shall replace all of Article V of the
35 Constitution of 1885, as amended, which shall then stand
36 repealed.

37 (b) Except to the extent inconsistent with the provisions
38 of this article, all provisions of law and rules of court in
39 force on the effective date of this article shall continue in
40 effect until superseded in the manner authorized by the
41 constitution.

42 (c) After this article becomes effective, and until changed
43 by general law consistent with sections 1 through 19 of this



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44 article:

45 (1) The supreme court shall have the jurisdiction
46 immediately theretofore exercised by it, and it shall determine
47 all proceedings pending before it on the effective date of this
48 article.

49 (2) The appellate districts shall be those in existence on
50 the date of adoption of this article. There shall be a district
51 court of appeal in each district. The district courts of appeal
52 shall have the jurisdiction immediately theretofore exercised by
53 the district courts of appeal and shall determine all
54 proceedings pending before them on the effective date of this
55 article.

56 (3) Circuit courts shall have jurisdiction of appeals from
57 county courts and municipal courts, except those appeals which
58 may be taken directly to the supreme court; and they shall have
59 exclusive original jurisdiction in all actions at law not
60 cognizable by the county courts; of proceedings relating to the
61 settlement of the estate of decedents and minors, the granting
62 of letters testamentary, guardianship, involuntary
63 hospitalization, the determination of incompetency, and other
64 jurisdiction usually pertaining to courts of probate; in all
65 cases in equity including all cases relating to juveniles; of
66 all felonies and of all misdemeanors arising out of the same
67 circumstances as a felony which is also charged; in all cases
68 involving legality of any tax assessment or toll; in the action
69 of ejectment; and in all actions involving the titles or
70 boundaries or right of possession of real property. The circuit
71 court may issue injunctions. There shall be judicial circuits
72 which shall be the judicial circuits in existence on the date of



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73 adoption of this article. The chief judge of a circuit may
74 authorize a county court judge to order emergency
75 hospitalizations pursuant to Chapter 71-131, Laws of Florida, in
76 the absence from the county of the circuit judge and the county
77 court judge shall have the power to issue all temporary orders
78 and temporary injunctions necessary or proper to the complete
79 exercise of such jurisdiction.

80 (4) County courts shall have original jurisdiction in all
81 criminal misdemeanor cases not cognizable by the circuit courts,
82 of all violations of municipal and county ordinances, and of all
83 actions at law in which the matter in controversy does not
84 exceed the sum of two thousand five hundred dollars (\$2,500.00)
85 exclusive of interest and costs, except those within the
86 exclusive jurisdiction of the circuit courts. Judges of county
87 courts shall be committing magistrates. The county courts shall
88 have jurisdiction now exercised by the county judge's courts
89 other than that vested in the circuit court by subsection (c)(3)
90 hereof, the jurisdiction now exercised by the county courts, the
91 claims court, the small claims courts, the small claims
92 magistrates courts, magistrates courts, justice of the peace
93 courts, municipal courts and courts of chartered counties,
94 including but not limited to the counties referred to in Article
95 VIII, sections 9, 10, 11 and 24 of the Constitution of 1885.

96 (5) Each judicial nominating commission shall be composed
97 of the following:

98 a. Three members appointed by the Board of Governors of The
99 Florida Bar from among The Florida Bar members who are actively
100 engaged in the practice of law with offices within the
101 territorial jurisdiction of the affected court, district or



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102 circuit;

103 b. Three electors who reside in the territorial
104 jurisdiction of the court or circuit appointed by the governor;
105 and

106 c. Three electors who reside in the territorial
107 jurisdiction of the court or circuit and who are not members of
108 the bar of Florida, selected and appointed by a majority vote of
109 the other six members of the commission.

110 (6) No justice or judge shall be a member of a judicial
111 nominating commission. A member of a judicial nominating
112 commission may hold public office other than judicial office. No
113 member shall be eligible for appointment to state judicial
114 office so long as that person is a member of a judicial
115 nominating commission and for a period of two years thereafter.
116 All acts of a judicial nominating commission shall be made with
117 a concurrence of a majority of its members.

118 (7) The members of a judicial nominating commission shall
119 serve for a term of four years except the terms of the initial
120 members of the judicial nominating commissions shall expire as
121 follows:

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

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

126 c. The terms of one member of category a. b. and c. in
127 subsection (c) (5) hereof shall expire on July 1, 1976;

128 (8) All fines and forfeitures arising from offenses tried
129 in the county court shall be collected, and accounted for by
130 clerk of the court, and deposited in a special trust account.



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131 All fines and forfeitures received from violations of ordinances
132 or misdemeanors committed within a county or municipal
133 ordinances committed within a municipality within the
134 territorial jurisdiction of the county court shall be paid
135 monthly to the county or municipality respectively. If any costs
136 are assessed and collected in connection with offenses tried in
137 county court, all court costs shall be paid into the general
138 revenue fund of the state of Florida and such other funds as
139 prescribed by general law.

140 (9) Any municipality or county may apply to the chief judge
141 of the circuit in which that municipality or county is situated
142 for the county court to sit in a location suitable to the
143 municipality or county and convenient in time and place to its
144 citizens and police officers and upon such application said
145 chief judge shall direct the court to sit in the location unless
146 the chief judge shall determine the request is not justified. If
147 the chief judge does not authorize the county court to sit in
148 the location requested, the county or municipality may apply to
149 the supreme court for an order directing the county court to sit
150 in the location. Any municipality or county which so applies
151 shall be required to provide the appropriate physical facilities
152 in which the county court may hold court.

153 (10) All courts except the supreme court may sit in
154 divisions as may be established by local rule approved by the
155 supreme court.

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

159 (12) Municipal prosecutors may prosecute violations of



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160 municipal ordinances.

161 (13) Justice shall mean a justice elected or appointed to
162 the supreme court and shall not include any judge assigned from
163 any court.

164 (d) When this article becomes effective:

165 (1) All courts not herein authorized, except as provided by
166 subsection (d)(4) of this section shall cease to exist and
167 jurisdiction to conclude all pending cases and enforce all prior
168 orders and judgments shall vest in the court that would have
169 jurisdiction of the cause if thereafter instituted. All records
170 of and property held by courts abolished hereby shall be
171 transferred to the proper office of the appropriate court under
172 this article.

173 (2) Judges of the following courts, if their terms do not
174 expire in 1973 and if they are eligible under subsection (d)(8)
175 hereof, shall become additional judges of the circuit court for
176 each of the counties of their respective circuits, and shall
177 serve as such circuit judges for the remainder of the terms to
178 which they were elected and shall be eligible for election as
179 circuit judges thereafter. These courts are: civil court of
180 record of Dade county, all criminal courts of record, the felony
181 courts of record of Alachua, Leon and Volusia Counties, the
182 courts of record of Broward, Brevard, Escambia, Hillsborough,
183 Lee, Manatee and Sarasota Counties, the civil and criminal court
184 of record of Pinellas County, and county judge's courts and
185 separate juvenile courts in counties having a population in
186 excess of 100,000 according to the 1970 federal census. On the
187 effective date of this article, there shall be an additional
188 number of positions of circuit judges equal to the number of



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189 existing circuit judges and the number of judges of the above
190 named courts whose term expires in 1973. Elections to such
191 offices shall take place at the same time and manner as
192 elections to other state judicial offices in 1972 and the terms
193 of such offices shall be for a term of six years. Unless changed
194 pursuant to section nine of this article, the number of circuit
195 judges presently existing and created by this subsection shall
196 not be changed.

197 (3) In all counties having a population of less than
198 100,000 according to the 1970 federal census and having more
199 than one county judge on the date of the adoption of this
200 article, there shall be the same number of judges of the county
201 court as there are county judges existing on that date unless
202 changed pursuant to section 9 of this article.

203 (4) Municipal courts shall continue with their same
204 jurisdiction until amended or terminated in a manner prescribed
205 by special or general law or ordinances, or until January 3,
206 1977, whichever occurs first. On that date all municipal courts
207 not previously abolished shall cease to exist. Judges of
208 municipal courts shall remain in office and be subject to
209 reappointment or reelection in the manner prescribed by law
210 until said courts are terminated pursuant to the provisions of
211 this subsection. Upon municipal courts being terminated or
212 abolished in accordance with the provisions of this subsection,
213 the judges thereof who are not members of the bar of Florida,
214 shall be eligible to seek election as judges of county courts of
215 their respective counties.

216 (5) Judges, holding elective office in all other courts
217 abolished by this article, whose terms do not expire in 1973



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218 including judges established pursuant to Article VIII, sections
219 9 and 11 of the Constitution of 1885 shall serve as judges of
220 the county court for the remainder of the term to which they
221 were elected. Unless created pursuant to section 9, of this
222 Article V such judicial office shall not continue to exist
223 thereafter.

224 (6) By March 21, 1972, the supreme court shall certify the
225 need for additional circuit and county judges. The legislature
226 in the 1972 regular session may by general law create additional
227 offices of judge, the terms of which shall begin on the
228 effective date of this article. Elections to such offices shall
229 take place at the same time and manner as election to other
230 state judicial offices in 1972.

231 (7) County judges of existing county judge's courts and
232 justices of the peace and magistrates' court who are not members
233 of bar of Florida shall be eligible to seek election as county
234 court judges of their respective counties.

235 (8) No judge of a court abolished by this article shall
236 become or be eligible to become a judge of the circuit court
237 unless the judge has been a member of bar of Florida for the
238 preceding five years.

239 (9) The office of judges of all other courts abolished by
240 this article shall be abolished as of the effective date of this
241 article.

242 (10) The offices of county solicitor and prosecuting
243 attorney shall stand abolished, and all county solicitors and
244 prosecuting attorneys holding such offices upon the effective
245 date of this article shall become and serve as assistant state
246 attorneys for the circuits in which their counties are situate



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247 for the remainder of their terms, with compensation not less
248 than that received immediately before the effective date of this
249 article.

250 (e) LIMITED OPERATION OF SOME PROVISIONS.—

251 (1) All justices of the supreme court, judges of the
252 district courts of appeal and circuit judges in office upon the
253 effective date of this article shall retain their offices for
254 the remainder of their respective terms. All members of the
255 judicial qualifications commission in office upon the effective
256 date of this article shall retain their offices for the
257 remainder of their respective terms. Each state attorney in
258 office on the effective date of this article shall retain the
259 office for the remainder of the term.

260 (2) No justice or judge holding office immediately after
261 this article becomes effective who held judicial office on July
262 1, 1957, shall be subject to retirement from judicial office
263 because of age pursuant to section 8 of this article.

264 (f) Until otherwise provided by law, the nonjudicial duties
265 required of county judges shall be performed by the judges of
266 the county court.

267 (g) All provisions of Article V of the Constitution of
268 1885, as amended, not embraced herein which are not inconsistent
269 with this revision shall become statutes subject to modification
270 or repeal as are other statutes.

271 (h) The requirements of section 14 relative to all county
272 court judges or any judge of a municipal court who continues to
273 hold office pursuant to subsection (d) (4) hereof being
274 compensated by state salaries shall not apply prior to January
275 3, 1977, unless otherwise provided by general law.



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276 (i) DELETION OF OBSOLETE SCHEDULE ITEMS.—The legislature
277 shall have power, by concurrent resolution, to delete from this
278 article any subsection of this section 20 including this
279 subsection, when all events to which the subsection to be
280 deleted is or could become applicable have occurred. A
281 legislative determination of fact made as a basis for
282 application of this subsection shall be subject to judicial
283 review.

284 (j) EFFECTIVE DATE.—Unless otherwise provided herein, this
285 article shall become effective at 11:59 o'clock P.M., Eastern
286 Standard Time, January 1, 1973.

287 (k) QUALIFICATIONS OF CIRCUIT AND COUNTY COURT JUDGES.—The
288 amendment to Section 8 changing the qualifications of circuit
289 judges and county court judges shall take effect January 9,
290 2013. The amendment does not affect any judge in office on the
291 effective date of the amendment. Any judge qualified to hold
292 office and in office on January 8, 2013, shall remain in office
293 and shall be eligible to seek reelection to such judicial office
294 in the future regardless of whether such judge has been a member
295 of The Florida Bar for the previous ten years.

296 CONSTITUTIONAL AMENDMENT

297 ARTICLE V, SECTIONS 8 AND 20

298 INCREASING THE QUALIFICATIONS FOR THE OFFICES OF CIRCUIT
299 COURT AND COUNTY COURT JUDGES.—The State Constitution currently
300 prohibits a person from serving as a circuit court judge unless
301 the person is, and has been for the preceding 5 years, a member
302 of The Florida Bar. This same prohibition applies to county
303 court judges, except in counties having a population of 40,000
304 or fewer, where a person need only be a member in good standing



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305 of The Florida Bar. This proposed amendment increases to 10
306 years the period of time that a person must be a member of The
307 Florida Bar before serving as a circuit court judge or a county
308 court judge. However, in counties having a population of 40,000
309 or fewer, a person continues to be eligible to serve as a county
310 court judge if he or she is a member in good standing of The
311 Florida Bar. The increased qualifications do not apply to county
312 court or circuit court judges in office on January 8, 2013, or
313 to persons seeking to be elected to the office of county court
314 or circuit court judge during this election.

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316 ===== T I T L E A M E N D M E N T =====

317 And the title is amended as follows:

318 Delete everything before the resolving clause

319 and insert:

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A bill to be entitled

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A joint resolution proposing amendments to Sections 8

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and 20 of Article V of the State Constitution to

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increase the period of time that a person must be a

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member of The Florida Bar before becoming eligible for

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the office of circuit court or county court judge.