

By Senator Flores

38-01493A-11

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Senate Joint Resolution

A joint resolution proposing an amendment to Section 10 of Article V and the creation of Section 32 of Article XII of the State Constitution to increase the vote required to retain a justice or judge in a judicial office and to provide for the increased vote requirement to apply beginning with retention elections during the 2012 General Election.

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

That the following amendment to Section 10 of Article V and the creation of Section 32 of Article XII 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. 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

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

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

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

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

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59 such option shall not again be put to a vote of the electors of  
60 that jurisdiction until the expiration of at least two years.

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

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

## ARTICLE XII

## SCHEDULE

78 SECTION 32. Increased threshold for retention of justices  
79 and judges.—The amendment to Section 10 of Article V increasing  
80 the threshold needed to retain a justice or judge chosen by  
81 merit selection and retention to at least sixty percent of the  
82 qualified electors voting within the territorial jurisdiction of  
83 the court, and this section, takes effect upon approval by the  
84 electors and applies beginning with any retention vote during  
85 the 2012 general election.

86 BE IT FURTHER RESOLVED that the following statement be  
87 placed on the ballot:

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88 CONSTITUTIONAL AMENDMENT

89 ARTICLE V, SECTION 10

90 ARTICLE XII, SECTION 32

91 BROADER PUBLIC SUPPORT FOR RETENTION OF JUSTICES AND  
92 JUDGES.—This proposed amendment increases the threshold of  
93 public support needed to retain justices and judges chosen by  
94 merit selection and retention. Under current law, a justice or  
95 judge who appears on the ballot in a retention election is  
96 retained if a simple majority of electors vote to retain the  
97 justice or judge. This amendment provides that a justice or  
98 judge who appears on the ballot in a retention election is  
99 retained if at least 60 percent of electors vote to retain the  
100 justice or judge. The amendment does not apply to judges who are  
101 chosen by election and not by merit selection and retention.  
102 This amendment takes effect immediately upon approval by the  
103 voters and applies to retention elections beginning with the  
104 2012 General Election.

105

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

109 CONSTITUTIONAL AMENDMENT

110 ARTICLE V, SECTION 10

111 ARTICLE XII, SECTION 32

112 RETENTION OF JUSTICES AND JUDGES.—Currently, retention of a  
113 justice or judge who seeks a new 6-year term requires a simple  
114 majority vote of the qualified electors voting within the  
115 territorial jurisdiction of the court. This amendment increases  
116 the requirement to at least 60 percent of those qualified

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117 electors. The amendment takes effect as soon as it is approved  
118 by the electors, and it applies to any vote to retain a justice  
119 or judge on the ballot in the same general election.

120  
121 BE IT FURTHER RESOLVED that the following statement be  
122 placed on the ballot if a court declares the preceding statement  
123 defective and the decision of the court is not reversed:

124 CONSTITUTIONAL AMENDMENT

125 ARTICLE V, SECTION 10

126 ARTICLE XII, SECTION 32

127 INCREASING THE THRESHOLD REQUIRED TO RETAIN JUSTICES AND  
128 JUDGES.—Proposing an amendment to the State Constitution to  
129 increase the threshold required to retain justices and judges.  
130 Under current law, a justice or judge appears on the ballot at  
131 the end of each term of office for a retention election. If a  
132 majority of the votes cast are for retention, the justice or  
133 judge continues in office, but if a majority votes not to  
134 retain, the justice or judge is removed from office at the end  
135 of the term of office. This amendment changes the threshold to  
136 60 percent; that is, of the votes cast, 60 percent or more would  
137 have to be votes to retain the justice or judge in order for the  
138 justice or judge to retain his or her office for another term.  
139 This provision will apply to all state court appellate justices  
140 and judges, but will apply only to trial court judges in your  
141 judicial circuit or your county if your circuit or county has  
142 approved merit selection and retention; otherwise, this proposed  
143 amendment will not affect your circuit court judges or county  
144 court judges, respectively. The amendment applies immediately to  
145 any justice or judge who is on the ballot for a retention vote

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146 in this election.

147  
148 BE IT FURTHER RESOLVED that the following statement be  
149 placed on the ballot if a court declares the preceding statement  
150 defective and the decision of the court is not reversed:

151 CONSTITUTIONAL AMENDMENT

152 ARTICLE V, SECTION 10

153 ARTICLE XII, SECTION 32

154 INCREASING THE VOTE REQUIRED TO RETAIN A JUSTICE OR JUDGE.—  
155 The State Constitution currently provides that a justice or  
156 judge qualifies to be retained in office for an additional term  
157 by receiving the votes of a majority of the qualified electors  
158 voting within the court's jurisdiction in an election before the  
159 term of the justice or judge ends. This proposed amendment  
160 raises the required votes for retention from a majority of the  
161 qualified electors voting within the court's jurisdiction to at  
162 least 60 percent. If more than 40 percent of qualified electors  
163 vote against retention, there will be a vacancy in the office  
164 when the justice's or judge's term expires. The proposed  
165 amendment takes effect immediately and applies beginning with  
166 any judicial retention vote that is occurring in this same  
167 general election.