

By the Committee on Judicial and Commissioner Wetherington

1 A proposal to revise
2 ARTICLE V, ss. 10 and 11, Fla. Const.;
3 providing for circuit court and county court
4 judges to be subject to a vote of retention
5 rather than running for reelection, if such
6 method of election is approved by the electors
7 within the judicial circuit or within the
8 county; providing requirements for placing such
9 a local option before the electors.
10
11 It is proposed by the Florida Constitution Revision Commission
12 that:
13
14 Section 1. Sections 10 and 11 of Article V of the
15 Florida Constitution are revised by amending those sections to
16 read:
17 ARTICLE V
18 JUDICIARY
19 SECTION 10. Retention; election and terms.--
20 (a) Any justice or judge ~~of the supreme court or any~~
21 ~~judge of a district court of appeal~~ may qualify for retention
22 by a vote of the electors in the general election next
23 preceding the expiration of his term in the manner prescribed
24 by law. If a justice or judge is ineligible or fails to
25 qualify for retention, a vacancy shall exist in that office
26 upon the expiration of the term being served by the justice or
27 judge. When a justice ~~of the supreme court~~ or a judge ~~of a~~
28 ~~district court of appeal~~ so qualifies, the ballot shall read
29 substantially as follows: "Shall Justice (or Judge) ...(name
30 of justice or judge)... of the ...(name of the court)... be
31 retained in office?" If a majority of the qualified electors

1 voting within the territorial jurisdiction of the court vote
2 to retain, the justice or judge shall be retained for a term
3 of six years, except that in the case of a county court judge,
4 the judge shall serve a term of four years. The term of the
5 justice or judge retained shall commence ~~commencing~~ on the
6 first Tuesday after the first Monday in January following the
7 general election. If a majority of the qualified electors
8 voting within the territorial jurisdiction of the court vote
9 to not retain, a vacancy shall exist in that office upon the
10 expiration of the term being served by the justice or judge.

11 (b)(1) The election of circuit judges shall be
12 preserved notwithstanding the provisions of subsection (a) and
13 Article V, Section 11, as amended, unless approved by a
14 majority of those voting in the jurisdiction of that circuit.
15 An election to exercise this local option shall be invoked:

16 a. By the filing with the secretary of state of a
17 petition signed by the number of electors equal to at least
18 ten percent of the votes cast in the circuit in the last
19 preceding election in which presidential electors were chosen;
20 or

21 b. Upon approval by a majority vote of county
22 commissioners of the number of counties in the circuit in
23 which the sum of the electors in those counties is equal to at
24 least one half of all electors within the judicial circuit as
25 a whole.

26 (2) The election of county court judges shall be
27 preserved notwithstanding the provisions of subsection (a) and
28 Article V, Section 11, as amended, unless approved by a
29 majority of those voting in the jurisdiction of that county.
30 An election to exercise this local option shall be invoked:
31

1 a. By the filing with the secretary of state of a
2 petition signed by the number of electors equal to at least 10
3 percent of the votes cast in the county in the last preceding
4 election in which presidential electors were chosen; or

5 b. Upon approval by a majority vote of the county
6 commissioners.

7
8 A vote to exercise this local option shall be held in each
9 circuit and county at the general election to be held in
10 November 2004. If a vote to exercise this local option fails
11 in a vote of the electors, such option shall not again be put
12 to a vote of the electors of that jurisdiction until the
13 expiration of at least two years.~~Circuit judges and judges of~~
14 ~~county courts shall be elected by vote of the qualified~~
15 ~~electors within the territorial jurisdiction of their~~
16 ~~respective courts. The terms of circuit judges shall be for~~
17 ~~six years. The terms of judges of county courts shall be for~~
18 ~~four years.~~

19 SECTION 11. Vacancies.--

20 (a) Whenever a vacancy occurs in a judicial office to
21 which election for retention applies,the governor shall fill
22 the ~~each vacancy on the supreme court or on a district court~~
23 ~~of appeal~~ by appointing for a term ending on the first Tuesday
24 after the first Monday in January of the year following the
25 next general election occurring at least one year after the
26 date of appointment, one of not fewer than three persons nor
27 more than six persons nominated by the appropriate judicial
28 nominating commission.

29 (b) The governor shall fill each vacancy on a circuit
30 court or on a county court, wherein the judges are elected by
31 a majority vote of the electors,by appointing for a term

1 ending on the first Tuesday after the first Monday in January
2 of the year following the next primary and general election
3 occurring at least one year after the date of appointment, one
4 of not fewer than three persons nor more than six persons
5 nominated by the appropriate judicial nominating commission.
6 An election shall be held to fill that judicial office for the
7 term of the office beginning at the end of the appointed term.

8 (c) The nominations shall be made within thirty days
9 from the occurrence of a vacancy unless the period is extended
10 by the governor for a time not to exceed thirty days. The
11 governor shall make the appointment within sixty days after
12 the nominations have been certified to him.

13 (d) There shall be a separate judicial nominating
14 commission as provided by general law for the supreme court,
15 each district court of appeal, and each judicial circuit for
16 all trial courts within the circuit. Uniform rules of
17 procedure shall be established by the judicial nominating
18 commissions at each level of the court system. Such rules, or
19 any part thereof, may be repealed by general law enacted by a
20 majority vote of the membership of each house of the
21 legislature, or by the supreme court, five justices
22 concurring. Except for deliberations of the judicial
23 nominating commissions, the proceedings of the commissions and
24 their records shall be open to the public.