



Civil Justice Subcommittee

Wednesday, March 9, 2011

1:00 PM

404 HOB

**Dean Cannon
Speaker**

**Eric Eisnaugle
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Civil Justice Subcommittee

Start Date and Time: Wednesday, March 09, 2011 01:00 pm

End Date and Time: Wednesday, March 09, 2011 03:45 pm

Location: 404 HOB

Duration: 2.75 hrs

Workshop on the following:

Supreme Court

Consideration of the following proposed committee bill(s):

PCB CVJS 11-04 -- Judicial Retention Elections

PCB CVJS 11-05 -- Judicial Qualifications Commission

NOTICE FINALIZED on 03/07/2011 16:22 by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CVJS 11-04 Judicial Retention Elections

SPONSOR(S): Civil Justice Subcommittee

TIED BILLS: None IDEN./SIM. BILLS: None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee		Billmeier	LMB Bond N/B

SUMMARY ANALYSIS

Justices of the Florida Supreme Court, judges of the district courts of appeals, circuit judges, and county judges serve six year terms. Before the expiration of each term, Supreme Court justices and judges on the district courts of appeal appear on the ballot for a retention election. If a majority of voters approve, the justice or judge is elected to another term. No Florida justice or judge has ever failed to receive a majority. Circuit and county judges compete in contested elections but circuits and counties have the option to change to the retention election system used for the appellate courts.

This joint resolution changes the retention requirements for Supreme Court justices and judges of the district courts of appeal that are on the ballot in retention elections to 60%. If a justice or judge is not approved by at least 60% of the voters in an election, a vacancy exists in the office effective at the end of the justice or judge's term. This 60% requirement will apply to circuit and county judges in any circuit or county that changes to a retention election system for selecting and retaining judges.

The proposed joint resolution appears to require a nonrecurring expense payable from the General Revenue Fund in FY 2012-13 for required advertising of the joint resolution. This joint resolution does not appear to have a fiscal impact on local governments.

The proposed joint resolution, if passed by the Legislature, would be considered by the electorate at the November, 2012, general election. A joint resolution must be passed by a three-fifths vote of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Article V, Fla. Const., provides for four categories of justices and judges: justices of the Supreme Court and judges on the district courts of appeal, the circuit courts, and the county courts. Justices and judges serve for terms of six years.¹

To become a justice of the Supreme Court or a judge on the district court of appeals, one applies to the appropriate judicial nominating commission. The judicial nominating commission selects three to six applicants and submits that list of nominees to the Governor. The Governor must select the justice or judge from that list. At the general election prior to the expiration of each term, Supreme Court justices and judges on the district courts of appeal whose terms of office are expiring appear on the ballot for a retention election. If a majority of voters approve, the justice or judge is elected to another term.² Florida enacted this system, sometimes called "merit retention," in 1972. No Florida justice or judge has ever failed to achieve a majority vote.

Circuit and county judges compete in contested elections.³ If there is no opposition when a judge runs for reelection, a judge is reelected to the seat. Each judicial circuit and each county has had the option since 2000 of changing from the contested election method of selecting judges to the "merit retention" method but, thus far, no circuit or county has done so. Every circuit and county held a referendum on the issue in 2000.

Past Election Results

According to information gathered from the Division of Elections website, 39 supreme court justices have appeared on the ballot since 1980. All 39 were approved by a majority of the voters. Two of those justice received less than 60% of the vote. During the 2004-2010 general elections, 81 of the 88 district court of appeal judges that appeared on the ballot received more than 60% of the vote.

Effect of Proposed Changes

This joint resolution changes the retention requirements for justices and judges that are on the ballot in retention elections from a majority to 60%. If a justice or judge is not approved by at least 60% of the voters in an election, a vacancy exists in the office effective at the end of the justice or judge's term. Vacancies are filled by a nominee appointed by the Governor from a list provided by the appropriate judicial nominating commission. The 60% retention requirement will also apply to circuit and county judges if the circuit or county changes its method of selecting judges from a direct election to a merit selection system.

B. SECTION DIRECTORY:

n/a

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

¹ See Art. V, ss. 10(a), 10(b)(3), Fla. Const.

² See Art. V, s. 10(a), Fla. Const.

³ See Art. V, s. 10(b), Fla. Const.

None.

2. Expenditures:

Article XI, s. 5(d), Fla. Const., requires that a proposed constitutional amendment be published twice in one newspaper of general circulation in each county in which a newspaper is published prior to the election in which the voters will consider it. The Department of State has not yet analyzed this proposal to determine the estimated costs but has previously indicated the average cost to advertise a proposed constitutional amendment is \$106.14 per word.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

A mandates analysis is inapplicable as this bill is a proposed constitutional amendment.

2. Other:

A joint resolution must be passed by a three-fifths vote of the membership of each house of the Legislature before it can be proposed to the voters. It must be approved by 60% of the voters in order to be adopted as part of the Constitution. See Art. XI, ss. 1, 5 Fla. Const.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

House Joint Resolution

A joint resolution proposing an amendment to Section 10 of Article V of the State Constitution to increase the threshold for retention elections.

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

That the following amendment to Section 10 of Article V of the State Constitution is 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. If a justice or judge is ineligible or fails to qualify for retention, 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 retained in office?" If at least sixty percent ~~a majority~~ of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years. The term of the justice or judge

29 retained shall commence on the first Tuesday after the first
 30 Monday in January following the general election. If more than
 31 forty percent ~~a majority~~ of the qualified electors voting within
 32 the territorial jurisdiction of the court vote to not retain, a
 33 vacancy shall exist in that office upon the expiration of the
 34 term being served by the justice or judge.

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

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

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

56 b. After the year 2000, a circuit may initiate the local
 57 option for merit selection and retention or the election of
 58 circuit judges, whichever is applicable, by filing with the
 59 custodian of state records a petition signed by the number of
 60 electors equal to at least ten percent of the votes cast in the
 61 circuit in the last preceding election in which presidential
 62 electors were chosen.

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

71

72 BE IT FURTHER RESOLVED that the following statement be
 73 placed on the ballot:

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CONSTITUTIONAL AMENDMENT

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ARTICLE V, SECTION 10

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INCREASING THE THRESHOLD REQUIRED TO RETAIN JUSTICES AND
 JUDGES.—Proposing an amendment to the State Constitution to
 increase the threshold required to retain justices and judges.
 Under current law, a justice or judge appears on the ballot at
 the end of each term of office for a retention election. If a
 majority of the votes are cast for retention, the justice or
 judge continues in office, but if a majority votes not to retain
 the justice or judge is removed from office at the end of the

84 | term of office. This amendment changes the threshold to 60%;
 85 | that is, 60% or more of the votes cast would have to vote to
 86 | retain in order for a justice or judge to remain in office for
 87 | another term. This provision will apply to all state court
 88 | appellate justices and judges, but will only apply to trial
 89 | court judges in your judicial circuit or your county if your
 90 | circuit or county has approved merit selection and retention;
 91 | otherwise, this proposed amendment will not affect your circuit
 92 | court judges or county court judges, respectively.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CVJS 11-05 Judicial Qualifications Commission

SPONSOR(S): Civil Justice Subcommittee

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1704

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee		Woodburn <i>SW</i>	Bond <i>MB</i>

SUMMARY ANALYSIS

The Judicial Qualifications Commission is responsible for investigating allegations of wrongdoing by Florida justices and judges. Where appropriate, the commission recommends discipline to the Supreme Court. Nearly all records of the commission are confidential. Only if formal charges are filed are records open, and then only the records created after the filing of charges are open.

The proposed joint resolution amends the state constitution to provide that most records and proceedings of the Judicial Qualifications Commission are open to public inspection and copying once the commission has determined whether or not to file formal charges. However, records that are otherwise exempt from public disclosure will remain exempt.

This proposed joint resolution appears to require a nonrecurring expense of approximately \$200,000 payable from the General Revenue Fund in FY 2012-13 for required advertising of the proposed joint resolution. This proposed joint resolution does not appear to have a fiscal impact on local governments.

The proposed joint resolution, if passed by the Legislature, would be considered by the electorate at the November, 2012, general election. A joint resolution must be passed by a three-fifths vote of the membership of each house of the Legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Judicial Qualifications Commission

The Judicial Qualifications Commission (JQC) is established by art. V, s. 12 of the state constitution. The JQC is charged with investigating and recommending to the Supreme Court the discipline, including the removal from office, of any justice or judge whose conduct warrants such discipline.¹

The JQC membership is comprised of:

- Two judges from the district courts of appeal (selected by the judges of the district courts of appeal).
- Two judges from the circuit courts (selected by the judges of the circuit courts).
- Two judges from the county courts (selected by the judges of the county courts).
- Four electors who are members of the Florida Bar (selected by the governing body of the Florida Bar).
- Five electors who have never held judicial office nor been members of the Florida Bar (selected by the Governor).

The members of the commission serve six year terms.² The commission is divided into two panels; an investigative panel and a hearing panel.³ The investigative panel receives or initiates complaints, conducts investigations, dismisses complaints, and, upon a majority vote of the panel, submits formal charges to the hearing panel.⁴ The process to this point is confidential.

The hearing panel receives and hears formal charges filed by the investigative panel. By majority vote, the hearing panel may recommend discipline. By a two-thirds vote, the hearing panel may recommend removal of a justice or judge or the involuntary retirement of a justice or judge for any disability that seriously interferes with the performance of judicial duties.⁵ The Supreme Court, upon receiving the recommendation from the hearing panel, may accept, reject, or modify in whole or in part the recommendation.⁶

In FY 2009-2010, the Judicial Qualifications Commission received 620 complaints and filed formal charges against 6 judges.

Public Records Laws

The state constitution provides that all proceedings before the Judicial Qualifications Commission are confidential until formal charges against a justice or judge are filed by the investigative panel with the Clerk of the Supreme Court. Once the formal charges have been filed the proceedings before the hearing panel and before the Supreme Court are open to the public. If, however, the investigative panel votes to not pursue formal charges regarding a complaint, then the records of the complaint and investigation never become public.

Florida has a long history of open public records. Article 1, s. 24(a) of the state constitution (which is not applicable to the JQC) provides that:

¹ Article V sec. 12(a)(1), Florida Constitution.

² Article V sec. 12(a)(2), Florida Constitution, provides that a member's term may not exceed six years as prescribed by general law. Section 43.20, F.S., provides for six year terms.

³ Article V s. 12(b), Florida Constitution.

⁴ Id.

⁵ Id.

⁶ Article V s. 12(c)(1), Florida Constitution.

Every person has a right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities and districts; and each commission, or entity created pursuant to law or this Constitution.

This openness is reflected in the laws relating to the public records of the Florida Commission on Ethics.⁷ Similar to the JQC, the Commission on Ethics investigates allegations of wrongdoing by state officials. Unlike the JQC, however, most records of the Commission on Ethics become public records open for inspection and copying. Specifically, a record of the Commission on Ethics is open once either the complaint is dismissed or the Commission on Ethics determines that probable cause exists to conduct a formal hearing.

Effect of the Bill

This joint resolution amends art. V, s. 12(a)(4) of the state constitution to require that most records, materials and proceedings relating to complaints and proceedings before the Judicial Qualifications Commission be open to public inspection and copying upon the determination by the JQC whether or not formal charges will be filed. However, records that are otherwise exempt from public disclosure will remain exempt.⁸

The effect of the amendment is that records of the Judicial Qualifications Commission would be open in a manner similar to those of the Commission on Ethics.

The joint resolution also removes outdated constitutional provisions related to the JQC.

B. SECTION DIRECTORY:

n/a

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d), Fla. Const., requires that a proposed constitutional amendment must be published in one newspaper of general circulation in each county in which a newspaper is published. The Department of State has estimated that publication cost at \$106.14 per word. At 1821 words, the estimated cost is \$193,281. This nonrecurring cost would be payable from General Revenue in FY 2012-2013.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁷ See s. 112.320, F.S. The Commission on Ethics was created to serve as the guardian of the standards of conduct for the officers and employees of the state, county, city and other political subdivisions of the state. The commission is similar to the JQC but instead has jurisdiction over the executive and legislative branch.

⁸ For instance, if part of the investigation involved review of a juvenile record normally exempt from public disclosure, the exemption would remain and that part of the investigatory file would not be disclosed.

2. Expenditures: _____

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

A mandates analysis is inapplicable as this bill is a proposed constitutional amendment.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This is a legislative joint resolution, which is one of the methods for proposing, approving or rejecting amendments to the Florida Constitution. The joint resolution requires passage by a three-fifths vote of the membership of each house of the Legislature. The proposed constitutional amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records. If approved by sixty percent of the electors voting on the question, the proposed amendment becomes effective on the Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

1 House Joint Resolution

2 A joint resolution proposing an amendment to Section 12 of
 3 Article V of the State Constitution to provide that
 4 records, materials, and proceedings of the judicial
 5 qualifications commission shall be public upon the filing
 6 of formal charges or upon a finding that formal charges
 7 will not be filed; providing exceptions; deleting outdated
 8 provisions.

9
 10 Be It Resolved by the Legislature of the State of Florida:

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 12 That the following amendment to Section 12 of Article V of
 13 the State Constitution is agreed to and shall be submitted to
 14 the electors of this state for approval or rejection at the next
 15 general election or at an earlier special election specifically
 16 authorized by law for that purpose:

17 ARTICLE V
 18 JUDICIARY

19 SECTION 12. Discipline; removal and retirement.--

20 (a) JUDICIAL QUALIFICATIONS COMMISSION.--A judicial
 21 qualifications commission is created.

22 (1) There shall be a judicial qualifications commission
 23 vested with jurisdiction to investigate and recommend to the
 24 Supreme Court of Florida the removal from office of any justice
 25 or judge whose conduct, during term of office or otherwise
 26 ~~occurring on or after November 1, 1966, (without regard to the~~
 27 ~~effective date of this section)~~ demonstrates a present unfitness
 28 to hold office, and to investigate and recommend the discipline

29 of a justice or judge whose conduct, during term of office or
 30 otherwise ~~occurring on or after November 1, 1966 (without regard~~
 31 ~~to the effective date of this section)~~, warrants such
 32 discipline. For purposes of this section, discipline is defined
 33 as any or all of the following: reprimand, fine, suspension with
 34 or without pay, or lawyer discipline. The commission shall have
 35 jurisdiction over justices and judges regarding allegations that
 36 misconduct occurred before or during service as a justice or
 37 judge if a complaint is made no later than one year following
 38 service as a justice or judge. The commission shall have
 39 jurisdiction regarding allegations of incapacity during service
 40 as a justice or judge. The commission shall be composed of:

41 a. Two judges of district courts of appeal selected by the
 42 judges of those courts, two circuit judges selected by the
 43 judges of the circuit courts and two judges of county courts
 44 selected by the judges of those courts;

45 b. Four electors who reside in the state, who are members
 46 of the bar of Florida, and who shall be chosen by the governing
 47 body of the bar of Florida; and

48 c. Five electors who reside in the state, who have never
 49 held judicial office or been members of the bar of Florida, and
 50 who shall be appointed by the governor.

51 (2) The members of the judicial qualifications commission
 52 shall serve staggered terms, not to exceed six years, as
 53 prescribed by general law. No member of the commission except a
 54 judge shall be eligible for state judicial office while acting
 55 as a member of the commission and for a period of two years
 56 thereafter. No member of the commission shall hold office in a

57 | political party or participate in any campaign for judicial
 58 | office or hold public office; provided that a judge may campaign
 59 | for judicial office and hold that office. The commission shall
 60 | elect one of its members as its chairperson.

61 | (3) Members of the judicial qualifications commission not
 62 | subject to impeachment shall be subject to removal from the
 63 | commission pursuant to the provisions of Article IV, Section 7,
 64 | Florida Constitution.

65 | (4)

66 | (a) The commission shall adopt rules regulating its
 67 | proceedings, the filling of vacancies by the appointing
 68 | authorities, the disqualification of members, the rotation of
 69 | members between the panels, and the temporary replacement of
 70 | disqualified or incapacitated members. The commission's rules,
 71 | or any part thereof, may be repealed by general law enacted by a
 72 | majority vote of the membership of each house of the
 73 | legislature, or by the supreme court, five justices concurring.
 74 | The commission shall have power to issue subpoenas.

75 | ~~(b) While an~~ Until formal charges against a justice or
 76 | ~~judge are filed by the investigative panel~~ is investigating a
 77 | ~~complaint, with the clerk of the supreme court of Florida all~~
 78 | ~~proceedings by or before the commission~~ and all records related
 79 | ~~thereto shall be confidential; provided, however, upon a finding~~
 80 | ~~of probable cause and the filing by the investigative panel with~~
 81 | ~~said clerk of such formal charges against a justice or judge~~
 82 | ~~such charges and all further proceedings before the commission~~
 83 | ~~shall be public.~~ All records, materials, and proceedings
 84 | related to a complaint and investigation shall be public upon

85 either the filing of formal charges with the hearing panel or
 86 upon a finding of the investigative panel that formal charges
 87 will not be brought regarding a complaint. However, information
 88 that is otherwise confidential or exempt shall retain its
 89 status. This paragraph applies to all records of the commission.

90 (5) The commission shall have access to all information
 91 from all executive, legislative and judicial agencies, including
 92 grand juries, subject to the rules of the commission. At any
 93 time, on request of the speaker of the house of representatives
 94 or the governor, the commission shall make available all
 95 information in the possession of the commission for use in
 96 consideration of impeachment or suspension, respectively.

97 (b) PANELS.—The commission shall be divided into an
 98 investigative panel and a hearing panel as established by rule
 99 of the commission. The investigative panel is vested with the
 100 jurisdiction to receive or initiate complaints, conduct
 101 investigations, dismiss complaints, and upon a vote of a simple
 102 majority of the panel submit formal charges to the hearing
 103 panel. The hearing panel is vested with the authority to receive
 104 and hear formal charges from the investigative panel and upon a
 105 two-thirds vote of the panel recommend to the supreme court the
 106 removal of a justice or judge or the involuntary retirement of a
 107 justice or judge for any permanent disability that seriously
 108 interferes with the performance of judicial duties. Upon a
 109 simple majority vote of the membership of the hearing panel, the
 110 panel may recommend to the supreme court that the justice or
 111 judge be subject to appropriate discipline.

112 (c) SUPREME COURT.—The supreme court shall receive

113 recommendations from the judicial qualifications commission's
 114 hearing panel.

115 (1) The supreme court may accept, reject, or modify in
 116 whole or in part the findings, conclusions, and recommendations
 117 of the commission and it may order that the justice or judge be
 118 subjected to appropriate discipline, or be removed from office
 119 with termination of compensation for willful or persistent
 120 failure to perform judicial duties or for other conduct
 121 unbecoming a member of the judiciary demonstrating a present
 122 unfitness to hold office, or be involuntarily retired for any
 123 permanent disability that seriously interferes with the
 124 performance of judicial duties. Malafides, scienter or moral
 125 turpitude on the part of a justice or judge shall not be
 126 required for removal from office of a justice or judge whose
 127 conduct demonstrates a present unfitness to hold office. After
 128 the filing of a formal proceeding and upon request of the
 129 investigative panel, the supreme court may suspend the justice
 130 or judge from office, with or without compensation, pending
 131 final determination of the inquiry.

132 (2) The supreme court may award costs to the prevailing
 133 party.

134 (d) The power of removal conferred by this section shall
 135 be both alternative and cumulative to the power of impeachment.

136 (e) Notwithstanding any of the foregoing provisions of
 137 this section, if the person who is the subject of proceedings by
 138 the judicial qualifications commission is a justice of the
 139 supreme court of Florida all justices of such court
 140 automatically shall be disqualified to sit as justices of such

141 | court with respect to all proceedings therein concerning such
 142 | person and the supreme court for such purposes shall be composed
 143 | of a panel consisting of the seven chief judges of the judicial
 144 | circuits of the state of Florida most senior in tenure of
 145 | judicial office as circuit judge. For purposes of determining
 146 | seniority of such circuit judges in the event there be judges of
 147 | equal tenure in judicial office as circuit judge the judge or
 148 | judges from the lower numbered circuit or circuits shall be
 149 | deemed senior. In the event any such chief circuit judge is
 150 | under investigation by the judicial qualifications commission or
 151 | is otherwise disqualified or unable to serve on the panel, the
 152 | next most senior chief circuit judge or judges shall serve in
 153 | place of such disqualified or disabled chief circuit judge.

154 | (f) SCHEDULE TO SECTION 12.—

155 | (1) Except to the extent inconsistent with the provisions
 156 | of this section, all provisions of law and rules of court in
 157 | force on the effective date of this article shall continue in
 158 | effect until superseded in the manner authorized by the
 159 | constitution.

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

162 | a. The commission shall be divided, as determined by the
 163 | chairperson, into one investigative panel and one hearing panel
 164 | to meet the responsibilities set forth in this section.

165 | b. The investigative panel shall be composed of:

- 166 | 1. Four judges,
- 167 | 2. Two members of the bar of Florida, and
- 168 | 3. Three non-lawyers.

- 169 c. The hearing panel shall be composed of:
- 170 1. Two judges,
- 171 2. Two members of the bar of Florida, and
- 172 3. Two non-lawyers.
- 173 d. Membership on the panels may rotate in a manner
- 174 determined by the rules of the commission provided that no
- 175 member shall vote as a member of the investigative and hearing
- 176 panel on the same proceeding.
- 177 e. The commission shall hire separate staff for each
- 178 panel.
- 179 f. The members of the commission shall serve for staggered
- 180 terms of six years.
- 181 g. Repealed. ~~The terms of office of the present members of~~
- 182 ~~the judicial qualifications commission shall expire upon the~~
- 183 ~~effective date of the amendments to this section approved by the~~
- 184 ~~legislature during the regular session of the legislature in~~
- 185 ~~1996 and new members shall be appointed to serve the following~~
- 186 ~~staggered terms:~~
- 187 1. ~~Group I. The terms of five members, composed of two~~
- 188 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
- 189 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
- 190 ~~V, one judge from the district courts of appeal and one circuit~~
- 191 ~~judge as set forth in s. 12(a)(1)a. of Article V, shall expire~~
- 192 ~~on December 31, 1998.~~
- 193 2. ~~Group II. The terms of five members, composed of one~~
- 194 ~~elector as set forth in s. 12(a)(1)c. of Article V, two members~~
- 195 ~~of the bar of Florida as set forth in s. 12(a)(1)b. of Article~~
- 196 ~~V, one circuit judge and one county judge as set forth in s.~~

197 ~~12(a)(1)a. of Article V shall expire on December 31, 2000.~~
 198 ~~3. Group III. The terms of five members, composed of two~~
 199 ~~electors as set forth in s. 12(a)(1)c. of Article V, one member~~
 200 ~~of the bar of Florida as set forth in s. 12(a)(1)b., one judge~~
 201 ~~from the district courts of appeal and one county judge as set~~
 202 ~~forth in s. 12(a)(1)a. of Article V, shall expire on December~~
 203 ~~31, 2002.~~

204 h. An appointment to fill a vacancy of the commission
 205 shall be for the remainder of the term.

206 i. Selection of members by district courts of appeal
 207 judges, circuit judges, and county court judges, shall be by no
 208 less than a majority of the members voting at the respective
 209 courts' conferences. Selection of members by the board of
 210 governors of the bar of Florida shall be by no less than a
 211 majority of the board.

212 j. The commission shall be entitled to recover the costs
 213 of investigation and prosecution, in addition to any penalty
 214 levied by the supreme court.

215 k. The compensation of members and referees shall be the
 216 travel expenses or transportation and per diem allowance as
 217 provided by general law.

218
 219 BE IT FURTHER RESOLVED that the following statement be
 220 placed on the ballot:

221 CONSTITUTIONAL AMENDMENT

222 ARTICLE V, SECTION 12

223 OPEN RECORDS OF THE JUDICIAL QUALIFICATOINS COMMISSION.—

224 Proposing an amendment to the State Constitution to provide that

225 all records, materials, and proceedings related to complaints
 226 and investigations of the judicial qualifications commission not
 227 otherwise exempt from disclosure shall be public upon the filing
 228 of formal charges against the judge or upon a determination by
 229 the commission or investigative panel that formal charges will
 230 not be filed against the judge.

231 Under current law, records, materials, and proceedings
 232 relating to complaints and investigations of the judicial
 233 qualifications commission do not become public unless formal
 234 charges are filed against the judge. This amendment makes most
 235 records, materials, and proceedings open for public inspection
 236 and review once the commission makes a determination whether or
 237 not to file formal charges against the judge. However, general
 238 public records exemption laws applicable to the judicial branch
 239 will continue to apply to records of the commission. This
 240 provision shall apply to all records, materials currently in
 241 possession of the commission and all records, materials, and
 242 proceedings subsequently created or held.

243 This proposed amendment also removes outdated provisions
 244 related to the Judicial Qualifications Commission.

House Joint Resolution

A joint resolution proposing an amendment to Sections 1, 2, 3, 4, 7, 8, 9 and 11 of Article V, creating Section 21 of Article V, and amending Section 2 of Article II, Section 17 of Article III, and Section 1 of Article IV, of the State Constitution to create a supreme court of civil appeals and a supreme court of criminal appeals; providing for administration of the courts; providing for transition from the supreme court.

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

That the following amendments to Sections 1, 2, 3, 4, 7, 8, 9, 11, 12 and 15 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

SECTION 1. Courts.—The judicial power shall be vested in a supreme court of civil appeals, supreme court of criminal appeals, district courts of appeal, circuit courts and county courts. No other courts may be established by the state, any political subdivision or any municipality. The legislature shall, by general law, divide the state into appellate court districts and judicial circuits following county lines.

Commissions established by law, or administrative officers or

29 bodies may be granted quasi-judicial power in matters connected
 30 with the functions of their offices. The legislature may
 31 establish by general law a civil traffic hearing officer system
 32 for the purpose of hearing civil traffic infractions. The
 33 legislature may, by general law, authorize a military court-
 34 martial to be conducted by military judges of the Florida
 35 National Guard, with direct appeal of a decision to the District
 36 Court of Appeal, First District.

37 SECTION 2. Administration; practice and procedure.—

38 (a) The supreme court of civil appeals shall adopt rules
 39 for the practice and procedure in all civil court proceedings
 40 and appeals. ~~courts~~ The supreme court of criminal appeals shall
 41 adopt rules for the practice and procedure in criminal court
 42 proceedings and appeals. Court rules may include rules regarding
 43 ~~including~~ the time for seeking appellate review, ~~the~~
 44 ~~administrative supervision of all courts,~~ the transfer to the
 45 court having jurisdiction of any proceeding when the
 46 jurisdiction of another court has been improvidently invoked,
 47 and a requirement that no cause shall be dismissed because an
 48 improper remedy has been sought. The supreme court of criminal
 49 appeals shall adopt rules to allow the supreme court of criminal
 50 appeals and the district courts of appeal to submit questions
 51 relating to military law to the federal Court of Appeals for the
 52 Armed Forces for an advisory opinion. Rules of court may be
 53 repealed by general law enacted by two-thirds vote of the
 54 membership of each house of the legislature.

55 (b) The chief justice of the supreme court of civil
 56 appeals shall be chosen by the governor with the advice and

57 consent of the senate ~~a majority of the members of the court;~~
 58 shall be the chief administrative officer of the supreme court
 59 of civil appeals ~~judicial system~~; and shall have the power to
 60 assign justices or judges, including consenting retired justices
 61 or judges, to temporary duty in any court for which the judge is
 62 qualified and to delegate to a chief judge of a judicial circuit
 63 the power to assign judges for duty in that circuit. The chief
 64 justice of the supreme court of criminal appeals shall be chosen
 65 by the governor with the advice and consent of the senate and
 66 shall be the chief administrative officer of the supreme court
 67 of criminal appeals.

68 (c) A chief judge for each district court of appeal shall
 69 be chosen by a majority of the judges thereof ~~or, if there is no~~
 70 ~~majority, by the chief justice.~~ The chief judge of a district
 71 court shall be responsible for the administrative supervision of
 72 the district court.

73 (d) A chief judge in each circuit shall be chosen from
 74 among the circuit judges as provided by ~~supreme~~ court rule. The
 75 chief judge of a circuit shall be responsible for the
 76 administrative supervision of the circuit courts and county
 77 courts in the ~~his~~ circuit.

78 (e) Administration of the court system shall be as provided
 79 in general law.

80 SECTION 3. Supreme court of civil appeals; supreme court
 81 of criminal appeals.-

82 (a) SUPREME COURT OF CIVIL APPEALS.-

83 (1)(a) Organization.-The supreme court of civil appeals
 84 shall consist of five ~~seven~~ justices. Of the five ~~seven~~

85 justices, each appellate district shall have at least one
 86 justice ~~elected or~~ appointed from the district to the supreme
 87 court of civil appeals who is a resident of the district at the
 88 time of the original appointment ~~or election~~. Four ~~Five~~ justices
 89 shall constitute a quorum. The concurrence of three ~~four~~
 90 justices shall be necessary to a decision. When recusals for
 91 cause would prohibit the court from convening because of the
 92 requirements of this section, judges assigned to temporary duty
 93 may be substituted for justices.

94 (2)(b) Jurisdiction.—The supreme court of civil appeals
 95 shall have jurisdiction over the civil law, as provided in
 96 general law.÷

97 ~~(1) Shall hear appeals from final judgments of trial~~
 98 ~~courts imposing the death penalty and from decisions of district~~
 99 ~~courts of appeal declaring invalid a state statute or a~~
 100 ~~provision of the state constitution.~~

101 ~~(2) When provided by general law, shall hear appeals from~~
 102 ~~final judgments entered in proceedings for the validation of~~
 103 ~~bonds or certificates of indebtedness and shall review action of~~
 104 ~~statewide agencies relating to rates or service of utilities~~
 105 ~~providing electric, gas, or telephone service.~~

106 ~~(3) May review any decision of a district court of appeal~~
 107 ~~that expressly declares valid a state statute, or that expressly~~
 108 ~~construes a provision of the state or federal constitution, or~~
 109 ~~that expressly affects a class of constitutional or state~~
 110 ~~officers, or that expressly and directly conflicts with a~~
 111 ~~decision of another district court of appeal or of the supreme~~
 112 ~~court on the same question of law.~~

113 ~~(4) May review any decision of a district court of appeal~~
 114 ~~that passes upon a question certified by it to be of great~~
 115 ~~public importance, or that is certified by it to be in direct~~
 116 ~~conflict with a decision of another district court of appeal.~~

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

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

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

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

131 ~~(9) May, or any justice may, issue writs of habeas corpus~~
 132 ~~returnable before the supreme court or any justice, a district~~
 133 ~~court of appeal or any judge thereof, or any circuit judge.~~

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

138 (b) SUPREME COURT OF CRIMINAL APPEALS.—

139 (1) Organization.—The supreme court of criminal appeals
 140 shall consist of five justices. Of the five justices, each

141 appellate district shall have at least one justice appointed
 142 from the district to the supreme court of criminal appeals who
 143 is a resident of the district at the time of the original
 144 appointment. Four justices shall constitute a quorum. The
 145 concurrence of three justices shall be necessary to a decision.
 146 When recusals for cause would prohibit the court from convening
 147 because of the requirements of this section, judges assigned to
 148 temporary duty may be substituted for justices.

149 (2) Jurisdiction.—The supreme court of criminal appeals
 150 shall have jurisdiction over the criminal law, as provided in
 151 general law.

152 (c) RELATIONSHIP BETWEEN COURTS.—

153 (1) The supreme court of civil appeals and the supreme
 154 court of criminal appeals are to be separate courts of last
 155 resort, generally equal in power and dignity except as provided
 156 herein. All justices receive the same compensation. General law
 157 may provide a means by which administrative disputes between the
 158 supreme courts shall be resolved.

159 (2) If both courts asserts jurisdiction over a particular
 160 case, the chief justice of the court of civil appeals shall
 161 decide where jurisdiction is appropriate. ~~CLERK AND MARSHAL.—The~~
 162 ~~supreme court shall appoint a clerk and a marshal who shall hold~~
 163 ~~office during the pleasure of the court and perform such duties~~
 164 ~~as the court directs. Their compensation shall be fixed by~~
 165 ~~general law. The marshal shall have the power to execute the~~
 166 ~~process of the court throughout the state, and in any county may~~
 167 ~~deputize the sheriff or a deputy sheriff for such purpose.~~

168 SECTION 4. District courts of appeal.—

169 (a) ORGANIZATION.—There shall be a district court of
 170 appeal serving each appellate district. Each district court of
 171 appeal shall consist of at least three judges. Three judges
 172 shall consider each case and the concurrence of two shall be
 173 necessary to a decision.

174 (b) JURISDICTION.—

175 (1) District courts of appeal shall have jurisdiction to
 176 hear appeals, that may be taken as a matter of right, from final
 177 judgments or orders of trial courts, including those entered on
 178 review of administrative action, not directly appealable to the
 179 supreme court of civil appeals, the supreme court of criminal
 180 appeals, or a circuit court. They may review interlocutory
 181 orders in such cases to the extent provided by court rule ~~rules~~
 182 ~~adopted by the supreme court.~~

183 (2) District courts of appeal shall have the power of
 184 direct review of administrative action, as prescribed by general
 185 law.

186 (3) A district court of appeal or any judge thereof may
 187 issue writs of habeas corpus returnable before the court or any
 188 judge thereof or before any circuit judge within the territorial
 189 jurisdiction of the court. A district court of appeal may issue
 190 writs of mandamus, certiorari, prohibition, quo warranto, and
 191 other writs necessary to the complete exercise of its
 192 jurisdiction. To the extent necessary to dispose of all issues
 193 in a cause properly before it, a district court of appeal may
 194 exercise any of the appellate jurisdiction of the circuit
 195 courts.

196 ~~(c) CLERKS AND MARSHALS. Each district court of appeal~~
 197 ~~shall appoint a clerk and a marshal who shall hold office during~~
 198 ~~the pleasure of the court and perform such duties as the court~~
 199 ~~directs. Their compensation shall be fixed by general law. The~~
 200 ~~marshal shall have the power to execute the process of the court~~
 201 ~~throughout the territorial jurisdiction of the court, and in any~~
 202 ~~county may deputize the sheriff or a deputy sheriff for such~~
 203 ~~purpose.~~

204 SECTION 7. Specialized divisions.—All courts except the
 205 supreme court of civil appeals or the supreme court of criminal
 206 appeals may sit in divisions as may be established by general
 207 law. A circuit or county court may hold civil and criminal
 208 trials and hearings in any place within the territorial
 209 jurisdiction of the court as designated by the chief judge of
 210 the circuit.

211 SECTION 8. Eligibility.—No person shall be eligible for
 212 office of justice or judge of any court unless the person is an
 213 elector of the state and resides in the territorial jurisdiction
 214 of the court. No justice or judge shall serve after attaining
 215 the age of seventy years except upon temporary assignment or to
 216 complete a term, one-half of which has been served. No person is
 217 eligible for the office of justice of the supreme court of civil
 218 appeals, justice of the supreme court of criminal appeals, or
 219 judge of a district court of appeal unless the person is, and
 220 has been for the preceding ten years, a member of the bar of
 221 Florida. No person is eligible for the office of circuit judge
 222 unless the person is, and has been for the preceding five years,
 223 a member of the bar of Florida. Unless otherwise provided by

224 | general law, no person is eligible for the office of county
 225 | court judge unless the person is, and has been for the preceding
 226 | five years, a member of the bar of Florida. Unless otherwise
 227 | provided by general law, a person shall be eligible for election
 228 | or appointment to the office of county court judge in a county
 229 | having a population of 40,000 or less if the person is a member
 230 | in good standing of the bar of Florida.

231 | SECTION 9. Determination of number of judges.—The supreme
 232 | courts ~~court~~ shall establish ~~by rule~~ uniform criteria for the
 233 | determination of the need for additional judges except supreme
 234 | court justices, the necessity for decreasing the number of
 235 | judges and for increasing, decreasing or redefining appellate
 236 | districts and judicial circuits. If the supreme courts jointly
 237 | find ~~court finds~~ that a need exists for increasing or decreasing
 238 | the number of judges or increasing, decreasing or redefining
 239 | appellate districts and judicial circuits, they ~~it~~ shall, prior
 240 | to the next regular session of the legislature, certify to the
 241 | legislature their ~~its~~ findings and recommendations concerning
 242 | such need. Upon receipt of such certificate, the legislature, at
 243 | the next regular session, shall consider the findings and
 244 | recommendations and may reject the recommendations or by law
 245 | implement the recommendations in whole or in part; provided the
 246 | legislature may create more judicial offices than are
 247 | recommended ~~by the supreme court~~ or may decrease the number of
 248 | judicial offices by a greater number than recommended ~~by the~~
 249 | ~~court~~ only upon a finding of two-thirds of the membership of
 250 | both houses of the legislature, that such a need exists. A
 251 | decrease in the number of judges shall be effective only after

252 the expiration of a term. If the supreme courts fail ~~court fails~~
 253 to make findings as provided above when need exists, the
 254 legislature may by concurrent resolution request the courts
 255 ~~court~~ to jointly certify their ~~its~~ findings and recommendations
 256 and upon the failure of the courts ~~court~~ to certify their ~~its~~
 257 findings for nine consecutive months, the legislature may, upon
 258 a finding of two-thirds of the membership of both houses of the
 259 legislature that a need exists, increase or decrease the number
 260 of judges or increase, decrease or redefine appellate districts
 261 and judicial circuits.

262 SECTION 11. Vacancies.—

263 (a) Whenever a vacancy occurs in a judicial office to
 264 which election for retention applies, the governor shall fill
 265 the vacancy by appointing for a term ending on the first Tuesday
 266 after the first Monday in January of the year following the next
 267 general election occurring at least one year after the date of
 268 appointment, one of not fewer than three persons nor more than
 269 six persons nominated by the appropriate judicial nominating
 270 commission.

271 (b) The governor shall fill each vacancy on a circuit
 272 court or on a county court, wherein the judges are elected by a
 273 majority vote of the electors, by appointing for a term ending
 274 on the first Tuesday after the first Monday in January of the
 275 year following the next primary and general election occurring
 276 at least one year after the date of appointment, one of not
 277 fewer than three persons nor more than six persons nominated by
 278 the appropriate judicial nominating commission. An election

279 shall be held to fill that judicial office for the term of the
 280 office beginning at the end of the appointed term.

281 (c) The nominations shall be made within thirty days from
 282 the occurrence of a vacancy unless the period is extended by the
 283 governor for a time not to exceed thirty days. The governor
 284 shall make the appointment within sixty days after the
 285 nominations have been certified to the governor.

286 (d) There shall be a separate judicial nominating
 287 commission as provided by general law, one for the supreme
 288 courts ~~court~~, one for each district court of appeal, and one for
 289 each judicial circuit for all trial courts within the circuit.
 290 Uniform rules of procedure shall be established by the judicial
 291 nominating commissions at each level of the court system. Such
 292 rules, or any part thereof, may be repealed by general law
 293 enacted by a majority vote of the membership of each house of
 294 the legislature, or by a majority vote of justices of the
 295 supreme courts ~~court~~, ~~five justices concurring~~. Except for
 296 deliberations of the judicial nominating commissions, the
 297 proceedings of the commissions and their records shall be open
 298 to the public.

299 SECTION 12. Discipline; removal and retirement.-

300 (a) JUDICIAL QUALIFICATIONS COMMISSION.-A judicial
 301 qualifications commission is created.

302 (1) There shall be a judicial qualifications commission
 303 vested with jurisdiction to investigate and recommend to the
 304 supreme court of criminal appeals ~~Supreme Court of Florida~~ the
 305 removal from office of any justice or judge whose conduct,
 306 during term of office or otherwise occurring on or after

307 November 1, 1966, (without regard to the effective date of this
 308 section) demonstrates a present unfitness to hold office, and to
 309 investigate and recommend the discipline of a justice or judge
 310 whose conduct, during term of office or otherwise occurring on
 311 or after November 1, 1966 (without regard to the effective date
 312 of this section), warrants such discipline. For purposes of this
 313 section, discipline is defined as any or all of the following:
 314 reprimand, fine, suspension with or without pay, or lawyer
 315 discipline. The commission shall have jurisdiction over justices
 316 and judges regarding allegations that misconduct occurred before
 317 or during service as a justice or judge if a complaint is made
 318 no later than one year following service as a justice or judge.
 319 The commission shall have jurisdiction regarding allegations of
 320 incapacity during service as a justice or judge. The commission
 321 shall be composed of:

322 a. Two judges of district courts of appeal selected by the
 323 judges of those courts, two circuit judges selected by the
 324 judges of the circuit courts and two judges of county courts
 325 selected by the judges of those courts;

326 b. Four electors who reside in the state, who are members
 327 of the bar of Florida, and who shall be chosen by the governing
 328 body of the bar of Florida; and

329 c. Five electors who reside in the state, who have never
 330 held judicial office or been members of the bar of Florida, and
 331 who shall be appointed by the governor.

332 (2) The members of the judicial qualifications commission
 333 shall serve staggered terms, not to exceed six years, as
 334 prescribed by general law. No member of the commission except a

335 judge shall be eligible for state judicial office while acting
 336 as a member of the commission and for a period of two years
 337 thereafter. No member of the commission shall hold office in a
 338 political party or participate in any campaign for judicial
 339 office or hold public office; provided that a judge may campaign
 340 for judicial office and hold that office. The commission shall
 341 elect one of its members as its chairperson.

342 (3) Members of the judicial qualifications commission not
 343 subject to impeachment shall be subject to removal from the
 344 commission pursuant to the provisions of Article IV, Section 7,
 345 Florida Constitution.

346 (4) The commission shall adopt rules regulating its
 347 proceedings, the filling of vacancies by the appointing
 348 authorities, the disqualification of members, the rotation of
 349 members between the panels, and the temporary replacement of
 350 disqualified or incapacitated members. The commission's rules,
 351 or any part thereof, may be repealed by general law enacted by a
 352 majority vote of the membership of each house of the
 353 legislature, or by the supreme court of criminal appeals, ~~five~~
 354 ~~justices concurring~~. The commission shall have power to issue
 355 subpoenas. Until formal charges against a justice or judge are
 356 filed by the investigative panel with the clerk of the supreme
 357 court of Florida all proceedings by or before the commission
 358 shall be confidential; provided, however, upon a finding of
 359 probable cause and the filing by the investigative panel with
 360 said clerk of such formal charges against a justice or judge
 361 such charges and all further proceedings before the commission
 362 shall be public.

363 (5) The commission shall have access to all information
 364 from all executive, legislative and judicial agencies, including
 365 grand juries, subject to the rules of the commission. At any
 366 time, on request of the speaker of the house of representatives
 367 or the governor, the commission shall make available all
 368 information in the possession of the commission for use in
 369 consideration of impeachment or suspension, respectively.

370 (b) PANELS.—The commission shall be divided into an
 371 investigative panel and a hearing panel as established by rule
 372 of the commission. The investigative panel is vested with the
 373 jurisdiction to receive or initiate complaints, conduct
 374 investigations, dismiss complaints, and upon a vote of a simple
 375 majority of the panel submit formal charges to the hearing
 376 panel. The hearing panel is vested with the authority to receive
 377 and hear formal charges from the investigative panel and upon a
 378 two-thirds vote of the panel recommend to the supreme court of
 379 criminal appeals the removal of a justice or judge or the
 380 involuntary retirement of a justice or judge for any permanent
 381 disability that seriously interferes with the performance of
 382 judicial duties. Upon a simple majority vote of the membership
 383 of the hearing panel, the panel may recommend to the supreme
 384 court of criminal appeals that the justice or judge be subject
 385 to appropriate discipline.

386 (c) SUPREME COURT OF CRIMINAL APPEALS.—The supreme court
 387 of criminal appeals shall receive recommendations from the
 388 judicial qualifications commission's hearing panel.

389 (1) The supreme court of criminal appeals may accept,
 390 reject, or modify in whole or in part the findings, conclusions,

391 and recommendations of the commission and it may order that the
 392 justice or judge be subjected to appropriate discipline, or be
 393 removed from office with termination of compensation for willful
 394 or persistent failure to perform judicial duties or for other
 395 conduct unbecoming a member of the judiciary demonstrating a
 396 present unfitness to hold office, or be involuntarily retired
 397 for any permanent disability that seriously interferes with the
 398 performance of judicial duties. Malafides, scienter or moral
 399 turpitude on the part of a justice or judge shall not be
 400 required for removal from office of a justice or judge whose
 401 conduct demonstrates a present unfitness to hold office. After
 402 the filing of a formal proceeding and upon request of the
 403 investigative panel, the supreme court of criminal appeals may
 404 suspend the justice or judge from office, with or without
 405 compensation, pending final determination of the inquiry.

406 (2) The supreme court of criminal appeals may award costs
 407 to the prevailing party.

408 (d) The power of removal conferred by this section shall
 409 be both alternative and cumulative to the power of impeachment.

410 (e) Notwithstanding any of the foregoing provisions of
 411 this section, if the person who is the subject of proceedings by
 412 the judicial qualifications commission is a justice of the
 413 supreme court of criminal appeals, ~~Florida all justices of such~~
 414 ~~court automatically shall be disqualified to sit as justices of~~
 415 ~~such court with respect to all proceedings therein concerning~~
 416 ~~such person and the supreme court of civil appeals shall hear~~
 417 ~~the case for such purposes shall be composed of a panel~~
 418 ~~consisting of the seven chief judges of the judicial circuits of~~

419 ~~the state of Florida most senior in tenure of judicial office as~~
 420 ~~circuit judge. For purposes of determining seniority of such~~
 421 ~~circuit judges in the event there be judges of equal tenure in~~
 422 ~~judicial office as circuit judge the judge or judges from the~~
 423 ~~lower numbered circuit or circuits shall be deemed senior. In~~
 424 ~~the event any such chief circuit judge is under investigation by~~
 425 ~~the judicial qualifications commission or is otherwise~~
 426 ~~disqualified or unable to serve on the panel, the next most~~
 427 ~~senior chief circuit judge or judges shall serve in place of~~
 428 ~~such disqualified or disabled chief circuit judge.~~

429 (f) SCHEDULE TO SECTION 12.—

430 (1) Except to the extent inconsistent with the provisions
 431 of this section, all provisions of law and rules of court in
 432 force on the effective date of this article shall continue in
 433 effect until superseded in the manner authorized by the
 434 constitution.

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

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

440 b. The investigative panel shall be composed of:

- 441 1. Four judges,
- 442 2. Two members of the bar of Florida, and
- 443 3. Three non-lawyers.

444 c. The hearing panel shall be composed of:

- 445 1. Two judges,
- 446 2. Two members of the bar of Florida, and

447 3. Two non-lawyers.

448 d. Membership on the panels may rotate in a manner

449 determined by the rules of the commission provided that no

450 member shall vote as a member of the investigative and hearing

451 panel on the same proceeding.

452 e. The commission shall hire separate staff for each

453 panel.

454 f. The members of the commission shall serve for staggered

455 terms of six years.

456 g. The terms of office of the present members of the

457 judicial qualifications commission shall expire upon the

458 effective date of the amendments to this section approved by the

459 legislature during the regular session of the legislature in

460 1996 and new members shall be appointed to serve the following

461 staggered terms:

462 1. Group I.—The terms of five members, composed of two

463 electors as set forth in s. 12(a)(1)c. of Article V, one member

464 of the bar of Florida as set forth in s. 12(a)(1)b. of Article

465 V, one judge from the district courts of appeal and one circuit

466 judge as set forth in s. 12(a)(1)a. of Article V, shall expire

467 on December 31, 1998.

468 2. Group II.—The terms of five members, composed of one

469 elector as set forth in s. 12(a)(1)c. of Article V, two members

470 of the bar of Florida as set forth in s. 12(a)(1)b. of Article

471 V, one circuit judge and one county judge as set forth in s.

472 12(a)(1)a. of Article V shall expire on December 31, 2000.

473 3. Group III.—The terms of five members, composed of two

474 electors as set forth in s. 12(a)(1)c. of Article V, one member

475 of the bar of Florida as set forth in s. 12(a)(1)b., one judge
 476 from the district courts of appeal and one county judge as set
 477 forth in s. 12(a)(1)a. of Article V, shall expire on December
 478 31, 2002.

479 h. An appointment to fill a vacancy of the commission
 480 shall be for the remainder of the term.

481 i. Selection of members by district courts of appeal
 482 judges, circuit judges, and county court judges, shall be by no
 483 less than a majority of the members voting at the respective
 484 courts' conferences. Selection of members by the board of
 485 governors of the bar of Florida shall be by no less than a
 486 majority of the board.

487 j. The commission shall be entitled to recover the costs
 488 of investigation and prosecution, in addition to any penalty
 489 levied by the supreme court hearing the case.

490 k. The compensation of members and referees shall be the
 491 travel expenses or transportation and per diem allowance as
 492 provided by general law.

493 SECTION 15. Attorneys; admission and discipline.—The
 494 supreme court of civil appeals shall have exclusive jurisdiction
 495 to regulate the admission of persons to the practice of law and
 496 the discipline of persons admitted.

497 SECTION 21. Schedule to Article V amendment creating a
 498 supreme court of civil appeals and a supreme court of criminal
 499 appeals.—

500 (a) Except to the extent inconsistent with the provisions
 501 of this article, all provisions of law and rules of court in
 502 force on the effective date of this article shall continue in

503 effect until superseded in the manner authorized by the
 504 constitution.

505 (b) The effective date of the amendment creating the
 506 supreme court of criminal appeals and supreme court of civil
 507 appeals shall be upon passage by the electorate.

508 (1) On the first day after the election approving the
 509 amendment, the supreme court shall rank all of the justices then
 510 in office by seniority. The three who have the most seniority
 511 shall be the initial justices of the supreme court of criminal
 512 appeals, and the remaining justices shall be the initial
 513 justices of the supreme court of civil appeals. Initial
 514 appointments of existing justices to either of the new supreme
 515 courts shall not be limited by the district court that the
 516 justice was appointed from. The supreme court shall immediately
 517 transmit to the Governor the names of those justices and the
 518 districts they were appointed from. The Governor shall direct
 519 the supreme court nominating commission to make its
 520 recommendations for the open seats of justices for the supreme
 521 court of civil appeals and for the supreme court of criminal
 522 appeals, which recommendations must be delivered to the governor
 523 no later than the 45th day after the election. The governor
 524 shall make the appointments by the 60th day after the election.
 525 At the time of making the initial appointments the governor
 526 shall also designate the chief justices of each court, which
 527 appointment in this instance shall not be subject in the advice
 528 and consent of the senate.

529 (2) The supreme court shall undertake to inventory all
 530 cases and case files in its possession and determine as to each

531 case whether it is to be transferred to the supreme court of
 532 criminal appeals or the supreme court of civil appeals. Newly
 533 filed cases will be designated between the two new supreme
 534 courts. The supreme court shall retain full jurisdiction and
 535 power over cases in the inventory until actually transferred,
 536 including the power to issue final process which would have the
 537 effect of removing the case from the inventory of cases to be
 538 transferred.

539 (c) The supreme court of civil appeals and the supreme
 540 court of criminal appeals shall begin formal operations on the
 541 120th day after the election. On that day:

542 (1) Newly appointed justices shall take office.

543 (2) The jurisdiction of the two supreme courts shall be
 544 divided.

545 (3) The supreme court shall transfer all criminal cases to
 546 the supreme court of criminal appeals and shall transfer all
 547 civil cases to the supreme court of civil appeals.

548 (4) The term of the supreme court shall be deemed to have
 549 ended. All mandates issued by the supreme court prior to the
 550 end of the term shall be final and not subject to recall.

551 (d) Prior supreme court precedent shall be accorded
 552 appropriate respect by the supreme court of civil appeals and
 553 the supreme court of criminal appeals under the common law
 554 doctrine of stare decisis.

555 (e) Until the jurisdiction of the supreme court of civil
 556 appeals is provided in general law, the supreme court of civil
 557 appeals:

558 (1) Shall hear appeals from decisions of district courts
 559 of appeal declaring invalid a state statute or a provision of
 560 the state constitution, unless such appeal is within the
 561 jurisdiction of the supreme court of criminal appeals.

562 (2) When provided by general law, shall hear appeals from
 563 final judgments entered in proceedings for the validation of
 564 bonds or certificates of indebtedness and shall review action of
 565 statewide agencies relating to rates or service of utilities
 566 providing electric, gas, or telephone service.

567 (3) May review any decision of a district court of appeal
 568 that expressly declares valid a state statute, or that expressly
 569 construes a provision of the state or federal constitution, or
 570 that expressly affects a class of constitutional or state
 571 officers, or that expressly and directly conflicts with a
 572 decision of another district court of appeal, of the former
 573 supreme court, or of the supreme court of civil appeals on the
 574 same question of law, unless such appeal is within the
 575 jurisdiction of the supreme court of criminal appeals.

576 (4) May review any decision of a district court of appeal
 577 that passes upon a question certified by it to be of great
 578 public importance, or that is certified by it to be in direct
 579 conflict with a decision of another district court of appeal,
 580 unless such appeal is within the jurisdiction of the supreme
 581 court of criminal appeals.

582 (5) May review any order or judgment of a trial court
 583 certified by the district court of appeal in which an appeal is
 584 pending to be of great public importance, or to have a great
 585 effect on the proper administration of justice throughout the

586 state, and certified to require immediate resolution by the
 587 supreme court, unless such appeal is within the jurisdiction of
 588 the supreme court of criminal appeals.

589 (6) May review a question of law certified by the Supreme
 590 Court of the United States or a United States Court of Appeals
 591 which is determinative of the cause and for which there is no
 592 controlling precedent of the former supreme court of Florida or
 593 of the supreme court of civil appeals, unless such question is
 594 within the jurisdiction of the supreme court of criminal
 595 appeals.

596 (7) May issue writs of prohibition to courts and all writs
 597 necessary to the complete exercise of its jurisdiction, unless
 598 the writ is within the jurisdiction of the supreme court of
 599 criminal appeals.

600 (8) May issue writs of mandamus and quo warranto to state
 601 officers and state agencies, unless the writ is within the
 602 jurisdiction of the supreme court of criminal appeals.

603 (9) May, or any justice may, issue writs of habeas corpus
 604 returnable before the supreme court of civil appeals or any
 605 justice thereof, a district court of appeal or any judge
 606 thereof, or any circuit judge. Neither the supreme court of
 607 civil appeals nor any justice of the supreme court of civil
 608 appeals shall issue a writ of habeas corpus regarding any person
 609 under a sentence of death, any person imprisoned for commission
 610 of a crime, or any person jailed facing criminal charges.

611 (10) Shall, when requested by the attorney general
 612 pursuant to the provisions of Section 10 of Article IV, and if

613 related to a civil matter, render an advisory opinion of the
 614 justices, addressing issues as provided by general law.

615 (11) Shall have no jurisdiction or authority, whether
 616 express or implied, to issue a stay of execution or to hear any
 617 challenge of any law or procedure regarding the death penalty.

618 (f) Until the jurisdiction of the supreme court of criminal
 619 appeals is provided by general law, the supreme court of
 620 criminal appeals:

621 (1) Shall hear appeals from final judgments of trial
 622 courts imposing the death penalty.

623 (2) Shall hear appeals from decisions of district courts
 624 of appeal declaring invalid a state statute or a provision of
 625 the state constitution, in a criminal case.

626 (3) May review any decision of a district court of appeal
 627 that expressly declares valid a state statute, or that expressly
 628 construes a provision of the state or federal constitution, or
 629 that expressly affects a class of constitutional or state
 630 officers, or that expressly and directly conflicts with a
 631 decision of another district court of appeal or of the supreme
 632 court on the same question of law, in a criminal case.

633 (4) May review any decision of a district court of appeal
 634 that passes upon a question certified by it to be of great
 635 public importance, or that is certified by it to be in direct
 636 conflict with a decision of another district court of appeal, in
 637 a criminal case.

638 (5) May review any order or judgment of a trial court
 639 certified by the district court of appeal in which an appeal is
 640 pending to be of great public importance, or to have a great

641 effect on the proper administration of justice throughout the
 642 state, and certified to require immediate resolution by the
 643 court of criminal appeals, in a criminal case.

644 (6) May review a question of law certified by the Supreme
 645 Court of the United States or a United States Court of Appeals
 646 which is determinative of the cause and for which there is no
 647 controlling precedent of the former supreme court or the supreme
 648 court of criminal appeals, in a criminal case.

649 (7) May issue writs of prohibition to courts and all writs
 650 necessary to the complete exercise of its jurisdiction, related
 651 to a criminal case.

652 (8) May issue writs of mandamus and quo warranto to state
 653 officers and state agencies, related to a criminal case.

654 (9) May, or any justice may, issue writs of habeas corpus
 655 returnable before the supreme court of criminal appeals or any
 656 justice thereof, a district court of appeal or any judge
 657 thereof, or any circuit judge. The power to issue a writ of
 658 habeas corpus under this sub-paragraph applies to any person
 659 under a sentence of death, any person imprisoned for commission
 660 of a crime, any person jailed facing criminal charges, or any
 661 person who cannot seek the writ from the supreme court of civil
 662 appeals because the supreme court of civil appeals lacks
 663 jurisdiction. Neither the supreme court of criminal appeals nor
 664 any justice of the supreme court of criminal appeals shall issue
 665 a writ of habeas corpus regarding any person held in civil
 666 confinement.

667 (10) Shall, when requested by the attorney general
 668 pursuant to the provisions of Section 10 of Article IV, and if

669 related to a criminal case, render an advisory opinion of the
 670 justices, addressing issues as provided by general law.

671 (11) May hear any challenge to the constitutionality of the
 672 death penalty, any challenge to the method of carrying out the
 673 death penalty, or any request for a stay of a death penalty.

674 (g) For purposes of interpreting the jurisdiction of the
 675 supreme court of civil appeals and the supreme court of the
 676 criminal appeals, until such jurisdiction is defined in general
 677 law:

678 (1) The term "criminal case" shall be defined to mean any
 679 case or controversy primarily involving felonies, misdemeanors,
 680 criminal law, criminal penalties, criminal procedure, or any
 681 related action regarding the interpretation of or resolution of
 682 matters directly affecting the criminal law. Criminal cases are
 683 within the jurisdiction of the supreme court of criminal
 684 appeals.

685 (2) A tort or contract case or controversy alleging civil
 686 damages resulting from criminal activity is not a criminal case.

687 (3) Confinement for the purpose of evaluation and treatment
 688 of a mentally ill person is not a criminal case unless the
 689 confinement is related to the commission of a criminal offense
 690 by an adult.

691 (4) Confinement related to contempt of court is a civil
 692 case even if the contempt occurred during a criminal case.

693 (5) Jurisdiction over juvenile delinquency shall be with
 694 the supreme court of civil appeals. In hearing such cases,
 695 supreme court of civil appeals shall abide by precedent of the

696 supreme court of criminal appeals when determining whether the
 697 minor has committed a delinquent act.

698 (6) Equitable relief related to the criminal law, including
 699 where a party seeks to enjoin application of a criminal penalty,
 700 shall be within the jurisdiction of the court of criminal
 701 appeals.

702 (h) The Florida Rules of Criminal Procedure, as adopted and
 703 amended as of the date that the supreme court of criminal
 704 appeals begins operation, shall be in full force and effect as
 705 if adopted by the supreme court of criminal appeals, subject to
 706 amendment or repeal. The Florida Rules of Appellate Procedure,
 707 as amended and adopted as of the date that the supreme court of
 708 criminal appeals begins operation, shall apply in criminal
 709 appeals, subject to adoption by the court of criminal appeals of
 710 appellate rules applicable to criminal appeals. All other court
 711 rules shall be in full force and effect as if adopted by the
 712 supreme court of civil appeals, subject to amendment or repeal.

713 (i) The legislature may by general law otherwise provide
 714 for the administrative transfer of employees, property, duties
 715 and functions from the former supreme court to the supreme court
 716 of civil appeals and the supreme court of criminal appeals.

717 (j) The legislature shall have power, by concurrent
 718 resolution, to delete from this article any subsection of this
 719 section 21 including this subsection, when all events to which
 720 the subsection to be deleted is or could become applicable have
 721 occurred.

722

723 And that the following amendment to Section 2 of Article II
 724 of the State Constitution is agreed to and shall be submitted to
 725 the electors of this state for approval or rejection at the next
 726 general election or at an earlier special election specifically
 727 authorized by law for that purpose:

728 ARTICLE II

729 GENERAL PROVISIONS

730 SECTION 2. Seat of government.—The seat of government
 731 shall be the City of Tallahassee, in Leon County, where the
 732 offices of the governor, lieutenant governor, cabinet members,
 733 supreme court of civil appeals, and the supreme court of
 734 criminal appeals shall be maintained and the sessions of the
 735 legislature shall be held; provided that, in time of invasion or
 736 grave emergency, the governor by proclamation may for the period
 737 of the emergency transfer the seat of government to another
 738 place.

739
 740 And that the following amendment to Section 17 of Article
 741 III of the State Constitution is agreed to and shall be
 742 submitted to the electors of this state for approval or
 743 rejection at the next general election or at an earlier special
 744 election specifically authorized by law for that purpose:

745 ARTICLE III

746 LEGISLATURE

747 SECTION 17. Impeachment.—

748 (a) The governor, lieutenant governor, members of the
 749 cabinet, justices of a ~~the~~ supreme court, judges of district
 750 courts of appeal, judges of circuit courts, and judges of county

751 courts shall be liable to impeachment for misdemeanor in office.
 752 The house of representatives by two-thirds vote shall have the
 753 power to impeach an officer. The speaker of the house of
 754 representatives shall have power at any time to appoint a
 755 committee to investigate charges against any officer subject to
 756 impeachment.

757 (b) An officer impeached by the house of representatives
 758 shall be disqualified from performing any official duties until
 759 acquitted by the senate, and, unless impeached, the governor may
 760 by appointment fill the office until completion of the trial.

761 (c) All impeachments by the house of representatives shall
 762 be tried by the senate. The chief justice of the supreme court
 763 of criminal appeals, or another justice of either supreme court
 764 designated by the chief justice of the supreme court of criminal
 765 appeals, shall preside at the trial, except in a trial of the
 766 chief justice of either supreme court, in which case the
 767 governor shall preside. The senate shall determine the time for
 768 the trial of any impeachment and may sit for the trial whether
 769 the house of representatives be in session or not. The time
 770 fixed for trial shall not be more than six months after the
 771 impeachment. During an impeachment trial senators shall be upon
 772 their oath or affirmation. No officer shall be convicted without
 773 the concurrence of two-thirds of the members of the senate
 774 present. Judgment of conviction in cases of impeachment shall
 775 remove the offender from office and, in the discretion of the
 776 senate, may include disqualification to hold any office of
 777 honor, trust or profit. Conviction or acquittal shall not affect
 778 the civil or criminal responsibility of the officer.

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And that the following amendment to Sections 1 and 4 of Article IV of the State Constitution is 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 IV
EXECUTIVE

SECTION 1. Governor.—

(a) The supreme executive power shall be vested in a governor, who shall be commander-in-chief of all military forces of the state not in active service of the United States. The governor shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of government. The governor may require information in writing from all executive or administrative state, county or municipal officers upon any subject relating to the duties of their respective offices. The governor shall be the chief administrative officer of the state responsible for the planning and budgeting for the state.

(b) The governor may initiate judicial proceedings in the name of the state against any executive or administrative state, county or municipal officer to enforce compliance with any duty or restrain any unauthorized act.

(c) The governor may request in writing the opinion of the justices of the appropriate ~~the~~ supreme court as to the interpretation of any portion of this constitution upon any question affecting the governor's executive powers and duties.

807 The justices shall, subject to their rules of procedure, permit
 808 interested persons to be heard on the questions presented and
 809 shall render their written opinion not earlier than ten days
 810 from the filing and docketing of the request, unless in their
 811 judgment the delay would cause public injury.

812 (d) The governor shall have power to call out the militia
 813 to preserve the public peace, execute the laws of the state,
 814 suppress insurrection, or repel invasion.

815 (e) The governor shall by message at least once in each
 816 regular session inform the legislature concerning the condition
 817 of the state, propose such reorganization of the executive
 818 department as will promote efficiency and economy, and recommend
 819 measures in the public interest.

820 (f) When not otherwise provided for in this constitution,
 821 the governor shall fill by appointment any vacancy in state or
 822 county office for the remainder of the term of an appointive
 823 office, and for the remainder of the term of an elective office
 824 if less than twenty-eight months, otherwise until the first
 825 Tuesday after the first Monday following the next general
 826 election.

827 SECTION 4. Cabinet.-

828 (a) There shall be a cabinet composed of an attorney
 829 general, a chief financial officer, and a commissioner of
 830 agriculture. In addition to the powers and duties specified
 831 herein, they shall exercise such powers and perform such duties
 832 as may be prescribed by law. In the event of a tie vote of the
 833 governor and cabinet, the side on which the governor voted shall
 834 be deemed to prevail.

835 (b) The attorney general shall be the chief state legal
 836 officer. There is created in the office of the attorney general
 837 the position of statewide prosecutor. The statewide prosecutor
 838 shall have concurrent jurisdiction with the state attorneys to
 839 prosecute violations of criminal laws occurring or having
 840 occurred, in two or more judicial circuits as part of a related
 841 transaction, or when any such offense is affecting or has
 842 affected two or more judicial circuits as provided by general
 843 law. The statewide prosecutor shall be appointed by the attorney
 844 general from not less than three persons nominated by the
 845 judicial nominating commission for the supreme courts ~~court~~, or
 846 as otherwise provided by general law.

847 (c) The chief financial officer shall serve as the chief
 848 fiscal officer of the state, and shall settle and approve
 849 accounts against the state, and shall keep all state funds and
 850 securities.

851 (d) The commissioner of agriculture shall have supervision
 852 of matters pertaining to agriculture except as otherwise
 853 provided by law.

854 (e) The governor as chair, the chief financial officer,
 855 and the attorney general shall constitute the state board of
 856 administration, which shall succeed to all the power, control,
 857 and authority of the state board of administration established
 858 pursuant to Article IX, Section 16 of the Constitution of 1885,
 859 and which shall continue as a body at least for the life of
 860 Article XII, Section 9(c).

861 (f) The governor as chair, the chief financial officer,
 862 the attorney general, and the commissioner of agriculture shall

863 constitute the trustees of the internal improvement trust fund
 864 and the land acquisition trust fund as provided by law.

865 (g) The governor as chair, the chief financial officer,
 866 the attorney general, and the commissioner of agriculture shall
 867 constitute the agency head of the Department of Law Enforcement.

868

869 BE IT FURTHER RESOLVED that the following statement be
 870 placed on the ballot:

871

CONSTITUTIONAL AMENDMENT

872

ARTICLE II, SECTION 2

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ARTICLE III, SECTION 17

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ARTICLE IV, SECTION 1

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ARTICLE V, SECTIONS 1, 2, 3, 4, 7, 8, 9, 11, 12, 15 AND 21

876

SUPREME COURT.—Proposing an amendment to the State

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Constitution to create a supreme court of criminal appeals and a
 878 supreme court of criminal appeals. Under current law, the

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Florida Supreme Court, consisting of 7 appointed justices, is

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the highest court in Florida, hearing both civil and criminal

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cases. This resolution would abolish the current Supreme Court

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and create a new supreme court of civil appeals and a new

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supreme court of criminal appeals. Each of the new supreme

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courts would have 5 appointed justices. The 3 most senior

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justices of the Florida Supreme Court would be transferred to

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the new supreme court of criminal appeals, the remaining 4

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current justices of the Florida Supreme Court would be

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transferred to the new supreme court of civil appeals, and the

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Governor will have to appoint 3 new justices to fill in openings

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in the 2 courts. The existing constitution creates the

891 jurisdiction of the Supreme Court, which jurisdiction can only
 892 be changed by constitutional amendment. This proposed amendment
 893 splits the jurisdiction between the two supreme courts to
 894 provide that the supreme court of civil appeals will have
 895 jurisdiction over civil matters, and the supreme court of
 896 criminal appeals will have jurisdiction over criminal matters.
 897 The amendment also provides that the jurisdictions of the
 898 supreme courts will be set in general law in the future and thus
 899 may be changed by general law in the future. The power of these
 900 new courts to issue a writ of habeas corpus is limited by this
 901 amendment. Currently, the Florida Supreme Court has jurisdiction
 902 over judicial discipline and the regulation of attorneys; this
 903 amendment places jurisdiction over judicial discipline with the
 904 supreme court of criminal appeals and jurisdiction over attorney
 905 regulation with the supreme court of civil appeals. The proposed
 906 amendment also creates a position of chief justice in each of
 907 the supreme courts, removes the positions of clerk and marshal
 908 from the constitution, provides for transition, and makes
 909 conforming changes in various sections of the constitution.