

AMENDED IN SENATE APRIL 1, 2013

Senate Constitutional Amendment

No. 13

Introduced by Senator Anderson

February 22, 2013

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending ~~Section 11~~ *Sections 2, 11, and 12* of Article VI thereof, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as amended, Anderson. Courts: appellate jurisdiction.

The California Constitution establishes the jurisdiction of the courts, providing that the Supreme Court has appellate jurisdiction when judgment of death has been pronounced. The California Constitution provides that courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute. ~~The California Constitution authorizes the Legislature to permit courts exercising appellate jurisdiction to take evidence and make findings of fact when jury trial is waived or not a matter of right.~~

This measure would ~~make technical, nonsubstantive changes to these provisions~~, *instead, establish appellate jurisdiction in the courts of appeal in cases when judgment of death has been pronounced.*

The California Constitution authorizes the Supreme Court to review the decision of a court of appeal in any cause. Concurrence of 4 judges present at the argument is necessary for a judgment.

This measure would require the Supreme Court to review the decision of a court of appeal in a capital case on an issue necessary to the

judgment on which the court of appeal panel was not unanimous, and would authorize the Supreme Court to review other issues in that case. The measure would authorize the Supreme Court to decide the case upon the concurrence of 4 judges without oral argument if the Supreme Court is required to review the decision of a court of appeal on an issue necessary to the judgment on which the court of appeal panel was not unanimous and does not grant review of any additional issues.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2013–14 Regular
3 Session, commencing on the third day of December 2012,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California, that the
6 Constitution of the State be amended as follows:

7 That Section 11 of Article VI thereof is amended to read:

8 ~~SEC. 11. (a) The Supreme Court has appellate jurisdiction~~
9 ~~when judgment of death has been pronounced. With that exception,~~
10 ~~courts of appeal have appellate jurisdiction when superior courts~~
11 ~~have original jurisdiction in causes of a type within the appellate~~
12 ~~jurisdiction of the courts of appeal on June 30, 1995, and in other~~
13 ~~causes prescribed by statute. When appellate jurisdiction in civil~~
14 ~~causes is determined by the amount in controversy, the Legislature~~
15 ~~may change the appellate jurisdiction of the courts of appeal by~~
16 ~~changing the jurisdictional amount in controversy.~~

17 ~~(b) Except as provided in subdivision (a), the appellate division~~
18 ~~of the superior court has appellate jurisdiction in causes prescribed~~
19 ~~by statute.~~

20 ~~(c) The Legislature may permit courts exercising appellate~~
21 ~~jurisdiction to take evidence and make findings of fact when jury~~
22 ~~trial is either waived or not a matter of right.~~

23 *First—That Section 2 of Article VI thereof is amended to read:*

24 SEC. 2. The Supreme Court consists of the Chief Justice of
25 California and 6 associate justices. The Chief Justice may convene
26 the court at any time. Concurrence of ~~4~~ four judges present at the
27 argument, *except as provided in subdivision (d) of Section 12*, is
28 necessary for a judgment.

29 An acting Chief Justice shall perform all functions of the Chief
30 Justice when the Chief Justice is absent or unable to act. The Chief

1 Justice or, if the Chief Justice fails to do so, the court shall select
2 an associate justice as acting Chief Justice.

3 *Second—That Section 11 of Article VI thereof is amended to*
4 *read:*

5 SEC. 11. (a) ~~The Supreme Court has appellate jurisdiction~~
6 ~~when judgment of death has been pronounced. With that exception~~
7 ~~courts—~~Courts of appeal have appellate jurisdiction when superior
8 courts have original jurisdiction in causes of a type within the
9 appellate jurisdiction of the courts of appeal on June 30, 1995, *in*
10 *cases when judgment of death has been pronounced*, and in other
11 causes prescribed by statute. When appellate jurisdiction in civil
12 causes is determined by the amount in controversy, the Legislature
13 may change the appellate jurisdiction of the courts of appeal by
14 changing the jurisdictional amount in controversy.

15 (b) Except as provided in subdivision (a), the appellate division
16 of the superior court has appellate jurisdiction in causes prescribed
17 by statute.

18 (c) The Legislature may permit courts exercising appellate
19 jurisdiction to take evidence and make findings of fact when jury
20 trial is waived or not a matter of right.

21 (d) *Capital cases appealed to the Supreme Court prior to the*
22 *effective date of the amendment vesting jurisdiction in the courts*
23 *of appeal shall remain in the jurisdiction of the Supreme Court*
24 *unless transferred pursuant to Section 12.*

25 *Third—That Section 12 of Article VI thereof is amended to read:*

26 SEC. 12. (a) The Supreme Court may, before decision, transfer
27 to itself a cause in a court of appeal. It may, before decision,
28 transfer a cause from itself to a court of appeal or from one court
29 of appeal or division to another. The court to which a cause is
30 transferred has jurisdiction.

31 (b) The Supreme Court may review the decision of a court of
32 appeal in any cause. *The Supreme Court shall review the decision*
33 *of a court of appeal in a capital case on an issue necessary to the*
34 *judgment on which the court of appeal panel was not unanimous*
35 *and may review other issues in that case.*

36 (c) The Judicial Council shall provide, by rules of court, for the
37 time and procedure for transfer and for review, including, among
38 other things, provisions for the time and procedure for transfer
39 with instructions, for review of all or part of a decision, and for
40 remand as improvidently granted.

1 ~~(d) This section shall not apply to an appeal involving a~~
2 ~~judgment of death.~~

3 *(d) If the Supreme Court is required to review the decision of*
4 *a court of appeal in a capital case pursuant to subdivision (b) and*
5 *does not grant review of any additional issues, the court may decide*
6 *the case upon the concurrence of four judges without oral*
7 *argument.*