



370006

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/15/2011	.	
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The Committee on Rules (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the following amendments to Sections 2, 3, 4, 7, 11,
12, and 14 of Article V, and the creation of Section 21 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 2. Administration; practice and procedure.—



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14 (a) The supreme court shall adopt rules for the practice
15 and procedure in all courts including the time for seeking
16 appellate review, the administrative supervision of all courts,
17 the transfer to the court having jurisdiction of any proceeding
18 when the jurisdiction of another court has been improvidently
19 invoked, and a requirement that no cause shall be dismissed
20 because an improper remedy has been sought. The supreme court
21 shall adopt rules to allow it ~~the court~~ and the district courts
22 of appeal to submit questions relating to military law to the
23 federal Court of Appeals for the Armed Forces for an advisory
24 opinion. Rules of court may be repealed by general law that
25 expresses the policy behind the repeal ~~enacted by two-thirds~~
26 ~~vote of the membership of each house of the legislature.~~ The
27 court may readopt the repealed rule only in conformity with the
28 public policy expressed by the legislature. If the legislature
29 repeals the readopted rule, the rule may not be readopted
30 thereafter without prior approval of the legislature. The
31 divisions of the court shall meet jointly to adopt rules or the
32 court may designate a division to adopt any specific class of
33 rules.

34 (b) (1) The chief justice of the supreme court of Florida
35 ~~shall be chosen by a majority of the members of the court; shall~~
36 ~~be~~ the chief administrative officer of the judicial system, and
37 shall have the power to assign justices or judges, including
38 consenting retired justices or judges, to temporary duty in any
39 court for which the judge is qualified and to delegate to a
40 chief judge of a judicial circuit the power to assign judges for
41 duty in that circuit.

42 (2) The chief justice of a division of the supreme court



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43 shall be designated by the governor, subject to confirmation by
44 the senate. The chief justices of the divisions shall serve
45 staggered terms of eight years and shall be the chief
46 administrative officers of their respective divisions. In the
47 second half of any term as chief justice of a division, the
48 chief justice shall serve as the chief justice of the supreme
49 court. A justice may serve more than one term as chief justice
50 of the division. A chief justice of a division is subject to the
51 same requirements of eligibility and retention as a justice of
52 the supreme court.

53 (3) If there is a vacancy in the position of chief justice
54 of a division, the justice who has served the most time with the
55 division shall be the acting chief justice until a new chief
56 justice of the division is appointed and confirmed for the
57 remainder of the term.

58 (c) A chief judge for each district court of appeal shall
59 be chosen by a majority of the judges thereof or, if there is no
60 majority, by the chief justice. The chief judge of a district
61 court shall be responsible for the administrative supervision of
62 the district court.

63 (d) A chief judge in each circuit shall be chosen from
64 among the circuit judges as provided by supreme court rule. The
65 chief judge of a circuit shall be responsible for the
66 administrative supervision of the circuit courts and county
67 courts in the ~~his~~ circuit.

68 SECTION 3. Supreme court; divisions.-

69 (a) ORGANIZATION.-The supreme court shall consist of ten
70 ~~seven~~ justices. Of the ten justices, five justices shall serve
71 in the civil division and five justices shall serve in the



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72 criminal division. In each division ~~Of the seven justices~~, each
73 appellate district shall have at least one justice ~~elected or~~
74 appointed from the district to the supreme court division who is
75 a resident of the district at the time of the original
76 appointment ~~or election~~. ~~Four~~ Five justices of a division shall
77 constitute a quorum for that division and, the concurrence of
78 three ~~four~~ justices shall be necessary to a decision. When
79 vacancies or recusals for cause would prohibit the court from
80 convening because of the requirements of this subsection
81 ~~section~~, judges assigned to temporary duty may be substituted
82 for justices. The justices of both divisions, with seven
83 justices constituting a quorum, shall jointly meet regarding
84 disciplinary cases, and may jointly meet at the discretion of
85 the chief justice regarding court rules or administrative
86 supervision of the courts. The justices shall not otherwise meet
87 en banc.

88 (b) JURISDICTION.—The appropriate division of the supreme
89 court:

90 (1) Shall hear appeals from ~~final judgments of trial courts~~
91 ~~imposing the death penalty and from~~ decisions of district courts
92 of appeal declaring invalid a state statute or a provision of
93 the state constitution.

94 (2) When provided by general law, shall hear appeals from
95 final judgments entered in proceedings for the validation of
96 bonds or certificates of indebtedness and shall review action of
97 statewide agencies relating to rates or service of utilities
98 providing electric, gas, or telephone service. Only the civil
99 division may have jurisdiction pursuant to this paragraph.

100 (3) May review any decision of a district court of appeal



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101 that expressly declares valid a state statute, or that expressly
102 construes a provision of the state or federal constitution, or
103 that expressly affects a class of constitutional or state
104 officers, or that ~~expressly and directly~~ conflicts with a
105 decision of another district court of appeal or of the supreme
106 court on the same question of law, provided that the conflict
107 appears on the face of the majority, concurring, or dissenting
108 district court opinion.

109 (4) May review any decision of a district court of appeal
110 that passes upon a question certified by the district court of
111 appeal ~~it~~ to be of great public importance, that appears to a
112 division to be of great public importance based on information
113 on the face of the majority, concurring, or dissenting district
114 court opinion, or that is certified by the district court of
115 appeal ~~it~~ to be in direct conflict with a decision of another
116 district court of appeal.

117 (5) May review any order or judgment of a trial court
118 certified by the district court of appeal in which an appeal is
119 pending to be of great public importance, or to have a great
120 effect on the proper administration of justice throughout the
121 state, and certified to require immediate resolution by the
122 supreme court.

123 (6) May review a question of law certified by the Supreme
124 Court of the United States or a United States Court of Appeals
125 which is determinative of the cause and for which there is no
126 controlling precedent of the supreme court of Florida.

127 (7) May issue writs of prohibition to courts and all writs
128 necessary to the complete exercise of its jurisdiction.

129 (8) May issue writs of mandamus and quo warranto to state



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130 officers and state agencies.

131 (9) May, or any justice may, issue writs of habeas corpus
132 returnable before the supreme court or any justice, a district
133 court of appeal or any judge thereof, or any circuit judge. Only
134 a justice in the criminal division may issue a writ of habeas
135 corpus in a criminal case.

136 (10) Shall, when requested by the attorney general pursuant
137 to the provisions of Section 10 of Article IV, render an
138 advisory opinion of the justices, addressing issues as provided
139 by general law.

140 (11) Shall hear appeals from final judgments of trial
141 courts imposing the death penalty. Only the criminal division
142 has any jurisdiction pursuant to this paragraph.

143 (c) ASSIGNMENT OF CASES TO DIVISIONS.—Criminal and civil
144 cases are to be referred to each division in a manner consistent
145 with this section.

146 (1) A criminal case is any case or controversy primarily
147 involving the commission of a felony or misdemeanor. A criminal
148 case shall also include any case or controversy involving
149 criminal law, criminal penalties, criminal procedure, juvenile
150 delinquency, or any related action regarding the interpretation
151 of or resolution of matters directly affecting the criminal law.
152 Equitable relief related to the criminal law, including actions
153 in which a party seeks to enjoin the application or form of a
154 criminal penalty, shall be within the jurisdiction of the
155 criminal division.

156 (2) A civil case is any case or controversy within the
157 traditional concepts of civil law, including tort, contract,
158 family law, probate, trusts, real property, employment law,



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159 taxation, and elections. The civil division shall have no
160 jurisdiction or authority, whether express or implied, to issue
161 a stay of execution or to hear any challenge of any law or
162 procedure regarding the death penalty or the administration of a
163 criminal penalty.

164 (3) The legislature may, by general law, further define the
165 types of cases that are to be referred to each division in a
166 manner consistent with this section.

167 (d) JURISDICTIONAL CONFLICTS.—If both divisions assert
168 jurisdiction over a particular case, the chief justice of the
169 supreme court of Florida shall decide where jurisdiction is
170 appropriate.

171 ~~(c) CLERK AND MARSHAL.—The supreme court shall appoint a~~
172 ~~clerk and a marshal who shall hold office during the pleasure of~~
173 ~~the court and perform such duties as the court directs. Their~~
174 ~~compensation shall be fixed by general law. The marshal shall~~
175 ~~have the power to execute the process of the court throughout~~
176 ~~the state, and in any county may deputize the sheriff or a~~
177 ~~deputy sheriff for such purpose.~~

178 SECTION 4. District courts of appeal.—

179 (a) ORGANIZATION.—There shall be a district court of appeal
180 serving each appellate district. Each district court of appeal
181 shall consist of at least three judges. Three judges shall
182 consider each case and the concurrence of two shall be necessary
183 to a decision.

184 (b) JURISDICTION.—

185 (1) District courts of appeal shall have jurisdiction to
186 hear appeals, that may be taken as a matter of right, from final
187 judgments or orders of trial courts, including those entered on



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188 review of administrative action, not directly appealable to the
189 supreme court or a circuit court. They may review interlocutory
190 orders in such cases to the extent provided by rules adopted by
191 the supreme court.

192 (2) District courts of appeal shall have the power of
193 direct review of administrative action, as prescribed by general
194 law.

195 (3) A district court of appeal or any judge thereof may
196 issue writs of habeas corpus returnable before the court or any
197 judge thereof or before any circuit judge within the territorial
198 jurisdiction of the court. A district court of appeal may issue
199 writs of mandamus, certiorari, prohibition, quo warranto, and
200 other writs necessary to the complete exercise of its
201 jurisdiction. To the extent necessary to dispose of all issues
202 in a cause properly before it, a district court of appeal may
203 exercise any of the appellate jurisdiction of the circuit
204 courts.

205 ~~(c) CLERKS AND MARSHALS. Each district court of appeal~~
206 ~~shall appoint a clerk and a marshal who shall hold office during~~
207 ~~the pleasure of the court and perform such duties as the court~~
208 ~~directs. Their compensation shall be fixed by general law. The~~
209 ~~marshal shall have the power to execute the process of the court~~
210 ~~throughout the territorial jurisdiction of the court, and in any~~
211 ~~county may deputize the sheriff or a deputy sheriff for such~~
212 ~~purpose.~~

213 SECTION 7. Specialized divisions.—The supreme court shall
214 sit in a civil division and a criminal division, except where
215 specifically authorized in this article to sit jointly. All
216 other courts except the supreme court may sit in divisions as



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217 may be established by general law. A circuit or county court may
218 hold civil and criminal trials and hearings in any place within
219 the territorial jurisdiction of the court as designated by the
220 chief judge of the circuit.

221 SECTION 11. Vacancies.—

222 (a) Whenever a vacancy occurs in a judicial office to which
223 election for retention applies, the governor shall fill the
224 vacancy by appointing for a term ending on the first Tuesday
225 after the first Monday in January of the year following the next
226 general election occurring at least one year after the date of
227 appointment, one of not fewer than three persons nor more than
228 six persons nominated by the appropriate judicial nominating
229 commission.

230 (b) The governor shall fill each vacancy on a circuit court
231 or on a county court, wherein the judges are elected by a
232 majority vote of the electors, by appointing for a term ending
233 on the first Tuesday after the first Monday in January of the
234 year following the next primary and general election occurring
235 at least one year after the date of appointment, one of not
236 fewer than three persons nor more than six persons nominated by
237 the appropriate judicial nominating commission. An election
238 shall be held to fill that judicial office for the term of the
239 office beginning at the end of the appointed term.

240 (c) The nominations shall be made within thirty days from
241 the occurrence of a vacancy unless the period is extended by the
242 governor for a time not to exceed thirty days. The governor
243 shall make the appointment within sixty days after the
244 nominations have been certified to the governor.

245 (d) Each appointment of a justice of the supreme court is



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246 subject to confirmation by the senate. The senate shall sit for
247 the purposes of confirmation regardless of whether the house of
248 representatives is in session or not. The senate shall vote on
249 the appointment of a justice within 90 days after the
250 appointment. If the senate votes to not confirm the appointment,
251 the supreme court judicial nominating commission shall reconvene
252 as though a new vacancy had occurred but may not renominate any
253 person whose prior appointment to fill the same vacancy was not
254 confirmed by the senate. The appointment of a justice is
255 effective upon confirmation by the senate. A justice in one
256 division may apply for a position in the other division but may
257 not concurrently serve on both.

258 (e) ~~(d)~~ There shall be a separate judicial nominating
259 commission as provided by general law for the supreme court, one
260 for each district court of appeal, and one for each judicial
261 circuit for all trial courts within the circuit. Uniform rules
262 of procedure shall be established by the judicial nominating
263 commissions at each level of the court system. Such rules, or
264 any part thereof, may be repealed by general law enacted by a
265 majority vote of the membership of each house of the
266 legislature, or by a majority vote of the justices of each
267 division of the supreme court, ~~five justices concurring~~. Except
268 for deliberations of the judicial nominating commissions, the
269 proceedings of the commissions and their records shall be open
270 to the public.

271 SECTION 12. Discipline; removal and retirement.—

272 (a) JUDICIAL QUALIFICATIONS COMMISSION.—A judicial
273 qualifications commission is created.

274 (1) There shall be a judicial qualifications commission



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275 vested with jurisdiction to investigate and recommend to the
276 Supreme Court of Florida the removal from office of any justice
277 or judge whose conduct, during term of office or otherwise,
278 ~~occurring on or after November 1, 1966, (without regard to the~~
279 ~~effective date of this section)~~ demonstrates a present unfitness
280 to hold office, and to investigate and recommend the discipline
281 of a justice or judge whose conduct, during term of office or
282 otherwise ~~occurring on or after November 1, 1966 (without regard~~
283 ~~to the effective date of this section)~~, warrants such
284 discipline. For purposes of this section, discipline is defined
285 as any or all of the following: reprimand, fine, suspension with
286 or without pay, or lawyer discipline. The commission shall have
287 jurisdiction over justices and judges regarding allegations that
288 misconduct occurred before or during service as a justice or
289 judge if a complaint is made no later than one year following
290 service as a justice or judge. The commission shall have
291 jurisdiction regarding allegations of incapacity during service
292 as a justice or judge. The commission shall be composed of:

293 a. Two judges of district courts of appeal selected by the
294 judges of those courts, two circuit judges selected by the
295 judges of the circuit courts and two judges of county courts
296 selected by the judges of those courts;

297 b. Four electors who reside in the state, who are members
298 of the bar of Florida, and who shall be chosen by the governing
299 body of the bar of Florida; and

300 c. Five electors who reside in the state, who have never
301 held judicial office or been members of the bar of Florida, and
302 who shall be appointed by the governor.

303 (2) The members of the judicial qualifications commission



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304 shall serve staggered terms, not to exceed six years, as
305 prescribed by general law. No member of the commission except a
306 judge shall be eligible for state judicial office while acting
307 as a member of the commission and for a period of two years
308 thereafter. No member of the commission shall hold office in a
309 political party or participate in any campaign for judicial
310 office or hold public office; provided that a judge may campaign
311 for judicial office and hold that office. The commission shall
312 elect one of its members as its chairperson.

313 (3) Members of the judicial qualifications commission not
314 subject to impeachment shall be subject to removal from the
315 commission pursuant to the provisions of Article IV, Section 7,
316 Florida Constitution.

317 (4) The commission shall adopt rules regulating its
318 proceedings, the filling of vacancies by the appointing
319 authorities, the disqualification of members, the rotation of
320 members between the panels, and the temporary replacement of
321 disqualified or incapacitated members. The commission's rules,
322 or any part thereof, may be repealed by general law ~~enacted by a~~
323 ~~majority vote of the membership of each house of the~~
324 ~~legislature,~~ or by the supreme court, seven ~~five~~ justices
325 concurring. The commission shall have power to issue subpoenas.
326 Until formal charges against a justice or judge are filed by the
327 investigative panel with the clerk of the supreme court of
328 Florida all proceedings by or before the commission shall be
329 confidential; provided, however, upon a finding of probable
330 cause and the filing by the investigative panel with said clerk
331 of such formal charges against a justice or judge such charges
332 and all further proceedings before the commission shall be



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333 public.

334 (5) The commission shall have access to all information
335 from all executive, legislative and judicial agencies, including
336 grand juries, subject to the rules of the commission. At any
337 time, on request of the speaker of the house of representatives
338 ~~or the governor~~, the commission shall make available to the
339 house of representatives all information in the possession of
340 the commission, which information shall remain confidential
341 during any investigation and until such information is used in
342 the pursuit for use in consideration of impeachment ~~or~~
343 ~~suspension~~, respectively.

344 (b) PANELS.—The commission shall be divided into an
345 investigative panel and a hearing panel as established by rule
346 of the commission. The investigative panel is vested with the
347 jurisdiction to receive or initiate complaints, conduct
348 investigations, dismiss complaints, and upon a vote of a simple
349 majority of the panel submit formal charges to the hearing
350 panel. The hearing panel is vested with the authority to receive
351 and hear formal charges from the investigative panel and upon a
352 two-thirds vote of the panel recommend to the supreme court the
353 removal of a justice or judge or the involuntary retirement of a
354 justice or judge for any permanent disability that seriously
355 interferes with the performance of judicial duties. Upon a
356 simple majority vote of the membership of the hearing panel, the
357 panel may recommend to the supreme court that the justice or
358 judge be subject to appropriate discipline.

359 (c) SUPREME COURT.—The supreme court shall receive
360 recommendations from the judicial qualifications commission's
361 hearing panel.



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362 (1) The supreme court may accept, reject, or modify in
363 whole or in part the findings, conclusions, and recommendations
364 of the commission and it may order that the justice or judge be
365 subjected to appropriate discipline, or be removed from office
366 with termination of compensation for willful or persistent
367 failure to perform judicial duties or for other conduct
368 unbecoming a member of the judiciary demonstrating a present
369 unfitness to hold office, or be involuntarily retired for any
370 permanent disability that seriously interferes with the
371 performance of judicial duties. Malafides, scienter or moral
372 turpitude on the part of a justice or judge shall not be
373 required for removal from office of a justice or judge whose
374 conduct demonstrates a present unfitness to hold office. After
375 the filing of a formal proceeding and upon request of the
376 investigative panel, the supreme court may suspend the justice
377 or judge from office, with or without compensation, pending
378 final determination of the inquiry.

379 (2) The supreme court may award costs to the prevailing
380 party.

381 (d) REMOVAL POWER.—The power of removal conferred by this
382 section shall be both alternative and cumulative to the power of
383 impeachment.

384 (e) PROCEEDINGS INVOLVING SUPREME COURT JUSTICE.—
385 Notwithstanding any of the foregoing provisions of this section,
386 if the person who is the subject of proceedings by the judicial
387 qualifications commission is a justice of the supreme court of
388 Florida all justices of such court automatically shall be
389 disqualified to sit as justices of such court with respect to
390 all proceedings therein concerning such person and the supreme



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391 court for such purposes shall be composed of a panel consisting
392 of the seven chief judges of the judicial circuits of the state
393 of Florida most senior in tenure of judicial office as circuit
394 judge. For purposes of determining seniority of such circuit
395 judges in the event there be judges of equal tenure in judicial
396 office as circuit judge the judge or judges from the lower
397 numbered circuit or circuits shall be deemed senior. In the
398 event any such chief circuit judge is under investigation by the
399 judicial qualifications commission or is otherwise disqualified
400 or unable to serve on the panel, the next most senior chief
401 circuit judge or judges shall serve in place of such
402 disqualified or disabled chief circuit judge.

403 (f) SCHEDULE TO SECTION 12.-

404 (1) Except to the extent inconsistent with the provisions
405 of this section, all provisions of law and rules of court in
406 force on the effective date of this article shall continue in
407 effect until superseded in the manner authorized by the
408 constitution.

409 (2) After this section becomes effective and until adopted
410 by rule of the commission consistent with it:

411 a. The commission shall be divided, as determined by the
412 chairperson, into one investigative panel and one hearing panel
413 to meet the responsibilities set forth in this section.

414 b. The investigative panel shall be composed of:

- 415 1. Four judges,
416 2. Two members of the bar of Florida, and
417 3. Three non-lawyers.

418 c. The hearing panel shall be composed of:

- 419 1. Two judges,



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- 420 2. Two members of the bar of Florida, and
421 3. Two non-lawyers.
- 422 d. Membership on the panels may rotate in a manner
423 determined by the rules of the commission provided that no
424 member shall vote as a member of the investigative and hearing
425 panel on the same proceeding.
- 426 e. The commission shall hire separate staff for each panel.
- 427 f. The members of the commission shall serve for staggered
428 terms of six years.
- 429 ~~g. The terms of office of the present members of the~~
430 ~~judicial qualifications commission shall expire upon the~~
431 ~~effective date of the amendments to this section approved by the~~
432 ~~legislature during the regular session of the legislature in~~
433 ~~1996 and new members shall be appointed to serve the following~~
434 ~~staggered terms:~~
- 435 ~~1. Group I. The terms of five members, composed of two~~
436 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
437 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
438 ~~V, one judge from the district courts of appeal and one circuit~~
439 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~
440 ~~on December 31, 1998.~~
- 441 ~~2. Group II. The terms of five members, composed of one~~
442 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~
443 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
444 ~~V, one circuit judge and one county judge as set forth in s.~~
445 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~
- 446 ~~3. Group III. The terms of five members, composed of two~~
447 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
448 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~



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449 ~~from the district courts of appeal and one county judge as set~~
450 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~
451 ~~31, 2002.~~

452 ~~g.h.~~ An appointment to fill a vacancy of the commission
453 shall be for the remainder of the term.

454 ~~h.i.~~ Selection of members by district courts of appeal
455 judges, circuit judges, and county court judges, shall be by no
456 less than a majority of the members voting at the respective
457 courts' conferences. Selection of members by the board of
458 governors of the bar of Florida shall be by no less than a
459 majority of the board.

460 ~~i.j.~~ The commission shall be entitled to recover the costs
461 of investigation and prosecution, in addition to any penalty
462 levied by the supreme court.

463 ~~j.k.~~ The compensation of members and referees shall be the
464 travel expenses or transportation and per diem allowance as
465 provided by general law.

466 SECTION 14. Funding.—

467 (a) All justices and judges shall be compensated only by
468 state salaries fixed by general law. Funding for the state
469 courts system, state attorneys' offices, public defenders'
470 offices, and court-appointed counsel, except as otherwise
471 provided in subsection (c), shall be provided from state
472 revenues appropriated by general law.

473 (b) All funding for the offices of the clerks of the
474 circuit and county courts performing court-related functions,
475 except as otherwise provided in this subsection and subsection
476 (c), shall be provided by adequate and appropriate filing fees
477 for judicial proceedings and service charges and costs for



478 performing court-related functions as required by general law.
479 Selected salaries, costs, and expenses of the state courts
480 system may be funded from appropriate filing fees for judicial
481 proceedings and service charges and costs for performing court-
482 related functions, as provided by general law. Where the
483 requirements of either the United States Constitution or the
484 Constitution of the State of Florida preclude the imposition of
485 filing fees for judicial proceedings and service charges and
486 costs for performing court-related functions sufficient to fund
487 the court-related functions of the offices of the clerks of the
488 circuit and county courts, the state shall provide, as
489 determined by the legislature, adequate and appropriate
490 supplemental funding from state revenues appropriated by general
491 law.

492 (c) No county or municipality, except as provided in this
493 subsection, shall be required to provide any funding for the
494 state courts system, state attorneys' offices, public defenders'
495 offices, court-appointed counsel or the offices of the clerks of
496 the circuit and county courts performing court-related
497 functions. Counties shall be required to fund the cost of
498 communications services, existing radio systems, existing multi-
499 agency criminal justice information systems, and the cost of
500 construction or lease, maintenance, utilities, and security of
501 facilities for the trial courts, public defenders' offices,
502 state attorneys' offices, and the offices of the clerks of the
503 circuit and county courts performing court-related functions.
504 Counties shall also pay reasonable and necessary salaries,
505 costs, and expenses of the state courts system to meet local
506 requirements as determined by general law.



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507 (d) The judiciary shall have no power to fix
508 appropriations.

509 (e) The total appropriation of all fund sources to the
510 judicial branch shall equal no less than 2.25 percent of the
511 total general revenue funds appropriated in the general
512 appropriation bill referred to in Section 19(b) of Article III.
513 Any adjustments to the total appropriations of all fund sources
514 to the judicial branch made in any special appropriations act
515 shall equal no more than the percent of total general revenue
516 appropriations adjusted in such special appropriations act. For
517 purposes of this subsection, the judicial branch does not
518 include the Justice Administrative Commission or any of the
519 entities for which the Justice Administrative Commission
520 provides administrative services.

521 SECTION 21. Schedule to Article V revision increasing the
522 membership of the supreme court and creating divisions thereof.-

523 (a) Except to the extent inconsistent with this article,
524 all provisions of law and rules of court in force on the
525 effective date of this article shall continue in effect until
526 superseded in the manner authorized by the constitution.

527 (b) The effective date of the revision creating two
528 divisions of the supreme court shall be upon passage by the
529 electorate.

530 (1) On the first day after the election approving the
531 revision, the supreme court shall rank all of the justices then
532 in office by seniority in service on the supreme court. The
533 three who have the most seniority shall be the initial justices
534 assigned to the criminal division, and the remaining justices
535 shall be the initial justices assigned to the civil division.



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536 Initial appointments of existing justices to either division
537 shall not be limited by the district court from which the
538 justice was appointed. A justice assigned to a division of the
539 supreme court pursuant to this paragraph shall remain in the
540 same term of office and shall sit for future retention elections
541 on the same cycle. The supreme court shall immediately transmit
542 to the governor the names of the justices, their division
543 assignments, and the districts from which they were appointed.
544 The governor shall then direct the supreme court nominating
545 commission to make its recommendations for the open seats of
546 justices for both divisions, which recommendations must be
547 delivered to the governor no later than the 60th day after the
548 election. Before the 90th day after the election, the governor
549 shall make the appointments for the open seats of justices for
550 both divisions and shall also designate the chief justices of
551 each division. The appointments and designations shall, in this
552 instance only, not be subject to the advice and consent of the
553 senate.

554 (2) The supreme court shall inventory all cases in its
555 possession and determine as to each case whether it will be
556 assigned to the criminal division or the civil division. Newly
557 filed cases shall be designated between the two new divisions as
558 they are filed. The supreme court shall retain full jurisdiction
559 and power over all cases until such cases are actually assigned
560 to a division, including the power to issue final process that
561 would have the effect of removing the case from the inventory of
562 cases to be assigned.

563 (c) The two divisions of the supreme court shall begin
564 formal operations on the 120th day after the election. On that



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565 day:

566 (1) Newly appointed justices shall take office.

567 (2) The jurisdiction of the supreme court shall be divided
568 between the divisions, the jurisdictional changes in Sections
569 3(b)(3) and 3(b)(4) shall take effect, and all pending cases
570 shall be assigned to the appropriate division.

571 (3) The term of the supreme court shall be deemed to have
572 ended. All mandates issued by the supreme court prior to the end
573 of the term shall be final and not subject to recall. No motion
574 for reconsideration shall be considered.

575 (d) The initial chief justice of the civil division shall
576 also be the chief justice of the supreme court of Florida and
577 shall serve in that position from the 120th day after the
578 election through June 30, 2016. The initial chief justice of the
579 criminal division shall be the chief justice of the criminal
580 division from the 120th day after the election through June 30,
581 2020. Thereafter, the offices of the chief justices of the
582 divisions shall alternate as provided in Section 2.

583 (e) All court rules adopted by the supreme court shall
584 continue in full force and effect after the effective date of
585 this revision, subject to future amendment or repeal.

586 (f) The legislature may, by general law, otherwise provide
587 for the administrative transfer of employees, property, duties,
588 and functions between the divisions.

589 (g) The change in court funding provided in Section 14(e)
590 shall be effective commencing in fiscal year 2013-2014.

591 (h) The legislature shall have the power, by concurrent
592 resolution, to delete from this article any subsection of this
593 section 21, including this subsection, when all events to which



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594 the subsection to be deleted is or could become applicable have
595 occurred.

596 BE IT FURTHER RESOLVED that the following statement be
597 placed on the ballot:

598 CONSTITUTIONAL AMENDMENT

599 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21
600 STATE COURTS.—Proposing a revision of Article V of the
601 State Constitution relating to the judiciary.

602 Under current law, the Florida Supreme Court is the highest
603 court in Florida and hears both civil and criminal cases. It has
604 7 appointed justices. This revision would divide the current
605 Supreme Court into two divisions, one hearing civil cases and
606 the other hearing criminal cases. Each division would have 5
607 appointed justices who are permanently assigned. The 3 current
608 justices who have the most service with the Florida Supreme
609 Court would be assigned to the criminal division, the remaining
610 4 current justices would be assigned to the civil division, and
611 the Governor would appoint 3 new justices to fill the remaining
612 openings in the two divisions. The existing jurisdiction of the
613 Supreme Court would be expanded to allow discretionary review of
614 certain district court of appeal decisions. This revision
615 generally defines the civil law and criminal law jurisdiction of
616 each division, provides for assignment of cases to each
617 respective division, and allows the Legislature, by general law,
618 to further define the jurisdictions of each division. The
619 jurisdiction of a division will be limited to the division's
620 area, whether civil or criminal. The power of justices of the
621 criminal division to hear appeals from final judgments entered
622 in proceedings for the validation of bonds or certificates of



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623 indebtedness and to review action of statewide agencies relating
624 to rates or service of utilities providing electric, gas, or
625 telephone service is limited by this revision and granted
626 exclusively to the civil division. The power of justices of the
627 civil division to issue a writ of habeas corpus and to hear
628 appeals from final judgments of trial courts imposing the death
629 penalty is limited by this revision and granted exclusively to
630 the justices of the criminal division. This revision provides
631 that if both divisions assert jurisdiction over a case, the
632 Chief Justice of the Supreme Court of Florida will decide where
633 jurisdiction is appropriate.

634 This proposed revision also creates a title of chief
635 justice in each of the divisions with an 8-year term. The
636 constitution currently provides that the Chief Justice of the
637 Supreme Court is the administrative head of the state judicial
638 system. This revision provides that the position of Chief
639 Justice of the Supreme Court will rotate every 4 years between
640 the chief justice of the civil division and the chief justice of
641 the criminal division. The constitution currently also provides
642 that the chief justice is chosen by vote of the justices. This
643 revision provides that the initial new justices and the initial
644 chief justice of each division will be selected by the Governor
645 and future chief justices will be selected by the Governor
646 subject to Senate confirmation. A chief justice is, like a
647 regular justice under current law, subject to retention election
648 and mandatory retirement requirements applicable to all Florida
649 justices and judges.

650 Under current law, the Governor appoints a justice from a
651 list of nominees provided by a judicial nominating commission,



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652 and appointments by the Governor are not subject to
653 confirmation. Other than the initial 3 new appointees, this
654 revision requires Senate confirmation of a justice before the
655 appointee can take office. If the Senate votes not to confirm
656 the appointment, the judicial nominating commission must
657 reconvene and may not renominate any person whose prior
658 appointment to fill the same vacancy was not confirmed by the
659 Senate. For the purpose of confirmation, the Senate shall meet
660 regardless of whether the House of Representatives is in
661 session. The Senate shall vote on the appointment of a justice
662 within 90 days after the appointment.

663 The State Constitution authorizes the Supreme Court to
664 adopt rules for the practice and procedure in all courts. The
665 constitution further provides that a rule of court may be
666 repealed by a general law enacted by a two-thirds vote of the
667 membership of each house of the Legislature. This proposed
668 constitutional revision eliminates the requirement that a
669 general law repealing a court rule pass by a two-thirds vote of
670 each house. The Legislature could repeal a rule of court by a
671 general law approved by a majority vote of each house of the
672 Legislature that expresses the policy behind the repeal. The
673 court could readopt the rule in conformity with the public
674 policy expressed by the Legislature, but if the Legislature
675 repeals the readopted rule, this proposed revision prohibits the
676 court from readopting the repealed rule without the
677 Legislature's prior approval. Court rules may be adopted by both
678 divisions of the Supreme Court meeting jointly, or the court may
679 elect to divide classes of rules between the divisions.

680 The Judicial Qualifications Commission is an independent



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681 commission created by the State Constitution to investigate and
682 prosecute before the Florida Supreme Court alleged misconduct by
683 a justice or judge. Currently under the constitution, commission
684 proceedings are confidential until formal charges are filed by
685 the investigative panel of the commission. Once formal charges
686 are filed, the formal charges and all further proceedings of the
687 commission are public. Currently, the constitution authorizes
688 the House of Representatives to impeach a justice or judge.
689 Further, the Speaker of the House of Representatives may
690 request, and the Judicial Qualifications Commission must make
691 available, all information in the commission's possession for
692 use in deciding whether to impeach a justice or judge. This
693 proposed revision requires the commission to make all of its
694 files available to the Speaker of the House of Representatives,
695 rather than just the file of a justice or judge under
696 investigation by the House of Representatives. Such files would
697 maintain their confidentiality unless the House of
698 Representatives initiates impeachment proceedings against a
699 justice or judge, in which case the files related to that
700 justice or judge may be open. This revision deletes a
701 requirement that a general law repealing a commission rule be
702 passed by a majority vote of the membership of each house of the
703 Legislature and revises the number of Supreme Court justices
704 needed to repeal such a rule.

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



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710 This revision will take effect upon its passage by the
711 electorate and provides a schedule for implementation of its
712 provisions. This revision makes other conforming and modernizing
713 changes to the State Constitution regarding the judicial system,
714 including removing the positions of clerk and marshal of the
715 Supreme Court and the courts of appeal from the constitution;
716 providing for transition to the new divisions; removing outdated
717 schedules related to the Judicial Qualifications Commission; and
718 making conforming and technical changes in the judicial articles
719 of the constitution.

720
721 BE IT FURTHER RESOLVED that the following statement be
722 placed on the ballot if a court declares the preceding statement
723 defective and the decision of the court is not reversed:

724 CONSTITUTIONAL AMENDMENT

725 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21
726 JUDICIARY.—Proposing a revision of the Judiciary Article of
727 the Florida Constitution; reorganizing the Florida Supreme Court
728 into divisions; requiring Senate confirmation for appointment of
729 a Supreme Court justice; providing standards and procedures for
730 legislative repeal of a court rule; providing a minimum level of
731 court funding; allowing legislative review of confidential files
732 of the Judicial Qualifications Commission; providing for
733 transition; and making other ancillary amendments, including,
734 but not limited to, technical and conforming amendments.

735
736 BE IT FURTHER RESOLVED that the following statement be
737 placed on the ballot if a court declares the preceding
738 statements defective and the decision of the court is not



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739 reversed:

740 CONSTITUTIONAL AMENDMENT

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

742 STATE COURTS.—Proposing a revision to Article V of the
743 State Constitution relating to the judiciary; changing the
744 authority of the Legislature to repeal a court rule by 2/3 vote
745 of the membership of each house to a simple majority of each
746 house; limiting the Supreme Court's ability to readopt a rule
747 repealed by the Legislature; replacing the current seven-member
748 Supreme Court with two five-member divisions of the Supreme
749 Court, one with civil jurisdiction and one with criminal
750 jurisdiction; establishing a Chief Justice of the Supreme Court
751 who shall serve as the chief administrative officer for the
752 courts; establishing a chief justice for the civil division of
753 the Supreme Court; establishing a chief justice for the criminal
754 division of the Supreme Court; providing for the manner of
755 selection and term for the chief justice of each division of the
756 Supreme Court; changing the manner of designation and term of
757 office of the Chief Justice of the Supreme Court; providing that
758 a chief justice of a division of the Supreme Court is subject to
759 a retention election and eligibility requirements as currently
760 established in the State Constitution; providing for manner of
761 replacement of a chief justice of a division; providing for
762 apportionment of current justices among the civil and criminal
763 divisions of the Supreme Court; changing the requirements for a
764 quorum from four to three as being necessary for a decision;
765 providing authority and circumstances where the divisions of the
766 Supreme Court may meet en banc; providing jurisdiction for each
767 division of the Supreme Court, including matters which will be



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768 exclusive to each division; clarifying the jurisdiction of the
769 Supreme Court to hear appeals from certain district court of
770 appeal decisions; providing that the Legislature may further
771 define the split of jurisdiction between civil and criminal
772 matters; providing that the Chief Justice of the Supreme Court
773 decides jurisdiction should both divisions claim jurisdiction
774 over the same case; removing references to clerks and marshals;
775 requiring Senate confirmation before a justice may take office;
776 requiring the Senate to vote on the appointee within 90 days
777 after appointment; requiring the Senate to meet regardless of
778 whether the House of Representatives is convened at the same
779 time; deleting outdated references; requiring the Judicial
780 Qualifications Commission to provide the House of
781 Representatives access to records; providing for confidentiality
782 of records; requiring a minimum level of funding for the
783 judicial system; providing for transition; requiring the current
784 Supreme Court to list its members by seniority in office;
785 providing that the three most senior justices be assigned to the
786 criminal division and the remaining justices assigned to the
787 criminal division; providing time limits for appointments by the
788 Governor for the remaining seats; providing an exception to
789 Senate confirmation for initial appointments; requiring the
790 Governor to name the initial chief justice of each division;
791 providing that the initial chief justice of the civil division
792 be named the Chief Justice of the Supreme Court; requiring that
793 existing cases be split between the divisions; providing that
794 cases decided before the split into divisions are final and not
795 subject to rehearing or recall of the mandate; providing for the
796 terms of the initial chief justices of the divisions; providing



797 for adoption of court rules; allowing the Legislature by general
798 law to further provide for transition; providing that the
799 transition schedules may be deleted by general law when they
800 have become outdated.

801
802 ===== T I T L E A M E N D M E N T =====

803 And the title is amended as follows:

804 Delete everything before the resolving clause
805 and insert:

806 A bill to be entitled
807 A joint resolution proposing a revision of Article V
808 of the State Constitution, relating to the judiciary,
809 consisting of amendments to Sections 2, 3, 4, 7, 11,
810 12, and 14 of Article V, and the creation of Section
811 21 of Article V, of the State Constitution to divide
812 the current Supreme Court into two divisions, one
813 hearing civil cases and the other hearing criminal
814 cases; providing for administration of the divisions;
815 defining the jurisdiction of the divisions; providing
816 for transition from the present Supreme Court;
817 revising provisions relating to repeal of court rules;
818 limiting readoption of a repealed court rule;
819 providing for Senate confirmation of Supreme Court
820 justices; expanding the jurisdiction of the Supreme
821 Court; requiring the Judicial Qualifications
822 Commission to make all of its files available to the
823 Speaker of the House of Representatives; revising
824 provisions relating to repeal of commission rules;
825 requiring that a specified minimum percentage of



826 general revenue funds be appropriated to the courts;
827 making other conforming and modernizing changes to the
828 State Constitution regarding the judicial system.