

08 SR 796/CSFA/2

Senate Resolution 796

By: Senators Rogers of the 21st, Williams of the 19th, Mullis of the 53rd, Pearson of the 51st, Moody of the 56th and others

ADOPTED SENATE

A RESOLUTION

Proposing an amendment to the Constitution so as to provide for ad valorem tax reform; to freeze the valuation of real property except for certain adjustments; to provide for procedures, conditions, and limitations for certain increases; to provide procedures for increasing or decreasing millage rates on taxes for educational purposes; to provide for ratification of certain exemptions and assessment freezes which were previously enacted; to provide for applicability; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article VII, Section I of the Constitution is amended by revising Paragraph III and by adding new Paragraph to read as follows:

"Paragraph III. ***Uniformity Applicability of uniformity; exceptions; classification of property; assessment of agricultural land; conservation use; timber; utilities.*** (a) All taxes shall be levied and collected under general laws and for public purposes only. ~~Except as otherwise provided in subparagraphs (b), (c), (d), and (e), all~~ All taxation shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax. This uniformity requirement shall not apply to residential and nonresidential real property.

(b)(1) Except as otherwise provided in this ~~subparagraph (b)~~ Paragraph, classes of subjects for taxation of property shall consist of residential and nonresidential real property, other tangible property, and one or more classes of intangible personal property including money; provided, however, that any taxation of intangible personal property may be repealed by general law without approval in a referendum effective for all taxable years beginning on or after January 1, 1996.

(2) Subject to the conditions and limitations specified by law, each of the following types of property may be classified as a separate class of property for ad valorem property tax purposes and different rates, methods, and assessment dates may be provided for such properties:

(A) Trailers.

(B) Mobile homes other than those mobile homes which qualify the owner of the home for a homestead exemption from ad valorem taxation.

(C) Heavy-duty equipment motor vehicles owned by nonresidents and operated in this

state.

(3) Motor vehicles may be classified as a separate class of property for ad valorem property tax purposes, and such class may be divided into separate subclasses for ad valorem purposes. The General Assembly may provide by general law for the ad valorem taxation of motor vehicles including, but not limited to, providing for different rates, methods, assessment dates, and taxpayer liability for such class and for each of its subclasses and need not provide for uniformity of taxation with other classes of property or between or within its subclasses. The General Assembly may also determine what portion of any ad valorem tax on motor vehicles shall be retained by the state. As used in this subparagraph, the term 'motor vehicles' means all vehicles which are self-propelled.

(c) ~~Tangible~~ Subject to the limitations of Paragraph IV of this section, tangible real property, but no more than 2,000 acres of any single property owner, which is devoted to bona fide agricultural purposes shall be assessed for ad valorem taxation purposes at 75 percent of the value which other tangible real property is assessed. No property shall be entitled to receive the preferential assessment provided for in this subparagraph if the property which would otherwise receive such assessment would result in any person who has a beneficial interest in such property, including any interest in the nature of stock ownership, receiving the benefit of such preferential assessment as to more than 2,000 acres. No property shall be entitled to receive the preferential assessment provided for in this subparagraph unless the conditions set out below are met:

(1) The property must be owned by:

(A)(i) One or more natural or naturalized citizens;

(ii) An estate of which the devisee or heirs are one or more natural or naturalized citizens; or

(iii) A trust of which the beneficiaries are one or more natural or naturalized citizens; or

(B) A family-owned farm corporation, the controlling interest of which is owned by individuals related to each other within the fourth degree of civil reckoning, or which is owned by an estate of which the devisee or heirs are one or more natural or naturalized citizens, or which is owned by a trust of which the beneficiaries are one or more natural or naturalized citizens, and such corporation derived 80 percent or more of its gross income from bona fide agricultural pursuits within this state within the year immediately preceding the year in which eligibility is sought.

(2) The General Assembly shall provide by law:

(A) For a definition of the term 'bona fide agricultural purposes,' but such term shall include timber production;

(B) For additional minimum conditions of eligibility which such properties must meet in order to qualify for the preferential assessment provided for herein, including, but not limited to, the requirement that the owner be required to enter into a covenant with the appropriate taxing authorities to maintain the use of the properties in bona fide agricultural purposes for a period of not less than ten years and for appropriate penalties for the breach of any such covenant.

(3) In addition to the specific conditions set forth in this subparagraph (c), the General Assembly may place further restrictions upon, but may not relax, the conditions of

eligibility for the preferential assessment provided for herein.

(d)(1) ~~The~~ Subject to the limitations of Paragraph IV of this section, the General Assembly shall be authorized by general law to establish as a separate class of property for ad valorem tax purposes any tangible real property which is listed in the National Register of Historic Places or in a state historic register authorized by general law. For such purposes, the General Assembly is authorized by general law to establish a program by which certain properties within such class may be assessed for taxes at different rates or valuations in order to encourage the preservation of such historic properties and to assist in the revitalization of historic areas.

(2) ~~The~~ Subject to the limitations of Paragraph IV of this section, the General Assembly shall be authorized by general law to establish as a separate class of property for ad valorem tax purposes any tangible real property on which there have been releases of hazardous waste, constituents, or substances into the environment. For such purposes, the General Assembly is authorized by general law to establish a program by which certain properties within such class may be assessed for taxes at different rates or valuations in order to encourage the cleanup, reuse, and redevelopment of such properties and to assist in the revitalization thereof by encouraging remedial action.

(e) ~~The~~ Subject to the limitations of Paragraph IV of this section, the General Assembly shall provide by general law:

(1) For the definition and methods of assessment and taxation, such methods to include a formula based on current use, annual productivity, and real property sales data, of: 'bona fide conservation use property' to include bona fide agricultural and timber land not to exceed 2,000 acres of a single owner; and 'bona fide residential transitional property,' to include private single-family residential owner occupied property located in transitional developing areas not to exceed five acres of any single owner. Such methods of assessment and taxation shall be subject to the following conditions:

(A) A property owner desiring the benefit of such methods of assessment and taxation shall be required to enter into a covenant to continue the property in bona fide conservation use or bona fide residential transitional use; and

(B) A breach of such covenant within ten years shall result in a recapture of the tax savings resulting from such methods of assessment and taxation and may result in other appropriate penalties;

(2) That standing timber shall be assessed only once, and such assessment shall be made following its harvest or sale and on the basis of its fair market value at the time of harvest or sale. Said assessment shall be two and one-half times the assessed percentage of value fixed by law for other real property taxed under the uniformity provisions of subparagraph (a) of this Paragraph but in no event greater than its fair market value; and for a method of temporary supplementation of the property tax digest of any county if the implementation of this method of taxing timber reduces the tax digest by more than 20 percent, such supplemental assessed value to be assigned to the properties otherwise benefiting from such method of taxing timber.

(f) ~~The~~ Subject to the limitations of Paragraph IV of this section, the General Assembly may provide for a different method and time of returns, assessments, payment, and collection of ad

valorem taxes of public utilities, but not on a greater assessed percentage of value or at a higher rate of taxation than other properties, except that property provided for in subparagraph (c), (d), or (e) of this Paragraph.

Paragraph IV. Limitations on assessed value increases for real property. (a)(1) Except as otherwise provided in this Paragraph, the assessed value of residential real property and nonresidential real property for all ad valorem tax purposes shall not be increased from the valuation established for 2008. Additions or improvements to such residential real property and nonresidential real property placed in service after December 31, 2007, shall be appraised for ad valorem tax purposes at their fair market value and shall be added to the owner's 2008 valuation amount.

(2) If such residential real property or nonresidential real property is sold or transferred to another person, such residential real property or nonresidential real property shall be appraised for ad valorem tax purposes at fair market value.

(3) The 2008 valuation amount for any individual parcel of residential real property may be increased during the 2010 taxable year by an amount not to exceed a 4 percent increase in such value and, for each taxable year thereafter, by an amount not to exceed a 2 percent increase in such value. The 2008 valuation for any individual parcel of nonresidential real property may be increased during the 2010 taxable year by an amount not to exceed a 6 percent increase in such value and, for each taxable year thereafter, by an amount not to exceed a 3 percent increase in such value. The percentage limitations of this provision shall not be construed to prohibit the mass appraisal of real property in a county.

(b) As used in subparagraph (c) of this Paragraph, the term 'established property' means any individual parcel of residential real property or nonresidential real property which has not been subdivided or substantially improved, sold, or transferred during the previous 12 month period.

(c) The valuations established under subparagraph (a) of this Paragraph may be further increased, but only under the following conditions:

(1) Each county shall adopt by majority vote a uniform process for assessment of residential real property or nonresidential real property. Such process shall be utilized by the county and by each local taxing jurisdiction in such county. Such process shall conform to any guidelines set forth by general law and shall provide:

(A) A maximum allowable percentage increase from assessed value of established property during any taxable year; and

(B) That any individual parcel of residential real property or nonresidential real property sold or transferred to another person shall be assessed for ad valorem tax purposes at fair market value; and

(2) Such procedure shall become effective only upon its adoption by an ordinance or resolution of the governing body of such local taxing jurisdiction and also by a local Act of the General Assembly conditioned upon approval by a majority vote of the qualified electors residing within the limits of the local taxing jurisdiction voting in a referendum thereon.

(d) The General Assembly shall be authorized by general law to further define and implement the provisions of this Paragraph including, but specifically not limited to, definitions of

residential real property and nonresidential real property.

(e) Any local or general law providing for base year assessed value homestead exemptions that freeze the assessment of property with respect to any or all ad valorem taxes enacted prior to January 1, 2010, shall be ratified expressly; provided, however, that such ratification shall not be interpreted to imply that such laws were invalid at the time they became law. The provisions of this Paragraph shall not apply to any homestead's ad valorem taxes which are the subject of any such general or local law so long as the owner of such homestead on January 1, 2010, remains the owner of such property. Upon any sale or transfer of such homestead, no subsequent owner shall be entitled to apply for and receive such exemption or exemptions on such homestead.

(f) This Paragraph shall not apply to any county or consolidated government for which a local constitutional amendment has been continued in force and effect as part of this Constitution which freezes ad valorem property taxes unless such local constitutional amendment is repealed."

SECTION 2.

Article VIII, Section VI of the Constitution is amended by revising Paragraph II as follows:

"Paragraph II. ***Increasing or removing decreasing tax rate.*** The mill limitation in effect on June 30, 1983, for any school system may be increased ~~or removed by action of the respective boards of education~~ or decreased but only after such action has been approved by a local Act of the General Assembly conditioned on approval by a majority of the qualified voters voting thereon in the particular school system to be affected ~~in the manner provided by law."~~

SECTION 3.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

- "() YES Shall the Constitution of Georgia be amended so as to provide for ad valorem tax reform, to freeze real property values except for limited adjustments but allow future increases if approved by voters in a referendum, to provide for ratification of similar freeze exemptions which were previously enacted, and to provide procedures for increasing or decreasing millage rates on taxes for educational purposes?"
- () NO

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state effective January 1, 2010.