

House Resolution 2

By: Representatives Levitas of the 82nd, Lunsford of the 110th, Wilkinson of the 52nd, Jerguson of the 22nd, Bearden of the 68th, and others

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide for base-value exemptions from
 2 ad valorem taxes for county, municipal, or county or independent school district purposes
 3 for homestead and nonhomestead property in an amount equal to the amount by which the
 4 current-year assessed value of the property exceeds the base value of such property in any
 5 local taxing jurisdictions in which such exemptions are approved in a referendum; to provide
 6 for a short title; to provide for definitions; to specify the terms and conditions of the
 7 exemptions and procedures relating thereto; to provide for applicability; to require voter
 8 approval of changes in the maximum millage rate for school district ad valorem taxes; to
 9 provide for the submission of this amendment for ratification or rejection; and for other
 10 purposes.

11 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 This Resolution shall be known and may be cited as the "Bringing Equity Statewide to
 14 Taxation Amendment."

15 **SECTION 2.**

16 Article VII, Section II of the Constitution is amended by adding a new Paragraph to read as
 17 follows:

18 "Paragraph VI. *Base-value exemptions for homestead and nonhomestead property.* (a)
 19 For purposes of this Paragraph, the term:

20 (1) 'Appraisal,' 'appraisal report,' 'appraiser,' or ' appraiser classification' shall have the
 21 same meaning as those terms are defined by general law relating to appraiser licensing.

22 (2) 'Appraisal valuation' means an estimate by an appraiser of applicable appraiser
 23 classification of the value of real estate or real property based on an appraisal.

24 (3) 'Base value' of a homestead means the purchase price of the homestead property
 25 paid by the most recent owner of such homestead; provided, however, that if the purchase
 26 price of the homestead cannot be determined pursuant to subparagraph (c) of this

27 Paragraph, then 'base value' shall mean the assessed value of the homestead, as
28 determined pursuant to subparagraph (d) of this Paragraph. 'Base value' of nonhomestead
29 property means the 2002 assessed value of the nonhomestead property on January 1,
30 2011; provided, however, that for any sale, exchange, or other transfer of nonhomestead
31 property after January 1, 2011, 'base value' shall mean the purchase price of the
32 nonhomestead property, except that if the purchase price of the nonhomestead property
33 cannot be determined pursuant to subparagraph (c) of this Paragraph, then 'base value'
34 shall be determined pursuant to subparagraph (d) of this Paragraph.

35 (4) 'County ad valorem taxes' means all ad valorem taxes for county purposes levied
36 by, for, or on behalf of a county, including, but not limited to, taxes to pay interest on and
37 to retire county bonded indebtedness.

38 (5) 'Fair market value' means the compensation that a knowledgeable buyer would pay
39 for a homestead property or nonhomestead property and a willing seller would accept for
40 the homestead property or nonhomestead property at an arm's length, bona fide sale of
41 such homestead or nonhomestead property.

42 (6) 'Homestead' means the homestead as defined and qualified by general law for other
43 general law homestead exemptions, with the additional qualification that it shall include
44 not more than five contiguous acres of homestead property.

45 (7) 'Immediate family member' means the spouse, child, stepchild, child's spouse,
46 stepchild's spouse, grandchild, stepgrandchild, grandchild's spouse, stepgrandchild's
47 spouse, parent, stepparent, parent-in-law, sibling-in-law, niece, nephew,
48 stepparent-in-law, sibling, or stepsibling of the seller.

49 (8) 'Local taxing jurisdiction's appraisal valuation' or 'local taxing jurisdiction's
50 valuation' means an appraisal valuation or valuation obtained by a county, municipality,
51 or county or independent school district pursuant to this Paragraph.

52 (9) 'Municipal ad valorem taxes' means all ad valorem taxes for municipal purposes
53 levied by, for, or on behalf of a municipality, including, but not limited to, taxes to pay
54 interest on and to retire municipal bonded indebtedness.

55 (10) 'Nonhomestead property' means any business or commercial real property or other
56 real property which does not qualify as a homestead.

57 (11) 'Purchase price' means the amount of total compensation that a buyer pays to
58 acquire a homestead or nonhomestead property from a willing seller in an arm's length,
59 bona fide sale of such homestead or nonhomestead property. The term 'total
60 compensation' shall include, without limitation, any in-kind transfer, land transfer, or
61 other transfer or exchange of a thing of value given, directly or indirectly, to acquire such
62 homestead property or nonhomestead property.

63 (12) 'School district ad valorem taxes' means all ad valorem taxes for educational
64 purposes levied by, for, or on behalf of a county or independent school district, including,
65 but not limited to, taxes to pay interest on and to retire school district bonded
66 indebtedness.

67 (13) 'Taxpayer' means a person or entity subject to county, municipal, or school district
68 ad valorem taxes for real property owned by the person or entity as a homestead or as
69 nonhomestead property.

70 (14) 'Taxpayer's appraisal valuation' or 'taxpayer's valuation' means an appraisal
71 valuation or valuation obtained by a taxpayer pursuant to this Paragraph.

72 (b)(1) Each taxpayer is granted an exemption on that taxpayer's homestead and
73 nonhomestead property from all county ad valorem taxes, municipal ad valorem taxes,
74 or school district ad valorem taxes in an amount equal to the amount by which the
75 current-year assessed value of that homestead or nonhomestead property exceeds the base
76 value of that homestead or nonhomestead property.

77 (2) This exemption shall not apply to taxes assessed on improvements to such
78 homestead or nonhomestead property or to additional land that is added to such
79 homestead or nonhomestead property after January 1 of the base year. If any real
80 property is removed from such homestead or nonhomestead property, then the base value
81 shall be adjusted by the county tax commissioner or the municipal tax official, as
82 appropriate, to reflect such removal, and any exemption shall be recalculated accordingly.
83 The value of that property in excess of such exempted amount shall remain subject to
84 taxation; provided, however, that the excess amount as determined by the tax
85 commissioner or the municipal tax official, as appropriate, shall be subject to the
86 provisions of subparagraph (d) of this Paragraph.

87 (c)(1) A taxpayer shall not receive an exemption granted by this Paragraph unless such
88 taxpayer or taxpayer's agent files an application with the tax commissioner of the county
89 or the municipal tax official, as appropriate, giving such information relative to receiving
90 such exemption as will enable the tax commissioner or the municipal tax official, as
91 appropriate, to make a determination regarding the correctness of the base value and the
92 initial and continuing eligibility of such taxpayer for such exemption. The tax
93 commissioner of the county or the municipal tax official, as appropriate, shall provide
94 application forms for this purpose.

95 (2) In order for a taxpayer to receive a base value in the amount of the purchase price
96 of homestead or nonhomestead property, the taxpayer shall provide to the tax
97 commissioner or the municipal tax official, as appropriate, copies of the closing
98 documents regarding the sale of the property or other proof which, in the objective
99 judgment of the tax commissioner or the municipal tax official, as appropriate, is

100 sufficient to validate such purchase price. The General Assembly shall be authorized to
101 provide by general law for additional items of proof which shall be sufficient to establish
102 the purchase price for purposes of this subparagraph.

103 (d) For purposes of determining valuation pursuant to this subparagraph and
104 subparagraphs (b)(2), (e), and (f) of this Paragraph, the local taxing jurisdiction shall obtain
105 an appraisal valuation and shall provide such appraisal valuation to the taxpayer in a
106 written appraisal report documenting the fair market value of the property, subject to the
107 following conditions:

108 (1) If the taxpayer disagrees with the local taxing jurisdiction's appraisal valuation, then
109 the taxpayer, within 45 days of receipt of the local taxing jurisdiction's appraisal report,
110 may obtain a separate appraisal valuation; otherwise, the local taxing jurisdiction's
111 appraisal valuation shall become the valuation of the homestead or nonhomestead
112 property for purposes of this Paragraph;

113 (2) If the taxpayer obtains an appraisal valuation under this subparagraph within 45
114 days of receipt of the local taxing jurisdiction's appraisal report and if the difference
115 between the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal
116 valuation is 20 percent or less, then the valuation of such property for the purpose of any
117 exemption granted by this Paragraph shall be the taxpayer's appraisal valuation; provided,
118 however, that before the taxpayer's appraisal valuation shall become effective, the
119 taxpayer shall provide the taxpayer's appraisal valuation to the appropriate local taxing
120 jurisdiction via certified mail, return receipt requested, via priority mail, delivery
121 confirmation requested, or via statutory overnight delivery; and

122 (3) If the difference between the taxpayer's appraisal valuation and the local taxing
123 jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction
124 does not agree to the valuation determined by the taxpayer's appraisal valuation, then the
125 local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the
126 superior court of the county, on a form approved by the clerk of the court, to appoint an
127 arbitrator. The cost of the application shall be borne by the local taxing jurisdiction,
128 which cost the General Assembly is authorized to establish by general law but which
129 shall otherwise be established by the clerk of the superior court of each county. Unless
130 the General Assembly shall provide by general law otherwise, such cost shall not exceed
131 \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal
132 valuations is closer to the fair market value of the homestead or nonhomestead property,
133 and the closer appraisal valuation shall become the valuation of the homestead or
134 nonhomestead property for purposes of this Paragraph. The cost for the service of the
135 arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

136 (e) At any time after the taxpayer's initial base value is determined pursuant to this
137 Paragraph, a taxpayer may seek a new determination of value of the homestead or
138 nonhomestead property. In such case, the taxpayer shall obtain an appraisal valuation and
139 shall provide such appraisal valuation to the local taxing jurisdiction in a written appraisal
140 report documenting the fair market value of the property, subject to the following
141 conditions:

142 (1) If the taxing jurisdiction disagrees with the taxpayer's appraisal valuation, then the
143 taxing jurisdiction, within 45 days of receipt of the taxpayer's appraisal report, may obtain
144 a separate appraisal valuation; otherwise, the taxpayer's appraisal valuation shall become
145 the valuation of the homestead or nonhomestead property for purposes of this Paragraph;

146 (2) If the taxing jurisdiction obtains an appraisal valuation under this subparagraph
147 within 45 days of receipt of the taxpayer's appraisal report and if the difference between
148 the taxpayer's appraisal valuation and the local taxing jurisdiction's appraisal valuation
149 is 20 percent or less, then the valuation of such property for the purpose of any exemption
150 granted by this Paragraph shall be the taxpayer's appraisal valuation; provided, however,
151 that before the taxpayer's appraisal valuation shall become effective, the taxpayer shall
152 provide the taxpayer's appraisal valuation to the appropriate local taxing jurisdiction via
153 certified mail, return receipt requested, via priority mail, delivery confirmation requested,
154 or via statutory overnight delivery; and

155 (3) If the difference between the taxpayer's appraisal valuation and the local taxing
156 jurisdiction's appraisal valuation exceeds 20 percent and if the local taxing jurisdiction
157 does not agree to the valuation determined by the taxpayer's appraisal valuation, then the
158 local taxing jurisdiction and taxpayer shall agree to an arbitrator or shall apply to the
159 superior court of the county, on a form approved by the clerk of the court, to appoint an
160 arbitrator. The cost of the application shall be borne by the local taxing jurisdiction,
161 which cost the General Assembly is authorized to establish by general law but which
162 shall otherwise be established by the clerk of the superior court of each county. Unless
163 the General Assembly shall provide by general law otherwise, such cost shall not exceed
164 \$50.00. The arbitrator shall be appointed by the court to select which of the two appraisal
165 valuations is closer to the fair market value of the homestead or nonhomestead property,
166 and the closer appraisal valuation shall become the valuation of the homestead or
167 nonhomestead property for purposes of this Paragraph. The cost for the service of the
168 arbitrator shall be borne equally by the taxpayer and by the local taxing jurisdiction.

169 (f) Any exemption granted under this Paragraph shall be contingent upon the purchase
170 being a bona fide, arm's length transaction. The local taxing jurisdiction shall be permitted
171 to challenge whether a purchase of a homestead or nonhomestead property was a bona fide,
172 arm's length transaction under the following conditions:

173 (1) Where the purchase was made, directly or indirectly, by a person or by an entity
174 controlled by such person or in which such person has a 20 percent or greater interest in
175 the purchasing entity, which person is an immediate family member of the seller or, in
176 the case of a seller that is an entity, by a person who is an immediate family member of
177 a person who controls or who has a 20 percent or greater ownership interest in the selling
178 entity;

179 (2) Where the purchase was made for less than 75 percent of fair market value; or

180 (3) Where a taxpayer purchases or otherwise acquires a homestead or nonhomestead
181 property as the result of a foreclosure.

182 (g) A taxpayer obtaining a homestead or nonhomestead property through bequest,
183 inheritance, foreclosure, or in-kind transfer shall obtain an appraisal of the homestead or
184 nonhomestead property for purposes of establishing valuation for purposes of this
185 Paragraph. If the local taxing jurisdiction disagrees with the appraisal valuation obtained
186 by the taxpayer, then the local taxing jurisdiction may seek its own appraisal valuation
187 pursuant to the provisions of subparagraph (d) of this Paragraph.

188 (h) When, after purchasing a homestead or nonhomestead property, a taxpayer borrows
189 money or is otherwise extended credit at such taxpayer's request based on the value of such
190 homestead or nonhomestead property, which value exceeds the base value, as adjusted by
191 any applicable subparagraphs of this Paragraph, the higher valuation shall become the
192 value of the homestead or nonhomestead property for purposes of this Paragraph.

193 (i) Any exemption shall be claimed and returned as provided by general law for other
194 homestead and nonhomestead property exemptions, as applicable. The homestead
195 exemption shall be automatically renewed from year to year so long as the taxpayer granted
196 the homestead exemption under this Paragraph occupies the residence as a homestead. The
197 nonhomestead property exemption shall be automatically renewed from year to year so
198 long as the taxpayer granted the nonhomestead property exemption under this Paragraph
199 directly owns the nonhomestead property. After the taxpayer has filed the proper
200 application as provided in this Paragraph, it shall not be necessary to make application
201 thereafter for any year, and the exemption shall continue to be allowed to such taxpayer,
202 provided that such taxpayer is otherwise eligible to receive the exemption. It shall be the
203 duty of any taxpayer granted the homestead exemption or nonhomestead property
204 exemption under this Paragraph to notify the tax commissioner of the county or the
205 municipal tax official, as appropriate, in the event that such taxpayer for any reason
206 becomes ineligible for that exemption.

207 (j)(1) The homestead or nonhomestead property exemption granted by this Paragraph
208 shall not apply to or affect:

209 (A) Any state ad valorem taxes;

210 (B) Any other ad valorem tax exemption for county taxes for county purposes
 211 provided for under this Constitution or by general or local law; or

212 (C) Any property receiving preferential assessment under subparagraph (c) or (e) of
 213 Paragraph III of Section I of this Article as long as such property remains subject to the
 214 appropriate covenant.

215 (2) An exemption granted by this Paragraph shall be in addition to and not in lieu of
 216 any other ad valorem tax exemption.

217 (k) The exemptions granted by this Paragraph shall apply to all taxable years beginning
 218 on or after January 1 of the following the year in which the referendum required under
 219 subparagraph (l) of this Paragraph is approved in the appropriate local taxing jurisdiction.

220 (l) An exemption granted under this Paragraph shall only be implemented in a local
 221 taxing jurisdiction following approval by a majority of the qualified electors residing
 222 within the limits of the local taxing jurisdiction voting in a referendum thereon as follows:

223 (1) Unless a special election is called and conducted in a local taxing jurisdiction
 224 sooner, pursuant to subparagraph (1)(2) of this Paragraph, the election superintendent of
 225 each local taxing jurisdiction shall call and conduct an election as provided in this
 226 subparagraph for the purpose of submitting the exemptions to the electors of the local
 227 taxing jurisdiction for approval or rejection. In each local taxing jurisdiction in which an
 228 election has not been conducted sooner under subparagraph (1)(2) of this Paragraph, each
 229 election superintendent shall conduct that election on the date of the 2012 state-wide
 230 general election and shall issue the call and conduct that election as provided by general
 231 law. Each election superintendent shall cause the date and purpose of the election to be
 232 published once a week for two weeks immediately preceding the date thereof in the
 233 official organ of the county. The ballot shall have written or printed thereon the words:

234 '() YES Shall the base-value exemptions from ad valorem taxes for county,
 235 municipal, or county or independent school district purposes for a
 236 () NO homestead and nonhomestead property in an amount equal to the amount
 237 by which the current-year assessed value of the property exceeds the base
 238 value of such property, effectively freezing such taxes, be approved?'

239 All persons desiring to vote for approval of the exemptions shall vote 'Yes,' and all
 240 persons desiring to vote for rejection shall vote 'No.' If more than one-half of the votes
 241 cast on such question are for approval of the exemptions, the exemptions shall become
 242 of full force and effect in that local taxing jurisdiction on January 1, 2013. If the
 243 exemptions are not so approved, they shall not become effective in that local taxing
 244 jurisdiction. The expense of the election shall be borne by the local taxing jurisdiction.
 245 It shall be the election superintendent's duty to certify the result thereof to the Secretary
 246 of State.

247 (2) The General Assembly shall be authorized to provide by local law that the special
 248 election required in a local taxing jurisdiction under subparagraph (l)(1) of this Paragraph
 249 may be conducted sooner than the 2012 state-wide general election on any date
 250 authorized by general law for the holding of a special election. In such event, the election
 251 superintendent shall follow the procedures specified in subparagraph (l)(1) of this
 252 Paragraph. If such vote is for approval of the exemptions, they shall become effective
 253 on January 1 of the year following the year in which such referendum was conducted.

254 (3) In the event such referendum has been conducted and such referendum was not
 255 approved, the General Assembly shall be authorized by local law to resubmit the question
 256 of authorizing such exemptions. In such event, the election superintendent shall follow
 257 the procedures specified in subparagraph (l)(1) of this Paragraph. If such vote is for
 258 approval of the exemptions, they shall become effective on January 1 of the year
 259 following the year in which such referendum was conducted.

260 (m)(1) The General Assembly shall be authorized to discontinue any exemption granted
 261 under this Paragraph by local law conditioned upon approval by a majority of the
 262 qualified electors residing within the limits of the local taxing jurisdiction voting in a
 263 referendum thereon.

264 (2) In the event such referendum has been conducted and such referendum was
 265 approved, the General Assembly shall be authorized by local law to submit the question
 266 of reauthorizing such exemptions. In such event, the election superintendent shall follow
 267 the procedures specified in subparagraph (l)(1) of this Paragraph. If such vote is for
 268 approval of the exemptions, they shall become effective on January 1 of the year
 269 following the year in which such referendum was conducted.

270 (n) In the event a taxing jurisdiction is created after January 1, 2013, the General
 271 Assembly shall be authorized by local law to submit the question of approving such
 272 exemption. In such event, the election superintendent shall follow the procedures specified
 273 in subparagraph (l)(1) of this Paragraph. If such vote is for approval of the exemption, it
 274 shall become effective on January 1 of the year following the year in which such
 275 referendum was conducted."

276 SECTION 3.

277 Article VIII, Section VI of the Constitution is amended by revising Paragraphs I and II as
 278 follows:

279 "Paragraph I. **Local taxation for education.** (a) The board of education of each school
 280 system shall annually certify to its fiscal authority or ~~authorities~~ authorities the necessary
 281 ~~school tax not greater than 20 mills per dollar~~ for the support and maintenance of
 282 education. Said fiscal authority or authorities shall annually levy said tax upon the assessed

283 value of all taxable property within the territory served by said school system, ~~provided that~~
 284 ~~the levy made by an area board of education, which levy shall not be greater than 20 mills~~
 285 ~~per dollar, shall be in such amount and within such limits as may be prescribed by local law~~
 286 ~~applicable thereto.~~

287 (b) School tax funds shall be expended only for the support and maintenance of public
 288 schools, public ~~vocational-technical schools~~ technical colleges, public education, and
 289 activities necessary or incidental thereto, including school lunch purposes.

290 (c) ~~The 20 mill limitation provided for in subparagraph (a) of this Paragraph shall not~~
 291 ~~apply to those school systems which are authorized on June 30, 1983, to levy a school tax~~
 292 ~~in excess thereof.~~

293 (d) The method of certification and levy of the school tax provided for in
 294 subparagraph (a) of this Paragraph shall not apply to those systems that are authorized on
 295 June 30, 1983, to utilize a different method of certification and levy of such tax; but the
 296 General Assembly may by law require that such systems be brought into conformity with
 297 the method of certification and levy herein provided.

298 Paragraph II. ~~*Increasing or removing tax rate*~~ *Change in limitation.* The mill limitation
 299 in effect on ~~June 30, 1983~~ January 1, 2011, for any school system may be ~~increased or~~
 300 ~~removed~~ changed by action of the respective boards of education, but only after such action
 301 has been approved by a majority of the qualified voters voting thereon in the particular
 302 school system to be affected in the manner provided for by the particular school system to
 303 be affected or in the manner provided by law."

304 SECTION 4.

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

308 "() YES Shall the Constitution of Georgia be amended so as to authorize base-value
 309 exemptions from ad valorem taxes for county, municipal, or county or
 310 () NO independent school district purposes for homestead and nonhomestead
 311 property in an amount equal to the amount by which the current-year
 312 assessed value of the property exceeds the base value of such property,
 313 effectively freezing such taxes, in any local taxing jurisdiction in which
 314 such exemptions are approved in a local referendum and to require voter
 315 approval of changes in the maximum millage rate for school district ad
 316 valorem taxes?"

317 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

318 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If

319 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
320 become a part of the Constitution of this state.