

ENROLLED



595-02936-14

20141188c1

Senate Joint Resolution **1188**

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

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

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

## ARTICLE V

## JUDICIARY

## SECTION 10. Retention; election and terms.—

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



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

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

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

55 (3)a. A vote to exercise a local option to select circuit  
56 court judges and county court judges by merit selection and  
57 retention rather than by election shall be held in each circuit  
58 and county at the general election in the year 2000. If a vote



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59 to exercise this local option fails in a vote of the electors,  
60 such option shall not again be put to a vote of the electors of  
61 that jurisdiction until the expiration of at least two years.

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

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

77 SECTION 11. Vacancies.-

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

86 (2) Whenever a prospective vacancy occurs in a judicial  
87 office for which election for retention applies, the governor



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

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

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

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



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may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

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

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTIONS 10, 11

PROSPECTIVE APPOINTMENT OF CERTAIN JUDICIAL VACANCIES. -

Proposing an amendment to the State Constitution requiring the Governor to prospectively fill vacancies in a judicial office to which election for retention applies resulting from the justice's or judge's reaching the mandatory retirement age or failure to qualify for a retention election; and allowing prospective appointments if a justice or judge is not retained at an election. Currently, the Governor may not fill an expected vacancy until the current justice's or judge's term expires.

Filed in Office of the Secretary of State on MAY - 9 2014