

HJR 7039

2011

House Joint Resolution

A joint resolution proposing an amendment to Section 10 of Article V of the State Constitution to increase the percentage of votes required to retain justices or judges in office.

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 at least sixty percent a ~~majority~~ of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge

HJR 7039

2011

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

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

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

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

57 |           b. After the year 2000, a circuit may initiate the local  
 58 | option for merit selection and retention or the election of  
 59 | circuit judges, whichever is applicable, by filing with the  
 60 | custodian of state records a petition signed by the number of  
 61 | electors equal to at least ten percent of the votes cast in the  
 62 | circuit in the last preceding election in which presidential  
 63 | electors were chosen.

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

72 |           BE IT FURTHER RESOLVED that the following statement be  
 73 | placed on the ballot:

74 |                                   CONSTITUTIONAL AMENDMENT

75 |                                   ARTICLE V, SECTION 10

76 |           INCREASING THE PERCENTAGE OF VOTES NECESSARY TO RETAIN  
 77 | JUSTICES AND JUDGES IN OFFICE.—This amendment to the State  
 78 | Constitution increases the percentage of votes necessary to  
 79 | retain justices and judges in office. Currently when a justice  
 80 | or judge qualifies to serve an additional term in office, his or  
 81 | her name appears on the ballot for a retention election. If a  
 82 | majority of the electors participating in the election cast  
 83 | votes in favor of retention, the justice or judge continues in  
 84 | office for another 6-year term. However, if a majority of the

HJR 7039

2011

85 electors do not vote to retain the justice or judge, he or she  
86 leaves office at the end of the current term. This amendment  
87 increases the necessary level of voter approval from a majority  
88 of the votes to 60 percent of the votes for a justice or judge  
89 to be retained for another term. This provision will apply to  
90 all state court appellate justices and judges. However, it will  
91 only apply to trial court judges in a judicial circuit or county  
92 if the circuit or county has approved merit selection and  
93 retention for those offices. Otherwise, this proposed amendment  
94 will not affect circuit court judges or county court judges in a  
95 circuit.