

HOUSE JOINT RESOLUTION NO. 31

(By Delegates Lane and Walters)

[Introduced January 28, 2011; referred to the Committee on
Constitutional Revision then Finance.]

Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article ten thereof, relating to homestead exemption increase; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2012, which proposed amendment is that section one-b, article ten thereof, be amended to read as follows:

ARTICLE X. TAXATION AND FINANCE.

§1b. Property tax limitation and homestead exemption amendment of

1 **1982.**

2 Ad valorem property taxation shall be in accordance with this
3 section and other applicable provisions of this article not
4 inconsistent with this section.

5 *Subsection A -- Value; Rate of Assessment; Exceptions*

6 Notwithstanding any other provisions of this Constitution and
7 except as otherwise provided in this section, all property subject
8 to ad valorem taxation shall be assessed at sixty percent of its
9 value, as directed to be ascertained in this section, except that
10 the Legislature may from time to time, by general law agreed to by
11 two thirds of the members elected to each house, establish a higher
12 percentage for the purposes of this paragraph, which percentage
13 shall be uniform as to all classes of property defined in section
14 one of this article, but not more than one hundred percent of such
15 value.

16 Notwithstanding the foregoing, for July 1, 1982, and July 1
17 of each year thereafter until the values may be fixed as a result
18 of the first statewide reappraisal hereinafter required,
19 assessments shall be made under the provisions of current statutory
20 law, which is hereby validated for such purpose until and unless
21 amended by the Legislature. Assessment and taxation in accord with
22 this section shall be deemed to be equal and uniform for all
23 purposes.

24 *Subsection B -- Determination of Value*

25 The Legislature shall provide by general law for periodic

1 statewide reappraisal of all property, which reappraisal shall be
2 related for all property to a specified base year which, as to each
3 such reappraisal, shall be uniform for each appraisal for all
4 classes of property and all counties. In such law, the Legislature
5 shall provide for consideration of: (1) Trends in market values
6 over a fixed period of years prior to the base year; (2) the
7 location of the property; and (3) such other factors and methods as
8 it may determine: *Provided*, That with respect to reappraisal of
9 all property upon the base year of 1980, such reappraisals are
10 deemed to be valid and in compliance with this section: *Provided*,
11 *however*, That with respect to farm property, as defined from time
12 to time by the Legislature by general law, the determination of
13 value shall be according to its fair and reasonable value for
14 farming purposes, as may be defined by general law.

15 The results of each statewide appraisal shall upon completion
16 be certified and published and errors therein may be corrected, all
17 as provided by general law. The first such statewide appraisal
18 shall be completed, certified and published on or before March 31,
19 1985, for use when directed by the Legislature.

20 The Legislature shall further prescribe by general law the
21 manner in which each statewide reappraisal shall be employed to
22 establish the value of the various separately assessed parcels or
23 interests in parcels of real property and various items of personal
24 property subject to ad valorem property taxation, the methods by
25 which increases and reductions in value subsequent to the base year

1 of each statewide reappraisal shall be ascertained, and require the
2 enforcement thereof.

3 *Subsection C -- General Homestead Exemption*

4 Notwithstanding any other provisions of this Constitution to
5 the contrary, the first ~~twenty thousand dollars~~ \$30,000 of assessed
6 valuation of any real property, or of personal property in the form
7 of a mobile home, used exclusively for residential purposes and
8 occupied by the owner or one of the owners thereof as his or her
9 residence who is a citizen of this state and who is sixty-five
10 years of age or older or is permanently and totally disabled as
11 that term may be defined by the Legislature, shall be exempt from
12 ad valorem property taxation, subject to such requirements,
13 limitations and conditions as shall be prescribed by general law:
14 Provided; That if the owner or owners are citizens of this state
15 whose federal adjusted gross income is equal to or less than two
16 hundred percent of the federal poverty level as that term is
17 defined by the federal government then the exemption shall be the
18 greater of the first \$30,000 of assessed valuation of any real
19 property or fifty percent of the average home sale price for the
20 five years immediately preceding the assessment in the county where
21 the residence is located; Provided, however, this exemption shall
22 not exceed the average home sale price in the entire state for the
23 five years immediately preceding the assessment.

24 Notwithstanding any other provision of this Constitution to
25 the contrary, the Legislature shall have the authority to provide

1 by general law for an exemption from ad valorem property taxation
2 in an amount not to exceed the first \$20,000 of value of any real
3 property, or of personal property in the form of a mobile home,
4 used exclusively for residential purposes and occupied by the owner
5 or one of the owners thereof as his or her residence who is a
6 citizen of this state, and who is under sixty-five years of age and
7 not totally and permanently disabled: *Provided*, That upon
8 enactment of such general law, this exemption shall only apply to
9 such property in any county in which the property was appraised at
10 its value as of January 1, 1980, or thereafter, as determined by
11 the Legislature, and this exemption shall be phased in over such
12 period of time not to exceed five years from the date such property
13 was so appraised, or such longer time as the Legislature may
14 determine by general law: *Provided, however*, That in no event
15 shall any one person and his or her spouse, or one homestead be
16 entitled to more than one exemption under these provisions:
17 *Provided further*, That these provisions are subject to such
18 requirements, limitations and conditions as shall be prescribed by
19 general law.

20 The Legislature shall have the authority to provide by general
21 law for property tax relief to citizens of this state who are
22 tenants of residential or farm property.

23 *Subsection D -- Additional Limitations on Value*

24 With respect to the first statewide reappraisal, pursuant to
25 this section, the resulting increase in value in each and every

1 parcel of land or interest therein and various items of personal
2 property subject to ad valorem property taxation over and above the
3 previously assessed value shall be allocated over a period of ten
4 years in equal amounts annually.

5 The Legislature may by general law also provide for the
6 phasing in of any subsequent statewide reappraisal of property.

7 *Subsection E -- Levies for Free Schools*

8 In equalizing the support of free schools provided by state
9 and local taxes, the Legislature may require that the local school
10 districts levy all or any portion of the maximum levies allowed
11 under section one of this article which has been allocated to such
12 local school districts.

13 Within the limits of the maximum levies permitted for excess
14 levies for schools or better schools in sections one and ten of
15 this article, the Legislature may, in lieu of the exercise of such
16 powers by the local school districts as heretofore provided, submit
17 to the voters, by general law, a statewide excess levy, and if it
18 be approved by the required number of voters, impose such levy,
19 subject however to all the limitations and requirements for the
20 approval of such levies as in the case of a district levy. The law
21 submitting the question to the voters shall provide, upon approval
22 of the levy by the voters, for the assumption of the obligation of
23 any local excess levies for schools then in force theretofore
24 authorized by the voters of a local taxing unit to the extent of
25 such excess levies imposed by the state and so as to avoid double

1 taxation of those local districts. The Legislature may also by
2 general law reserve to the school districts such portions of the
3 power to lay authorized excess levies as it may deem appropriate to
4 enable local school districts to provide educational services which
5 are not required to be furnished or supported by the state. If a
6 statewide excess levy for the support of free schools is approved
7 by the required majority, the revenue from such a statewide excess
8 levy shall be deposited in the State Treasury and be allocated
9 first for the local obligations assumed and thereafter for such
10 part of the state effort to support free schools, by appropriation
11 or as the law submitting the levy to the voters shall require, as
12 the case may be.

13 The defeat of any such proposed statewide excess levy for
14 school purposes shall not in any way abrogate or impair any local
15 existing excess levy for such purpose nor prevent the adoption of
16 any future local excess levy for such purpose.

17 *Subsection F -- Implementation*

18 In the event of any inconsistency between any of the
19 provisions of this section and other provisions of this
20 Constitution, the provisions of this section shall prevail. The
21 Legislature shall have plenary power to provide by general law for
22 the equitable application of this article and, as to taxes to be
23 assessed prior to the first statewide reappraisal, to make such
24 laws retroactive to July 1, 1982, or thereafter."

25 *Resolved further,* That in accordance with the provisions of

1 article eleven, chapter three of the Code of West Virginia, 1931,
2 as amended, such proposed amendment is hereby numbered "Amendment
3 No. 1" and designated as the "Homestead Exemption Increase
4 Amendment" and the purpose of the proposed amendment is summarized
5 as follows: "The purpose of this amendment is to increase the
6 homestead exemption from \$20,000 to \$30,000. However, if the
7 homeowner's federal adjusted gross income is equal to or less than
8 two hundred percent of the federal poverty level the exemption
9 shall be the greater of \$30,000 or fifty percent of the average
10 sale price of homes in that county during the five preceding years,
11 provided that the exemption may not be greater than fifty percent
12 of the average sale price of homes in the state during those five
13 preceding years."

NOTE: The purpose of this resolution is to increase the homestead exemption from \$20,000 to \$30,000. However, if the homeowner's federal adjusted gross income is equal to or less than two hundred percent of the federal poverty level the exemption shall be the greater of \$30,000 or fifty percent of the average sale price of homes in that county during the five preceding years, provided that the exemption may not be greater than fifty percent of the average sale price of homes in the state during those five preceding years.

Strike-throughs indicate language that would be stricken from the present Constitution, and underscoring indicates new language that would be added.