

By: Birdwell, et al.

S.J.R. No. 45

1 SENATE JOINT RESOLUTION

2 proposing a constitutional amendment regarding the powers of the
3 governor, the legislature, and the supreme court following certain
4 disaster or emergency declarations.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 8, Article IV, Texas Constitution, is
7 amended by adding Subsections (c), (d), (e), (f), and (g) to read as
8 follows:

9 (c) The Governor shall convene the Legislature in special
10 session for the purposes described by Subsection (d) of this
11 section when the Governor proposes to renew an order or
12 proclamation declaring a state of disaster or emergency or issue a
13 new order or proclamation regarding the same state of disaster or
14 emergency that:

15 (1) exists in at least two-fifths of the counties in
16 this state;

17 (2) affects at least half of the population of this
18 state, according to the most recent federal decennial census; or

19 (3) affects at least two-thirds of the counties in
20 each of three or more trauma service areas in this state, as
21 designated by the appropriate state agency.

22 (d) In a special session convened under Subsection (c) of
23 this section, the Legislature may:

24 (1) renew or extend the state of disaster or

1 emergency;

2 (2) respond to the state of disaster or emergency,
3 including by:

4 (A) passing laws and resolutions the Legislature
5 determines are related to the state of disaster or emergency; and

6 (B) exercising the powers reserved to the
7 Legislature under Section 28, Article I, of this constitution; and

8 (3) consider any other subject stated in the
9 Governor's proclamation convening the Legislature.

10 (e) Except as provided by Subsection (f) of this section, a
11 state of disaster or emergency declared by the Governor may not
12 continue for more than 30 days unless it is renewed or extended by
13 the Legislature under Subsection (d) of this section if the
14 declared state of disaster or emergency:

15 (1) exists in at least two-fifths of the counties in
16 this state;

17 (2) affects at least half of the population of this
18 state, according to the most recent federal decennial census; or

19 (3) affects at least two-thirds of the counties in
20 each of three or more trauma service areas in this state, as
21 designated by the appropriate state agency.

22 (f) A state of disaster or emergency declared by the
23 Governor and related to a nuclear or radiological event recognized
24 by the federal agency with primary authority for federal response
25 to that event may not continue for more than 90 days unless it is
26 renewed or extended by the Legislature under Subsection (d) of this
27 section if the declared state of disaster or emergency:

1 (1) exists in at least two-fifths of the counties in
2 this state;

3 (2) affects at least half of the population of this
4 state, according to the most recent federal decennial census; or

5 (3) affects at least two-thirds of the counties in
6 each of three or more trauma service areas in this state, as
7 designated by the appropriate state agency.

8 (g) A vote under Subsection (d) of this section to modify or
9 terminate a proclamation or order issued by the Governor declaring
10 a state of disaster or emergency is not subject to Section 15 of
11 this article.

12 SECTION 2. Section 3, Article V, Texas Constitution, is
13 amended by amending Subsection (a) and adding Subsections (a-1) and
14 (a-2) to read as follows:

15 (a) The Supreme Court shall exercise the judicial power of
16 the state except as otherwise provided in this Constitution. Its
17 jurisdiction shall be co-extensive with the limits of the State and
18 its determinations shall be final except in criminal law matters.
19 Its appellate jurisdiction shall be final and shall extend to all
20 cases except in criminal law matters and as otherwise provided in
21 this Constitution or by law. The Supreme Court and the Justices
22 thereof shall have power to issue writs of habeas corpus, as may be
23 prescribed by law, and under such regulations as may be prescribed
24 by law, the [~~said~~] courts and the Justices thereof may issue the
25 writs of mandamus, procedendo, certiorari and such other writs, as
26 may be necessary to enforce its jurisdiction.

27 (a-1) Except as provided by Subsection (a-2) of this

1 section, the [~~The~~] Legislature may confer original jurisdiction on
2 the Supreme Court to issue writs of quo warranto and mandamus in
3 such cases as may be specified, except as against the Governor [~~of~~
4 ~~the State~~].

5 (a-2) A member of the Legislature has standing to
6 participate as a party in a suit against the Governor for a
7 violation of the duty imposed by Section 8(c), Article IV, of this
8 constitution. The Supreme Court has original jurisdiction of a
9 suit described by this subsection.

10 SECTION 3. This proposed constitutional amendment shall be
11 submitted to the voters at an election to be held November 2, 2021.
12 The ballot shall be printed to provide for voting for or against the
13 proposition: "The constitutional amendment regarding the powers of
14 the governor, the legislature, and the supreme court following
15 certain disaster or emergency declarations."