

By the Committee on Rules; and Senator Lee

595-02936-14

20141188c1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Senate Joint Resolution

A joint resolution proposing amendments to Sections 10 and 11 of Article V of the State Constitution to authorize the Governor to prospectively fill vacancies in certain judicial offices.

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

That the following amendments to Sections 10 and 11 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 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. When ~~If~~ a justice or judge is ineligible for retention or fails to qualify for retention, a prospective vacancy is deemed to occur at the conclusion of the qualifying period for retention for the purpose of appointing a successor justice or judge, and 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

595-02936-14

20141188c1

30 voting within the territorial jurisdiction of the court vote to
31 retain, the justice or judge shall be retained for a term of six
32 years. The term of the justice or judge retained shall commence
33 on the first Tuesday after the first Monday in January following
34 the general election. If a majority of the qualified electors
35 voting within the territorial jurisdiction of the court vote to
36 not retain, a prospective vacancy is deemed to occur immediately
37 following the general election for the purpose of appointing a
38 successor justice or judge, and a vacancy shall exist in that
39 office upon the expiration of the term being served by the
40 justice or judge.

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

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

55 (3)a. A vote to exercise a local option to select circuit
56 court judges and county court judges by merit selection and
57 retention rather than by election shall be held in each circuit
58 and county at the general election in the year 2000. If a vote

595-02936-14

20141188c1

59 to exercise this local option fails in a vote of the electors,
60 such option shall not again be put to a vote of the electors of
61 that jurisdiction until the expiration of at least two years.

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

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

77 SECTION 11. Vacancies.—

78 (a) (1) Whenever a vacancy occurs in a judicial office to
79 which election for retention applies, the governor shall fill
80 the vacancy by appointing for a term ending on the first Tuesday
81 after the first Monday in January of the year following the next
82 general election occurring at least one year after the date of
83 appointment, one of not fewer than three persons nor more than
84 six persons nominated by the appropriate judicial nominating
85 commission.

86 (2) Whenever a prospective vacancy occurs in a judicial
87 office for which election for retention applies, the governor

595-02936-14

20141188c1

88 shall fill the prospective vacancy by appointing a justice or
89 judge from among at least three persons but not more than six
90 persons nominated by the appropriate judicial nominating
91 commission. The term of the appointment commences upon the
92 expiration of the term of the office being vacated and ends on
93 the first Tuesday after the first Monday in January of the year
94 following the next general election.

95 (b) The governor shall fill each vacancy on a circuit court
96 or on a county court, wherein the judges are elected by a
97 majority vote of the electors, by appointing for a term ending
98 on the first Tuesday after the first Monday in January of the
99 year following the next primary and general election occurring
100 at least one year after the date of appointment, one of not
101 fewer than three persons nor more than six persons nominated by
102 the appropriate judicial nominating commission. An election
103 shall be held to fill that judicial office for the term of the
104 office beginning at the end of the appointed term.

105 (c) The nominations shall be made within thirty days from
106 the occurrence of a vacancy or prospective vacancy unless the
107 period is extended by the governor for a time not to exceed
108 thirty days. The governor shall make the appointment within
109 sixty days after the nominations have been certified to the
110 governor.

111 (d) There shall be a separate judicial nominating
112 commission as provided by general law for the supreme court,
113 each district court of appeal, and each judicial circuit for all
114 trial courts within the circuit. Uniform rules of procedure
115 shall be established by the judicial nominating commissions at
116 each level of the court system. Such rules, or any part thereof,

595-02936-14

20141188c1

117 may be repealed by general law enacted by a majority vote of the
118 membership of each house of the legislature, or by the supreme
119 court, five justices concurring. Except for deliberations of the
120 judicial nominating commissions, the proceedings of the
121 commissions and their records shall be open to the public.

122 BE IT FURTHER RESOLVED that the following statement be
123 placed on the ballot:

124 CONSTITUTIONAL AMENDMENT

125 ARTICLE V, SECTIONS 10, 11

126 PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES.-

127 Proposing an amendment to the State Constitution requiring the
128 Governor to prospectively fill vacancies in a judicial office to
129 which election for retention applies resulting from the
130 justice's or judge's reaching the mandatory retirement age or
131 failure to qualify for a retention election; and allowing
132 prospective appointments if a justice or judge is not retained
133 at an election. Currently, the Governor may not fill an expected
134 vacancy until the current justice's or judge's term expires.