

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.

76 ARTICLE XII

77 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.