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A joint resolution proposing an amendment to
Section 17 of Article I of the State
Constitution relating to excessive punishment.

Be It Resolved by the Legislature of the State of Florida:

That the amendment to Section 17 of Article I of the
State Constitution is agreed to and shall be submitted to the
electors of this state for approval or rejection at the next
general election or at an earlier special election
specifically authorized for that purpose.

SECTION 17. Excessive punishments.--Excessive fines,
cruel and ~~or~~ unusual punishment, attainder, forfeiture of
estate, indefinite imprisonment, and unreasonable detention of
witnesses are forbidden. The death penalty is an authorized
punishment for capital crimes designated by the legislature.
The prohibition against cruel or unusual punishment, and the
prohibition against cruel and unusual punishment, shall be
construed in conformity with decisions of the United States
Supreme Court which interpret the prohibition against cruel
and unusual punishment provided in the Eighth Amendment to the
United States Constitution. Any method of execution shall be
allowed, unless prohibited by the United States Constitution.
Methods of execution may be designated by the legislature, and
a change in any method of execution may be applied
retroactively. A sentence of death shall not be reduced on
the basis that a method of execution is invalid. In any case
in which an execution method is declared invalid, the death
sentence shall remain in force until the sentence can be

1 lawfully executed by any valid method. This section shall
2 apply retroactively.

3 BE IT FURTHER RESOLVED that the following statement be
4 placed on the ballot:

5 AMENDING ARTICLE I, SECTION 17 OF THE STATE CONSTITUTION

6
7 Proposing an amendment to the State Constitution identical to
8 a proposed amendment to Section 17 of Article I of the State
9 Constitution which was approved by a statewide vote in 1998.
10 The Supreme Court of Florida struck the 1998 amendment in a
11 ruling in which four of the seven justices found that the
12 ballot summary was inaccurate. The proposed amendment
13 expressly authorizes the death penalty for capital crimes and
14 expressly authorizes retroactive changes in the method of
15 execution. The amendment changes the prohibition against
16 "cruel or unusual punishment," currently provided in Section
17 17 of Article I of the State Constitution, to a prohibition
18 against "cruel and unusual punishment" to conform with the
19 wording of the Eighth Amendment to the United States
20 Constitution. The amendment prohibits reduction of a death
21 sentence based on invalidity of an execution method and
22 provides for continued force of the sentence. The amendment
23 permits any execution method unless prohibited by the United
24 States Constitution. The amendment requires construction of
25 the prohibition against cruel or unusual punishment and the
26 proposed prohibition against cruel and unusual punishment to
27 conform to United States Supreme Court interpretation of the
28 Eighth Amendment to the United States Constitution. The
29 amendment would prevent state courts, including the Florida
30 Supreme Court, from treating the state constitutional
31 prohibition against cruel or unusual punishment as being more

1 expansive than the federal constitutional prohibition against
2 cruel and unusual punishment or United States Supreme Court
3 interpretations thereof. The amendment effectively nullifies
4 rights currently allowed under the state prohibition against
5 cruel or unusual punishment which may afford greater
6 protections for those subject to punishment for crimes than
7 will be provided by the amendment. Under the amendment, the
8 protections afforded those subject to punishment for crimes
9 under the "cruel or unusual punishment" clause, as that clause
10 currently appears in Section 17 of Article I of the State
11 Constitution, will be the same as the minimum protections
12 provided under the "cruel and unusual" punishments clause of
13 the Eighth Amendment to the United States Constitution. The
14 amendment provides for retroactive applicability.

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16 Specifically, the proposal amends Section 17 of Article I of
17 the State Constitution, to read as set forth below. The word
18 ~~stricken~~ is a deletion; words underlined are additions:

19 SECTION 17. Excessive punishments.--Excessive fines,
20 cruel and ~~or~~ unusual punishment, attainder, forfeiture of
21 estate, indefinite imprisonment, and unreasonable detention of
22 witnesses are forbidden. The death penalty is an authorized
23 punishment for capital crimes designated by the legislature.
24 The prohibition against cruel or unusual punishment, and the
25 prohibition against cruel and unusual punishment, shall be
26 construed in conformity with decisions of the United States
27 Supreme Court which interpret the prohibition against cruel
28 and unusual punishment provided in the Eighth Amendment to the
29 United States Constitution. Any method of execution shall be
30 allowed, unless prohibited by the United States Constitution.
31 Methods of execution may be designated by the legislature, and

1 a change in any method of execution may be applied
2 retroactively. A sentence of death shall not be reduced on
3 the basis that a method of execution is invalid. In any case
4 in which an execution method is declared invalid, the death
5 sentence shall remain in force until the sentence can be
6 lawfully executed by any valid method. This section shall
7 apply retroactively.
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