



297918

LEGISLATIVE ACTION

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

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

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

ARTICLE V

JUDICIARY

SECTION 8. Eligibility.—No person shall be eligible for
office of justice or judge of any court unless the person is an
elector of the state and resides in the territorial jurisdiction
of the court. No justice or judge shall serve after attaining



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

31 Section 20 Schedule to Article V.-

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34 repealed.

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38 effect until superseded in the manner authorized by the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

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

43 (1) The supreme court shall have the jurisdiction



44 immediately theretofore exercised by it, and it shall determine
45 all proceedings pending before it on the effective date of this
46 article.

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

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



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73 hospitalizations pursuant to Chapter 71-131, Laws of Florida, in
74 the absence from the county of the circuit judge and the county
75 court judge shall have the power to issue all temporary orders
76 and temporary injunctions necessary or proper to the complete
77 exercise of such jurisdiction.

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

94 (5) Each judicial nominating commission shall be composed
95 of the following:

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

101 b. Three electors who reside in the territorial



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102 jurisdiction of the court or circuit appointed by the governor;
103 and

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

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

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

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

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

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

126 (8) All fines and forfeitures arising from offenses tried
127 in the county court shall be collected, and accounted for by
128 clerk of the court, and deposited in a special trust account.
129 All fines and forfeitures received from violations of ordinances
130 or misdemeanors committed within a county or municipal



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

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

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

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

157 (12) Municipal prosecutors may prosecute violations of
158 municipal ordinances.

159 (13) Justice shall mean a justice elected or appointed to



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160 the supreme court and shall not include any judge assigned from
161 any court.

162 (d) When this article becomes effective:

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

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



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

195 (3) In all counties having a population of less than
196 100,000 according to the 1970 federal census and having more
197 than one county judge on the date of the adoption of this
198 article, there shall be the same number of judges of the county
199 court as there are county judges existing on that date unless
200 changed pursuant to section 9 of this article.

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

214 (5) Judges, holding elective office in all other courts
215 abolished by this article, whose terms do not expire in 1973
216 including judges established pursuant to Article VIII, sections
217 9 and 11 of the Constitution of 1885 shall serve as judges of



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218 the county court for the remainder of the term to which they
219 were elected. Unless created pursuant to section 9, of this
220 Article V such judicial office shall not continue to exist
221 thereafter.

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

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

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

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

240 (10) The offices of county solicitor and prosecuting
241 attorney shall stand abolished, and all county solicitors and
242 prosecuting attorneys holding such offices upon the effective
243 date of this article shall become and serve as assistant state
244 attorneys for the circuits in which their counties are situate
245 for the remainder of their terms, with compensation not less
246 than that received immediately before the effective date of this



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247 article.

248 (e) LIMITED OPERATION OF SOME PROVISIONS.—

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

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

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

265 (g) All provisions of Article V of the Constitution of
266 1885, as amended, not embraced herein which are not inconsistent
267 with this revision shall become statutes subject to modification
268 or repeal as are other statutes.

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

274 (i) DELETION OF OBSOLETE SCHEDULE ITEMS.—The legislature
275 shall have power, by concurrent resolution, to delete from this



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276 article any subsection of this section 20 including this
277 subsection, when all events to which the subsection to be
278 deleted is or could become applicable have occurred. A
279 legislative determination of fact made as a basis for
280 application of this subsection shall be subject to judicial
281 review.

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

285 (k) QUALIFICATIONS OF CIRCUIT AND COUNTY COURT JUDGES.—The
286 amendment to Section 8 changing the qualifications of circuit
287 judges and county court judges shall take effect January 9,
288 2013. The amendment does not affect any judge in office on the
289 effective date of the amendment. Any judge qualified to hold
290 office and in office on January 8, 2013, shall remain in office
291 and shall be eligible to seek reelection to such judicial office
292 in the future regardless of whether such judge has been a member
293 of The Florida Bar for the previous ten years. This subsection
294 expires and shall be deleted on January 10, 2025.

295 CONSTITUTIONAL AMENDMENT

296 ARTICLE V, SECTIONS 8 AND 20

297 INCREASING THE QUALIFICATIONS FOR THE OFFICES OF CIRCUIT
298 COURT AND COUNTY COURT JUDGES.—The State Constitution currently
299 prohibits a person from serving as a circuit court judge unless
300 the person is, and has been for the proceeding 5 years, a member
301 of The Florida Bar. This same prohibition applies to county
302 court judges, except in counties having a population of 40,000
303 or fewer, where a person need only be a member in good standing
304 of The Florida Bar. This proposed amendment increases to 10



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305 years the period of time that a person must be a member of The
306 Florida Bar before serving as a circuit court judge or a county
307 court judge in any county. However, the increased qualifications
308 do not apply to county court or circuit court judges in office
309 on January 8, 2013, or to persons seeking to be elected to the
310 office of county court or circuit court judge during this
311 election.

312
313 ===== T I T L E A M E N D M E N T =====

314 And the title is amended as follows:

315 Delete everything before the resolving clause
316 and insert:

317 A bill to be entitled
318 A joint resolution proposing amendments to Sections 8
319 and 20 of Article V of the State Constitution to
320 increase the period of time that a person must be a
321 member of The Florida Bar before becoming eligible for
322 the offices of circuit court or county court judge.