

By Senator Posey

24-403-07

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Senate Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article V of the State Constitution, relating to the organization of the Florida Supreme Court, to increase the number of justices on the Florida Supreme Court.

WHEREAS, the Legislature of the State of Florida finds that the majority decision by the Florida Supreme Court in Bush v. Holmes, 919 So.2d 392 (Fla. 2006), was specious in its posture regarding the doctrine of judicial restraint and was the equivalent of judicial activism in policymaking, and

WHEREAS, Section 3, Article II of the State Constitution states that "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," and

WHEREAS, the decision betrays a lack of respect on the part of the majority for the separation of state powers, and

WHEREAS, it is the duty of each branch of government to maintain adequate checks upon the overreaching authority or usurpation of power by the other branches of government, and

WHEREAS, Section 1, Article XI of the State Constitution gives the Legislature the authority to propose amendments to the State Constitution, and

WHEREAS, Section 14(a), Article V of the State Constitution states that "all justices and judges shall be compensated only by state salaries fixed by general law.

Funding for the state courts system, state attorneys' offices,

1 public defenders' offices, and court-appointed counsel, except
2 as otherwise provided in subsection (c), shall be provided
3 from state revenues appropriated by general law," NOW,
4 THEREFORE,

5
6 Be It Resolved by the Legislature of the State of Florida:

7
8 That the following amendment to Section 3 of Article V
9 of the State Constitution is agreed to and shall be submitted
10 to the electors of this state for approval or rejection at the
11 next general election or at an earlier special election
12 specifically authorized by law for that purpose:

13 ARTICLE V

14 JUDICIARY

15 SECTION 3. Supreme court.--

16 (a) ORGANIZATION.--The supreme court shall consist of
17 fifteen ~~seven~~ justices. Of the fifteen ~~seven~~ justices, each
18 appellate district shall have at least one justice ~~elected or~~
19 appointed from the district to the supreme court who is a
20 resident of the district at the time of the original
21 appointment ~~or election~~. Eleven ~~Five~~ justices shall constitute
22 a quorum. The concurrence of eight ~~four~~ justices shall be
23 necessary to a decision. When recusals for cause would
24 prohibit the court from convening because of the requirements
25 of this section, judges assigned to temporary duty may be
26 substituted for justices.

27 (b) JURISDICTION.--The supreme court:

28 (1) Shall hear appeals from final judgments of trial
29 courts imposing the death penalty and from decisions of
30 district courts of appeal declaring invalid a state statute or
31 a provision of the state constitution.

1 (2) When provided by general law, shall hear appeals
2 from final judgments entered in proceedings for the validation
3 of bonds or certificates of indebtedness and shall review
4 action of statewide agencies relating to rates or service of
5 utilities providing electric, gas, or telephone service.

6 (3) May review any decision of a district court of
7 appeal that expressly declares valid a state statute, or that
8 expressly construes a provision of the state or federal
9 constitution, or that expressly affects a class of
10 constitutional or state officers, or that expressly and
11 directly conflicts with a decision of another district court
12 of appeal or of the supreme court on the same question of law.

13 (4) May review any decision of a district court of
14 appeal that passes upon a question certified by it to be of
15 great public importance, or that is certified by it to be in
16 direct conflict with a decision of another district court of
17 appeal.

18 (5) May review any order or judgment of a trial court
19 certified by the district court of appeal in which an appeal
20 is pending to be of great public importance, or to have a
21 great effect on the proper administration of justice
22 throughout the state, and certified to require immediate
23 resolution by the supreme court.

24 (6) May review a question of law certified by the
25 Supreme Court of the United States or a United States Court of
26 Appeals which is determinative of the cause and for which
27 there is no controlling precedent of the supreme court of
28 Florida.

29 (7) May issue writs of prohibition to courts and all
30 writs necessary to the complete exercise of its jurisdiction.
31

1 (8) May issue writs of mandamus and quo warranto to
2 state officers and state agencies.

3 (9) May, or any justice may, issue writs of habeas
4 corpus returnable before the supreme court or any justice, a
5 district court of appeal or any judge thereof, or any circuit
6 judge.

7 (10) Shall, when requested by the attorney general
8 pursuant to the provisions of Section 10 of Article IV, render
9 an advisory opinion of the justices, addressing issues as
10 provided by general law.

11 (c) CLERK AND MARSHAL.--The supreme court shall
12 appoint a clerk and a marshal who shall hold office during the
13 pleasure of the court and perform such duties as the court
14 directs. Their compensation shall be fixed by general law.
15 The marshal shall have the power to execute the process of the
16 court throughout the state, and in any county may deputize the
17 sheriff or a deputy sheriff for such purpose.

18 BE IT FURTHER RESOLVED that the following statement be
19 placed on the ballot:

20 CONSTITUTIONAL AMENDMENT

21 ARTICLE V, SECTION 3

22 SUPREME COURT.--Proposing an amendment to the State
23 Constitution to increase the number of justices on the Florida
24 Supreme Court from 7 to 15 justices, to provide that 11
25 justices constitute a quorum, and to require the concurrence
26 of 8 justices for a decision.

27
28
29
30
31