

## **The state of Florida in the context of the U.S. Constitution**

Each of the seven articles of the U.S. Constitution deals with state power in some fashion. Articles I, II and III each deal with the role that the states will play in selecting national officials, such as state representation in Congress and the U.S. Senate confirming judicial appointments.

Article IV of the U.S. Constitution deals directly with state powers and issues; it guarantees to every state a republican (representative) form of government. A representative government is a government where the legislature and executive are elected by the people. Florida, like 48 other states (all except Nebraska), has a bicameral (two house) legislature. Since 1992, both houses have been term limited to eight years each, where members are allowed to serve eight years in each house (whether consecutive or non-consecutive terms) over the course of their lives. Persons who serve eight years in one house may serve a full eight years in the other house so that his or her total career in the Florida legislature is 16 years. House terms are two years each while Senate terms are four years each. There are 120 members of Florida's House of Representatives and 40 Senators. Like the U.S. Congress, Florida's legislative seats are redrawn after each decennial census.

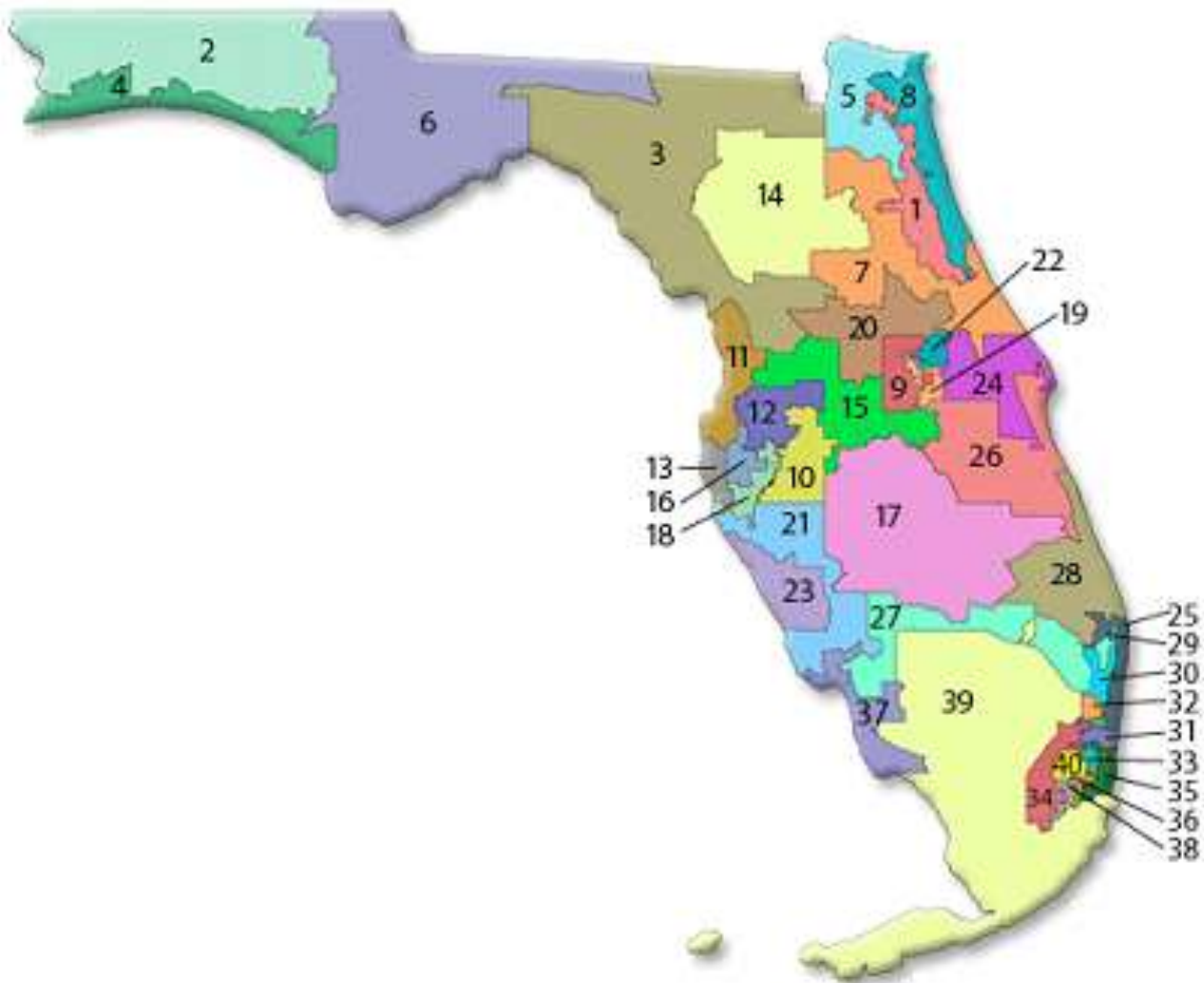
Florida's governor is limited to two four-year terms. The court system is a mixed system where judges presiding at the county and city level are elected, while Florida's state court judges are appointed through a unique system where members are appointed through a merit selection system. Under this system, court vacancies are referred to an impartial Judicial Nominating Commission, which suggests the names of possible appointees. The Governor then selects a name from the list of three to six potential nominees. Further, these judges undergo a retention process where every seven years, Supreme Court justices must be retained by the people. This means that the people vote "yes" or "no" on their ballot whether a justice should continue serving for another seven years. As long as justices are retained, they may serve up until their 70<sup>th</sup> birthday, as Florida's constitution mandates a retirement age for its Supreme Court justices.

### **2. The Florida legislature (includes graphic)**

Lawmaking in Florida follows a system similar to that practiced by the U.S. Congress. There is both a committee system and party leadership system in each house. Party leadership posts are assigned based on majority (which party holds the most seats in that house) and minority (which party holds the least seats in that house) party membership. Standing committee chairs are appointed by the party leadership from among members of the majority party. Committees are structured so that the majority party in the house holds the majority of seats on each standing committee. There are six standing Senate committees and 10 standing House committees; most committees have subcommittees. The lawmaking process is also similar to the process in the U.S. in that there is a provision for an override of a governor's veto (requiring 2/3 of each house). The Florida legislature is a part-time legislature that meets 60 days each year. According to the Florida Constitution, Article III, Section 3(b):

*A regular session of the legislature shall convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.*

Below is a map of Florida with the Senate districts identified based on the 2000 Census.



### 3. The Florida executive branch

Florida's executive branch is headed by an elected governor who is elected to a four-year term. Article IV of the Florida Constitution outlines the Governor's core duties as follows:

*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.*

Gubernatorial election years take place in even numbered years that are not divisible by four (i.e. 2002, 2006, 2010, 2014, etc.), while governors take their oath of office on January 2 in the year following their election. For example, Governor Charlie Crist took the oath of office on January 2, 2007 following the 2006 statewide election. The Governor runs and serves with a Lieutenant Governor so that voters cast a single ballot for both. The Lieutenant Governor performs those duties assigned by the Governor. Should the Governor become incapacitated and unable to serve, then the Lieutenant Governor becomes "Acting Governor". Should the Governor die or resign from office, the Lieutenant Governor becomes Governor until the end of that governor's term. There are no special elections held for Governor or Lieutenant Governor.

Florida's Governor serves with a cabinet that is comprised of three state-wide elected officials including Chief Financial Officer, Attorney General and Commissioner of Agriculture and Consumer Services.

#### **4. The judicial branch in Florida (includes graphic)**

Florida's judicial branch is outlined in Article V of the Florida Constitution. The court system is divided into multiple units including a supreme court, district courts of appeal, circuit courts and county courts.

The following information about Florida's court system is adapted from "Florida's State Court System" available on the Florida Supreme Court "Public Information Link" ([http://www.floridasupremecourt.org/pub\\_info/system2.shtml](http://www.floridasupremecourt.org/pub_info/system2.shtml) ).

#### **The Supreme Court of Florida**

The highest Court in Florida is the Supreme Court, which is composed of seven Justices. At least five Justices must participate in every case and at least four must agree for a decision to be reached. The Court's official headquarters is the Supreme Court Building in Tallahassee.

#### **Jurisdiction**

The jurisdiction of the Supreme Court is set out in the Constitution with some degree of flexibility by which the Legislature may add or take away certain categories of cases. The Court must review final orders imposing death sentences, district court decisions declaring a State statute or provision of the State Constitution invalid, bond validations, and certain orders of the Public Service Commission on utility rates and services.

The Court promulgates rules governing the practice and procedure in all Florida courts, subject to the power of the Legislature to repeal any rule by a two-thirds vote of its membership, and the Court has the authority to repeal (if five Justices concur) any rule adopted by the Judicial Qualifications Commission.

The Court has been assigned the responsibility to discipline and remove judicial officers. The Court has adopted a Code of Judicial Conduct, and upon the recommendation of the Judicial Qualifications Commission, it may discipline or remove any Justice or judge who is found to have violated code standards.

#### **The District Courts of Appeal**

The bulk of trial court decisions that are appealed are never heard by the Supreme Court. Rather, they are reviewed by three-judge panels of the district courts of appeal. Florida did not have district courts of appeal until 1957.

The Constitution now provides that the Legislature shall divide the State into appellate court districts and that there shall be a district court of appeal (DCA) serving each district. There are five such districts that are headquartered in Tallahassee, Lakeland, Miami, West Palm Beach, and Daytona Beach.

DCA judges must meet the same eligibility requirements for appointment to office, and they are subject to the same procedures and conditions for discipline and removal from office, as Justices of

the Supreme Court. Like Supreme Court Justices, district court judges also serve terms of six years and will be eligible for successive terms under a merit retention vote of the electors in their districts.

In each district court, a chief judge, who is selected by the district court judges within the district, is responsible for the administrative duties of the court.

## **Jurisdiction**

The district courts of appeal can hear appeals from final judgments and can review certain non-final orders. By general law, the district courts have been granted the power to review final actions taken by state agencies in carrying out the duties of the executive branch of government.

Finally, the district courts have been granted constitutional authority to issue the extraordinary writs of certiorari, prohibition, mandamus, quo warrant to, and habeas corpus, as well as all other writs necessary to the complete exercise of their jurisdiction. As a general rule, decisions of the district courts of appeal represent the final appellate review of litigated cases. A person who is displeased with a district court's express decision may ask for review in the Florida Supreme Court and then in the United States Supreme Court, but neither tribunal is required to accept the case for further review. Most are denied.

## **The Circuit Courts**

Until 1973, Florida had more different kinds of trial courts than any state except New York. A movement developed in the late 1960s to reform this confusing system. As a result, Florida now has a simple two-tiered trial court system. A temporary exception was the municipal court, which was not abolished until January 1, 1977. Most of these courts in major population areas were abolished on January 1, 1973.

The majority of jury trials in Florida take place before one judge sitting as judge of the circuit court. The circuit courts are sometimes referred to as courts of general jurisdiction, in recognition of the fact that most criminal and civil cases originate at this level. The Constitution provides that a circuit court shall be established to serve each judicial circuit established by the Legislature, of which there are twenty. Within each circuit, there may be any number of judges, depending upon the population and caseload of the particular area.

Circuit court judges are elected by the voters of the circuits in nonpartisan, contested elections against other persons who choose to qualify as candidates for the position. Circuit court judges serve for six-year terms, and they are subject to the same disciplinary standards and procedures as Supreme Court Justices and district court judges.

A chief judge is chosen from among the circuit judges and county judges in each judicial circuit to carry out administrative responsibilities for all trial courts (both circuit and county courts) within the circuit.

## **Jurisdiction**

Circuit courts have general trial jurisdiction over matters not assigned by statute to the county courts and also hear appeals from county court cases. Thus, circuit courts are simultaneously the highest trial courts and the lowest appellate courts in Florida's judicial system.

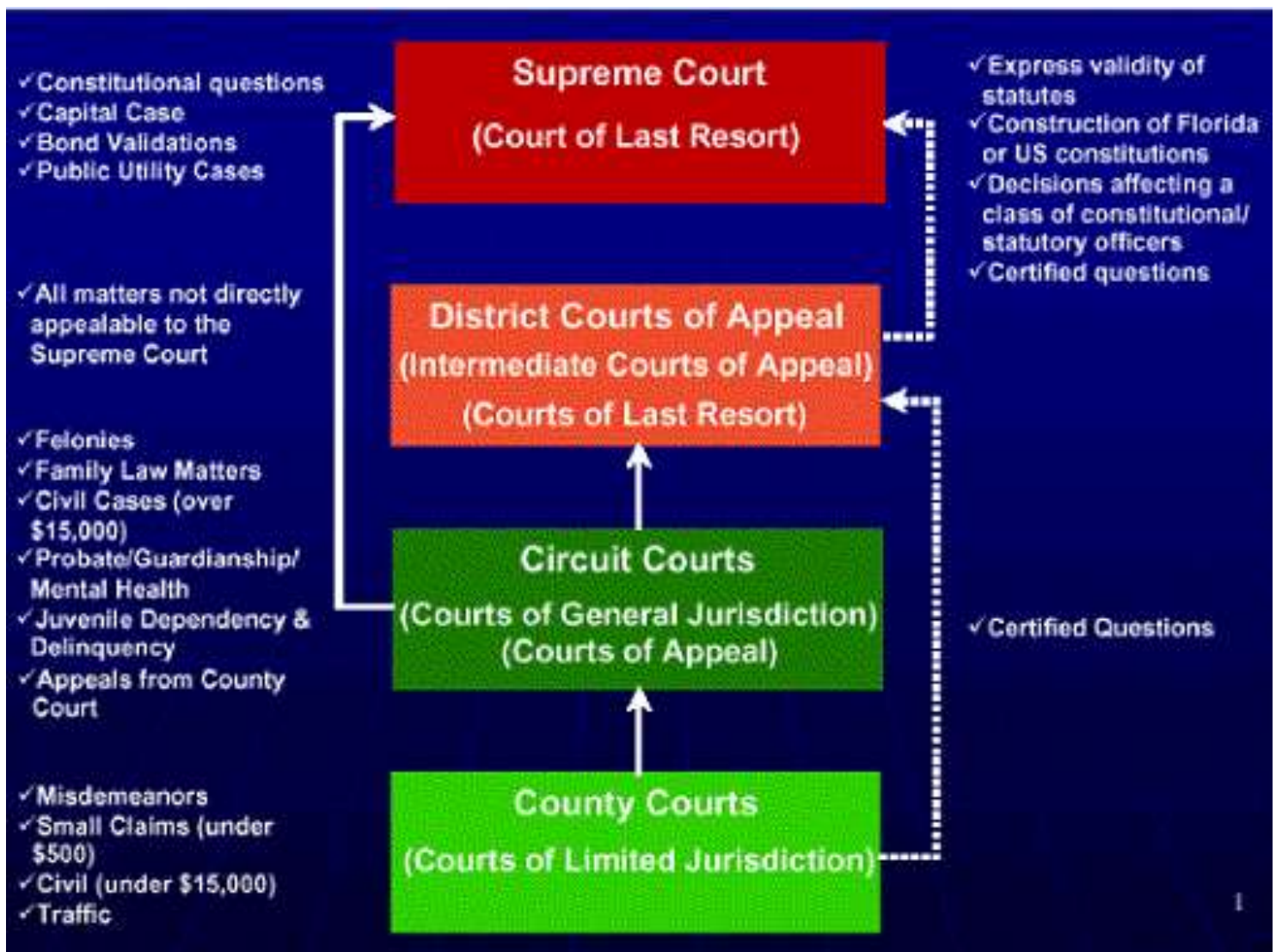
## The County Courts

The Constitution establishes a county court in each of Florida's 67 counties. The number of judges in each county court varies with the population and caseload of the county. To be eligible for the office of county judge, a person must be an elector of the county and must have been a member of The Florida Bar for five years; in counties with a population of 40,000 or less, a person must only be a member of The Florida Bar.

County judges are eligible for assignment to circuit court, and they are frequently assigned as such within the judicial circuit that embraces their counties.

County judges serve six-year terms, and they are subject to the same disciplinary standards, and to the jurisdiction of the Judicial Qualifications Commission, as all other judicial officers.

The trial jurisdiction of county courts is established by statute. The jurisdiction of county courts extends to civil disputes involving \$15,000 or less. The majority of non-jury trials in Florida take place before one judge sitting as a judge of the county court. The county courts are sometimes referred to as "the people's courts," probably because a large part of the courts' work involves voluminous citizen disputes, such as traffic offenses, less serious criminal matters (misdemeanors), and relatively small monetary disputes.



## Amending the Florida Constitution

Florida has more ways to amend its constitution than any other state. Article XI of Florida's Constitution explains the five methods to amend Florida's Constitution. Regardless of the method, all proposed constitutional amendments must be approved by a majority (50%+1) of voters on Election Day.

Method Name	What it Means
<b>Ballot Initiative Process:</b>	A committee must register with Secretary of State. The committee must collect 611,009 (for 2006) signatures with certain percentages coming from each congressional districts.
<b>Constitutional Convention:</b>	Florida voters may call a constitutional convention by collecting a designated amount of signatures and then gaining a majority of the vote to the question "Shall a constitutional convention be held?"
<b>Constitutional Revision Commission:</b>	Composed of 37 members, this commission meets every 20 years to examine the constitution of the state and propose the amendments deemed necessary.
<b>Legislative Joint Resolution:</b>	The Florida Legislature can pass a joint resolution supported by three-fifths of the membership of each house of the legislature.
<b>Taxation and Budget Reform Commission:</b>	This 22-member Commission will meet in 2007 and every 20th year thereafter.