

# CONSTITUTION OF THE STATE OF FLORIDA

## AS REVISED IN 1968 AND SUBSEQUENTLY AMENDED

*The Constitution of the State of Florida as it appears here represents a composite of amendments proposed by three joint resolutions which were adopted during the special session of June 24-July 3, 1968, and ratified by the people on November 5, 1968, together with one article carried forward from the Constitution of 1885, as amended. The articles proposed in House Joint Resolution 1-2X constitute the entire revised constitution with the exception of Articles V, VI, and VIII. Senate Joint Resolution 4-2X proposed a new Article VI, relating to suffrage and elections. Senate Joint Resolution 5-2X proposed a new Article VIII, relating to local government. Article V, relating to the judiciary, was carried forward from the Constitution of 1885, as amended. Amendments adopted subsequent to the approval of the above joint resolutions are indicated by history notes appended to the individual sections. The indexes which appear at the beginning of each article and notes appearing at the end of various sections have been added for convenience and they, together with section and subsection headings, are not to be considered as part of the constitution. History notes to the sections of Article V have been carried forward with the sections. Sections having no history note were added as part of the 1968 revision.*

### PREAMBLE

We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, insure domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.

### ARTICLE I

#### DECLARATION OF RIGHTS

Sec.

1. Political power.
2. Basic rights.
3. Religious freedom.
4. Freedom of speech and press.
5. Right to assemble.
6. Right to work.
7. Military power.
8. Right to bear arms.
9. Due process.
10. Prohibited laws.
11. Imprisonment for debt.
12. Searches and seizures.

**SECTION 1. Political power.**—All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

**SECTION 2. Basic rights.**—All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property; except that the ownership, inheritance, disposition and possession of real property by aliens ineligible for citizenship may be regulated or prohibited by law. No person shall be deprived of any right because of race or religion.

Sec.

13. Habeas corpus.
14. Bail.
15. Prosecution for crime; offenses committed by children.
16. Rights of accused.
17. Excessive punishments.
18. Administrative penalties.
19. Costs.
20. Treason.
21. Access to courts.
22. Trial by jury.

**SECTION 3. Religious freedom.**—There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

**SECTION 4. Freedom of speech and press.**—Every person may speak, write and publish his sentiments on all subjects but shall be responsible for the abuse of that right. No law

shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives, the party shall be acquitted or exonerated.

**SECTION 5. Right to assemble.**—The people shall have the right peaceably to assemble, to instruct their representatives, and to petition for redress of grievances.

**SECTION 6. Right to work.**—The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

**SECTION 7. Military power.**—The military power shall be subordinate to the civil.

**SECTION 8. Right to bear arms.**—The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

**SECTION 9. Due process.**—No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against himself.

**SECTION 10. Prohibited laws.**—No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

**SECTION 11. Imprisonment for debt.**—No person shall be imprisoned for debt, except in cases of fraud.

**SECTION 12. Searches and seizures.**—The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched, the person or persons, thing or things to be seized, the communication to be intercepted, and the nature of evidence to be obtained. Articles or information obtained in violation of this right shall not be admissible in evidence.

**SECTION 13. Habeas corpus.**—The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion, suspension is essential to the public safety.

**SECTION 14. Bail.**—Until adjudged guilty, every person charged with a crime or violation of municipal or county ordinance shall be en-

titled to release on reasonable bail with sufficient surety unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great.

**SECTION 15. Prosecution for crime; offenses committed by children.**—

(a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts martial.

(b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.

**SECTION 16. Rights of accused.**—In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation against him, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed. If the county is not known, the indictment or information may charge venue in two or more counties conjunctively and proof that the crime was committed in that area shall be sufficient; but before pleading the accused may elect in which of those counties he will be tried. Venue for prosecution of crimes committed beyond the boundaries of the state shall be fixed by law.

**SECTION 17. Excessive punishments.**—Excessive fines, cruel or unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden.

**SECTION 18. Administrative penalties.**—No administrative agency shall impose a sentence of imprisonment, nor shall it impose any other penalty except as provided by law.

**SECTION 19. Costs.**—No person charged with crime shall be compelled to pay costs before a judgment of conviction has become final.

**SECTION 20. Treason.**—Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort, and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act or on confession in open court.

**SECTION 21. Access to courts.**—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

**SECTION 22. Trial by jury.**—The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

## ARTICLE II

### GENERAL PROVISIONS

Sec.

1. State boundaries.
2. Seat of government.
3. Branches of government.
4. State seal and flag.

#### SECTION 1. State boundaries.—

(a) The state boundaries are: Begin at the mouth of the Perdido River, which for the purposes of this description is defined as the point where latitude 30°16'53" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°17'02" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°18'00" north and longitude 87°27'08" west intersect; thence to the point where the center line of the Intracoastal Canal (as the same existed on June 12, 1953) and longitude 87°27'00" west intersect; the same being in the middle of the Perdido River; thence up the middle of the Perdido River to the point where it intersects the south boundary of the State of Alabama, being also the point of intersection of the middle of the Perdido River with latitude 31°00'00" north; thence east, along the south boundary line of the State of Alabama, the same being latitude 31°00'00" north to the middle of the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; thence in a straight line to the head of the St. Marys River; thence down the middle of said river to the Atlantic Ocean; thence due east to the edge of the Gulf Stream or a distance of three geographic miles whichever is the greater distance; thence in a southerly direction along the edge of the Gulf Stream or along a line three geographic miles from the Atlantic coastline and three leagues distant from the Gulf of Mexico coastline, whichever is greater, to and through the Straits of Florida and westerly, including the Florida reefs, to a point due south of and three leagues from the southernmost point of the Marquesas Keys; thence westerly along a straight line to a point due south of and three leagues from Loggerhead Key, the westernmost of the Dry Tortugas Islands; thence westerly, northerly and easterly along the arc of a curve three leagues distant from Loggerhead Key to a point due north of Loggerhead Key; thence northeast along a straight line to a point three leagues from the coastline of Florida; thence northerly and westerly three leagues distant from the coastline to a point west of the mouth of the Perdido River three leagues from the coastline as measured on a line bearing south 0°01'00" west from the point of beginning; thence northerly along said line to the point of beginning. The State of Florida shall also include any additional territory within the United States adjacent to the Peninsula of Florida lying south of the St.

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5. Public officers.
6. Enemy attack.
7. Natural resources and scenic beauty.

Marys River, east of the Perdido River, and south of the States of Alabama and Georgia.

(b) The coastal boundaries may be extended by statute to the limits permitted by the laws of the United States or international law.

**SECTION 2. Seat of government.**—The seat of government shall be the City of Tallahassee, in Leon County, where the offices of the governor, lieutenant governor, cabinet members and the supreme court shall be maintained and the sessions of the legislature shall be held; provided that, in time of invasion or grave emergency, the governor by proclamation may for the period of the emergency transfer the seat of government to another place.

**SECTION 3. Branches of government.**—The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

**SECTION 4. State seal and flag.**—The design of the great seal and flag of the state shall be prescribed by law.

#### SECTION 5. Public officers.—

(a) No person holding any office of emolument under any foreign government, or civil office of emolument under the United States or any other state, shall hold any office of honor or of emolument under the government of this state. No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, constitutional convention, or statutory body having only advisory powers.

(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the state; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God."

and thereafter shall devote personal attention

to the duties of the office, and continue in office until his successor qualifies.

(c) The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.

**SECTION 6. Enemy attack.**—In periods of emergency resulting from enemy attack the legislature shall have power to provide for prompt and temporary succession to the powers and duties of all public offices the incumbents of which may become unavailable to execute the functions of their offices, and to adopt such

other measures as may be necessary and appropriate to insure the continuity of governmental operations during the emergency. In exercising these powers, the legislature may depart from other requirements of this constitution, but only to the extent necessary to meet the emergency.

**SECTION 7. Natural resources and scenic beauty.**—It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise.

### ARTICLE III

#### LEGISLATURE

Sec.

1. Composition.
2. Members; officers.
3. Sessions of the legislature.
4. Quorum and procedure.
5. Investigations; witnesses.
6. Laws.
7. Passage of bills.
8. Executive approval and veto.
9. Effective date of laws.

**SECTION 1. Composition.**—The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.

**SECTION 2. Members; officers.**—Each house shall be the sole judge of the qualifications, elections, and returns of its members, and shall biennially choose its officers, including a permanent presiding officer selected from its membership, who shall be designated in the senate as President of the Senate, and in the house as Speaker of the House of Representatives. The senate shall designate a Secretary to serve at its pleasure, and the house of representatives shall designate a Clerk to serve at its pleasure. The legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.

**SECTION 3. Sessions of the legislature.**—

(a) **ORGANIZATION SESSIONS.** On the fourteenth day following each general election the legislature shall convene for the exclusive purpose of organization and selection of officers.

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

(c) **SPECIAL SESSIONS.**

(1) The governor, by proclamation stating the purpose, may convene the legislature in special session during which only such legislative business may be transacted as is within the purview of the proclamation, or of a communi-

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10. Special laws.
11. Prohibited special laws.
12. Appropriation bills.
13. Term of office.
14. Civil service system.
15. Terms and qualifications of legislators.
16. Legislative apportionment.
17. Impeachment.
18. Conflict of interest.

cation from the governor, or is introduced by consent of two-thirds of the membership of each house.

(2) A special session of the legislature may be convened as provided by law.

(d) **LENGTH OF SESSIONS.** A regular session of the legislature shall not exceed sixty consecutive days, and a special session shall not exceed twenty consecutive days, unless extended beyond such limit by a three-fifths vote of each house. During such an extension no new business may be taken up in either house without the consent of two-thirds of its membership.

(e) **ADJOURNMENT.** Neither house shall adjourn for more than seventy-two consecutive hours except pursuant to concurrent resolution.

(f) **ADJOURNMENT BY GOVERNOR.** If, during any regular or special session, the two houses cannot agree upon a time for adjournment, the governor may adjourn the session sine die or to any date within the period authorized for such session; provided that, at least twenty-four hours before adjourning the session, he shall, while neither house is in recess, give each house formal written notice of his intention to do so, and agreement reached within that period by both houses on a time for adjournment shall prevail.

**SECTION 4. Quorum and procedure.**—

(a) A majority of the membership of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the presence of absent members in such manner and under such penalties as it may prescribe. Each house shall determine its rules of procedure.

(b) Sessions of each house shall be public; except sessions of the senate when considering appointment to or removal from public office may be closed.

(c) Each house shall keep and publish a journal of its proceedings; and upon the request of five members present, the vote of each member voting on any question shall be entered on the journal.

(d) Each house may punish a member for contempt or disorderly conduct and, by a two-thirds vote of its membership, may expel a member.

**SECTION 5. Investigations; witnesses.**—Each house, when in session, may compel attendance of witnesses and production of documents and other evidence upon any matter under investigation before it or any of its committees, and may punish by fine not exceeding one thousand dollars or imprisonment not exceeding ninety days, or both, any person not a member who has been guilty of disorderly or contemptuous conduct in its presence or has refused to obey its lawful summons or to answer lawful questions. Such powers, except the power to punish, may be conferred by law upon committees when the legislature is not in session. Punishment of contempt of an interim legislative committee shall be by judicial proceedings as prescribed by law.

**SECTION 6. Laws.**—Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title. No law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a subsection. The enacting clause of every law shall read: "Be It Enacted by the Legislature of the State of Florida:."

**SECTION 7. Passage of bills.**—Any bill may originate in either house and after passage in one may be amended in the other. It shall be read in each house on three separate days, unless this rule is waived by two-thirds vote. On each reading, it shall be read by title only, unless one-third of the members present desire it read in full. On final passage, the vote of each member voting shall be entered on the journal. Passage of a bill shall require a majority vote in each house. Each bill and joint resolution passed in both houses shall be signed by the presiding officers of the respective houses and by the secretary of the senate and the clerk of the house of representatives during the session or as soon as practicable after its adjournment sine die.

**SECTION 8. Executive approval and veto.**—

(a) Every bill passed by the legislature shall be presented to the governor for his approval and shall become a law if he approves and signs it, or fails to veto it within seven consecutive days after presentation. If during that period or on the seventh day the legislature adjourns sine die or takes a recess of more than thirty days, he shall have fifteen consecutive days from the date of presentation to act on the bill. In all cases except general appropriation bills, the veto shall extend to the entire bill. The governor may veto any specific appropriation in

a general appropriation bill, but may not veto any qualification or restriction without also vetoing the appropriation to which it relates.

(b) When a bill or any specific appropriation of a general appropriation bill has been vetoed by the governor, he shall transmit his signed objections thereto to the house in which the bill originated if in session. If that house is not in session, he shall file them with the secretary of state, who shall lay them before that house at its next regular or special session, and they shall be entered on its journal.

(c) If each house shall, by a two-thirds vote, re-enact the bill or reinstate the vetoed specific appropriation of a general appropriation bill, the vote of each member voting shall be entered on the respective journals, and the bill shall become law or the specific appropriation reinstated, the veto notwithstanding.

**SECTION 9. Effective date of laws.**—Each law shall take effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted or as otherwise provided therein. If the law is passed over the veto of the governor it shall take effect on the sixtieth day after adjournment sine die of the session in which the veto is overridden, on a later date fixed in the law, or on a date fixed by resolution passed by both houses of the legislature.

**SECTION 10. Special laws.**—No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

**SECTION 11. Prohibited special laws.**—

(a) There shall be no special law or general law of local application pertaining to:

(1) election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies;

(2) assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability;

(3) rules of evidence in any court;

(4) punishment for crime;

(5) petit juries, including compensation of jurors, except establishment of jury commissions;

(6) change of civil or criminal venue;

(7) conditions precedent to bringing any civil or criminal proceedings, or limitations of time therefor;

(8) refund of money legally paid or remission of fines, penalties or forfeitures;

(9) creation, enforcement, extension or impairment of liens based on private contracts, or fixing of interest rates on private contracts;

(10) disposal of public property, including any interest therein, for private purposes;

(11) vacation of roads;

- (12) private incorporation or grant of privilege to a private corporation;
- (13) effectuation of invalid deeds, wills or other instruments, or change in the law of descent;
- (14) change of name of any person;
- (15) divorce;
- (16) legitimation or adoption of persons;
- (17) relief of minors from legal disabilities;
- (18) transfer of any property interest of persons under legal disabilities or of estates of decedents;
- (19) hunting or fresh water fishing;
- (20) regulation of occupations which are regulated by a state agency; or
- \* (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.

(b) In the enactment of general laws on other subjects, political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.

\*Note.—See §145.16, Florida Statutes, prohibiting special laws or general laws of local application pertaining to the compensation of designated county officials.

**SECTION 12. Appropriation bills.**—Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.

**SECTION 13. Term of office.**—No office shall be created the term of which shall exceed four years except as provided herein.

**SECTION 14. Civil service system.**—By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

**SECTION 15. Terms and qualifications of legislators.**—

(a) **SENATORS.** Senators shall be elected for terms of four years, those from odd-numbered districts in the years the numbers of which are multiples of four and those from even-numbered districts in even-numbered years the numbers of which are not multiples of four; except, at the election next following a reapportionment, some senators shall be elected for terms of two years when necessary to maintain staggered terms.

(b) **REPRESENTATIVES.** Members of the house of representatives shall be elected for terms of two years in each even-numbered year.

(c) **QUALIFICATIONS.** Each legislator shall be at least twenty-one years of age, an elector and resident of the district from which elected and shall have resided in the state for a period of two years prior to election.

(d) **ASSUMING OFFICE; VACANCIES.** Members of the legislature shall take office upon election. Vacancies in legislative office shall be filled only by election as provided by law.

**SECTION 16. Legislative apportionment.**—

(a) **SENATORIAL AND REPRESENTATIVE DISTRICTS.** The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory. Should that session adjourn without adopting such joint resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment.

(b) **FAILURE OF LEGISLATURE TO APPORTION; JUDICIAL REAPPORTIONMENT.** In the event a special apportionment session of the legislature finally adjourns without adopting a joint resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. No later than the sixtieth day after the filing of such petition, the supreme court shall file with the secretary of state an order making such apportionment.

(c) **JUDICIAL REVIEW OF APPORTIONMENT.** Within fifteen days after the passage of the joint resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.

(d) **EFFECT OF JUDGMENT IN APPORTIONMENT; EXTRAORDINARY APPORTIONMENT SESSION.** A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a joint resolution of apportionment conforming to the judgment of the supreme court.

(e) **EXTRAORDINARY APPORTIONMENT SESSION; REVIEW OF APPORTIONMENT.** Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court. Consideration of the validity of a joint resolution of apportionment

shall be had as provided for in cases of such joint resolution adopted at a regular or special apportionment session.

(f) **JUDICIAL REAPPORTIONMENT.** Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the secretary of state an order making such apportionment.

#### SECTION 17. Impeachment.—

(a) The governor, lieutenant governor, members of the cabinet, justices of the supreme court, judges of district courts of appeal and judges of circuit courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.

(b) An officer impeached by the house of representatives shall be disqualified from performing any official duties until acquitted by the senate, and unless the governor is im-

peached he may by appointment fill the office until completion of the trial.

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

**SECTION 18. Conflict of interest.**—A code of ethics for all state employees and non-judicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

### ARTICLE IV

#### EXECUTIVE

Sec.

1. Governor.
2. Lieutenant governor.
3. Succession to office of governor; acting governor.
4. Cabinet.
5. Election of governor, lieutenant governor and cabinet members; qualifications; terms.

#### SECTION 1. Governor.—

(a) The supreme executive power shall be vested in a governor. He shall be commander-in-chief of all military forces of the state not in active service of the United States. He 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. He 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.

(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 supreme court as to the interpretation of any portion of this constitution upon any question affecting his executive powers and duties. The justices shall, subject to their rules of procedure, permit interested persons to be heard on the questions presented and shall render their written opinion

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6. Executive departments.
7. Suspensions; filling office during suspensions.
8. Clemency.
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not earlier than ten days from the filing and docketing of the request, unless in their judgment the delay would cause public injury.

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

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

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

**SECTION 2. Lieutenant governor.**—There shall be a lieutenant governor. He shall perform such duties pertaining to the office of governor

as shall be assigned to him by the governor, except when otherwise provided by law, and such other duties as may be prescribed by law.

**SECTION 3. Succession to office of governor; acting governor.—**

(a) Upon vacancy in the office of governor, the lieutenant governor shall become governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve for the remainder of the term.

(b) Upon impeachment of the governor and until completion of trial thereof, or during his physical or mental incapacity, the lieutenant governor shall act as governor. Further succession as acting governor shall be prescribed by law. Incapacity to serve as governor may be determined by the supreme court upon due notice after docketing of a written suggestion thereof by four cabinet members, and in such case restoration of capacity shall be similarly determined after docketing of written suggestion thereof by the governor, the legislature or four cabinet members. Incapacity to serve as governor may also be established by certificate filed with the secretary of state by the governor declaring his incapacity for physical reasons to serve as governor, and in such case restoration of capacity shall be similarly established.

**SECTION 4. Cabinet.—**

(a) There shall be a cabinet composed of a secretary of state, an attorney general, a comptroller, a treasurer, a commissioner of agriculture and a commissioner of education. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law.

(b) The secretary of state shall keep the records of the official acts of the legislative and executive departments.

(c) The attorney general shall be the chief state legal officer.

(d) The comptroller shall serve as the chief fiscal officer of the state, and shall settle and approve accounts against the state.

(e) The treasurer shall keep all state funds and securities. He shall disburse state funds only upon the order of the comptroller, countersigned by the governor. The governor shall countersign as a ministerial duty subject to original mandamus.

(f) The commissioner of agriculture shall have supervision of matters pertaining to agriculture except as otherwise provided by law.

(g) The commissioner of education shall supervise the public education system in the manner prescribed by law.

**SECTION 5. Election of governor, lieutenant governor and cabinet members; qualifications; terms.—**

(a) At a state-wide general election in each calendar year the number of which is even but not a multiple of four, the electors shall choose a governor and a lieutenant governor and members of the cabinet each for a term of four years beginning on the first Tuesday after the

first Monday in January of the succeeding year. In the general election and in party primaries, if held, all candidates for the offices of governor and lieutenant governor shall form joint candidacies in a manner prescribed by law so that each voter shall cast a single vote for a candidate for governor and a candidate for lieutenant governor running together.

(b) When elected, the governor, lieutenant governor and each cabinet member must be an elector not less than thirty years of age who has resided in the state for the preceding seven years. The attorney general must have been a member of the bar of Florida for the preceding five years. No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term.

**SECTION 6. Executive departments.—**All functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution. The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by and serving at the pleasure of the governor, except:

(a) When provided by law, confirmation by the senate or the approval of three members of the cabinet shall be required for appointment to or removal from any designated statutory office.

(b) Boards authorized to grant and revoke licenses to engage in regulated occupations shall be assigned to appropriate departments and their members appointed for fixed terms, subject to removal only for cause.

**SECTION 7. Suspensions; filling office during suspensions.—**

(a) By executive order stating the grounds and filed with the secretary of state, the governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony, and may fill the office by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the governor.

(b) The senate may, in proceedings prescribed by law, remove from office or reinstate the suspended official and for such purpose the senate may be convened in special session by its president or by a majority of its membership.

(c) By order of the governor any elected municipal officer indicted for crime may be suspended from office until acquitted and the office filled by appointment for the period of suspension, not to extend beyond the term, unless these powers are vested elsewhere by law or the municipal charter.

**SECTION 8. Clemency.—**

(a) Except in cases of treason and in cases where impeachment results in conviction, the governor may, by executive order filed with the secretary of state, suspend collection of fines and forfeitures, grant reprieves not exceeding sixty days and, with the approval of three members of the cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.

(b) In cases of treason the governor may grant reprieves until adjournment of the regular session of the legislature convening next after the conviction, at which session the legislature may grant a pardon or further reprieve; otherwise the sentence shall be executed.

(c) There may be created by law a parole and probation commission with power to super-

wise persons on probation and to grant paroles or conditional releases to persons under sentences for crime. The qualifications, method of selection and terms, not to exceed six years, of members of the commission shall be prescribed by law.

**SECTION 9. Game and fresh water fish commission.—**There shall be a game and fresh water fish commission, composed of five members appointed by the governor for staggered terms of five years. The commission shall exercise the non-judicial powers of the state with respect to wild animal life and fresh water aquatic life, except that all license fees for taking wild animal life and fresh water aquatic life and penalties for violating regulations of the commission shall be prescribed by specific statute.

**ARTICLE V****JUDICIAL DEPARTMENT**

Sec.

1. Courts.
2. Administration.
3. Practice and procedure.
4. Supreme court.
5. District courts of appeal.
6. Circuit courts.
7. County judges' courts.
8. County courts; organization and officers.
9. Criminal courts of record.
- 9A. Additional judge, Duval county criminal court of record.
- 9B. Dade county, state attorney as prosecuting attorney, criminal court of record.
- 9C. Hillsborough county, offices of the state attorney and county solicitor.
10. Court of record of Escambia county.
11. Courts of justices of the peace.
- 11A. Orange county; boundaries of justice of peace districts.
12. Juvenile courts; establishment; jurisdiction; judge; officers; procedure.

**SECTION 1. Courts.—**The judicial power of the State of Florida is vested in a supreme court, district courts of appeal, circuit courts, Court of Record of Escambia County, criminal courts of record, county courts, county judge's courts, juvenile courts, courts of justices of the peace, and such other courts, including municipal courts, or commissions, as the legislature may from time to time ordain and establish.

*History.—*Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 2. Administration. —** The chief justice of the supreme court is vested with, and shall exercise in accordance with rules of that court, authority temporarily to assign justices of the supreme court to district courts of appeal and circuit courts, judges of district courts of appeal and circuit judges to the supreme court, district courts of appeal, and circuit courts, and judges of other courts, ex-

Sec.

13. Eligibility requirements for justices and judges.
- 13A. Eligibility requirements for justices and certain judges.
14. Vacancies in office of judge, how filled.
15. Election of judges.
16. Terms of office of certain judges.
17. Retirement, suspension and removal of judges.
- 17A. Discipline, retirement and removal of justices and certain judges.
18. Prohibited activities of judges.
19. Judicial salaries and expenses.
20. Style of process.
21. Referees.
22. Juries.
23. Admission and discipline of attorneys.
24. Effect of reduction of number of judges.
25. Judicial officers as conservators of the peace.
26. Schedule.

cept municipal courts, to judicial service in any court of the same or lesser jurisdiction. Any retired justice or judge may, with his consent, be likewise assigned to judicial service.

*History.—*Am. H.J.R. 810, 1955; adopted, 1956.

**SECTION 3. Practice and procedure.—**The practice and procedure in all courts shall be governed by rules adopted by the supreme court.

*History.—*Am. H.J.R. 810, 1955; adopted, 1956.

**SECTION 4. Supreme Court.—**

(1)<sup>b</sup> **ORGANIZATION.** The supreme court shall consist of seven members, one of whom shall be the chief justice. Five justices shall constitute a quorum, but the concurrence of four shall be necessary to a decision.

(2) **JURISDICTION.** Appeals from trial courts may be taken directly to the supreme

court, as a matter of right, only from judgments imposing the death penalty, from final judgments or decrees directly passing upon the validity of a state statute or a federal statute or treaty, or construing a controlling provision of the Florida or federal constitution, and from final judgments or decrees in proceedings for the validation of bonds and certificates of indebtedness. The supreme court may directly review by certiorari interlocutory orders or decrees passing upon chancery matters which upon a final decree would be directly appealable to the supreme court. In all direct appeals and interlocutory reviews by certiorari, the supreme court shall have such jurisdiction as may be necessary to complete determination of the cause on review.

Appeals from district courts of appeal may be taken to the supreme court, as a matter of right, only from decisions initially passing upon the validity of a state statute or a federal statute or treaty, or initially construing a controlling provision of the Florida or federal constitution. The supreme court may review by certiorari any decision of a district court of appeal that affects a class of constitutional or state officers, or that passes upon a question certified by the district court of appeal to be of great public interest, or that is in direct conflict with a decision of another district court of appeal or of the supreme court on the same point of law, and may issue writs of certiorari to commissions established by law.

The supreme court may issue writs of mandamus and quo warranto when a state officer, board, commission, or other agency authorized to represent the public generally, or a member of any such board, commission, or other agency, is named as respondent, and writs of prohibition to commissions established by law, to the district courts of appeal, and to the trial courts when questions are involved upon which a direct appeal to the supreme court is allowed as a matter of right.

The supreme court may issue all writs necessary or proper to the complete exercise of its jurisdiction.

The supreme court or any justice thereof may issue writs of habeas corpus returnable before the supreme court or any justice thereof, or before a district court of appeal or any judge thereof, or before any circuit judge.

The supreme court shall provide for the transfer to the court having jurisdiction of any matter subject to review when the jurisdiction of another appellate court has been improvidently invoked.

(3) **CHIEF JUSTICE.** The chief justice of the supreme court shall be chosen by the members of the court and shall serve for a term of two years. In the event of a vacancy, a successor shall be chosen within sixty days for a like term. During a vacancy or whenever the chief justice is unable to act for any reason, the justice longest in continuous service and able to act shall act as chief justice.

(4) **CLERK AND MARSHAL; PROCESS.**

The supreme court shall appoint a clerk and a marshal who shall hold office during the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by law. The marshal shall have the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

History.—Am. H.J.R. 810, 1955; adopted, 1956.

#### SECTION 5. District Courts of Appeal.—

(1) **APPELLATE DISTRICTS.** The state shall be divided into four or more appellate districts of contiguous counties as the Legislature may from time to time prescribe, and there shall be organized a district court of appeal in each district.

(2) **ORGANIZATION; NUMBER AND SELECTION OF JUDGES.** There shall initially be three judges in each district court of appeal, and the Legislature may provide for additional judges for any district court of appeal and may reduce the number of any district to not less than three. Three judges shall constitute a panel for and shall consider each case, and the concurrence of a majority of the panel shall be necessary to a decision. The court shall hold at least one session every year in each judicial circuit within the district wherein there is ready business to transact. After a change in the territorial limits of any appellate district, all proceedings then pending within the jurisdiction of each district court of appeal shall be transferred to the court then having jurisdiction, except causes which have been orally argued.

(3) **JURISDICTION.** Appeals from trial courts in each appellate district, and from final orders or decrees of county judge's courts pertaining to probate matters or to estates and interests of minors and incompetents, may be taken to the court of appeal of such district, as a matter of right, from all final judgments or decrees except those from which appeals may be taken direct to the supreme court or to a circuit court.

The supreme court shall provide for expeditious and inexpensive procedure in appeals to the district courts of appeal, and may provide for review by such courts of interlocutory orders or decrees in matters reviewable by the district courts of appeal.

The district courts of appeal shall have such powers of direct review of administrative action as may be provided by law.

A district court of appeal or any judge thereof may issue writs of habeas corpus returnable before that district court of appeal or any judge thereof, or before any circuit judge in that district. A district court of appeal may issue writs of mandamus, certiorari, prohibition, and quo warranto, and also all writs necessary or proper to the complete exercise of its jurisdiction.

(4) **CLERKS AND MARSHALS.** Each district court of appeal shall appoint a clerk and a marshal who shall hold office during the

pleasure of the court and perform such duties as the court may direct. Their compensation shall be fixed by law. The marshal shall have power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

*History.*—Am. H.J.R. 810, 1955; adopted, 1956; (1) (2) Am. H.J.R. 1601, 1959; adopted 1960; (1) (2) Am. S.J.R. 261, 1965; adopted 1965

#### SECTION 6. Circuit Courts.—

(1) JUDICIAL CIRCUITS. The legislature may establish not more than twenty judicial circuits, each composed of a county or contiguous counties and of not less than fifty thousand inhabitants, according to the last census authorized by law, except that the county of Monroe shall constitute one of the circuits; provided, however, there shall be no reduction in the number of circuit judges residing in any county formerly a part of a judicial circuit, which circuit is hereafter created, divided, changed or revised.

(2) CIRCUIT JUDGES. The legislature shall provide for one circuit judge in each circuit for each fifty thousand inhabitants or major fraction thereof according to the last census authorized by law. In circuits having more than one judge the legislature may designate the place of residence of any such additional judge or judges.

(3) JURISDICTION. The circuit courts shall have exclusive original jurisdiction in all cases in equity except such equity jurisdiction as may be conferred on juvenile courts, in all cases at law not cognizable by subordinate courts, in all cases involving the legality of any tax, assessment, or toll, in the action of ejectment, in all actions involving the titles or boundaries of real estate, and in all criminal cases not cognizable by subordinate courts. They shall have original jurisdiction of actions of forcible entry and unlawful detainer, and of such other matters as the legislature may provide. They shall have final appellate jurisdiction in all civil and criminal cases arising in the county court, or before county judges' courts, of all misdemeanors tried in criminal courts of record, and of all cases arising in municipal courts, small claims courts, and courts of justices of the peace. The circuit courts and judges shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction.

The circuit courts and circuit judges shall have such extra-territorial jurisdiction in chancery cases as may be prescribed by law.

(4) COURT COMMISSIONERS. A circuit judge may appoint in each county in his circuit one or more attorneys at law, to be court commissioners, who shall have power in the absence from the county of the circuit judge, to allow writs of injunction and to issue writs of habeas corpus, returnable before himself or the circuit judge. Their orders in such matters may be reviewed by the circuit judge, and confirm-

ed, qualified or vacated. They may be removed by the circuit judge. The legislature may confer upon them further powers, not judicial, and shall fix their compensation.

(5) RECOMMENDATION TO ATTORNEY GENERAL; REPORT TO LEGISLATURE. It shall be the duty of the judges of the circuit courts to report to the attorney general at least thirty days before each session of the legislature such defects in the laws as may have been brought to their attention, and to suggest such amendments or additional legislation as may be deemed necessary. The attorney general shall report to the legislature at each session such legislation as he may deem advisable.

(6) STATE ATTORNEYS. In each judicial circuit a state attorney shall be elected by the qualified electors of that circuit in the same manner as other state and county officials, to serve a term of four years and to fulfill duties prescribed by law.

(7) CLERKS OF THE CIRCUIT COURTS. In each county a clerk of the circuit court, who shall also be clerk of the board of county commissioners, recorder, and ex officio auditor of the county, shall be elected by the qualified electors of that county in the same manner as other state and county officials, to serve a term of four years and to fulfill duties prescribed by law.

*History.*—Am. H.J.R. 810, 1955; adopted, 1956; (1) Am. H.J.R. 59, 1963; adopted, 1964.

#### SECTION 7. County Judges' Courts.—

(1) ESTABLISHMENT. There shall be a county judge's court in each county.

(2) COUNTY JUDGES. There shall be in each county a county judge or county judges in such number as the legislature shall provide who shall be elected by the qualified electors of the county at the time and places of voting for other county officers and shall hold office for four years. Compensation shall be as provided by law.

(3) JURISDICTION. The county judges' courts shall have original jurisdiction in all cases at law in which the demand or value of property involved shall be as provided by the legislature; of proceedings relating to the forcible or unlawful detention of lands and tenements; and of such criminal cases as the legislature may prescribe. The county judges' courts shall have jurisdiction of the settlement of the estate of decedents and minors, to order the sale of real estate of decedents and minors, to take probate of wills, to grant letters testamentary and of administration and guardianship, and to discharge the duties usually pertaining to courts of probate. The county judge shall have the power of committing magistrates.

(4) PRESCRIBED QUALIFICATION AUTHORIZED. The legislature may require by special act, subject to approval by referendum within the county, that the county judge of any county be a member of The Florida Bar; provided such law shall not affect the term of office or the reelection of any county judge

holding office on the date of its enactment who is not a member of The Florida Bar.

*History.*—Am. H.J.R. 810, 1955; adopted, 1956; (2A) added H.J.R. 1649, 1965; adopted, 1965; Am. S.J.R. 662, 1965; adopted, 1966; (4) added H.J.R. 175, 1965; adopted, 1966.

**SECTION 8. County Courts; organization and officers.**—The legislature may organize in such counties, as it may think proper, county courts which shall have jurisdiction of all cases at law in which the demand or value of the property involved shall not exceed five hundred dollars; of proceedings relating to the forcible entry or unlawful detention of lands and tenements, and of misdemeanors. The county judge shall be the judge of said court. There shall be elected by the qualified electors of said county at the time when the said judge is elected a prosecuting attorney for said county, who shall hold office for four years. His duties and compensation shall be prescribed by law. Such courts may be abolished at the pleasure of the legislature.

*History.*—Am. H.J.R. 810, 1955; adopted, 1956.

**SECTION 9. Criminal Courts of Record.**—

(1) **ORGANIZATION AND JUDGES.** The legislature may provide for the establishment of a criminal court of record in any county. Judges of criminal courts of record shall be elected for a term of four years by the qualified electors of the county, in the same manner as other state and county officials. Their compensation shall be fixed by law and paid by the county.

In any county having a population in excess of 125,000 and not more than 250,000 according to the last decennial federal census, or census authorized by the legislature and paid for by the county, the legislature may provide for an additional judge of the criminal court of record for such county, provided that any law having for its purpose the creating of an additional judge of said court in such county shall not become effective unless ratified by a majority of the participating voters of such county in an election presenting the same for approval or rejection. In any county having a population of more than 250,000 according to such census, the legislature may, without referendum thereon, provide for one additional county judge for each additional 250,000 of population or major fraction thereof.

(2) **JURISDICTION.** The said courts shall have jurisdiction of all criminal cases not capital which shall arise in said counties respectively.

(3) **TERMS.** There shall be six terms of said courts in each year.

(4) **PROSECUTING ATTORNEY; TERM.** There shall be for each of said courts a prosecuting attorney who shall be elected for a term of four years by the qualified electors of the county as other state and county officials are elected and whose compensation shall be fixed by law.

(5) **INDICTMENT AND INFORMATION.** All offenses triable in said court shall be prosecuted upon information under oath, to be filed by the prosecuting attorney, but the grand jury

of the circuit court for the county in which said criminal court is held may indict for offenses triable in the criminal court. Upon the finding of such indictment the circuit judge shall commit or bail the accused for trial in the criminal court, which trial shall be upon information.

(6) **CRIMINAL COURTS OF RECORD SUPERSEDE CRIMINAL JURISDICTION OF COUNTY COURTS.** The county courts in counties where such criminal courts are established shall have no criminal jurisdiction and no prosecuting attorney.

(7) **CLERK.** The clerk of said court shall be elected by the electors of the county in which the court is held and shall hold office for four years, and his compensation shall be fixed by law. He shall also be clerk of the county court. The sheriff of the county shall be the executive officer of said court, and his duties and fees shall be fixed by law.

(8) **STATE ATTORNEY ELIGIBLE FOR APPOINTMENT AS COUNTY SOLICITOR.** The state attorney residing in the county where such court is held shall be eligible for appointment as county solicitor for said county.

(9) **CRIMINAL COURTS OF RECORD MAY BE ABOLISHED BY LEGISLATURE.** Such courts may be abolished by the legislature.

(10) The clerk of the circuit court in and for Palm Beach county shall also be and serve as the clerk of the Palm Beach county criminal court of record.

*History.*—Am. H. J. R. 810, 1955; adopted 1956; (10) added H. J. R. 586, 1965; adopted, 1965.

**SECTION 9A. Additional judge, Duval County criminal court of record.**—From and after the adoption of this Amendment, there shall be a Judge of the Criminal Court of Record of Duval County, Florida, in addition to the Judge of said Criminal Court of Record already provided in said county, said Judge shall be elected at the General Election next succeeding the coming into effect of this Amendment, except as otherwise provided herein, and shall hold office for four years and receive the same salary and allowances for expenses as is provided by law for the Judge of a Criminal Court of Record of Duval County. He shall have all powers and perform all duties and possess all qualifications that are or may be provided or prescribed by the Constitution or by statute for the Judge of the Criminal Court of Record of Duval County, and all statutes concerning said Judge shall apply to him. Provided, however, that if there be a judge of a Provisional Criminal Court in Duval County upon the adoption of this Amendment, such Judge shall become such additional Judge, and shall be commissioned by the Governor to hold office as a Judge of the Criminal Court of Record of Duval County, until his successor is duly elected and qualified.

On and after the first Tuesday after the first Monday in January, 1965, the State Attorney of the Fourth Judicial Circuit shall be the prosecuting attorney of the Criminal Court of Rec-

ord of Duval County, Florida, and the office of County Solicitor, the position of Assistant County Solicitor, the position of Special Investigator for the County Solicitor in Duval County, shall stand abolished and terminated; and thereafter the State Attorney and his Assistant Attorneys, under his direction, shall perform all the duties and functions of office heretofore performed by the County Solicitor. Pending informations filed in the Criminal Court of Record shall not be invalidated hereby, and the State Attorney, or his Assistant State Attorneys, may file amended informations in any such cases if and when necessary. The Legislature may provide for Assistant State Attorneys and Special Investigators for the State Attorney of The Fourth Judicial Circuit, and all Assistant State Attorneys of said Fourth Judicial Circuit shall be appointed by the State Attorney and sworn in by the Court, and such Assistant State Attorneys shall work under the direction of the State Attorney and shall have full authority to do and perform any official duties and acts that the State Attorney may do and perform within said Fourth Judicial Circuit.

Upon this amendment being adopted all funds appropriated by law approved by the Budget Commission and budgeted by the Board of County Commissioners of Duval County, Florida, and for the purpose of employing Assistant County Solicitors and other office personnel shall thereafter be used for the operation of the State Attorneys office of the Fourth Judicial Circuit, and for the employing of Assistant State Attorneys and other personnel, of that office, and the State Attorney is hereby authorized to employ such personnel, including Assistant State Attorneys and investigators in the same number and to be paid the same salary as the number of Assistant County Solicitors and investigators employed by the County Solicitor of Duval County, Florida.

*History.*—Added S.J.R. 777, 1955; adopted 1956; Am. S.J.R. 218, 1961; adopted 1962.

**SECTION 9B. Dade County, state attorney as prosecuting attorney, criminal court of record.**—On and after the first Tuesday after the first Monday in January, 1957, the State Attorney of the Eleventh Judicial Circuit in and for Dade County, Florida, shall be the prosecuting attorney of the Criminal Court of Record and the Court of Crimes of Dade County, and the office of County Solicitor, the position of Assistant County Solicitor, the positions of process server and investigator in Dade County, shall stand abolished and terminated; and thereafter the State Attorney and his Assistant State Attorneys, under his direction, shall perform all of the duties and functions of office heretofore performed by the County Solicitor. Pending informations filed in the Criminal Court of Record or Court of Crimes shall not be invalidated hereby, and the State Attorney, or his Assistant State Attorneys, may file amended informations in any such cases if and when necessary. The Legislature may provide for Assistant State Attorneys and special investigators for the State Attorney of

Dade County, and all Assistant State Attorneys shall be appointed by the State Attorney and sworn in by the Court, and such Assistant State Attorneys shall work under the direction of the State Attorney and shall have full authority to do and perform any official act that the State Attorney may do and perform.

Upon this amendment being adopted all funds appropriated by law approved by the Budget Commission and budgeted by the Board of County Commissioners of Dade County for the use of office of County Solicitor of Dade County, Florida, and for the purpose of employing Assistant County Solicitors and other office personnel shall thereafter be used for the operation of the State Attorney's Office of the Eleventh Judicial Circuit in and for Dade County, and the employing of Assistant State Attorneys and other personnel for the operation of that office, and the said State Attorney is hereby authorized to employ such personnel, including Assistant State Attorneys, process servers and investigator, in the same number and to be paid the same salary as the number of Assistant County Solicitors, process servers and investigator employed by the County Solicitor of Dade County, Florida.

*History.*—Added S.J.R. 1201, 1955; adopted 1956.

**SECTION 9C. Hillsborough County, offices of the state attorney and county solicitor.**—On and after the first Tuesday after the first Monday in January, 1969, there shall be a Prosecuting Attorney of the Criminal Court of Record of Hillsborough County to be known as County Solicitor who shall be a separate official elected for a term of four years by the qualified electors of the county as other state and county officials are elected and whose compensation shall be fixed by law. Said County Solicitor shall perform the functions and duties of a County Solicitor in the Criminal Court of Record of Hillsborough County, Florida, as prescribed by law in all noncapital felony cases and other lesser offenses in said court's jurisdiction.

After said time there shall also be a State Attorney of the Thirteenth Judicial Circuit in and for Hillsborough County who shall be a separate official elected by the qualified electors of that circuit in the same manner as other state and county officials to serve a term of four years who shall fulfill the duties prescribed by law, including, but not limited to, prosecution of all capital felony cases.

The legislature may provide for Assistant State Attorneys and Special Investigators for the State Attorney and for Assistant County Solicitors and Special Investigators for the County Solicitor of Hillsborough County, Florida, and all Assistant State Attorneys and Assistant County Solicitors and Investigators shall be appointed by the State Attorney and the County Solicitor respectively and sworn in by the court, and such Assistant State Attorneys and County Solicitors shall work under the direction of said State Attorney and County Solicitor and shall have full authority to do and perform any of the official duties and acts

that the State Attorney and County Solicitor may do and perform.

Pending informations filed in the Criminal Court of Record of Hillsborough County shall not be invalidated by this amendment or affected in any way hereby; and the County Solicitor may file amended informations in any such cases if and when necessary.

The County Commissioners shall, upon this amendment becoming effective, apportion the funds appropriated for the operation of the State Attorney's Office between the State Attorney's Office and the County Solicitor's Office on the basis of the case load, personnel assigned in the State Attorney's Office to handle the duties of the newly created County Solicitor, and the cost of operations of said two offices. Thereafter, the Board of County Commissioners of Hillsborough County shall appropriate such funds as to them may be reasonably required for the operation of the State Attorney's Office and County Solicitor's Office.

It is the express intent of the legislature and the electors of the State of Florida to create offices of the State Attorney and County Solicitor in Hillsborough County, Florida, which shall be separate, distinct, and unconnected with each other so that the same shall be and exist as they did in said county before the first Tuesday after the first Monday in January of 1961.

**History.**—Added S.J.R. 532, 1957; adopted 1958; Am. S.J.R. 6, 1965; adopted 1966.

**SECTION 10. Court of Record of Escambia County.**—In Escambia County there shall be a court of record with two or more judges as the legislature may provide, who shall be elected for a term of six years by the qualified electors of said county as other county officials are elected, and whose compensation shall be fixed by the legislature. Said court shall have exclusive jurisdiction of all criminal cases not capital and, concurrent with the circuit court of said county and the judges thereof, the same original jurisdiction of all cases and matters and the same power and authority to issue all writs as the circuit court of said county and the judges thereof, excepting the power to summon and empanel a grand jury, and jurisdiction of such other matters as the legislature may provide. The rules of procedure and practice applicable to the circuit court of said county shall obtain in the court of record.

The provisions of this constitution and all laws enacted in consonance therewith pertaining to circuit courts and the officers thereof and to appeals and writs of error from circuit courts, including the manner of the appointment or election and the terms of office and compensation of said officers, shall apply with like effect to the court of record of Escambia County and the officers thereof except as otherwise provided in this section; provided that the compensation and expense allowances of said judges of said court of record shall be paid by Escambia County and shall be the same as paid to and received from all sources by judges of the circuit court of said county

resident in said county.

At the request of a judge of the circuit court of Escambia County evidenced as now provided by law a judge of the court of record may assume and perform in every respect the jurisdiction and duties of the circuit court of Escambia County or a judge thereof, including the trial of capital cases and the power to summon and empanel a grand jury; and at the request of a judge of the court of record evidenced as now provided by law a judge of the circuit court of Escambia County may assume and perform in every respect the duties and jurisdiction of the court of record of Escambia County or a judge thereof.

There shall hereafter be elected for a term of four years by the qualified electors of Escambia County, Florida, a prosecuting attorney, who shall be known as "County Solicitor of Escambia County, Florida", and who shall be the prosecuting attorney in the Court of Record in and for Escambia County, Florida, and his duties and compensation shall be fixed by law. An election for County Solicitor shall be held at the general election in 1958, and each four years thereafter, and the person elected at any such election shall take office the first Tuesday after the first Monday in January succeeding the date of the election. Any person now occupying such office or who shall hereafter be appointed to fill any vacancy therein shall continue in office until the election and qualification of a County Solicitor hereunder.

All offenses triable in the Court of Record in and for Escambia County, Florida, shall be prosecuted upon information under oath, to be filed by the County Solicitor, but the Grand Jury of the Circuit Court for Escambia County, Florida, may indict for offenses triable in said Court. Upon the finding of any such indictment the Circuit Judge shall admit to bail or commit the accused pending trial in the Court of Record in and for Escambia County, Florida, and trial shall be upon information filed by the County Solicitor.

The Clerk of said Court shall be elected by the electors of Escambia County at the General Election in 1960 and each four years thereafter, and the person elected shall hold office for four years. The compensation and duties of the Clerk shall be fixed by law. The Clerk of the Court of Record in and for Escambia County, Florida, elected at the General Election of 1956 and any successor appointed to fill any vacancy in said office which may occur, shall hold office until the first Tuesday after the first Monday, January, 1961.

The sheriff of the County shall be the executive officer of said Court and his duties and compensation shall be fixed by law.

In event of vacancy in the office of County Solicitor, Clerk or other officer of the Court of Record in and for Escambia County, Florida, from any cause, the successor to fill such vacancy shall be appointed by the Governor to serve for the unexpired term of such office which has become vacant.

**History.**—Am. H. J. R. 83-XX, 1956, adopted 1956.

**SECTION 11. Courts of Justices of the Peace.—**

(1) **DISTRICTS AND PRESIDING OFFICER.** There shall be not more than five justice districts in each county, and there shall be elected one justice of the peace for each justice district, who shall hold office for four years. Existing justice districts are hereby recognized, but the legislature may, by special act, from time to time change the boundaries of any such district now or hereafter established, and may establish new or abolish any such district now or hereafter existing. Provided, however, that any such changes shall be submitted to the people of any county so affected, by referendum at the next ensuing general election.

(2) **JURISDICTION.** The justices of the peace shall have jurisdiction in cases at law in which the demand or value of the property involved does not exceed \$100.00, and in which the cause of action accrued or the defendant resides in his district; and in such criminal cases, except felonies, as may be prescribed by law, and he shall have power to issue process for the arrest of all persons charged with felonies and misdemeanors not within his jurisdiction to try, and make the same returnable before himself or the county judge for examination, discharge, commitment or bail of the accused. Justices of the peace shall have the power to hold inquests of the dead. Appeal from justices of the peace courts in criminal cases may be tried de novo under such regulations as the legislature may prescribe.

(3) **CONSTABLES.** A constable shall be elected by the registered voters in each justice's district, who shall perform such duties, and under such regulations as may be prescribed by law.

*History.—Am. H.J.R. 810, 1955; adopted, 1956.*

**SECTION 11A. Orange County; boundaries of Justice of Peace Districts.—**The board of county commissioners of Orange County may at any time upon resolution, alter, change or revise the boundary of any justice of the peace district within Orange County without referendum; provided that no existing justice of the peace district shall be dissolved or otherwise eliminated except as otherwise provided by law. A public hearing shall be held on the proposed resolution with ten days' notice published in a newspaper of general circulation in the county.

*History.—Added H.J.R. 748, 1965; adopted 1966.*

**SECTION 12. Juvenile Courts; establishment; jurisdiction; judge; officers; procedure.—**The legislature shall have power to create and establish juvenile courts in such county or counties or districts within the state as it may deem proper, and to define the jurisdiction and powers of such courts and the officers thereof, and to vest in such courts exclusive original jurisdiction of all or any criminal cases where minors under any age specified by the legislature from time to time are accused, including the right to define any or all offenses committed by any such persons as acts of delin-

quency instead of crimes; to provide for the qualification, election or selection and appointment of judges, probation officers and such other officers and employees of such courts as the legislature may determine, and to fix their compensation and term of office; all in such manner, for such time, and according to such methods as the legislature may prescribe and determine, without being limited therein by the provisions in this constitution as to trial by jury in Sections 3 and 11 of the Declaration of Rights, as to the use of the terms "prosecuting attorney" and "information" in Section 10 of the Declaration of Rights, as to election or appointment of officers in Section 27 of Article 3, as to jurisdiction of criminal cases in Sections 6, 7, 9, and 11 of this Article, as to original jurisdiction of the interests of minors in Section 6 of this Article, and as to style of process and prosecuting in the name of the state in Section 20 of this Article, or other existing conflicting provisions of this constitution.

*History.—Am. H.J.R. 810, 1955; adopted 1956.*

*Note.* §3 of D.R. now appears in 1968 revision as §22, Art. I.

*Note.* §11 of D.R. now appears in 1968 revision as §16, Art. I.

*Note.* §10 of D.R. now appears in 1968 revision as §15(a), Art. I.

*Note.* §27 of Art. III now appears in 1968 revision as §5(c) of Art. II; §1(b) Art. IV.

**SECTION 13. Eligibility requirements for justices and judges.—**No person shall be eligible for the office of justice of the supreme court or judge of a district court of appeal unless he is a citizen of this state, and unless he is, at the time, a member of the Florida Bar in good standing and for a period of at least ten years has been a member of the bar of Florida; and no person shall be eligible for the office of judge of a circuit court or criminal court of record who is not twenty-five years of age and a member of the bar of Florida. Any senator or member of the house of representatives otherwise qualified shall be eligible for appointment or election to any judicial office which may have been created, or the emoluments whereof may have been increased, during the time for which he was elected.

*History.—Am. H.J.R. 810, 1955; adopted 1956.*

**SECTION 13A. Eligibility requirements for justices and certain judges.—**

(1) No person shall be eligible for the office of justice of the supreme court or judge of a district court of appeal unless he is a citizen of this state, and unless he is, and for a period of ten years has been, a member of The Florida Bar; and no person shall be eligible for the office of judge of a circuit court unless he is a citizen of this state and unless he is, and for a period of five years has been, a member of The Florida Bar. The judges of other courts shall be citizens of this state and residents of the county served. Any senator or member of the house of representatives otherwise qualified shall be eligible for appointment or election to any judicial office, notwithstanding that it may have been created or its emoluments increased during the time for which he was elected.

*History.—Added Com. Sub. for S.J.R. 485, 1965; adopted 1966.*

**SECTION 14. Vacancies in office of judge, how filled.**—When the office of any judge shall become vacant from any cause, the successor to fill such vacancy shall be appointed or elected only for the unexpired term of the judge whose death, resignation, retirement, or other cause created such vacancy.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 15. Election of judges.**—Circuit judges shall be elected by the qualified electors of their respective judicial circuits as other state and county officials are elected.

Judges of district courts of appeal shall be elected by the qualified electors of their respective districts as other state and county officials are elected.

Justices of the supreme court shall be elected by the qualified electors of the state as other state and county officials are elected.

The judges of district courts of appeal identified as belonging to Group "A" shall be elected in 1958 and every six years thereafter; those identified as belonging to Group "B" shall be elected in 1960 and every six years thereafter; and those identified as belonging to Group "C" shall be elected in 1962 and every six years thereafter.

Election of circuit judges shall be held in the year 1960 and every six years thereafter.

Two justices of the supreme court shall be elected in 1958 and every six years thereafter; three justices of the supreme court shall be elected in 1960 and every six years thereafter; two justices of the supreme court shall be elected in 1962 and every six years thereafter.

Such elected justices and judges shall take office on the first Tuesday after the first Monday in the following January.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 16. Terms of office of certain judges.**—The terms of office of justices of the supreme court, judges of district courts of appeal, and circuit judges shall be six years.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 17. Retirement, suspension and removal of judges.**—Notwithstanding the provisions of this Article relating to terms of office:

(1) All justices and judges shall automatically retire at age 70;

(2) Subject to rules of procedure to be established by the supreme court, and after notice and hearing, any justice or judge may be retired for disability at retirement pay to be fixed by law, which shall not be less than two-thirds of his then compensation if he has served for ten years or more, by a commission composed of one justice of the supreme court to be selected by that court, two judges of the district courts of appeal to be selected by the judges of said district courts of appeal, and two circuit judges and two county judges to be selected by the supreme court.

(3) Any justice of the supreme court, judge of the district court of appeal, or circuit judge

shall be liable to impeachment for any misdemeanor in office.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 17A. Discipline, retirement and removal of justices and certain judges.**—

(1) Except as it provides for mandatory retirement, this section shall apply to every justice of the supreme court and judge of the district courts of appeal and circuit courts. It shall be the sole method of disciplining, automatically or involuntarily retiring or removing such justices or judges, provided that all such justices or judges shall be liable to impeachment for any misdemeanor in office. All justices and judges shall automatically retire at age seventy except those who held any judicial office on July 1, 1957; provided, however, that such mandatory retirement shall not prohibit a justice or judge from serving the entire term to which he was appointed or elected if he attains his seventieth birthday after serving at least one half of such term.

(2) There shall be a judicial qualifications commission composed of:

(a) Two judges of the district courts of appeal appointed by the judges of those courts and two circuit court judges appointed by the judges of those courts.

(b) Two members of The Florida Bar, who shall have practiced law in this state for at least eight years, appointed by the board of governors of The Florida Bar; and

(c) Three citizens, each of whom shall have been a resident of this state for at least five years, neither of whom shall be a justice or judge of any court, active or retired, nor a member of The Florida Bar, appointed by the governor. When a member appointed under paragraph (a) ceases to be a judge of the court from which he was appointed or a member appointed under paragraph (b) ceases to be a member of The Florida Bar, or a member appointed under paragraph (c) becomes a justice or judge of any court or a member of The Florida Bar, his membership on the commission shall terminate and a successor shall be appointed for the remainder of his term. No member of the commission appointed under paragraphs (b) or (c) shall be eligible to succeed himself. Except as provided herein, no member of the commission shall hold a public office and no member shall hold office in a political party. The compensation and terms of office of members of the commission shall be fixed by law, provided that not more than one third of the terms of the members shall terminate in any two year period. No recommendation of the commission to the supreme court shall be valid unless concurred in by two thirds of its members. The commission shall elect one of its members to serve as chairman.

(3) Any justice or judge to whom this section applies may be disciplined by private reprimand or removed from office for willful or persistent failure to perform his duties or habitual intemperance or conduct unbecoming a member of the judiciary or he may be involuntarily retired for disability seriously interfer-

ing with the performance of his duties, which is, or is likely to become, permanent in nature. After such investigation as it deems necessary, the judicial qualifications commission may conduct a hearing concerning the removal, discipline or retirement of a justice or judge or request the supreme court to appoint three special referees, who shall be active or retired justices or judges of courts of record, to hear and take evidence in any such matter, and to report thereon to the commission. All hearings shall be held in the county in which the justice or judge involved resides. Testimony shall be under oath, administered by a member of the commission or a special referee, and subject to the penalties for perjury. If after hearing, or after considering the record and report of the referees, the commission finds good cause therefor, it shall recommend to the supreme court the removal, discipline or retirement of the justice or judge. The supreme court shall review the record of the proceedings on the law and facts and shall order removal, discipline or retirement, as it finds just and proper, or wholly reject the commission's recommendation. Upon an order for involuntary retirement for disability, the justice or judge shall thereby be retired at retirement pay to be fixed by law which as to a justice of the supreme court, judge of a district court of appeal or circuit judge shall not be less than two thirds of his then compensation if he has served for ten years or more as justice or judge of such court or courts. Upon an order for removal, the justice or judge shall thereby be removed from office, and his salary shall cease from the date of such order. The supreme court shall make rules providing for the procedure before the commission and the referees and the extent to which communications shall be privileged or confidential, provided that upon the entry of an order of discipline, removal or retirement the record shall no longer remain confidential. A justice or judge shall be disqualified in any proceeding involving his own discipline, retirement or removal. The supreme court shall by rule provide for the disqualification of any member of the commission or referee and for the ad hoc appointment of a person to take the place of a disqualified person.

(4) In the event a judge is removed from office, his judicial service shall not provide immunity from disciplinary proceedings for professional misconduct performed during his term of office or prior thereto.

*History.*—Added S.J.R. 485, 1965; adopted 1966.

**SECTION 18. Prohibited activities of judges.**—Justices of the supreme court, judges of district courts of appeal and circuit judges shall devote full time to their judicial duties, shall not engage in the practice of law or hold any office or position of profit under this state or any office of profit under the United States, and shall not hold office in any political party.

Compensation for service in the state militia or the armed forces of the United States or other defense agencies recognized by the supreme court for such periods of time as may be

determined by the supreme court shall not be deemed profit.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 19. Judicial salaries and expenses.**—Justices of the supreme court and judges of all other courts shall receive for their services salaries or compensation provided by law. A retired justice or judge assigned to active judicial service shall, while so serving, receive as additional compensation the difference between his retirement benefits and the compensation applicable to such service. Salaries of circuit judges may be supplemented in any county or counties when authorized by law. Judicial officers shall be paid such actual and necessary expenses as may be authorized by law.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 20. Style of process.**—The style of all process shall be "The State of Florida" and all prosecutions shall be conducted in the name and by the authority of the State.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 21. Referees.**—Any civil cause may be tried before a practicing attorney as referee upon the applications of the parties and an order from the court in whose jurisdiction the case may be, authorizing such trial and appointing such referee. The referee shall keep a complete record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the clerk; and the cause shall be subject to an appeal in the manner prescribed by law.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 22. Juries.**—The number of jurors for trial of causes in any court may be fixed by law but shall not be less than six in any case.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 23. Admission and discipline of attorneys.**—The supreme court shall have exclusive jurisdiction over the admission to the practice of law and the discipline of persons admitted. It may provide for an agency to handle admissions subject to its supervision. It may also provide for the handling of disciplinary matters in the circuit courts and the district courts of appeal, or by commissions consisting of members of the bar to be designated by it, the supreme court, subject to its supervision and review.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 24. Effect of reduction of number of judges.**—Any law reducing the number of judges of any court shall not shorten the term of any judge then in office.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 25. Judicial Officers as conservators of the peace.** All judicial officers in this state shall be conservators of the peace.

*History.*—Am. H.J.R. 810, 1955; adopted 1956.

**SECTION 26. Schedule.**—

(1) This Article shall become effective on

the first day of July 1957 and shall replace all of Article V, and shall supersede any other provisions of the present constitution of Florida in conflict herewith, which shall then stand repealed.

(2) Until changed by law as authorized in this Article, the appellate districts shall be composed as follows:

**FIRST DISTRICT:**

The 1st, 2nd, 3rd, 4th, 5th, 7th, 8th, and 14th judicial circuits as presently constituted.

**SECOND DISTRICT:**

The 6th, 9th, 10th, 12th, and 13th judicial circuits as presently constituted.

**THIRD DISTRICT:**

The 11th, 15th, and 16th judicial circuits as presently constituted.

(3) The provisions of the Article governing eligibility for office shall not affect the right of any incumbent to continue in office or to seek reelection.

(4) Except to the extent inconsistent with the provisions of this Article, all provisions of law and rules of court in force on the effective date of this Article shall continue in effect until superseded in a manner authorized by the constitution.

(5) Judges of the district courts of appeal appointed by the governor shall take office on the effective date of this Article.

(6) The supreme court may transfer to the respective district courts of appeal such causes, matters and proceedings as are pending in the supreme court on the effective date of this Article which are within the jurisdiction of such courts as the supreme court may see fit. No case that has been orally argued before the supreme court shall be so transferred. The supreme court shall have and retain jurisdiction and authority over all causes, matters and proceedings not so transferred to the district courts of appeal.

(7) All trial courts as organized and constituted on the effective date of this Article shall, except as otherwise provided herein, continue with their jurisdiction, judges and officers, including the manner of their election or appointment, until otherwise provided by the legislature.

(8) Until otherwise provided by law, there shall be an additional judge for the Fourth Judicial Circuit who shall reside in Duval County, and shall receive the same salary and allowances for expenses as other circuit judges in and for the circuit court of said county, which salary and expenses shall be paid by said county out of its general revenue. The additional judge of the circuit court of Duval County holding office on the effective date of this Article under former Section 42 of Article V shall become the additional judge here provided for until the expiration of his then term of office.

(9) There shall be an additional circuit judge for the circuit court of the judicial circuit wherein the state capital is located. Subsequent to the first Tuesday after the first Monday in January 1957, the governor shall appoint the first judge hereunder to serve for a term expiring on the first Tuesday after the first Monday in January 1959, following the election of his successor at the general election in November 1958, which successor shall serve for a term expiring on the first Tuesday after the first Monday in January 1961, following the election of his successor at the general election in November 1960, which successor shall serve for the full term and his successors chosen as otherwise provided for circuit judges.

(10) Until otherwise provided by the legislature, orders of the Florida Industrial Commission shall be subject to review only by petition to the district courts of appeal for writ of certiorari.

(11) All provisions of law pertaining to the State Board of Law Examiners shall continue in effect until superseded in a manner authorized by this Article.

(12) This Article shall not disturb the terms of incumbent judges.

(13) The provision for automatic retirement in Section 17 of this Article does not apply to any person now holding office.

(14) Upon the adoption of this Article, the legislature shall enact such laws and make such appropriations and the supreme court shall make such rules as may be necessary or proper to give effect to its provisions.

*History.*—Am. H. J. R. 810, 1955, adopted 1956.

## ARTICLE VI

### SUFFRAGE AND ELECTIONS

#### Sec.

1. Regulation of elections.
2. Electors.
3. Oath.

**SECTION 1. Regulation of elections.**—All elections by the people shall be by direct and secret vote. General elections shall be determined by a plurality of votes cast. Registration and elections shall, and political party functions may, be regulated by law.

**SECTION 2. Electors.**—Every citizen of the United States who is at least twenty-one years of age and who has been a permanent resident

#### Sec.

4. Disqualifications.
5. General and special elections.
6. Municipal and district elections.

for one year in the state and six months in a county, if registered as provided by law, shall be an elector of that county. Provisions may be made by law for other bona fide residents of the state who are at least twenty-one years of age to vote in the election of presidential electors.

**SECTION 3. Oath.**—Each eligible citizen upon registering shall subscribe the following:

"I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, and that I am qualified to register as an elector under the Constitution and laws of the State of Florida."

**SECTION 4. Disqualifications.**—No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability.

**SECTION 5. General and special elections.**—A general election shall be held in each county

on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective state and county officer whose term will expire before the next general election and, except as provided herein, to fill each vacancy in elective office for the unexpired portion of the term. Special elections and referenda shall be held as provided by law.

**SECTION 6. Municipal and district elections.**—Registration and elections in municipalities shall, and in other governmental entities created by statute may, be provided by law.

## ARTICLE VII

### FINANCE AND TAXATION

Sec.

1. Taxation; appropriations; state expenses.
2. Taxes; rate.
3. Taxes; exemptions.
4. Taxation; assessments.
5. Estate, inheritance and income taxes.
6. Homestead exemptions.
7. Allocation of pari-mutuel taxes.

**SECTION 1. Taxation; appropriations; state expenses.**—

(a) No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

(c) No money shall be drawn from the treasury except in pursuance of appropriation made by law.

(d) Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.

**SECTION 2. Taxes; rate.**—All ad valorem taxation shall be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but shall never exceed two mills on the dollar of assessed value; provided, as to any obligations secured by mortgage, deed of trust, or other lien on real estate wherever located, an intangible tax of not more than two mills on the dollar may be levied by law to be in lieu of all other intangible assessments on such obligations.

**SECTION 3. Taxes; exemptions.**—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general

Sec.

8. Aid to local governments.
9. Local taxes.
10. Pledging credit.
11. State bonds; revenue bonds.
12. Local bonds.
13. Relief from illegal taxes.
14. Bonds for pollution control and abatement facilities.

law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

**SECTION 4. Taxation; assessments.**—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land or land used exclusively for non-commercial recreational purposes may be classified by general law and assessed solely on the basis of character of use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value.

**SECTION 5. Estate, inheritance and income taxes.**—

(a) **NATURAL PERSONS.** No tax upon estates or inheritances or upon the income of natural persons who are residents or citizens of the state shall be levied by the state, or under its authority, in excess of the aggregate of amounts which may be allowed to be credited upon or deducted from any similar tax levied by the United States or any state.

(b) **OTHERS.** No tax upon the income of residents and citizens other than natural persons shall be levied by the state, or under its authority, in excess of 5% of net income, as defined by law, or at such greater rate as is authorized by a three-fifths (3/5) vote of the membership of each house of the legislature or as will provide for the state the maximum amount which may be allowed to be credited against income taxes levied by the United States and other states. There shall be exempt from taxation not less than five thousand dollars (\$5,000) of the excess of net income subject to tax over the maximum amount allowed to be credited against income taxes levied by the United States and other states.

(c) **EFFECTIVE DATE.** This section shall become effective immediately upon approval by the electors of Florida.

**SECTION 6. Homestead exemptions.—**

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which his interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the exemption may be increased up to an amount not exceeding ten thousand dollars of the assessed value of the real estate if the owner has attained age sixty-five or is totally and permanently disabled.

**SECTION 7. Allocation of pari-mutuel taxes.—**Taxes upon the operation of pari-mutuel pools may be preempted to the state or allocated in whole or in part to the counties. When allocated to the counties, the distribution shall be in equal amounts to the several counties.

**SECTION 8. Aid to local governments.—**State funds may be appropriated to the several counties, school districts, municipalities or special districts upon such conditions as may be provided by general law.

**SECTION 9. Local taxes.—**

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and

may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not be levied in excess of the following millages upon the assessed value of real estate and tangible personal property: for all county purposes, ten mills; for all municipal purposes, ten mills; for all school purposes, ten mills; and for special districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes.

**SECTION 10. Pledging credit.—**Neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership or person; but this shall not prohibit laws authorizing:

(a) the investment of public trust funds;

(b) the investment of other public funds in obligations of, or insured by, the United States or any of its instrumentalities;

(c) the issuance and sale by any county, municipality, special district or other local governmental body of (1) revenue bonds to finance or refinance the cost of capital projects for airports or port facilities, or (2) revenue bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants to the extent that the interest thereon is exempt from income taxes under the then existing laws of the United States, when, in either case, the revenue bonds are payable solely from revenue derived from the sale, operation or leasing of the projects. If any project so financed, or any part thereof, is occupied or operated by any private corporation, association, partnership or person pursuant to contract or lease with the issuing body, the property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property.

**SECTION 11. State bonds; revenue bonds.—**

(a) State bonds pledging the full faith and credit of the state may be issued only to finance or refinance the cost of state capital projects upon approval by a vote of the electors; provided state bonds issued pursuant to this subsection (a) may be refunded without a vote of the electors at a lower net average interest cost rate. The total outstanding principal of state bonds issued pursuant to this subsection (a) shall never exceed fifty per cent of the

total tax revenues of the state for the two preceding fiscal years.

(b) Moneys sufficient to pay debt service on state bonds as the same becomes due shall be appropriated by law.

(c) Revenue bonds may be issued by the state or its agencies without a vote of the electors only to finance or refinance the cost of state capital projects and shall be payable solely from funds derived from sources other than state tax revenues or rents or fees paid from state tax revenues.

**SECTION 12. Local bonds.**—Counties, school districts, municipalities, special districts and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation and maturing more than twelve months after issuance only:

(a) to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation; or

(b) to refund outstanding bonds and interest and redemption premium thereon at a lower net average interest cost rate.

**SECTION 13. Relief from illegal taxes.**—Until payment of all taxes which have been legally assessed upon the property of the same owner, no court shall grant relief from the payment of any tax that may be illegal or illegally assessed.

**SECTION 14. Bonds for pollution control and abatement facilities.**—

(a) When authorized by law, state bonds pledging the full faith and credit of the state may be issued without an election to finance the construction of air and water pollution control and abatement and solid waste disposal facilities (herein referred to as "facilities") to be operated by any municipality, county, district or authority, or any agency thereof (herein referred to as "local governmental agencies"), or by any agency of the State of Florida. Such bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be de-

rived from operation of such facilities, special assessments, rentals to be received under lease-purchase agreements herein provided for, any other revenues that may be legally available for such purpose, including revenues from other facilities, or any combination thereof (herein collectively referred to as "pledged revenues"), and shall be additionally secured by the full faith and credit of the State of Florida.

(b) No such bonds shall be issued unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the pledged revenues exceed seventy-five per cent of the pledged revenues.

(c) The state may lease any of such facilities to any local governmental agency, under lease-purchase agreements for such periods and under such other terms and conditions as may be mutually agreed upon. The local governmental agencies may pledge the revenues derived from such leased facilities or any other available funds for the payment of rentals thereunder; and, in addition, the full faith and credit and taxing power of such local governmental agencies may be pledged for the payment of such rentals without any election of freeholder electors or qualified electors.

(d) The state may also issue such bonds for the purpose of loaning money to local governmental agencies, for the construction of such facilities to be owned or operated by any of such local governmental agencies. Such loans shall bear interest at not more than one-half of one per cent per annum greater than the last preceding issue of state bonds pursuant to this section, shall be secured by the pledged revenues, and may be additionally secured by the full faith and credit of the local governmental agencies.

(e) The total outstanding principal of state bonds issued pursuant to this section 14 shall never exceed fifty per cent of the total tax revenues of the state for the two preceding fiscal years.

History.—Com. Sub. for H.J.R. 3853 and H.J.R. 4040, 1970; adopted 1970.  
cf.—§403.1834 State bonds to finance facilities.

## ARTICLE VIII

### LOCAL GOVERNMENT

Sec.

1. Counties.
2. Municipalities.
3. Consolidation.

**SECTION 1. Counties.**—

(a) **POLITICAL SUBDIVISIONS.** The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) **COUNTY FUNDS.** The care, custody and method of disbursing county funds shall be provided by general law.

Sec.

4. Transfer of powers.
5. Local option.
6. Schedule.

(c) **GOVERNMENT.** Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) **COUNTY OFFICERS.** There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a tax assessor, a supervisor of elections, and a

clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.

(e) **COMMISSIONERS.** Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected by the electors of the county.

(f) **NON-CHARTER GOVERNMENT.** Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

(g) **CHARTER GOVERNMENT.** Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

(h) **TAXES; LIMITATION.** Property situate within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

(i) **COUNTY ORDINANCES.** Each county ordinance shall be filed with the secretary of state and shall become effective at such time thereafter as is provided by general law.

(j) **VIOLATION OF ORDINANCES.** Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) **COUNTY SEAT.** In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No

instrument shall be deemed recorded in the county until filed at the county seat according to law.

#### SECTION 2. Municipalities.—

(a) **ESTABLISHMENT.** Municipalities may be established or abolished and their charters amended pursuant to general or special law. When any municipality is abolished, provision shall be made for the protection of its creditors.

(b) **POWERS.** Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. Each municipal legislative body shall be elective.

(c) **ANNEXATION.** Municipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.

**SECTION 3. Consolidation.**—The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected, as may be provided in the plan. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

**SECTION 4. Transfer of powers.**—By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.

**SECTION 5. Local option.**—Local option on the legality or prohibition of the sale of intoxicating liquors, wines or beers shall be preserved to each county. The status of a county with respect thereto shall be changed only by vote of the electors in a special election called upon the petition of twenty-five per cent of the electors of the county, and not sooner than two years after an earlier election on the same question. Where legal, the sale of intoxicating liquors, wines and beers shall be regulated by law.

#### SECTION 6. Schedule.—

(a) This article shall replace all of Article VIII of the Constitution of 1885, as amended, except those sections expressly retained and made a part of this article by reference.

(b) **COUNTIES; COUNTY SEATS; MUNICIPALITIES; DISTRICTS.** The status of the

following items as they exist on the date this article becomes effective is recognized and shall be continued until changed in accordance with law: the counties of the state; their status with respect to the legality of the sale of intoxicating liquors, wines and beers; the method of selection of county officers; the performance of municipal functions by county officers; the county seats; and the municipalities and special districts of the state, their powers, jurisdiction and government.

(c) **OFFICERS TO CONTINUE IN OFFICE.** Every person holding office when this article becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.

(d) **ORDINANCES.** Local laws relating only to unincorporated areas of a county on the effective date of this article may be amended or repealed by county ordinance.

(e) **CONSOLIDATION AND HOME RULE.** Article VIII, Sections \*9, \*\*10, \*\*\*11 and \*\*\*\*24, of the Constitution of 1885, as amended, shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article. All provisions of the Metropolitan Dade County Home Rule Charter, heretofore or hereafter adopted by the electors of Dade County pursuant to \*\*\*Article VIII, Section 11, of the Constitution of 1885, as amended, shall be valid, and any amendments to such charter shall be valid; provided that the said provisions of such charter and the said amendments thereto are authorized under said \*\*\*Article VIII, Section 11, of the Constitution of 1885, as amended.

(f) **DADE COUNTY; POWERS CONFERRED UPON MUNICIPALITIES.** To the extent not inconsistent with the powers of existing municipalities or general law, the Metropolitan Government of Dade County may exercise all the powers conferred now or hereafter by general law upon municipalities.

(g) **DELETION OF OBSOLETE SCHEDULE ITEMS.** The legislature shall have power, by joint resolution, to delete from this article any subsection of this Section 6, including this subsection, when all events to which the subsection to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this subsection shall be subject to judicial review.

\*Note.—Section 9 of Art. VIII of the Constitution of 1885, as amended, reads as follows:

**SECTION 9. Legislative power over city of Jacksonville and Duval County.**—The Legislature shall have power to establish, alter or abolish, a Municipal corporation to be known as the City of Jacksonville, extending territorially throughout the present limits of Duval County, in the place of any or all county, district, municipal and local governments, boards, bodies and officers, constitutional or statutory, legislative, executive, judicial, or administrative, and shall prescribe the jurisdiction, powers, duties and functions of such municipal corporation, its legislative, executive, judicial and administrative departments and its boards, bodies and officers; to divide the territory included in such municipality into subordinate districts, and to

prescribe a just and reasonable system of taxation for such municipality and districts; and to fix the liability of such municipality and districts. Bonded and other indebtedness, existing at the time of the establishment of such municipality, shall be enforceable only against property theretofore taxable therefor. The Legislature shall, from time to time, determine what portion of said municipality is a rural area, and a homestead in such rural area shall not be limited as if in a city or town. Such municipality may exercise all the powers of a municipal corporation and shall also be recognized as one of the legal political divisions of the State with the duties and obligations of a county and shall be entitled to all the powers, rights and privileges, including representation in the State Legislature, which would accrue to it if it were a county. All property of Duval County and of the municipalities in said county shall vest in such municipal corporation when established as herein provided. The offices of Clerk of the Circuit Court and Sheriff shall not be abolished but the Legislature may prescribe the time when, and the method by which, such offices shall be filled and the compensation to be paid to such officers and may vest in them additional powers and duties. No county office shall be abolished or consolidated with another office without making provision for the performance of all State duties now or hereafter prescribed by law to be performed by such county officer. Nothing contained herein shall affect Section 20 of Article III of the Constitution of the State of Florida, except as to such provisions therein as relate to regulating the jurisdiction and duties of any class of officers, to summoning and impanelling grand and petit jurors, to assessing and collecting taxes for county purposes and to regulating the fees and compensation of county officers. No law authorizing the establishing or abolishing of such Municipal corporation pursuant to this Section, shall become operative or effective until approved by a majority of the qualified electors participating in an election held in said County, but so long as such Municipal corporation exists under this Section the Legislature may amend or extend the law authorizing the same without referendum to the qualified voters unless the Legislative act providing for such amendment or extension shall provide for such referendum.

**History.**—Added, S.J.R. 113, 1933; adopted 1934.

\*\*Note.—Section 10, Art. VIII of the Constitution of 1885, as amended, reads as follows:

**SECTION 10. Legislative power over city of Key West and Monroe county.**—The Legislature shall have power to establish, alter or abolish, a Municipal corporation to be known as the City of Key West, extending territorially throughout the present limits of Monroe County, in the place of any or all county, district, municipal and local governments, boards, bodies and officers, constitutional or statutory, legislative, executive, judicial, or administrative, and shall prescribe the jurisdiction, powers, duties and functions of such municipal corporation, its legislative, executive, judicial and administrative departments and its boards, bodies and officers; to divide the territory included in such municipality into subordinate districts, and to prescribe a just and reasonable system of taxation for such municipality and districts; and to fix the liability of such municipality and districts. Bonded and other indebtedness, existing at the time of the establishment of such municipality, shall be enforceable only against property theretofore taxable therefor. The Legislature shall, from time to time, determine what portion of said municipality is a rural area, and a homestead in such rural area shall not be limited as if in a city or town. Such municipality may exercise all the powers of a municipal corporation and shall also be recognized as one of the legal political divisions of the State with the duties and obligations of a county and shall be entitled to all the powers, rights and privileges, including representation in the State Legislature, which would accrue to it if it were a county. All property of Monroe County and of the municipality in said county shall vest in such municipal corporation when established as herein provided. The offices of Clerk of the Circuit Court and Sheriff shall not be abolished but the Legislature may prescribe the time when, and the method by which, such offices shall be filled and the compensation to be paid to such officers and may vest in them additional powers and duties. No county office shall be abolished or consolidated with another office without making provision for the performance of all State duties now or hereafter prescribed by law to be performed by such county officer. Nothing contained herein shall affect Section 20 of Article III of the Constitution of the State of Florida, except as to such provisions therein as relate to regulating the jurisdiction and duties of any class of officers, to summoning and impanelling grand and petit juries, to assessing and collecting taxes for county purposes and to regulating the fees and compensation of county officers. No law authorizing the establishing or abolishing of such Municipal corporation pursuant to this Section shall become operative or effective until approved by a majority of the qualified electors participating in an election held in said County, but so long as such Municipal corporation exists under this Section the Legislature may amend or extend the law authorizing the same without referendum to the qualified voters unless the Legislative Act providing for such amendment or extension shall provide for such referendum.

**History.**—Added, S.J.R. 429, 1935; adopted 1936.

\*\*\*Note.—Section 11 of Art. VIII of the Constitution of 1885, as amended, reads as follows:

**SECTION 11. Dade County, home rule charter.**—(1) The elec-

tors of Dade County, Florida, are granted power to adopt, revise, and amend from time to time a home rule charter of government for Dade County, Florida, under which the Board of County Commissioners of Dade County shall be the governing body. This charter:

(a) Shall fix the boundaries of each county commission district, provide a method for changing them from time to time, and fix the number, terms and compensation of the commissioners, and their method of election.

(b) May grant full power and authority to the Board of County Commissioners of Dade County to pass ordinances relating to the affairs, property and government of Dade County and provide suitable penalties for the violation thereof; to levy and collect such taxes as may be authorized by general law and no other taxes, and to do everything necessary to carry on a central metropolitan government in Dade County.

(c) May change the boundaries of, merge, consolidate, and abolish and may provide a method for changing the boundaries of, merging, consolidating and abolishing from time to time all municipal corporations, county or district governments, special taxing districts, authorities, boards, or other governmental units whose jurisdiction lies wholly within Dade County, whether such governmental units are created by the Constitution or the Legislature or otherwise, except the Dade County Board of County Commissioners as it may be provided for from time to time by this home rule charter and the Board of Public Instruction of Dade County.

(d) May provide a method by which any and all of the functions or powers of any municipal corporation or other governmental unit in Dade County may be transferred to the Board of County Commissioners of Dade County.

(e) May provide a method for establishing new municipal corporations, special taxing districts, and other governmental units in Dade County from time to time and provide for their government and prescribe their jurisdiction and powers.

(f) May abolish and may provide a method for abolishing from time to time all offices provided for by Article VIII, Section 6, of the Constitution or by the Legislature, except the Superintendent of Public Instruction and may provide for the consolidation and transfer of the functions of such offices, provided, however, that there shall be no power to abolish or impair the jurisdiction of the Circuit Court or to abolish any other court provided for by this Constitution or by general law, or the judges or clerks thereof although such charter may create new courts and judges and clerks thereof with jurisdiction to try all offenses against ordinances passed by the Board of County Commissioners of Dade County and none of the other courts provided for by this Constitution or by general law shall have original jurisdiction to try such offenses, although the charter may confer appellate jurisdiction on such courts, and provided further that if said home rule charter shall abolish any county office or offices as authorized herein, that said charter shall contain adequate provision for the carrying on of all functions of said office or offices as are now or may hereafter be prescribed by general law.

(g) Shall provide a method by which each municipal corporation in Dade County shall have the power to make, amend or repeal its own charter. Upon adoption of this home rule charter by the electors this method shall be exclusive and the Legislature shall have no power to amend or repeal the charter of any municipal corporation in Dade County.

(h) May change the name of Dade County.

(i) Shall provide a method for the recall of any commissioner and a method for initiative and referendum, including the initiation of and referendum on ordinances and the amendment or revision of the home rule charter, provided, however, that the power of the Governor and Senate relating to the suspension and removal of officers provided for in this Constitution shall not be impaired, but shall extend to all officers provided for in said home rule charter.

(2) Provision shall be made for the protection of the creditors of any governmental unit which is merged, consolidated, or abolished or whose boundaries are changed or functions or powers transferred.

(3) This home rule charter shall be prepared by a Metropolitan Charter Board created by the Legislature and shall be presented to the electors of Dade County for ratification or rejection in the manner provided by the Legislature. Until a home rule charter is adopted the Legislature may from time to time create additional Charter Boards to prepare charters to be presented to the electors of Dade County for ratification or rejection in the manner provided by the Legislature. Such Charter, once adopted by the electors, may be amended only by the electors of Dade County and this charter shall provide a method for submitting future charter revisions and amendments to the electors of Dade County.

(4) The County Commission shall continue to receive its pro rata share of all revenues payable by the state from whatever source to the several counties and the state of Florida shall pay to the Commission all revenues which would have been paid to any municipality in Dade County which may be abolished by or in the method provided by this home rule charter; provided, however, the Commission shall reimburse the comptroller of Florida for the expense incurred if any, in the keeping of separate records to determine the amounts of money which would have been payable to any such municipality.

(5) Nothing in this section shall limit or restrict the power of

the Legislature to enact general laws which shall relate to Dade County and any other one or more counties in the state of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida, and the home rule charter provided for herein shall not conflict with any provision of this Constitution nor of any applicable general laws now applying to Dade County and any other one or more counties of the State of Florida except as expressly authorized in this section nor shall any ordinance enacted in pursuance to said home rule charter conflict with this Constitution or any such applicable general law except as expressly authorized herein, nor shall the charter of any municipality in Dade County conflict with this Constitution or any such applicable general law except as expressly authorized herein, provided however that said charter and said ordinances enacted in pursuance thereof may conflict with, modify or nullify any existing local, special or general law applicable only to Dade County.

(6) Nothing in this section shall be construed to limit or restrict the power of the Legislature to enact general laws which shall relate to Dade County and any other one or more counties of the state of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida relating to county or municipal affairs and all such general laws shall apply to Dade County and to all municipalities therein to the same extent as if this section had not been adopted and such general laws shall supersede any part or portion of the home rule charter provided for herein in conflict therewith and shall supersede any provision of any ordinance enacted pursuant to said charter and in conflict therewith, and shall supersede any provision of any charter of any municipality in Dade County in conflict therewith.

(7) Nothing in this section shall be construed to limit or restrict the power and jurisdiction of the Railroad and Public Utilities Commission or of any other state agency, bureau or commission now or hereafter provided for in this Constitution or by general law and said state agencies, bureaus and commissions shall have the same powers in Dade County as shall be conferred upon them in regard to other counties.

(8) If any section, subsection, sentence, clause or provisions of this section is held invalid as violative of the provisions of Section 1 Article XVII of this Constitution the remainder of this section shall not be affected by such invalidity.

(9) It is declared to be the intent of the Legislature and of the electors of the State of Florida to provide by this section home rule for the people of Dade County in local affairs and this section shall be liberally construed to carry out such purpose, and it is further declared to be the intent of the Legislature and of the electors of the State of Florida that the provisions of this Constitution and general laws which shall relate to Dade County and any other one or more counties of the State of Florida or to any municipality in Dade County and any other one or more municipalities of the State of Florida enacted pursuant thereto by the Legislature shall be the supreme law in Dade County, Florida, except as expressly provided herein and this section shall be strictly construed to maintain such supremacy of this Constitution and of the Legislature in the enactment of general laws pursuant to this Constitution.

**History.**—Added, H. J. R. 858, 1941; adopted 1942; am. S. J. R. 1046, 1955; adopted, 1956.

\*\*\*Note.—Section 24 of Art. VIII of the Constitution of 1885, as amended, reads as follows:

**SECTION 24. Hillsborough County, home rule charter.**—

(1) The electors of Hillsborough county are hereby granted the power to adopt a charter for a government which shall exercise any and all powers for county and municipal purposes which this constitution or the legislature, by general, special or local law, has conferred upon Hillsborough county or any municipality therein. Such government shall exercise these powers by the enactment of ordinances which relate to government of Hillsborough county and provide suitable penalties for the violation thereof. Such government shall have no power to create or abolish any municipality, except as otherwise provided herein.

(2) The method and manner by which the electors of Hillsborough county shall exercise this power shall be set forth in a charter for the government of Hillsborough county which charter shall be presented to said electors by any charter commission established by the legislature. The legislature may provide for the continuing existence of any charter commission or may establish a charter commission or commissions subsequent to any initial commission without regard to any election or elections held upon any charter or charters theretofore presented. A charter shall become effective only upon ratification by a majority of the electors of Hillsborough county voting in a general or special election as provided by law.

(3) The number, qualifications, terms of office and method of filling vacancies in the membership of any charter commission established pursuant to this section and the powers, functions and duties of any such commission shall be provided by law.

(4) A charter prepared by any commission established pursuant to this section shall provide that:

(a) The governments of the city of Tampa and the county of Hillsborough shall be consolidated, and the structure of the new local government shall include:

1. An executive branch, the chief officer of which shall be responsible for the administration of government.

2. An elected legislative branch, the election to membership, powers and duties of which shall be as provided by the charter.

3. A judicial branch, which shall only have jurisdiction in the enforcement of ordinances enacted by the legislative branch created by this section.

(b) Should the electors of the municipalities of Plant City or Temple Terrace wish to consolidate their governments with the government hereinabove created, they may do so by majority vote of the electors of said municipality voting in an election upon said issue.

(c) The creditors of any governmental unit consolidated or abolished under this section shall be protected. Bonded or other indebtedness existing at the effective date of any government established hereunder shall be enforceable only against the real and personal property theretofore taxable for such purposes.

(d) Such other provisions as might be required by law.

(5) The provisions of such charter and ordinances enacted pursuant thereto shall not conflict with any provision of this constitution nor with general, special or local laws now or hereafter applying to Hillsborough county.

(6) The government established hereunder shall be recognized as a county, that is one of the legal political subdivisions of the state with the powers, rights, privileges, duties and obligations of a county, and may also exercise all the powers

of a municipality. Said government shall have the right to sue and be sued.

(7) Any government established hereunder shall be entitled to receive from the state of Florida or from the United States or from any other agency, public or private, funds and revenues to which a county is, or may hereafter be entitled, and also all funds and revenues to which an incorporated municipality is or may hereafter be entitled, and to receive the same without diminution or loss by reason of any such government as may be established. Nothing herein contained shall preclude such government as may be established hereunder from receiving all funds and revenues from whatever source now received, or hereinafter received provided by law.

(8) The board of county commissioners of Hillsborough county shall be abolished when the functions, duties, powers and responsibilities of said board shall be transferred in the manner to be provided by the charter to the government established pursuant to this section. No other office provided for by this constitution shall be abolished by or pursuant to this section.

(9) This section shall not restrict or limit the legislature in the enactment of general, special or local laws as otherwise provided in this constitution.

**History.**—Added Com. Sub. for H.J.R. 1987, 1965; adopted 1966.

## ARTICLE IX

### EDUCATION

Sec.

1. System of public education.
2. State board of education.
3. Terms of appointive board members.

**SECTION 1. System of public education.**—Adequate provision shall be made by law for a uniform system of free public schools and for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require.

**SECTION 2. State board of education.**—The governor and the members of the cabinet shall constitute a state board of education, which shall be a body corporate and have such supervision of the system of public education as is provided by law.

**SECTION 3. Terms of appointive board members.**—Members of any appointive board dealing with education may serve terms in excess of four years as provided by law.

**SECTION 4. School districts; school boards.**—

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the elec-

Sec.

4. School districts; school boards.
5. Superintendent of schools.
6. State school fund.

tors for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs.

**SECTION 5. Superintendent of schools.**—In each school district there shall be a superintendent of schools. He shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board, or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.

**SECTION 6. State school fund.**—The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.

## ARTICLE X

### MISCELLANEOUS

Sec.

1. Amendments to United States Constitution.
2. Militia.
3. Vacancy in office.
4. Homestead; exemptions.
5. Coverture and property.
6. Eminent domain.

**SECTION 1. Amendments to United States Constitution.**—The legislature shall not take action on any proposed amendment to the constitution of the United States unless a majority

Sec.

7. Lotteries.
8. Census.
9. Repeal of criminal statutes.
10. Felony; definition.
11. Sovereignty lands.
12. Rules of construction.
13. Suits against the state.

of the members thereof have been elected after the proposed amendment has been submitted for ratification.

**SECTION 2. Militia.**—

(a) The militia shall be composed of all ablebodied inhabitants of the state who are or have declared their intention to become citizens of the United States; and no person because of religious creed or opinion shall be exempted from military duty except upon conditions provided by law.

(b) The organizing, equipping, housing, maintaining, and disciplining of the militia, and the safekeeping of public arms may be provided for by law.

(c) The governor shall appoint all commissioned officers of the militia, including an adjutant general who shall be chief of staff. The appointment of all general officers shall be subject to confirmation by the senate.

(d) The qualifications of personnel and officers of the federally recognized national guard, including the adjutant general, and the grounds and proceedings for their discipline and removal shall conform to the appropriate United States army or air force regulations and usages.

**SECTION 3. Vacancy in office.**—Vacancy in office shall occur upon the creation of an office, upon the death of the incumbent or his removal from office, resignation, succession to another office, unexplained absence for sixty consecutive days, or failure to maintain the residence required when elected or appointed, and upon failure of one elected or appointed to office to qualify within thirty days from the commencement of the term.

**SECTION 4. Homestead; exemptions.**—

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement or repair thereof, or obligations contracted for house, field or other labor performed on the realty, the following property owned by the head of a family:

(1) a homestead, if located outside a municipality, to the extent of one hundred sixty acres of contiguous land and improvements thereon, which shall not be reduced without the owner's consent by reason of subsequent inclusion in a municipality; or if located within a municipality, to the extent of one-half acre of contiguous land, upon which the exemption shall be limited to the residence of the owner or his family;

(2) personal property to the value of one thousand dollars.

(b) These exemptions shall inure to the surviving spouse or heirs of the owner.

(c) The homestead shall not be subject to devise if the owner is survived by spouse or minor child. The owner of homestead real estate, joined by the spouse if married, may alienate the homestead by mortgage, sale or gift and, if married, may by deed transfer the title to an estate by the entirety with the spouse. If the owner or spouse is incompetent, the method of alienation or encumbrance shall be as provided by law.

**SECTION 5. Coverture and property.**—

There shall be no distinction between married women and married men in the holding, control, disposition, or encumbering of their property, both real and personal; except that dower or curtesy may be established and regulated by law.

**SECTION 6. Eminent domain.**—

(a) No private property shall be taken except for a public purpose and with full compensation therefor paid to each owner or secured by deposit in the registry of the court and available to the owner.

(b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.

**SECTION 7. Lotteries.**—Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.

**SECTION 8. Census.**—

(a) Each decennial census of the state taken by the United States shall be an official census of the state.

(b) Each decennial census, for the purpose of classifications based upon population, shall become effective on the thirtieth day after the final adjournment of the regular session of the legislature convened next after certification of the census.

**SECTION 9. Repeal of criminal statutes.**—

Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed.

**SECTION 10. Felony; definition.**—The term "felony" as used herein and in the laws of this state shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.

**SECTION 11. Sovereignty lands.**—The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

*History.* Am. H.J.R. 792, 1970; adopted 1970.

**SECTION 12. Rules of construction.**—Unless qualified in the text the following rules of construction shall apply to this constitution.

(a) "Herein" refers to the entire constitution.

(b) The singular includes the plural.

(c) The masculine includes the feminine.

(d) "Vote of the electors" means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.

(e) Vote or other action of a legislative

house or other governmental body means the vote or action of a majority or other specified percentage of those members voting on the matter. "Of the membership" means "of all members thereof."

(f) The terms "judicial office," "justices" and "judges" shall not include judges of courts established solely for the trial of violations of ordinances.

(g) "Special law" means a special or local law.

(h) Titles and subtitles shall not be used in construction.

SECTION 13. **Suits against the state.**—Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

## ARTICLE XI

### AMENDMENTS

Sec.

1. Proposal by legislature.
2. Revision commission.
3. Initiative.

SECTION 1. **Proposal by legislature.**—Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

#### SECTION 2. **Revision commission.**—

(a) Within thirty days after the adjournment of the regular session of the legislature convened in the tenth year following that in which this constitution is adopted, and each twentieth year thereafter, there shall be established a constitution revision commission composed of the following thirty-seven members:

- (1) the attorney general of the state;
- (2) fifteen members selected by the governor;
- (3) nine members selected by the speaker of the house of representatives and nine members selected by the president of the senate; and
- (4) three members selected by the chief justice of the supreme court of Florida with the advice of the justices.

(b) The governor shall designate one member of the commission as its chairman. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) Each constitution revision commission shall convene at the call of its chairman, adopt its rules of procedure, examine the constitution of the state, hold public hearings, and, not later than one hundred eighty days prior to the next general election, file with the secretary of state its proposal, if any, of a revision of this constitution or any part of it.

SECTION 3. **Initiative.**—The power to propose amendments to any section of this constitution by initiative is reserved to the people. It may be invoked by filing with the secretary of state a petition containing a copy of the proposed amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the

Sec.

4. Constitutional convention.
5. Amendment or revision election.

state as a whole, equal to eight per cent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

#### SECTION 4. **Constitutional convention.**—

(a) The power to call a convention to consider a revision of the entire constitution is reserved to the people. It may be invoked by filing with the secretary of state a petition, containing a declaration that a constitutional convention is desired, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to fifteen per cent of the votes cast in each such district respectively and in the state as a whole in the last preceding election of presidential electors.

(b) At the next general election held more than ninety days after the filing of such petition there shall be submitted to the electors of the state the question: "Shall a constitutional convention be held?" If a majority voting on the question votes in the affirmative, at the next succeeding general election there shall be elected from each representative district a member of a constitutional convention. On the twenty-first day following that election, the convention shall sit at the capital, elect officers, adopt rules of procedure, judge the election of its membership, and fix a time and place for its future meetings. Not later than ninety days before the next succeeding general election, the convention shall cause to be filed with the secretary of state any revision of this constitution proposed by it.

#### SECTION 5. **Amendment or revision election.**—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission or constitutional convention proposing it is filed with the secretary of state, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature

and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper

of general circulation in each county in which a newspaper is published.

(c) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

## ARTICLE XII

### SCHEDULE

Sec.

1. Constitution of 1885 superseded.
2. Property taxes; millages.
3. Officers to continue in office.
4. State commissioner of education.
5. Superintendent of schools.
6. Laws preserved.
7. Rights reserved.
8. Public debts recognized.
9. Bonds.

**SECTION 1. Constitution of 1885 superseded.**—Articles I through IV, VII, and IX through XX of the Constitution of Florida adopted in 1885, as amended from time to time, are superseded by this revision except those sections expressly retained and made a part of this revision by reference.

**SECTION 2. Property taxes; millages.**—Tax millages authorized in counties, municipalities and special districts, on the date this revision becomes effective, may be continued until reduced by law.

**SECTION 3. Officers to continue in office.**—Every person holding office when this revision becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.

**SECTION 4. State commissioner of education.**—The state superintendent of public instruction in office on the effective date of this revision shall become and, for the remainder of the term being served, shall be the commissioner of education.

**SECTION 5. Superintendent of schools.**—

(a) On the effective date of this revision the county superintendent of public instruction of each county shall become and, for the remainder of the term being served, shall be the superintendent of schools of that district.

(b) The method of selection of the county superintendent of public instruction of each county, as provided by or under the Constitution of 1885, as amended, shall apply to the selection of the district superintendent of schools until changed as herein provided.

**SECTION 6. Laws preserved.**—

(a) All laws in effect upon the adoption of

Sec.

10. Preservation of existing government.
11. Deletion of obsolete schedule items.
12. Senators.
13. Legislative apportionment.
14. Representatives; terms.
15. Special district taxes.
16. Reorganization.
17. Conflicting provisions.

this revision, to the extent not inconsistent with it, shall remain in force until they expire by their terms or are repealed.

(b) All statutes which, under the Constitution of 1885, as amended, apply to the state superintendent of public instruction and those which apply to the county superintendent of public instruction shall under this revision apply, respectively, to the state commissioner of education and the district superintendent of schools.

**SECTION 7. Rights reserved.**—

(a) All actions, rights of action, claims, contracts and obligations of individuals, corporations and public bodies or agencies existing on the date this revision becomes effective shall continue to be valid as if this revision had not been adopted. All taxes, penalties, fines and forfeitures owing to the state under the Constitution of 1885, as amended, shall inure to the state under this revision, and all sentences as punishment for crime shall be executed according to their terms.

(b) This revision shall not be retroactive so as to create any right or liability which did not exist under the Constitution of 1885, as amended, based upon matters occurring prior to the adoption of this revision.

**SECTION 8. Public debts recognized.**—All bonds, revenue certificates, revenue bonds and tax anticipation certificates issued pursuant to the Constitution of 1885, as amended by the state, any agency, political subdivision or public corporation of the state shall remain in full force and effect and shall be secured by the same sources of revenue as before the adoption of this revision, and, to the extent necessary to effectuate this section, the applicable provisions of the Constitution of 1885, as amended, are retained as a part of this revision until payment in full of these public securities.

## SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES. No additional revenue bonds shall be issued pursuant to Article IX, Section 17, of the Constitution of 1885, as amended. \*Article XII, Section 19, of the Constitution of 1885, as amended, as it existed immediately before this revision becomes effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except bonds or tax anticipation certificates hereafter issued thereunder may bear interest not in excess of five per cent per annum or such higher interest as may be authorized by statute passed by a three-fifths vote of each house of the legislature. No revenue bonds or tax anticipation certificates shall be issued pursuant thereto after June 30, 1975.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

## (c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by \*\*Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued for a period of forty consecutive years. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) \*\*Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in \*\*Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said \*\*Article IX, Section 16, may be refunded at a lower net average interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other

security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said \*\*Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to \*\*Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under \*\*Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will

the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five years of operation of new projects to be financed. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls and portions of the "second gas tax" allocated to that county.

(d) SCHOOL BONDS. \*\*\*Article XII, Section 18, of the Constitution of 1885, as amended, as it existed immediately before this revision becomes effective is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, except bonds or tax anticipation certificates hereafter issued thereunder may bear interest not in excess of five per cent per annum or such higher interest as may be authorized by statute passed by a three-fifths vote of each house of the legislature. Bonds issued pursuant to this subsection (d) shall be payable primarily from revenues as provided in \*\*\*Article XII, Section 18, of the Constitution of 1885, as amended, and if authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When authorized by law, bonds issued pursuant to \*\*\*Article XII, Section 18, of the Constitution of 1885, as amended, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

**History.**—Am. H.J.R. 1851, 1969; adopted 1969.

**\*Note.**—Section 19 of Art. XII of the Constitution of 1885, as amended, reads as follows:

**SECTION 19. Institutions of higher learning and junior college capital outlay trust fund bonds.**—(a) That beginning January 1, 1964, and for fifty years thereafter, all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, receiving payment for electricity for light, heat or power, for natural or manufactured gas for light, heat or power, for use of telephones and for the sending of telegrams and telegraph messages, as now provided and levied as of the time of adoption of this amendment in Chapter 203, Florida Statutes (hereinafter called "Gross Receipts Taxes"), shall, as collected be placed in a trust fund to be known as the "Institutions of Higher Learning and Junior Colleges Capital Outlay and Debt Service Trust Fund" in the State Treasury (hereinafter referred to as "Capital Outlay Fund"), and used only as provided in this Amendment.

Said fund shall be administered by the State Board of Education, as now created and constituted by Section 3 of Article XII [now §2, Article IX] of the Constitution of Florida (hereinafter referred to as "State Board"). For the purpose of this Amendment, said State Board, as now constituted, shall continue as a body corporate during the life of this Amendment and shall have all the powers provided in this Amend-

ment in addition to all other constitutional and statutory powers related to the purposes of this Amendment heretofore or hereafter conferred by law upon said State Board.

(b) The State Board shall have power, for the purpose of obtaining funds for acquiring, building, constructing, altering, improving, enlarging, furnishing or equipping capital outlay projects theretofore authorized by the legislature and any purposes appurtenant or incidental thereto, for Institutions of Higher Learning or Junior Colleges, as now defined or as may be hereafter defined by law, and for the purpose of constructing buildings and other permanent facilities for vocational technical schools as provided in chapter 230 Florida Statutes, to issue bonds or certificates, including refunding bonds or certificates to fund or refund any bonds or certificates theretofore issued. All such bonds or certificates shall bear interest at not exceeding four and one-half per centum per annum, and shall mature at such time or times as the State Board shall determine not exceeding, in any event, however, thirty years from the date of issuance thereof. The State Board shall have power to determine all other details of such bonds or certificates and to sell at public sale, after public advertisement, such bonds or certificates, provided, however, that no bonds or certificates shall ever be issued hereunder to finance, or the proceeds thereof expended for, any part of the cost of any capital outlay project unless the construction or acquisition of such capital outlay project has been theretofore authorized by the Legislature of Florida. None of said bonds or certificates shall be sold at less than ninety-eight per centum of the par value thereof, plus accrued interest, and said bonds or certificates shall be awarded at the public sale thereof to the bidder offering the lowest net interest cost for such bonds or certificates in the manner to be determined by the State Board.

The State Board shall also have power to pledge for the payment of the principal of and interest on such bonds or certificates, and reserves therefor, including refunding bonds or certificates, all or any part of the revenue to be derived from the said Gross Receipts Taxes provided for in this Amendment, and to enter into any covenants and other agreements with the holders of such bonds or certificates concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

No such bonds or certificates shall ever be issued by the State Board in an amount exceeding seventy-five per centum of the amount which it determines, based upon the average annual amount of the revenues derived from said Gross Receipts Taxes during the immediately preceding two fiscal years, or the amount of the revenues derived from said Gross Receipts Taxes during the immediately preceding fiscal year, as shown in a certificate filed by the State Comptroller with the State Board prior to the issuance of such bonds or certificates, whichever is the lesser, can be serviced by the revenues accruing thereafter under the provisions of this Amendment; nor shall the State Board, during the first year following the ratification of this amendment, issue bonds or certificates in excess of seven times the anticipated revenue from said Gross Receipts Taxes during said year, nor during each succeeding year, more than four times the anticipated revenue from said Gross Receipts Taxes during such year. No election or approval of qualified electors or freeholder electors shall be required for the issuance of bonds or certificates hereunder.

After the initial issuance of any bonds or certificates pursuant to this Amendment, the State Board may thereafter issue additional bonds or certificates which will rank equally and on a parity, as to lien on and source of security for payment from said Gross Receipts Taxes, with any bonds or certificates theretofore issued pursuant to this Amendment, but such additional parity bonds or certificates shall not be issued unless the average annual amount of the revenues derived from said Gross Receipts Taxes during the immediately preceding two fiscal years, or the amount of the revenues derived from said Gross Receipts Taxes during the immediately preceding fiscal year, as shown in a certificate filed by the State Comptroller with the State Board prior to the issuance of such bonds or certificates, whichever is the lesser, shall have been equal to one and one-third times the aggregate amount of principal and interest which will become due in any succeeding fiscal year on all bonds or certificates theretofore issued pursuant to this Amendment and then outstanding, and the additional parity bonds or certificates then proposed to be issued. No bonds, certificates or other obligations whatsoever shall at any time be issued under the provisions of this Amendment, except such bonds or certificates initially issued hereunder, and such additional parity bonds or certificates as provided in this paragraph. Notwithstanding any other provision herein no such bonds or certificates shall be authorized or validated during any biennium in excess of fifty million dollars, except by two-thirds vote of the members elected to each house of the legislature; provided further that during the biennium 1963-1965 seventy-five million dollars may be authorized and validated pursuant hereto.

(c) Capital outlay projects theretofore authorized by the legislature for any Institution of Higher Learning or Junior College shall be eligible to participate in the funds accruing under this Amendment derived from the proceeds of bonds

or certificates and said Gross Receipts Taxes under such regulations and in such manner as shall be determined by the State Board, and the State Board shall use or transmit to the State Board of Control or to the Board of Public Instruction of any County authorized by law to construct or acquire such capital outlay projects, the amount of the proceeds of such bonds or certificates or Gross Receipts Taxes to be applied to or used for such capital outlay projects. If for any reason any of the proceeds of any bonds or certificates issued for any capital outlay project shall not be expended for such capital outlay project, the State Board may use such unexpended proceeds for any other capital outlay project for Institutions of Higher Learning or Junior Colleges and vocational technical schools, as defined herein, as now defined or as may be hereafter defined by law, theretofore authorized by the State Legislature. The holders of bonds or certificates issued hereunder shall not have any responsibility whatsoever for the application or use of any of the proceeds derived from the sale of said bonds or certificates, and the rights and remedies of the holders of such bonds or certificates and their right to payment from said Gross Receipts Taxes in the manner provided herein shall not be affected or impaired by the application or use of such proceeds.

The State Board shall use the moneys in said Capital Outlay Fund in each fiscal year only for the following purposes and in the following order of priority:

(1) For the payment of the principal of and interest on any bonds or certificates maturing in such fiscal year.

(2) For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of said bonds or certificates, of any amounts required to be deposited in such reserve funds in such fiscal year.

(3) After all payments required in such fiscal year for the purposes provided for in (1) and (2) above, including any deficiencies for required payments in prior fiscal years, any moneys remaining in said Capital Outlay Fund at the end of such fiscal year may be used by the State Board for direct payment of the cost or any part of the cost of any capital outlay project theretofore authorized by the legislature or for the purchase of any bonds or certificates issued hereunder then outstanding upon such terms and conditions as the State Board shall deem proper, or for the prior redemption of outstanding bonds or certificates in accordance with the provisions of the proceedings which authorized the issuance of such bonds or certificates.

The State Board may invest the moneys in said Capital Outlay Fund or in any sinking fund or other funds created for any issue of bonds or certificates, in direct obligations of the United States of America or in the other securities referred to in Section 344.27, Florida Statutes.

(4) The State Board shall have the power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this Amendment of full force and operating effect on and after January 1, 1964. The Legislature, during the period this Amendment is in effect, shall not reduce the rate of said Gross Receipts Taxes now provided in said Chapter 203, Florida Statutes, or eliminate, exempt or remove any of the persons, firms or corporations, including municipal corporations, or any of the utilities, businesses or services now or hereafter subject to said Gross Receipts Taxes, from the levy and collection of said Gross Receipts Taxes as now provided in said Chapter 203, Florida Statutes, and shall not enact any law impairing or materially altering the rights of the holders of any bonds or certificates issued pursuant to this Amendment or impairing or altering any covenants or agreements of the State Board made hereunder, or having the effect of withdrawing the proceeds of said Gross Receipts Taxes from the operation of this Amendment.

The State Board of Administration shall be and is hereby constituted as the Fiscal Agent of the State Board to perform such duties and assume such responsibilities under this Amendment as shall be agreed upon between the State Board and such State Board of Administration. The State Board shall also have power to appoint such other persons and fix their compensation for the administration of the provisions of this Amendment as it shall deem necessary, and the expenses of the State Board in administering the provisions of this Amendment shall be paid out of the proceeds of bonds or certificates issued hereunder or from said Gross Receipts Taxes deposited in said Capital Outlay Fund.

(e) No capital outlay project or any part thereof shall be financed hereunder unless the bill authorizing such project shall specify it is financed hereunder and shall be approved by a vote of three-fifths of the elected members of each house.

**History.**—S.J.R. 264, 1963, adopted 1963.

**\*\*Note.**—Section 16 of Art. IX of the Constitution of 1885, as amended, reads as follows:

**SECTION 16. Board of administration; gasoline and like taxes, distribution and use; etc.**—

(a) That beginning January 1st, 1943, and for fifty (50) years thereafter, the proceeds of two (2c) cents per gallon of the total tax levied by state law upon gasoline and other like products of petroleum, now known as the Second Gas Tax,

and upon other fuels used to propel motor vehicles, shall as collected be placed monthly in the 'State Roads Distribution Fund' in the State Treasury and divided into three (3) equal parts which shall be distributed monthly among the several counties as follows: one part according to area, one part according to population, and one part according to the counties' contributions to the cost of state road construction in the ratio of distribution as provided in Chapter 15659, Laws of Florida, Acts of 1931, and for the purposes of the apportionment based on the counties' contributions for the cost of state road construction, the amount of the contributions established by the certificates made in 1931 pursuant to said Chapter 15659, shall be taken and deemed conclusive in computing the monthly amounts distributable according to said contributions. Such funds so distributed shall be administered by the State Board of Administration as hereinafter provided.

(b) The Governor as chairman, the State Treasurer, and the State Comptroller shall constitute a body corporate to be known as the 'State Board of Administration,' which board shall succeed to all the power, control and authority of the statutory Board of Administration. Said Board shall have, in addition to such powers as may be conferred upon it by law, the management, control and supervision of the proceeds of said two (2c) cents of said taxes and all moneys and other assets which on the effective date of this amendment are applicable or may become applicable to the bonds of the several counties of this state, or any special road and bridge district, or other special taxing district thereof, issued prior to July 1st, 1931, for road and bridge purposes. The word 'bonds' as used herein shall include bonds, time warrants, notes and other forms of indebtedness issued for road and bridge purposes by any county or special road and bridge district or other special taxing district, outstanding on July 1st, 1931, or any refunding issues thereof. Said Board shall have the statutory powers of Boards of County Commissioners and Bond Trustees and of any other authority of special road and bridge districts, and other special taxing districts thereof with regard to said bonds, (except that the power to levy ad valorem taxes is expressly withheld from said Board), and shall take over all papers, documents and records concerning the same. Said Board shall have the power from time to time to issue refunding bonds to mature within the said fifty (50) year period, for any of said outstanding bonds or interest thereon, and to secure them by a pledge of anticipated receipts from such gasoline or other fuel taxes to be distributed to such county as herein provided, but not at a greater rate of interest than said bonds now bear; and to issue, sell or exchange on behalf of any county or unit for the sole purpose of retiring said bonds issued by such county, or special road and bridge district, or other special taxing district thereof, gasoline or other fuel tax anticipation certificates bearing interest at not more than three (3) per cent per annum in such denominations and maturing at such time within the fifty (50) year period as the board may determine. In addition to exercising the powers now provided by statute for the investment of sinking funds, said Board may use the sinking funds created for said bonds of any county or special road and bridge district, or other unit hereunder, to purchase the matured or maturing bonds participating herein of any other county or any other special road and bridge district, or other special taxing district thereof, provided that as to said matured bonds, the value thereof as an investment shall be the price paid therefor, which shall not exceed the par value plus accrued interest, and that said investment shall bear interest at the rate of three (3) per cent per annum.

(c) The said board shall annually use said funds in each county account, first, to pay current principal and interest maturing, if any, of said bonds and gasoline or other fuel tax anticipation certificates of such county or special road and bridge district, or other special taxing district thereof; second, to establish a sinking fund account to meet future requirements of said bonds and gasoline or other fuel tax anticipation certificates where it appears the anticipated income for any year or years will not equal scheduled payments thereon; and third, any remaining balance out of the proceeds of said two (2c) cents of said taxes shall monthly during the year be remitted by said board as follows: Eighty (80%) per cent to the State Road Department for the construction or reconstruction of state roads and bridges within the county, or for the lease or purchase of bridges connecting state highways within the county, and twenty (20%) per cent to the Board of County Commissioners of such county for use on roads and bridges therein.

(d) Said board shall have the power to make and enforce all rules and regulations necessary to the full exercise of the powers hereby granted and no legislation shall be required to render this amendment of full force and operating effect from and after January 1st, 1943. The Legislature shall continue the levies of said taxes during the life of this Amendment, and shall not enact any law having the effect of withdrawing the proceeds of said two (2c) cents of said taxes from the operation of this amendment. The board shall pay refunding expenses and other expenses for services rendered specifically for, or which are properly chargeable to, the account of any county from funds distributed to such county; but general expenses of the board for services rendered all the counties alike shall be

prorated among them and paid out of said funds on the same basis said tax proceeds are distributed among the several counties; provided, report of said expenses shall be made to each Regular Session of the Legislature, and the Legislature may limit the expenses of the board.

**History.**—Added, S.J.R. 324, 1941; adopted 1942.

**\*\*\*Note.**—Section 18, Art. XII of the Constitution of 1885, as amended, reads as follows:

**SECTION 18. School bonds for capital outlay, issuance.**—

(a) Beginning January 1, 1965 and for thirty-five years thereafter, the first proceeds of the revenues derived from the licensing of motor vehicles to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the county capital outlay and debt service school fund in the state treasury, and used only as provided in this amendment. Such revenue shall be distributed annually among the several counties in the ratio of the number of instruction units in each county in each year computed as provided herein. The amount of the first revenues derived from the licensing of motor vehicles to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of four hundred dollars multiplied by the total number of instruction units in all the counties of Florida. The number of instruction units in each county in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each county for the school fiscal year 1951-52 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such county for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (hereinafter called the state board), or (3) the number of instruction units in each county on behalf of which the state board of education has issued bonds or motor vehicle tax anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and one-third times the aggregate amount of principal of and interest on such bonds or motor vehicle tax anticipation certificates which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

Such funds so distributed shall be administered by the state board as now created and constituted by Section 3 of Article XII [now §2, Article IX] of the Constitution of Florida. For the purposes of this amendment, said state board, as now constituted, shall continue as a body corporate during the life of this amendment and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said board.

(b) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first part of the revenues derived from the licensing of motor vehicles provided for in subsection (a). The state board shall also have power, for the purpose of obtaining funds for the use of any county board of public instruction in acquiring, building, constructing, altering, improving, enlarging, furnishing, or equipping capital outlay projects for school purposes, to issue bonds or motor vehicle tax anticipation certificates, and also to issue such bonds or motor vehicle tax anticipation certificates to pay, fund or refund any bonds or motor vehicle tax anticipation certificates theretofore issued by said state board. All such bonds shall bear interest at not exceeding four and one-half per centum per annum and shall mature serially in annual installments commencing not more than three years from the date of issuance thereof and ending not later than thirty years from the date of issuance or January 1, 2000, A.D., whichever is earlier. All such motor vehicle tax anticipation certificates shall bear interest at not exceeding four and one-half per centum per annum and shall mature prior to January 1, 2000, A.D. The state board shall have power to determine all other details of said bonds or motor vehicle tax anticipation certificates and to sell at public sale after public advertisement, or exchange said bonds or motor vehicle tax anticipation certificates, upon such terms and conditions as the state board shall provide.

The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle tax anticipation certificates, including refunding bonds or refunding motor vehicle tax anticipation certificates, all or any part from the anticipated revenues to be derived from the licensing of motor vehicles provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle tax anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

No such bonds or motor vehicle tax anticipation certificates shall ever be issued by the state board until after the adoption of a resolution requesting the issuance thereof by the county board of public instruction of the county on behalf of which such obligations are to be issued. The state board of education

shall limit the amount of such bonds or motor vehicle tax anticipation certificates which can be issued on behalf of any county to seventy-five per cent of the amount which it determines can be serviced by the revenue accruing to the county under the provisions of this amendment, and such determination shall be conclusive. All such bonds or motor vehicle tax anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the county board of public instruction requesting the issuance thereof, and no election or approval of qualified electors or freeholders shall be required for the issuance thereof.

(c) The State Board shall in each year use the funds distributable pursuant to this Amendment to the credit of each county only in the following manner and order of priority:

(1) To pay all amounts of principal and interest maturing in such year on any bonds or motor vehicle tax anticipation certificates issued under the authority hereof, including refunding bonds or motor vehicle tax anticipation certificates, issued on behalf of the Board of Public Instruction of such county; subject, however, to any covenants or agreements made by the State Board concerning the rights between holders of different issues of such bonds or motor vehicle tax anticipation certificates, as herein authorized.

(2) To establish and maintain a sinking fund or funds to meet future requirements for debt service, or reserves therefor, on bonds or motor vehicle tax anticipation certificates issued on behalf of the Board of Public Instruction of such county, under the authority hereof, whenever the State Board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the State Board shall in its discretion determine.

(3) To distribute annually to the several Boards of Public Instruction of the counties for use in payment of debt service on bonds heretofore or hereafter issued by any such Board where the proceeds of the bonds were used, or are to be used, in the construction, acquisition, improvement, enlargement, furnishing, or equipping of capital outlay projects in such county, and which capital outlay projects have been approved by the Board of Public Instruction of the county, pursuant to a survey or surveys conducted subsequent to July 1, 1947 in the county, under regulations prescribed by the State Board to determine the capital outlay needs of the county.

The State Board shall have power at the time of issuance of any bonds by any Board of Public Instruction to covenant and agree with such Board as to the rank and priority of payments to be made for different issues of bonds under this Subsection (3), and may further agree that any amounts to be distributed under this Subsection (3) may be pledged for the debt service on bonds issued by any Board of Public Instruction and for the rank and priority of such pledge. Any such covenants or agreements of the State Board may be enforced by any holders of such bonds in any court of competent jurisdiction.

(4) To distribute annually to the several Boards of Public Instruction of the counties for the payment of the cost of the construction, acquisition, improvement, enlargement, furnishing, or equipping of capital outlay projects for school purposes in such county as shall be requested by resolution of the County Board of Public Instruction of such county.

(5) When all major capital outlay needs of a county have been met as determined by the State Board, on the basis of a survey made pursuant to regulations of the State Board and approved by the State Board, all such funds remaining shall be distributed annually and used for such school purposes in such county as the Board of Public Instruction of the county shall determine, or as may be provided by general law.

(d) Capital outlay projects of a county shall be eligible to participate in the funds accruing under this Amendment and derived from the proceeds of bonds and motor vehicle tax anticipation certificates and from the motor vehicle license taxes, only in the order of priority of needs, as shown by a survey or surveys conducted in the county under regulations prescribed by the State Board, to determine the capital outlay needs of the county and approved by the State Board; provided, that the priority of such projects may be changed from time to time upon the request of the Board of Public Instruction of the county and with the approval of the State Board; and provided further, that this Subsection (d) shall not in any manner affect any covenant, agreement, or pledge made by the State Board in the issuance by said State Board of any bonds or motor vehicle tax anticipation certificates, or in connection with the issuance of any bonds of any Board of Public Instruction of any county.

(e) The State Board may invest any sinking fund or funds created pursuant to this Amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, matured or to mature, issued by the State Board on behalf of the Board of Public Instruction of any county.

(f) The State Board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this Amendment of full force and operating effect from and after January 1, 1953. The Legislature shall not reduce

the levies of said motor vehicle license taxes during the life of this Amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this Amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license taxes from the operation of this Amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle tax anticipation certificates issued pursuant to this Amendment or impairing or altering any covenant or agreement of the State Board, as provided in such bonds or motor vehicle tax anticipation certificates.

The State Board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this Amendment as it shall deem necessary, and the expenses of the State Board in administering the provisions of this Amendment shall be prorated among the various counties and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each county on the same basis as such motor vehicle license taxes are distributable to the various counties under the provisions of this Amendment. Interest or profit on sinking fund investments shall accrue to the counties in proportion to their respective equities in the sinking fund or funds.

**History.**—Added S.J.R. 106, 1951; adopted, 1952; (a), (b) Am. S.J.R. 218, 1963; adopted, 1964.

**SECTION 10. Preservation of existing government.**—All provisions of Articles I through IV, VII and IX through XX of the Constitution of 1885, as amended, not embraced herein which are not inconsistent with this revision shall become statutes subject to modification or repeal as are other statutes.

**SECTION 11. Deletion of obsolete schedule items.**—The legislature shall have power, by joint resolution, to delete from this revision any section of this Article XII, including this section, when all events to which the section to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this section shall be subject to judicial review.

**SECTION 12. Senators.**—The requirements of staggered terms of senators in Section

15(a), of Article III of this revision shall apply only to senators elected in November, 1972, and thereafter.

**SECTION 13. Legislative apportionment.**—The requirements of legislative apportionment in Section 16 of Article III of this revision shall apply only to the apportionment of the legislature following the decennial census of 1970, and thereafter.

**SECTION 14. Representatives; terms.**—The legislature at its first regular session following the ratification of this revision, by joint resolution, shall propose to the electors of the state for ratification or rejection in the general election of 1970 an amendment to Article III, Section 15(b), of the constitution providing staggered terms of four years for members of the house of representatives.

**SECTION 15. Special district taxes.**—Ad valorem taxing power vested by law in special districts existing when this revision becomes effective shall not be abrogated by Section 9(b) of Article VII herein, but such powers, except to the extent necessary to pay outstanding debts, may be restricted or withdrawn by law.

**SECTION 16. Reorganization.**—The requirement of Section 6, Article IV of this revision shall not apply until July 1, 1969.

**SECTION 17. Conflicting provisions.**—This schedule is designed to effect the orderly transition of government from the Constitution of 1885, as amended, to this revision and shall control in all cases of conflict with any part of Article I through IV, VII, and IX through XI herein.