

**Constitution Revision Commission
Judicial Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 101

Relating to: JUDICIARY, Retention; election and terms; Vacancies

Introducer(s): Commissioner Smith

Article/Section affected:

Date: January 8, 2018

	REFERENCE	ACTION
1.	JU	Pre-meeting
2.	EE	

I. SUMMARY:

This proposal amends Sections 10 and 11 of Article V of the Florida Constitution to provide that circuit and county court judges must qualify for retention for any terms of office that are subsequent to the term of office that the judges initially assume by election.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, trial judges are chosen in non-partisan elections,¹ with vacancies on the trial courts being filled by the governor from candidates recommended by a judicial nominating commission.² Under this system, a judge must run for election, opposed or unopposed, for each six-year term.³

The Constitution currently allows for local jurisdictions to adopt a merit selection and retention system rather than by election. However, as of January 5, 2018, no jurisdiction has elected to adopt the local option.⁴

B. EFFECT OF PROPOSED CHANGES:

The proposed amendment creates a hybrid election/retention system for circuit and county court judges. The proposal preserves the initial election of circuit and county

¹ Fla. Stat. § 105.071.

² Fla. Const. Art. V §11(b).

³ Fla. Const. Art. V §10(a).

⁴ Judicial Impact Statement prepared by the Office of the State Court Administrator (on file with CRC staff).

judges. However, circuit and county judges would thereafter face a merit retention vote every six years, instead of facing a potential adversarial election after every term. Circuit and county court judge vacancies would continue to be filled through the judicial nominating process, as they are currently.⁵

The proposal deletes the provisions in Article V, §10(b), Fla. Const. that allow a local vote to authorize appointment and merit retention of circuit and county court judges. The deletion of that specific local option is not expected to have an effect because no jurisdiction has adopted the local option.⁶

C. FISCAL IMPACT:

The proposal is not expected impact the fiscal needs of the judiciary because the number of judges remains the same and it does not eliminate the need for elections.⁷

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

None.

⁵ Fla. Const. Art. V §11(b).

⁶ Judicial Impact Statement prepared by the Office of the State Court Administrator (on file with CRC staff).

⁷ Id.