

SENATE JOINT RESOLUTION NO. 11—SENATOR AMODEI

MARCH 24, 2005

Referred to Committee on Legislative Operations and Elections

SUMMARY—Proposes to amend Nevada Constitution to provide that certain orders from courts which command or compel State or its political subdivisions to levy or increase taxes are not binding unless approved by Legislature. (BDR C-795)

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 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.

1 RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF
2 NEVADA, JOINTLY, That Section 2 of Article 4 of the Nevada
3 Constitution be amended to read as follows:

4 Sec. 2. 1. The sessions of the Legislature shall be
5 biennial, and shall commence on the ~~1st~~ *first* Monday of
6 February following the election of members of the Assembly,
7 unless the Governor of the State shall, in the interim, convene
8 the Legislature by proclamation.

9 2. The Legislature shall adjourn sine die each regular
10 session not later than midnight Pacific standard time 120
11 calendar days following its commencement. Any legislative
12 action taken after midnight Pacific standard time on the 120th
13 calendar day is void, unless the legislative action is conducted
14 during a special session convened by the Governor.

15 3. The Governor shall submit the proposed executive
16 budget to the Legislature not later than 14 calendar days
17 before the commencement of each regular session.



1 4. *The Governor, by proclamation:*

2 (a) *May convene the Legislature for a special session in*
3 *accordance with Section 9 of Article 5 of this Constitution.*

4 (b) *Shall convene the Legislature for a special session*
5 *not later than 45 calendar days after the date on which the*
6 *Governor receives a petition signed by a majority of the*
7 *members elected to each house of the Legislature calling for*
8 *a special session to consider whether to approve a court*
9 *order in accordance with Section 1A of Article 6 of this*
10 *Constitution and setting forth the court order to be*
11 *considered during the special session. If the Legislature is*
12 *convened for a special session pursuant to this paragraph,*
13 *the Governor may add to the topics to be considered by the*
14 *Legislature during the special session by including such*
15 *topics in the proclamation convening the special session or*
16 *by calling such topics to the attention of the Legislature*
17 *during the special session.*

18 And be it further

19 RESOLVED, That Section 2A of Article 4 of the Nevada
20 Constitution, if that section is agreed to and passed by the 2005
21 Legislature and approved and ratified by the voters at the 2006
22 General Election, be amended to read as follows:

23 Sec. 2A. 1. ~~[The]~~ *In addition to the method of*
24 *convening the Legislature set forth in Section 2 of this*
25 *Article, the* Legislature may be convened, on extraordinary
26 occasions, upon petition signed by two-thirds of the members
27 of each House of the Legislature. A petition must specify the
28 business to be transacted during the special session, indicate a
29 date on or before which the Legislature is to convene and be
30 transmitted to the Secretary of State. Upon receipt of one or
31 more substantially similar petitions signed, in the aggregate,
32 by the required number of members, calling for a special
33 session, the Secretary of State shall notify all members of the
34 Legislature and the Governor that a special session will be
35 convened pursuant to this section.

36 2. No bills, except those related to the business specified
37 in the petition and those necessary to provide for the expenses
38 of the session, may be introduced at a special session
39 convened pursuant to this section.

40 3. A special session convened pursuant to this section
41 takes precedence over a special session called by the
42 Governor pursuant to Section 9 of Article 5 of this
43 Constitution, unless otherwise provided in the petition calling
44 for the special session.



1 4. The Legislature may provide by law for the procedure
2 for convening a special session pursuant to this section.

3 5. The Legislature shall adjourn sine die a special
4 session convened pursuant to this section not later than
5 midnight of the 20th calendar day of that session. Any
6 legislative action taken after midnight on the 20th calendar
7 day is void.

8 And be it further

9 RESOLVED, That Section 18 of Article 4 of the Nevada
10 Constitution be amended to read as follows:

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

26 2. Except as otherwise provided in subsection 3 ~~[A]~~ *and*
27 *Section 1A of Article 6 of this Constitution*, an affirmative
28 vote of not fewer than two-thirds of the members elected to
29 each house is necessary to pass a bill or joint resolution which
30 creates, generates, or increases any public revenue in any
31 form, including but not limited to taxes, fees, assessments and
32 rates, or changes in the computation bases for taxes, fees,
33 assessments and rates.

34 3. ~~[A]~~ *Except as otherwise provided in this subsection,*
35 *a majority of all ~~[A]~~ the members elected to each house may*
36 *refer any measure which creates, generates, or increases any*
37 *revenue in any form to the people of the State at the next*
38 *general election, and **the measure** shall become effective and*
39 *enforced only if it has been approved by a majority of the*
40 *votes cast on the measure at such election. **The provisions of***
41 *this subsection do not apply to any measure considered by*
42 *the Legislature in accordance with Section 1A of Article 6*
43 *of this Constitution.*



4. Each House may provide by rule for the creation of a consent calendar and establish the procedure for the passage of uncontested bills.

And be it further

RESOLVED, That a new section, designated Section 1A, be added to Article 6 of the Nevada Constitution to read as follows:

Sec. 1A. 1. If, as a remedy for any omission or violation under this Constitution, a court other than the Supreme Court enters or issues an order that commands or compels the State or a political subdivision to levy or increase a tax to comply with the order, the order is not binding on the State or political subdivision unless:

(a) The Supreme Court affirms the order on an appeal certified to the Supreme Court pursuant to subsection 2; and

(b) At a regular or special session of the Legislature, a majority of the members elected to each house of the Legislature passes a concurrent resolution that approves the order in the form affirmed by the Supreme Court.

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

(a) Adopt rules of procedure for appeals certified to the Supreme Court pursuant to this subsection, including, without limitation, rules that provide for expedited consideration of each appeal certified to the Supreme Court pursuant to this subsection.

(b) To the extent practicable and except as otherwise provided in this subsection, hear and decide appeals certified to the Supreme Court pursuant to this subsection in the same manner that the Supreme Court hears and decides appeals in civil cases arising in district courts. If the Legislature has provided by law for the hearing and decision of cases by panels of justices pursuant to Section 2 of this Article, an appeal certified to the Supreme Court pursuant to this subsection must not be heard or decided by such a panel but must be heard and decided by the full court.

(c) By written opinion, render a decision on the merits of each appeal certified to the Supreme Court pursuant to this subsection. The Clerk of the Supreme Court shall transmit a copy of each such decision of the Supreme Court



1 *to the Speaker of the Assembly and the President Pro*
2 *Tempore of the Senate.*

3 3. *If, as a remedy for any omission or violation under*
4 *this Constitution, the Supreme Court, in the exercise of its*
5 *original jurisdiction or in the exercise of its appellate*
6 *jurisdiction in circumstances other than an appeal certified*
7 *to the Supreme Court pursuant to subsection 2, enters or*
8 *issues an order that commands or compels the State or a*
9 *political subdivision to levy or increase a tax to comply with*
10 *the order, the order is not binding on the State or political*
11 *subdivision unless, at a regular or special session of the*
12 *Legislature, a majority of the members elected to each*
13 *house of the Legislature passes a concurrent resolution that*
14 *approves the order in the form entered or issued by the*
15 *Supreme Court.*

16 4. *If the Legislature approves an order pursuant to this*
17 *section, any court having jurisdiction over the order may:*

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

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

23 5. *The Legislature shall not provide by rule or law that*
24 *a concurrent resolution passed pursuant to this section must*
25 *be presented to or approved by the Governor.*

26 6. *The provisions of this section apply to any order*
27 *described in subsection 1 or 3 that is entered or issued on or*
28 *after the effective date of this section, including, without*
29 *limitation, any such order that is entered or issued in a case*
30 *or proceeding that was commenced before the effective date*
31 *of this section.*

32 7. *As used in this section:*

33 (a) *“Order” means any preliminary, provisional,*
34 *interlocutory, interim, temporary, permanent or final order,*
35 *declaration, injunction, judgment, decision, decree, writ,*
36 *warrant, summons, citation, mandate, command, directive*
37 *or process that is entered or issued by a court pursuant to its*
38 *constitutional power, its inherent judicial power, the*
39 *common law, statutory law or any other source of power,*
40 *law or equity.*

41 (b) *“Political subdivision” means a political subdivision*
42 *of the State or an officer or employee of a political*
43 *subdivision of the State.*

44 (c) *“State” means the State or an officer or employee of*
45 *the State.*



1 And be it further

2 RESOLVED, That Section 1 of Article 6 of the Nevada
3 Constitution be amended to read as follows:

4 ~~[Section 1. The]~~

5 *Sec. 1. Except as otherwise provided in Section 1A of*
6 *this Article, the* Judicial power of this State shall be vested in
7 a court system, comprising a Supreme Court, District Courts,
8 and Justices of the Peace. The Legislature may also establish,
9 as part of the system, Courts for municipal purposes only in
10 incorporated cities and towns.

11 And be it further

12 RESOLVED, That Section 2 of Article 6 of the Nevada
13 Constitution be amended to read as follows:

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

20 2. ~~[The]~~ *Except as otherwise provided in Section 1A of*
21 *this Article, the* Legislature may provide by law:

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

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

29 And be it further

30 RESOLVED, That Section 4 of Article 6 of the Nevada
31 Constitution be amended to read as follows:

32 Sec. 4. *1.* The Supreme Court shall have appellate
33 jurisdiction ~~[in]~~:

34 (a) *In* all civil cases arising in district courts. ~~[, and also~~
35 ~~on]~~

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

39 (c) *In all cases certified to the Supreme Court for*
40 *expedited appellate review pursuant to Section 1A of this*
41 *Article.*

42 2. The *Supreme* Court shall also have power to issue
43 writs of *mandamus*, *certiorari*, prohibition, *quo warranto*,
44 and *habeas corpus* and also all writs necessary or proper to
45 the complete exercise of its appellate jurisdiction.



3. Each of the justices *of the Supreme Court* shall have power to issue writs of *habeas corpus* to any part of the State, upon petition by, or on behalf of, any person held in actual custody, and may make such writs returnable, before himself or the Supreme Court, or before any district court in the State or before any judge of said courts.

4. In case of the disability or disqualification, for any cause, of the Chief Justice or one of the associate justices of the Supreme Court, or any two of them, the Governor is authorized and empowered to designate any district judge or judges to sit in the place or places of such disqualified or disabled justice or justices, and said judge or judges so designated shall receive their actual expense of travel and otherwise while sitting in the Supreme Court.

And be it further

RESOLVED, That Section 6 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 6. 1. The District Courts in the several Judicial Districts of this State ~~have~~ :

(a) *Have* original jurisdiction in all cases excluded by law from the original jurisdiction of ~~justices' courts. They also Justices' Courts.~~

(b) *Except as otherwise provided in Section 1A of this Article*, have final appellate jurisdiction in cases arising in Justices Courts and such other inferior tribunals as may be established by law.

2. The District Courts and the Judges thereof have power to issue writs of Mandamus, Prohibition, Injunction, Quo ~~H~~ Warranto, Certiorari, and all other writs proper and necessary to the complete exercise of their jurisdiction. The District Courts and the Judges thereof shall also have power to issue writs of Habeas Corpus on petition by, or on behalf of any person who is held in actual custody in their respective districts, or who has suffered a criminal conviction in their respective districts and has not completed the sentence imposed pursuant to the judgment of conviction.

~~2-3~~ 3. The Legislature may provide by law for:

(a) Referees in district courts.

(b) The establishment of a family court as a division of any district court and may prescribe its jurisdiction.

And be it further

RESOLVED, That Section 8 of Article 6 of the Nevada Constitution be amended to read as follows:

Sec. 8. 1. The Legislature shall determine the number of Justices of the Peace to be elected in each city and



1 township of the State, and shall fix by law their qualifications,
2 their terms of office and the limits of their civil and criminal
3 jurisdiction, according to the amount in controversy, the
4 nature of the case, the penalty provided, or any combination
5 of these.

6 ~~[The provisions of this Section affecting the number,~~
7 ~~qualifications, terms of office and jurisdiction of Justices of~~
8 ~~the Peace become effective on the first Monday of January,~~
9 ~~1979.~~

10 ~~—The]~~ 2. *Except as otherwise provided in Section 1A of*
11 *this Article, the* Legislature shall also prescribe by law the
12 manner, and determine the cases in which appeals may be
13 taken from Justices and other courts.

14 3. The Supreme Court, the District Courts, and such
15 other Courts, as the Legislature shall designate, shall be
16 Courts of Record.

17 And be it further

18 RESOLVED, That Section 8 of Article 15 of the Nevada
19 Constitution be amended to read as follows:

20 ~~[See:]~~ Sec. 8. 1. The Legislature shall provide for the
21 speedy publication of all Statute laws of a general nature, and
22 such decisions of the Supreme Court, as it may deem
23 expedient; and all laws and judicial decisions shall be free for
24 publication by any person . ~~[; Provided, that]~~

25 2. *Except as otherwise provided in Section 1A of*
26 *Article 6 of this Constitution,* no judgment of the Supreme
27 Court shall take effect and be operative until the Opinion of
28 the Court in such case shall be filed with the Clerk of said
29 Court.

