

By Senator Flores

38-01517A-11

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Senate Joint Resolution

A joint resolution proposing an amendment to Section 10 of Article V of the State Constitution to require circuit and county judges who are unopposed for reelection to be subject to retention by a vote of the electors.

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

That the following amendment to Section 10 of Article V of the State Constitution is 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 10. Retention; election and terms.—

(a) Any justice or judge may qualify for retention by a vote of the electors in the general election next preceding the expiration of the justice's or judge's term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice or judge so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) ... (name of justice or judge) ... of the ... (name of the court) ... be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a

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30 term of six years. The term of the justice or judge retained
31 shall commence on the first Tuesday after the first Monday in
32 January following the general election. If a majority of the
33 qualified electors voting within the territorial jurisdiction of
34 the court vote to not retain, a vacancy shall exist in that
35 office upon the expiration of the term being served by the
36 justice or judge.

37 (b) (1) The election of circuit judges shall be preserved
38 notwithstanding the provisions of subsection (a) unless a
39 majority of those voting in the jurisdiction of that circuit
40 approves a local option to select circuit judges by merit
41 selection and retention rather than by election. The election of
42 circuit judges shall be by a vote of the qualified electors
43 within the territorial jurisdiction of the court.

44 (2) The election of county court judges shall be preserved
45 notwithstanding the provisions of subsection (a) unless a
46 majority of those voting in the jurisdiction of that county
47 approves a local option to select county judges by merit
48 selection and retention rather than by election. The election of
49 county court judges shall be by a vote of the qualified electors
50 within the territorial jurisdiction of the court.

51 (3)a. A vote to exercise a local option to select circuit
52 court judges and county court judges by merit selection and
53 retention rather than by election shall be held in each circuit
54 and county at the general election in the year 2000. If a vote
55 to exercise this local option fails in a vote of the electors,
56 such option shall not again be put to a vote of the electors of
57 that jurisdiction until the expiration of at least two years.

58 b. After the year 2000, a circuit may initiate the local

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59 option for merit selection and retention or the election of
60 circuit judges, whichever is applicable, by filing with the
61 custodian of state records a petition signed by the number of
62 electors equal to at least ten percent of the votes cast in the
63 circuit in the last preceding election in which presidential
64 electors were chosen.

65 c. After the year 2000, a county may initiate the local
66 option for merit selection and retention or the election of
67 county court judges, whichever is applicable, by filing with the
68 supervisor of elections a petition signed by the number of
69 electors equal to at least ten percent of the votes cast in the
70 county in the last preceding election in which presidential
71 electors were chosen. The terms of circuit judges and judges of
72 county courts shall be for six years.

73 (4) In any election in which a circuit judge or county
74 court judge is unopposed for reelection, the judge shall be
75 subject to election for retention. The judge shall be deemed
76 reelected if at least sixty percent of the qualified electors
77 voting within the territorial jurisdiction of the court vote to
78 retain. If more than forty percent of the qualified electors
79 voting within the territorial jurisdiction of the court vote to
80 not retain, a vacancy shall exist in that office upon the
81 expiration of the term being served by the judge, and the
82 vacancy shall be filled as provided in section 11(b) of this
83 article.

84 BE IT FURTHER RESOLVED that the following statement be
85 placed on the ballot:

86 CONSTITUTIONAL AMENDMENT
87 ARTICLE V, SECTION 10

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88 RETENTION ELECTION FOR JUDGES UNOPPOSED FOR REELECTION.—
89 This proposed amendment requires county and circuit judges who
90 are unopposed for reelection to appear on the ballot for
91 election by retention. Currently, county and circuit judges who
92 are unopposed for reelection do not appear on the ballot and are
93 deemed reelected. Under this amendment, county and circuit
94 judges who are unopposed for reelection would be subject to a
95 retention vote. The judge would be deemed reelected if at least
96 60 percent of electors voting within the court's territorial
97 jurisdiction vote for retention. Otherwise, the office would
98 become vacant, and the vacancy would be filled by the Governor
99 in the same manner in which other vacancies in the same office
100 would ordinarily be filled.

101
102 BE IT FURTHER RESOLVED that the following statement be
103 placed on the ballot if a court declares the preceding statement
104 defective and the decision of the court is not reversed:

105 CONSTITUTIONAL AMENDMENT

106 ARTICLE V, SECTION 10

107 REQUIRING A RETENTION VOTE FOR CIRCUIT AND COUNTY COURT
108 JUDGES UNOPPOSED IN REELECTION.—Currently under the State
109 Constitution, a circuit or county court judge who is unopposed
110 in his or her bid for reelection is deemed reelected without
111 appearing on the ballot. The proposed amendment requires circuit
112 and county court judges who are unopposed for reelection to be
113 subject to retention by a vote of the electors in the general
114 election. The requirement would apply in those jurisdictions in
115 which circuit judges and county court judges are elected. The
116 judge will be deemed reelected if at least 60 percent of

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117 electors voting within the court's territorial jurisdiction vote
118 for retention. Otherwise, the office will become vacant, and the
119 vacancy will be filled by the Governor from a list of nominees
120 provided by a judicial nominating commission.
121

122 BE IT FURTHER RESOLVED that the following statement be
123 placed on the ballot if a court declares the preceding statement
124 defective and the decision of the court is not reversed:

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTION 10

VOTER APPROVAL OF JUDGES UNOPPOSED FOR REELECTION.—

128 Proposing an amendment to the State Constitution to provide that
129 voters must determine whether a circuit or county court judge
130 who is unopposed for reelection should be retained in office.
131 The proposed amendment reads as follows:
132

133 In any election in which a circuit judge or county
134 court judge is unopposed for reelection, the judge
135 shall be subject to election for retention. The judge
136 shall be deemed reelected if at least sixty percent of
137 the qualified electors voting within the territorial
138 jurisdiction of the court vote to retain. If more than
139 forty percent of the qualified electors voting within
140 the territorial jurisdiction of the court vote to not
141 retain, a vacancy shall exist in that office upon the
142 expiration of the term being served by the judge, and
143 the vacancy shall be filled as provided in section
144 11(b) of this article.
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146 Section 11(b) requires that a judicial vacancy be filled by
147 appointment by the Governor from a list of nominees provided by
148 a judicial nominating commission.

149
150 BE IT FURTHER RESOLVED that the following statement be
151 placed on the ballot if a court declares the preceding statement
152 defective and the decision of the court is not reversed:

153 CONSTITUTIONAL AMENDMENT

154 ARTICLE V, SECTION 10

155 REQUIRING VOTER APPROVAL OF CIRCUIT AND COUNTY JUDGES
156 UNOPPOSED FOR REELECTION.—The State Constitution currently does
157 not require a judge who is unopposed for reelection in a circuit
158 or county that selects judges by election to be subject to a
159 retention vote by qualified electors. This proposed amendment
160 specifically requires that, in any election in which a circuit
161 or county judge is unopposed for reelection, the judge will be
162 subject to voter approval through an election for retention. The
163 judge must be approved by at least sixty percent of qualified
164 electors voting within the jurisdiction of the court to be
165 deemed reelected. If more than forty percent of qualified
166 electors voting within the court's jurisdiction vote against
167 retention, there will be a vacancy in that office when the
168 judge's term expires.