

## Constitutional Amendment Seven Deserves A YES Vote

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### Funding of State Courts

This proposed constitutional revision would settle the matter of who is responsible for state court costs - much of which has been dumped on the counties. Under the amendment, counties would provide court buildings and record-keeping for state courts, but the state would pay all costs associated with prosecutors, public defenders and court appointed counsel. State revenues would fund the state courts system, state attorneys' and public defenders' offices, and court-appointed counsel. Revenues from filing fees and service charges would fund the clerk's office. Although counties would continue to provide some funding, this revision would significantly decrease their current costs. This shift would be phased in beginning in fiscal year 2000-2001, and would be completed by July 1, 2004.

This constitutional requirement would fulfill a promise made in 1972 which was never fully implemented by the legislature. It would relieve counties of \$200 million a year in current expenses, an especially heavy burden for small counties.

The provision of justice is a fundamental state function. It is not fair to saddle counties with the burden of funding state courts, especially since some counties do not have the funds to keep their court system on par with state criteria. State justice should not be mitigated by a local communities' resources.

### Local Option for Selection of Judges

Currently, trial-court judges (circuit and county) are elected, and appellate judges are selected by the governor following a nomination process. The appellate judge then faces periodic merit-retention votes. This amendment would allow judges at all levels to be appointed by the governor, but only if the voters in that jurisdiction decided to exercise that option. Terms for county judges would be extended from four to six years under the provision of this amendment.

This revision allows voters in the year 2000 to decide either to retain the current system of directly electing their local Circuit and County Court Judges or to adopt a merit selection alternative. This change would replicate the practice currently used to select state District Court of Appeals Judges and Justices of the Supreme Court. Under the merit selection system, the Governor appoints appellate judges to vacant positions from a list of

nominees proposed by a local Judicial Nominating Commission; voters can vote either to retain or not to retain judges at the end of their terms. The process is specified in Article V, sections 10, 11(a)-(b).

The voters' decision in 2000 on the method of selecting judges would apply only to the judicial circuits and counties in which they vote. Article V, section 10. It also corrects the term of office for one member of the Judicial Qualifications Commission

**The following points argue for the adoption of this amendment:**

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✚ The operation of the courts are a fundamental function of the state and the cost of such operations should not be mitigated or affected by the resources of a local community; moreover, this amendment would redress an unfulfilled promise of the state.

✚ The assumption of these costs by the state would allow the county to provide relief to the local taxpayer or redirect financial resources to other growing local responsibilities.

✚ Allowing trial judges to be appointed would insulate them from political pressure, and relieve them of the need to solicit donations, which generally come from the legal community.

✚ Merit selection is more likely than direct election to result in appointment of the most capable and fair-minded judges. The process involves a review of candidates by local judicial qualifications commissions. Retention elections allow voters to unseat judges they no longer want.

✚ Local option allows voters in the county or judicial circuit to choose which method they prefer. Voters can later decide to change back to direct election if they are not satisfied with results.

✚ This revision mitigates the politicalization of the judiciary. Direct election fosters judges who raise the most campaign contributions. These contributions often come from lawyers and others with cases these same judges may oversee. This practice in appearance if not in fact, can undermine the concept of an independent judiciary. Moreover, elected judges usually run unopposed and or are easily reelected and in such a circumstance are not subject to a substantive review by the electorate.

**Arguments against this amendment include:**

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✚ Requiring the shift to near-total state funding of the court system is a needless addition to an already complicated Florida Constitution. It attempts to solve a problem that is not serious enough to require constitutional solutions.

***Florida TaxWatch Response*** *Defaulting on promised support must be redressed, especially in the provision of a fundamental state function such as the equal provision of justice.*

◆ Local option decisions would result in a confusing lack of uniformity from county to county in how Circuit and County Court Judges are chosen.

***Florida TaxWatch Response*** *Uniformity having no relevance to equity is not a virtue in a society that values freedom; in fact the contrary is true.*

◆ This amendment eliminates the opportunity for voters to elect judges who are responsive to public attitudes. It turns the choice over to the governor and judicial nominating commissions dominated by lawyers, who may select judges with no better qualifications than elected judges.

***Florida TaxWatch Response*** *Public review at the ballot box is retained in the proposed process and has worked in the selection of justices in the appellate and Supreme courts. Keeping the courts out of or insulated from standard political practice is a long standing principle of our nation's governmental norms. And such variance of treatment gives substance to the separation of powers which is a hallmark to our form of government.*

**A NOTE OF CONCERN AND RECOMMENDATION**

***If passed, this amendment will result in a windfall saving for many counties. In the implementation of this amendment, each county should identify the amount of saving resulting from this amendment's adoption and apply a like amount to ad valorem (property) tax rollback for at least three consecutive years.***

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