

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Eisnaugle offered the following:

Amendment (with ballot amendment)

B A L L O T A M E N D M E N T

Remove lines 689-898 and insert:

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21

STATE COURTS.—Proposing a revision of Article V of the State Constitution relating to the judiciary.

Under current law, the Florida Supreme Court is the highest court in Florida and hears both civil and criminal cases. It has 7 appointed justices. This revision would divide the current Supreme Court into two divisions, one hearing civil cases and the other hearing criminal cases. Each division would have 5

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17 appointed justices who are permanently assigned. The 3 current
18 justices who have the most service with the Florida Supreme
19 Court would be assigned to the criminal division, the remaining
20 4 current justices would be assigned to the civil division, and
21 the Governor would appoint 3 new justices to fill the remaining
22 openings in the two divisions. The existing jurisdiction of the
23 Supreme Court would be expanded to allow discretionary review of
24 certain district court of appeal decisions. This revision
25 generally defines the civil law and criminal law jurisdiction of
26 each division, provides for assignment of cases to each
27 respective division, and allows the Legislature, by general law,
28 to further define the jurisdictions of each division. The
29 jurisdiction of a division will be limited to the division's
30 area, whether civil or criminal. The power of justices of the
31 criminal division to hear appeals from final judgments entered
32 in proceedings for the validation of bonds or certificates of
33 indebtedness and to review action of statewide agencies relating
34 to rates or service of utilities providing electric, gas, or
35 telephone service is limited by this revision and granted
36 exclusively to the civil division. The power of justices of the
37 civil division to issue a writ of habeas corpus and to hear
38 appeals from final judgments of trial courts imposing the death
39 penalty is limited by this revision and granted exclusively to
40 the justices of the criminal division. This revision provides
41 that if both divisions assert jurisdiction over a case, the
42 Chief Justice of the Supreme Court of Florida will decide where
43 jurisdiction is appropriate.

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44 This proposed revision also creates a title of chief
45 justice in each of the divisions with an 8-year term. The
46 constitution currently provides that the Chief Justice of the
47 Supreme Court is the administrative head of the state judicial
48 system. This revision provides that the position of Chief
49 Justice of the Supreme Court will rotate every 4 years between
50 the chief justice of the civil division and the chief justice of
51 the criminal division. The constitution currently also provides
52 that the chief justice is chosen by vote of the justices. This
53 revision provides that the initial new justices and the initial
54 chief justice of each division will be selected by the Governor
55 and future chief justices will be selected by the Governor
56 subject to Senate confirmation. A chief justice is, like a
57 regular justice under current law, subject to retention election
58 and mandatory retirement requirements applicable to all Florida
59 justices and judges.

60 Under current law, the Governor appoints a justice from a
61 list of nominees provided by a judicial nominating commission,
62 and appointments by the Governor are not subject to
63 confirmation. Other than the initial 3 new appointees, this
64 revision requires Senate confirmation of a justice before the
65 appointee can take office. If the Senate votes not to confirm
66 the appointment, the judicial nominating commission must
67 reconvene and may not renominate any person whose prior
68 appointment to fill the same vacancy was not confirmed by the
69 Senate. For the purpose of confirmation, the Senate may meet at
70 any time or may appoint a committee to decide confirmations
71 while the Senate is not in session. If the Senate does not vote
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72 against confirmation within 90 days, the justice will be deemed
73 confirmed and will take office.

74 The State Constitution authorizes the Supreme Court to
75 adopt rules for the practice and procedure in all courts. The
76 constitution further provides that a rule of court may be
77 repealed by a general law enacted by a two-thirds vote of the
78 membership of each house of the Legislature. This proposed
79 constitutional revision eliminates the requirement that a
80 general law repealing a court rule pass by a two-thirds vote of
81 each house. The Legislature could repeal a rule of court by a
82 general law approved by a majority vote of each house of the
83 Legislature that expresses the policy behind the repeal. The
84 court could readopt the rule in conformity with the public
85 policy expressed by the Legislature, but if the Legislature
86 repeals the readopted rule, this proposed revision prohibits the
87 court from readopting the repealed rule without the
88 Legislature's prior approval. Court rules may be adopted by both
89 divisions of the Supreme Court meeting jointly, or the court may
90 elect to divide classes of rules between the divisions.

91 The Judicial Qualifications Commission is an independent
92 commission created by the State Constitution to investigate and
93 prosecute before the Florida Supreme Court alleged misconduct by
94 a justice or judge. Currently under the constitution, commission
95 proceedings are confidential until formal charges are filed by
96 the investigative panel of the commission. Once formal charges
97 are filed, the formal charges and all further proceedings of the
98 commission are public. Currently, the constitution authorizes
99 the House of Representatives to impeach a justice or judge.

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100 Further, the Speaker of the House of Representatives may
101 request, and the Judicial Qualifications Commission must make
102 available, all information in the commission's possession for
103 use in deciding whether to impeach a justice or judge. This
104 proposed revision requires the commission to make all of its
105 files available to the Speaker of the House of Representatives,
106 rather than just the file of a justice or judge under
107 investigation by the House of Representatives. Such files would
108 maintain their confidentiality unless the House of
109 Representatives initiates impeachment proceedings against a
110 justice or judge, in which case the files related to that
111 justice or judge may be open. This revision deletes a
112 requirement that a general law repealing a commission rule be
113 passed by a majority vote of the membership of each house of the
114 Legislature and revises the number of Supreme Court justices
115 needed to repeal such a rule.

116 State appropriations are made annually by general law.
117 Current law does not require any specific level of funding for
118 any agency or department. This revision requires that the courts
119 be appropriated a minimum of 2.25 percent of general revenue
120 funding beginning with the 2013-2014 fiscal year.

121 This revision will take effect upon its passage by the
122 electorate and provides a schedule for implementation of its
123 provisions. This revision makes other conforming and modernizing
124 changes to the State Constitution regarding the judicial system,
125 including removing the positions of clerk and marshal of the
126 Supreme Court and the courts of appeal from the constitution;
127 providing for transition to the new divisions; removing outdated
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128 schedules related to the Judicial Qualifications Commission; and
129 making conforming and technical changes in the judicial articles
130 of the constitution.

131

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

135

136 CONSTITUTIONAL AMENDMENT

137 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21

138

139 JUDICIARY.—Proposing a revision of the Judiciary Article of
140 the Florida Constitution; reorganizing the Florida Supreme Court
141 into divisions; requiring Senate confirmation for appointment of
142 a Supreme Court justice; providing standards and procedures for
143 legislative repeal of a court rule; providing a minimum level of
144 court funding; allowing legislative review of confidential files
145 of the Judicial Qualifications Commission; providing for
146 transition; and making other ancillary amendments, including,
147 but not limited to, technical and conforming amendments.

148

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

153

154 CONSTITUTIONAL AMENDMENT

155 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21

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156
157 STATE COURTS.—Proposing a revision to Article V of the
158 State Constitution relating to the judiciary; changing the
159 authority of the Legislature to repeal a court rule by 2/3 vote
160 of the membership of each house to a simple majority of each
161 house; limiting the Supreme Court's ability to readopt a rule
162 repealed by the Legislature; replacing the current seven-member
163 Supreme Court with two five-member divisions of the Supreme
164 Court, one with civil jurisdiction and one with criminal
165 jurisdiction; establishing a Chief Justice of the Supreme Court
166 who shall serve as the chief administrative officer for the
167 courts; establishing a chief justice for the civil division of
168 the Supreme Court; establishing a chief justice for the criminal
169 division of the Supreme Court; providing for the manner of
170 selection and term for the chief justice of each division of the
171 Supreme Court; changing the manner of designation and term of
172 office of the Chief Justice of the Supreme Court; providing that
173 a chief justice of a division of the Supreme Court is subject to
174 a retention election and eligibility requirements as currently
175 established in the State Constitution; providing for manner of
176 replacement of a chief justice of a division; providing for
177 apportionment of current justices among the civil and criminal
178 divisions of the Supreme Court; changing the requirements for a
179 quorum from four to three as being necessary for a decision;
180 providing authority and circumstances where the divisions of the
181 Supreme Court may meet en banc; providing jurisdiction for each
182 division of the Supreme Court, including matters which will be
183 exclusive to each division; clarifying the jurisdiction of the
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184 Supreme Court to hear appeals from certain district court of
185 appeal decisions; providing that the Legislature may further
186 define the split of jurisdiction between civil and criminal
187 matters; providing that the Chief Justice of the Supreme Court
188 decides jurisdiction should both divisions claim jurisdiction
189 over the same case; removing references to clerks and marshals;
190 requiring Senate confirmation before a justice may take office;
191 providing that if the Senate does not act within 90 days the
192 nominee is deemed confirmed as a justice; allowing the Senate to
193 meet outside of regular session without having the House of
194 Representatives convene at the same time; allowing Senate Rule
195 to designate a committee that may confirm a nominee; deleting
196 outdated references; requiring the Judicial Qualifications
197 Commission to provide the House of Representatives access to
198 records; providing for confidentiality of records; requiring a
199 minimum level of funding for the judicial system; providing for
200 transition; requiring the current Supreme Court to list its
201 members by seniority in office; providing that the three most
202 senior justices be assigned to the criminal division and the
203 remaining justices assigned to the criminal division; providing
204 time limits for appointments by the Governor for the remaining
205 seats; providing an exception to Senate confirmation for initial
206 appointments; requiring the Governor to name the initial chief
207 justice of each division; providing that the initial chief
208 justice of the civil division be named the Chief Justice of the
209 Supreme Court; requiring that existing cases be split between
210 the divisions; providing that cases decided before the split
211 into divisions are final and not subject to rehearing or recall

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212 of the mandate; providing for the terms of the initial chief
213 justices of the divisions; providing for adoption of court
214 rules; allowing the Legislature by general law to further
215 provide for transition; providing that the transition schedules
216 may be deleted by general law when they have become outdated.