

By Commissioner Stemberger

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1 A proposal to amend
2 Sections 10 and 11 of Article V of the State
3 Constitution to revise the date on which the term of
4 office begins for judicial offices subject to election
5 for retention in order to avoid the ambiguity and
6 litigation that may result by having the terms of
7 judicial officers and the Governor end and begin on
8 the same day.

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10 Be It Proposed by the Constitution Revision Commission of
11 Florida:

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13 Sections 10 and 11 of Article V of the State Constitution
14 are amended to read:

15 ARTICLE V

16 JUDICIARY

17 SECTION 10. Retention; election and terms.-

18 (a) Any justice or judge may qualify for retention by a
19 vote of the electors in the general election next preceding the
20 expiration of the justice's or judge's term in the manner
21 prescribed by law. If a justice or judge is ineligible or fails
22 to qualify for retention, a vacancy shall exist in that office
23 upon the expiration of the term being served by the justice or
24 judge. When a justice or judge so qualifies, the ballot shall
25 read substantially as follows: "Shall Justice (or Judge)
26 ... (name of justice or judge) ... of the ... (name of the
27 court) ... be retained in office?" If a majority of the qualified
28 electors voting within the territorial jurisdiction of the court
29 vote to retain, the justice or judge shall be retained for a
30 term of six years. The term of the justice or judge retained
31 shall commence on the ~~first Tuesday after the~~ first Monday in
32 January following the general election. If a majority of the

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33 qualified electors voting within the territorial jurisdiction of
34 the court vote to not retain, a vacancy shall exist in that
35 office upon the expiration of the term being served by the
36 justice or judge.

37 (b)

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

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

52 (3)

53 a. A vote to exercise a local option to select circuit
54 court judges and county court judges by merit selection and
55 retention rather than by election shall be held in each circuit
56 and county at the general election in the year 2000. If a vote
57 to exercise this local option fails in a vote of the electors,
58 such option shall not again be put to a vote of the electors of
59 that jurisdiction until the expiration of at least two years.

60 b. After the year 2000, a circuit may initiate the local
61 option for merit selection and retention or the election of

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62 circuit judges, whichever is applicable, by filing with the
63 custodian of state records a petition signed by the number of
64 electors equal to at least ten percent of the votes cast in the
65 circuit in the last preceding election in which presidential
66 electors were chosen.

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

75 SECTION 11. Vacancies.-

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

84 (b) The governor shall fill each vacancy on a circuit court
85 or on a county court, wherein the judges are elected by a
86 majority vote of the electors, by appointing for a term ending
87 on the first Tuesday after the first Monday in January of the
88 year following the next primary and general election occurring
89 at least one year after the date of appointment, one of not
90 fewer than three persons nor more than six persons nominated by

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91 the appropriate judicial nominating commission. An election
92 shall be held to fill that judicial office for the term of the
93 office beginning at the end of the appointed term.

94 (c) The nominations shall be made within thirty days from
95 the occurrence of a vacancy unless the period is extended by the
96 governor for a time not to exceed thirty days. The governor
97 shall make the appointment within sixty days after the
98 nominations have been certified to the governor.

99 (d) There shall be a separate judicial nominating
100 commission as provided by general law for the supreme court,
101 each district court of appeal, and each judicial circuit for all
102 trial courts within the circuit. Uniform rules of procedure
103 shall be established by the judicial nominating commissions at
104 each level of the court system. Such rules, or any part thereof,
105 may be repealed by general law enacted by a majority vote of the
106 membership of each house of the legislature, or by the supreme
107 court, five justices concurring. Except for deliberations of the
108 judicial nominating commissions, the proceedings of the
109 commissions and their records shall be open to the public.