

SENATE JOINT RESOLUTION NO. 3—SENATOR O’CONNELL

FEBRUARY 15, 2001

Referred to Committee on Government Affairs

SUMMARY—Proposes to amend Nevada Constitution to provide that certain orders from courts which command or compel the state or its political subdivisions to levy or increase taxes are not binding unless approved by the legislature. (BDR C-28)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

SENATE JOINT RESOLUTION—Proposing to amend the Constitution of the State of Nevada to provide that certain orders from courts which command or compel the state or its political subdivisions to levy or increase taxes are not binding unless approved by the legislature.

- 1 RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA,
2 JOINTLY, That sections 2 and 18 of article 4 of the Constitution of the State
3 of Nevada be amended to read respectively as follows:
4 Sec. 2. 1. The sessions of the Legislature shall be biennial, and shall
5 commence on the 1st Monday of February following the election of
6 members of the Assembly, unless the Governor of the State shall, in the
7 interim, convene the Legislature ~~by proclamation~~ *for a special session in*
8 *accordance with subsection 4.*
9 2. The Legislature shall adjourn sine die each regular session not later
10 than midnight Pacific standard time 120 calendar days following its
11 commencement. Any legislative action taken after midnight Pacific
12 standard time on the 120th calendar day is void, unless the legislative
13 action is conducted during a special session convened by the Governor.
14 3. The Governor shall submit the proposed executive budget to the
15 Legislature not later than 14 calendar days before the commencement of
16 each regular session.
17 4. *The Governor, by proclamation:*
18 *(a) May convene the Legislature for a special session in accordance*
19 *with section 9 of article 5 of this constitution.*
20 *(b) Shall convene the Legislature for a special session not later than*
21 *45 calendar days after the date on which the Governor receives a petition*
22 *signed by a majority of the members elected to each House of the*
23 *Legislature calling for a special session to consider whether to approve a*



1 *court order in accordance with section 1A of article 6 of this constitution*
2 *and setting forth the court order to be considered during the special*
3 *session. If the Legislature is convened for a special session pursuant to*
4 *this paragraph, the Governor may add to the topics to be considered by*
5 *the Legislature during the special session by including such topics in the*
6 *proclamation convening the special session or by calling such topics to*
7 *the attention of the Legislature during the special session.*

8 Sec. 18. 1. Every bill, except a bill placed on a consent calendar
9 adopted as provided in subsection 4, must be read by sections on three
10 several days, in each House, unless in case of emergency, two thirds of the
11 House where such bill is pending shall deem it expedient to dispense with
12 this rule. The reading of a bill by sections, on its final passage, shall in no
13 case be dispensed with, and the vote on the final passage of every bill or
14 joint resolution shall be taken by yeas and nays to be entered on the
15 journals of each House. Except as otherwise provided in subsection 2, a
16 majority of all the members elected to each house is necessary to pass
17 every bill or joint resolution, and all bills or joint resolutions so passed,
18 shall be signed by the presiding officers of the respective Houses and by
19 the Secretary of the Senate and Clerk of the Assembly.

20 2. Except as otherwise provided in subsection 3 ~~§~~ *and section 1A of*
21 *article 6 of this constitution*, an affirmative vote of not fewer than two-
22 thirds of the members elected to each house is necessary to pass a bill or
23 joint resolution which creates, generates, or increases any public revenue in
24 any form, including but not limited to taxes, fees, assessments and rates, or
25 changes in the computation bases for taxes, fees, assessments and rates.

26 3. ~~§~~ *Except as otherwise provided in this subsection, a* majority of
27 ~~§~~ the members elected to each house may refer any measure which
28 creates, generates, or increases any revenue in any form to the people of
29 the State at the next general election, and *the measure* shall become
30 effective and enforced only if it has been approved by a majority of the
31 votes cast on the measure at such election. *The provisions of this*
32 *subsection do not apply to any measure considered by the Legislature in*
33 *accordance with section 1A of article 6 of this constitution.*

34 4. Each House may provide by rule for the creation of a consent
35 calendar and establish the procedure for the passage of uncontested bills.
36 And be it further

37 RESOLVED, That a new section be added to article 6, and sections 1, 2,
38 4, 6 and 8 of article 6 of the Constitution of the State of Nevada be
39 amended to read respectively as follows:

40 *Sec. 1A. 1. If, as a remedy for any omission or violation under*
41 *this constitution, a court other than the supreme court enters or issues an*
42 *order that commands or compels the state or a political subdivision to*
43 *levy or increase a tax to comply with the order, the order is not binding*
44 *on the state or political subdivision unless:*

45 *(a) The supreme court affirms the order on an appeal certified to the*
46 *supreme court pursuant to subsection 2; and*

47 *(b) At a regular or special session of the legislature, a majority of the*
48 *members elected to each house of the legislature passes a concurrent*



1 *resolution that approves the order in the form affirmed by the supreme*
2 *court.*

3 2. *If a court other than the supreme court enters or issues an order*
4 *described in subsection 1, not later than 30 calendar days after the date*
5 *on which the court enters or issues the order, the court shall certify the*
6 *order to the supreme court for expedited appellate review. The supreme*
7 *court shall:*

8 (a) *Adopt rules of procedure for appeals certified to the supreme court*
9 *pursuant to this subsection, including, without limitation, rules that*
10 *provide for expedited consideration of each appeal certified to the*
11 *supreme court pursuant to this subsection.*

12 (b) *To the extent practicable and except as otherwise provided in this*
13 *subsection, hear and decide appeals certified to the supreme court*
14 *pursuant to this subsection in the same manner that the supreme court*
15 *hears and decides appeals in civil cases arising in district courts. If the*
16 *legislature has provided by law for the hearing and decision of cases by*
17 *panels of justices pursuant to section 2 of this article, an appeal certified*
18 *to the supreme court pursuant to this subsection must not be heard or*
19 *decided by such a panel but must be heard and decided by the full court.*

20 (c) *By written opinion, render a decision on the merits of each appeal*
21 *certified to the supreme court pursuant to this subsection. The clerk of*
22 *the supreme court shall transmit a copy of each such decision of the*
23 *supreme court to the speaker of the assembly and the president pro*
24 *tempore of the senate.*

25 3. *If, as a remedy for any omission or violation under this*
26 *constitution, the supreme court, in the exercise of its original jurisdiction*
27 *or in the exercise of its appellate jurisdiction in circumstances other than*
28 *an appeal certified to the supreme court pursuant to subsection 2, enters*
29 *or issues an order that commands or compels the state or a political*
30 *subdivision to levy or increase a tax to comply with the order, the order is*
31 *not binding on the state or political subdivision unless, at a regular or*
32 *special session of the legislature, a majority of the members elected to*
33 *each house of the legislature passes a concurrent resolution that*
34 *approves the order in the form entered or issued by the supreme court.*

35 4. *If the legislature approves an order pursuant to this section, any*
36 *court having jurisdiction over the order may:*

37 (a) *Enforce, amend, modify, suspend, reverse, vacate or withdraw the*
38 *order in the same manner as any other order entered or issued in a civil*
39 *case; or*

40 (b) *Take any other appropriate action with regard to the order.*

41 5. *The legislature shall not provide by rule or law that a concurrent*
42 *resolution passed pursuant to this section must be presented to or*
43 *approved by the governor.*

44 6. *The provisions of this section apply to any order described in*
45 *subsection 1 or 3 that is entered or issued on or after the effective date of*
46 *this section, including, without limitation, any such order that is entered*
47 *or issued in a case or proceeding that was commenced before the*
48 *effective date of this section.*

49 7. *As used in this section:*



1 (a) "Order" means any preliminary, provisional, interlocutory,
2 interim, temporary, permanent or final order, declaration, injunction,
3 judgment, decision, decree, writ, warrant, summons, citation, mandate,
4 command, directive or process that is entered or issued by a court
5 pursuant to its constitutional power, its inherent judicial power, the
6 common law, statutory law or any other source of power, law or equity.

7 (b) "Political subdivision" means a political subdivision of the state or
8 an officer or employee of a political subdivision of the state.

9 (c) "State" means the state or an officer or employee of the state.

10 Section 1. ~~The~~ Except as otherwise provided in section 1A of this
11 article, the Judicial power of this State shall be vested in a court system,
12 comprising a Supreme Court, District Courts, and Justices of the Peace.
13 The Legislature may also establish, as part of the system, Courts for
14 municipal purposes only in incorporated cities and towns.

15 Sec. 2. 1. The supreme court consists of the chief justice and two or
16 more associate justices, as may be provided by law. In increasing or
17 diminishing the number of associate justices, the legislature shall provide
18 for the arrangement of their terms so that an equal number of terms, as
19 nearly as may be, expire every 2 years.

20 2. ~~The~~ Except as otherwise provided in section 1A of this article,
21 the legislature may provide by law:

22 (a) If the court consists of more than five justices, for the hearing and
23 decision of cases by panels of no fewer than three justices, the resolution
24 by the full court of any conflicts between decisions so rendered, and the
25 kinds of cases which must be heard by the full court.

26 (b) For the places of holding court by panels of justices if established,
27 and by the full court.

28 Sec. 4. 1. The supreme court shall have appellate jurisdiction ~~in~~ :

29 (a) In all civil cases arising in district courts. ~~and also on~~

30 (b) On questions of law alone, in all criminal cases in which the
31 offense charged is within the original jurisdiction of the district courts.

32 (c) In all cases certified to the supreme court for expedited appellate
33 review pursuant to section 1A of this article.

34 2. The supreme court shall also have power to issue writs of
35 mandamus, certiorari, prohibition, quo warranto, and habeas corpus and
36 also all writs necessary or proper to the complete exercise of its appellate
37 jurisdiction.

38 3. Each of the justices of the supreme court shall have power to issue
39 writs of habeas corpus to any part of the state, upon petition by, or on
40 behalf of, any person held in actual custody, and may make such writs
41 returnable, before himself or the supreme court, or before any district court
42 in the state or before any judge of said courts.

43 4. In case of the disability or disqualification, for any cause, of the
44 chief justice or one of the associate justices of the supreme court, or any
45 two of them, the governor is authorized and empowered to designate any
46 district judge or judges to sit in the place or places of such disqualified or
47 disabled justice or justices, and said judge or judges so designated shall
48 receive their actual expense of travel and otherwise while sitting in the
49 supreme court.



1 Sec. 6. 1. The District Courts in the several Judicial Districts of this
2 State ~~have~~ :
3 (a) *Have* original jurisdiction in all cases excluded by law from the
4 original jurisdiction of ~~Justices' courts. They also~~ *Justices' Courts.*
5 (b) *Except as otherwise provided in section 1A of this article,* have
6 final appellate jurisdiction in cases arising in Justices ' Courts and such
7 other inferior tribunals as may be established by law.
8 2. The District Courts and the Judges thereof have power to issue writs
9 of Mandamus, Prohibition, Injunction, Quo ~~Warranto~~ Warranto, Certiorari, and all
10 other writs proper and necessary to the complete exercise of their
11 jurisdiction. The District Courts and the Judges thereof shall also have
12 power to issue writs of Habeas Corpus on petition by, or on behalf of , any
13 person who is held in actual custody in their respective districts, or who has
14 suffered a criminal conviction in their respective districts and has not
15 completed the sentence imposed pursuant to the judgment of conviction.
16 ~~2-1~~ 3. The legislature may provide by law for:
17 (a) Referees in district courts.
18 (b) The establishment of a family court as a division of any district
19 court and may prescribe its jurisdiction.
20 Sec. 8. 1. The Legislature shall determine the number of Justices of
21 the Peace to be elected in each city and township of the State, and shall fix
22 by law their qualifications, their terms of office and the limits of their civil
23 and criminal jurisdiction, according to the amount in controversy, the
24 nature of the case, the penalty provided, or any combination of these.
25 2. The provisions of this section affecting the number, qualifications,
26 terms of office and jurisdiction of Justices of the Peace become effective
27 on the first Monday of January, 1979.
28 ~~The~~
29 3. *Except as otherwise provided in section 1A of this article, the*
30 Legislature shall ~~also~~ prescribe by law the manner ~~and~~ and determine the
31 cases in which appeals may be taken from Justices and other courts.
32 4. The Supreme Court, the District Courts, and such other Courts, as
33 the Legislature shall designate, shall be Courts of Record.
34 And be it further
35 RESOLVED, That section 8 of article 15 of the Constitution of the State
36 of Nevada be amended to read as follows:
37 ~~See~~ Sec. 8. 1. The Legislature shall provide for the speedy
38 publication of all Statute laws of a general nature, and such decisions of the
39 Supreme Court, as it may deem expedient; and all laws and judicial
40 decisions shall be free for publication by any person . ~~Provided, that~~
41 2. *Except as otherwise provided in section 1A of article 6 of this*
42 *constitution,* no judgment of the Supreme Court shall take effect and be
43 operative until the Opinion of the Court in such case shall be filed with the
44 Clerk of said Court.

