

By Senator Lee

24-01143B-14

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Senate Joint Resolution

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

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

That the following amendments to Sections 10 and 11 of Article V of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE V

JUDICIARY

SECTION 10. Retention; election and terms.-

(a) Any justice or judge may qualify for retention by a vote of the electors in the general election next preceding the expiration of the justice's or judge's term in the manner prescribed by law. When ~~If~~ a justice or judge is ineligible for retention or fails to qualify for retention, a prospective vacancy is deemed to occur at the conclusion of the qualifying period for retention for the purpose of appointing a successor justice or judge, and a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice or judge so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) ...(name of justice or judge)... of the ...(name of the court)... be

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

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

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

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

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59 and county at the general election in the year 2000. If a vote
60 to exercise this local option fails in a vote of the electors,
61 such option shall not again be put to a vote of the electors of
62 that jurisdiction until the expiration of at least two years.

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

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

78 SECTION 11. Vacancies.—

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

87 (2) Whenever a prospective vacancy occurs in a judicial

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

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

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

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

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

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

125 CONSTITUTIONAL AMENDMENT

126 ARTICLE V, SECTIONS 10, 11

127 PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES.—

128 Proposing an amendment to the State Constitution authorizing the
129 Governor to prospectively fill a vacancy in a judicial office to
130 which election for retention applies that results from a
131 justice's or judge's reaching the mandatory retirement age,
132 failure to qualify for a retention election, or failure to be
133 retained through election. Under current law, the Governor may
134 not act to fill such vacancies until after the current justice
135 or judge completes his or her term.

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