



147806

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/28/2011	.	
Floor: 1/AD/2R	.	
04/28/2011 02:49 PM	.	
	.	

The Committee on Budget (Alexander) 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



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14 SECTION 2. Administration; practice and procedure.—

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 Rules of court may be repealed by general law that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28 court may readopt the repealed rule only in conformity with the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

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



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

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

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

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

69 SECTION 3. Supreme court; divisions.—

70 (a) ORGANIZATION.—The supreme court shall consist of ten
71 seven justices. Of the ten justices, five justices shall serve



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

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

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

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



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

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

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

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

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



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130 (8) May issue writs of mandamus and quo warranto to state
131 officers and state agencies.

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

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

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

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

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

157 (2) A civil case is any case or controversy within the
158 traditional concepts of civil law, including tort, contract,



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

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

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

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

179 SECTION 4. District courts of appeal.—

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

185 (b) JURISDICTION.—

186 (1) District courts of appeal shall have jurisdiction to
187 hear appeals, that may be taken as a matter of right, from final



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

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

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

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

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



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

222 SECTION 11. Vacancies.—

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

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

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



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

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

272 SECTION 12. Discipline; removal and retirement.—

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



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275 (1) There shall be a judicial qualifications commission
276 vested with jurisdiction to investigate and recommend to the
277 Supreme Court of Florida the removal from office of any justice
278 or judge whose conduct, during term of office or otherwise,
279 ~~occurring on or after November 1, 1966, (without regard to the~~
280 ~~effective date of this section)~~ demonstrates a present unfitness
281 to hold office, and to investigate and recommend the discipline
282 of a justice or judge whose conduct, during term of office or
283 otherwise ~~occurring on or after November 1, 1966 (without regard~~
284 ~~to the effective date of this section)~~, warrants such
285 discipline. For purposes of this section, discipline is defined
286 as any or all of the following: reprimand, fine, suspension with
287 or without pay, or lawyer discipline. The commission shall have
288 jurisdiction over justices and judges regarding allegations that
289 misconduct occurred before or during service as a justice or
290 judge if a complaint is made no later than one year following
291 service as a justice or judge. The commission shall have
292 jurisdiction regarding allegations of incapacity during service
293 as a justice or judge. The commission shall be composed of:
294 a. Two judges of district courts of appeal selected by the
295 judges of those courts, two circuit judges selected by the
296 judges of the circuit courts and two judges of county courts
297 selected by the judges of those courts;
298 b. Four electors who reside in the state, who are members
299 of the bar of Florida, and who shall be chosen by the governing
300 body of the bar of Florida; and
301 c. Five electors who reside in the state, who have never
302 held judicial office or been members of the bar of Florida, and
303 who shall be appointed by the governor.



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

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

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



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333 and all further proceedings before the commission shall be
334 public.

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

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

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



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362 hearing panel.

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

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

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

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



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

404 (f) SCHEDULE TO SECTION 12.-

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

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

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

415 b. The investigative panel shall be composed of:

416 1. Four judges,

417 2. Two members of the bar of Florida, and

418 3. Three non-lawyers.

419 c. The hearing panel shall be composed of:



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



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449 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~
450 ~~from the district courts of appeal and one county judge as set~~
451 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~
452 ~~31, 2002.~~

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

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

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

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

467 SECTION 14. Funding.-

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

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



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

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



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507 requirements as determined by general law.

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

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

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

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

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

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



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

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

564 (c) The two divisions of the supreme court shall begin



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565 formal operations on the 120th day after the election. On that
566 day:

567 (1) Newly appointed justices shall take office.

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

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

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

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

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

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

592 (h) The legislature shall have the power, by concurrent
593 resolution, to delete from this article any subsection of this



594 section 21, including this subsection, when all events to which
595 the subsection to be deleted is or could become applicable have
596 occurred.

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

599 CONSTITUTIONAL AMENDMENT

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

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



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

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

651 Under current law, the Governor appoints a justice from a



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

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



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

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



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710 funding beginning with the 2013-2014 fiscal year.

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

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

725 CONSTITUTIONAL AMENDMENT

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

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

736
737 BE IT FURTHER RESOLVED that the following statement be
738 placed on the ballot if a court declares the preceding



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739 statements defective and the decision of the court is not
740 reversed:

741 CONSTITUTIONAL AMENDMENT

742 ARTICLE V, SECTIONS 2, 3, 4, 7, 11, 12, 14, AND 21
743 STATE COURTS.—Proposing a revision to Article V of the
744 State Constitution relating to the judiciary; changing the
745 authority of the Legislature to repeal a court rule by 2/3 vote
746 of the membership of each house to a simple majority of each
747 house; limiting the Supreme Court’s ability to readopt a rule
748 repealed by the Legislature; replacing the current seven-member
749 Supreme Court with two five-member divisions of the Supreme
750 Court, one with civil jurisdiction and one with criminal
751 jurisdiction; establishing a Chief Justice of the Supreme Court
752 who shall serve as the chief administrative officer for the
753 courts; establishing a chief justice for the civil division of
754 the Supreme Court; establishing a chief justice for the criminal
755 division of the Supreme Court; providing for the manner of
756 selection and term for the chief justice of each division of the
757 Supreme Court; changing the manner of designation and term of
758 office of the Chief Justice of the Supreme Court; providing that
759 a chief justice of a division of the Supreme Court is subject to
760 a retention election and eligibility requirements as currently
761 established in the State Constitution; providing for manner of
762 replacement of a chief justice of a division; providing for
763 apportionment of current justices among the civil and criminal
764 divisions of the Supreme Court; changing the requirements for a
765 quorum from four to three as being necessary for a decision;
766 providing authority and circumstances where the divisions of the
767 Supreme Court may meet en banc; providing jurisdiction for each



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



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

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

804 And the title is amended as follows:

805 Delete everything before the resolving clause
806 and insert:

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



826 requiring that a specified minimum percentage of
827 general revenue funds be appropriated to the courts;
828 making other conforming and modernizing changes to the
829 State Constitution regarding the judicial system.