PROPOSED

CONSTITUTIONAL AMENDMENTS

AND

STATE-WIDE REFERENDUM QUESTIONS

GENERAL ELECTION

NOVEMBER 3, 2020

Constitutional Amendments 1-2
Summaries of Amendments and
State-wide Referendum Question A

This booklet contains copies of the two proposed amendments to the Constitution in their entirety. These amendments will be submitted at the general election on November 3, 2020. As required by the Constitution, these proposed amendments in their entirety are on file in the office of the judge of the probate court in each county and are available for public inspection. This booklet also includes summaries of the two proposals as prepared by Attorney General Christopher Carr, Secretary of State Brad Raffensperger, and Legislative Counsel Rick Ruskell and published in the newspaper which is each county's official legal organ. In addition, a summary of the state-wide referendum question prepared by Secretary of State Brad Raffensperger is included.

CONSTITUTIONAL AMENDMENTS 1-2

House Resolution No. 164
Resolution Act No. 597
Ga. L. 2020, p. 919

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the General Assembly to provide by general law for the creation or renewal and dedication of revenues derived from fees or taxes to the public purpose for which such fees or taxes were intended; to provide for procedures, conditions, and limitations; to provide for the redesignation of current subparagraphs of the Constitution; 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 III, Section IX, Paragraph VI of the Constitution is amended by redesignating the second subparagraph (o), relating to the dedication of the excise tax on the sale of fireworks, as subparagraph (p), by redesignating subparagraph (p), relating to the Georgia Outdoor Stewardship Fund, as subparagraph (q), and by adding a new subparagraph to read as follows:

"(r)(1) Subject to the limitations in this subparagraph, the General Assembly may provide by general law for the creation or renewal and dedication of revenues, in whole or in part, derived from fees or taxes to the public purpose for which such fees or taxes were intended; provided that the general law dedicating such fee or tax shall reference this provision of the Constitution, provide the specific public purpose for which the revenue derived from such fee or tax shall be used, identify the agency to administer such revenue, require annual reporting of the revenues and expenses by such agency, and include an automatic expiration of such fee or tax within a period not to exceed ten years. Any such general law may also be authorized to offset, in whole or in part, the costs to the state of implementing and administering such dedication of revenue.

(2) The General Assembly shall not be authorized to dedicate state revenues pursuant to this subparagraph when the total revenues dedicated hereunder, including any nonlapsed funds, are equal to or exceed one percent of the total state revenues based on the previous fiscal year's state revenues subject to appropriation.

(3) Any general law enacted pursuant to this subparagraph shall not be subject to the limitations of Article III, Section IX, Paragraph IV(c), relating to the lapsing of funds; Article III, Section IX, Paragraph VI(a), relating to allocation of proceeds; or Article VII, Section III, Paragraph II(a), relating to payment into the general fund of the state treasury.

(4) Any general law enacted creating or renewing and dedicating revenues shall not become effective unless approved by two-thirds of the members elected to each chamber of the General Assembly in a roll-call vote; provided, however, that such a general law may be repealed by a majority vote of the members elected to each chamber of the General Assembly in a roll-call vote. Except in the case of a financial emergency as provided in paragraph (5) of this subparagraph, no amendment to any general law enacted pursuant to this subparagraph shall become effective unless approved by two-thirds of the members elected to each chamber of the General Assembly in a roll-call vote.

(5) No revenues which are dedicated by a general law enacted pursuant to this subparagraph shall be subject to any further dedication, any rededication to another purpose, or any alteration whatsoever through the general appropriations Act, or any amendment thereto, or any supplementary appropriations Act, or any amendment thereto, and any such further dedication, rededication to another purpose, or alteration shall be void and of no force and effect. If in the case of a financial emergency the Governor or General Assembly intends to suspend the dedication of revenues enacted pursuant to this subparagraph, the Governor or the General Assembly shall do so only in strict compliance with the following procedures.

(A) In the event the Governor declares a financial emergency in the state, where such financial emergency shall be deemed to exist only if the revenue collection in the most recently completed fiscal year decreased by three percent or more below the revenue estimate for such fiscal year or the state experiences three consecutive months of declining revenues during the current fiscal year, the Governor by executive order may temporarily suspend the dedication of any revenues enacted pursuant to this subparagraph, in whole or in part, and shall appropriate such revenues to maintain the fiscal integrity of the state. Such executive order and associated suspension and appropriation of dedicated revenues shall remain in effect until the fifth day of the session of the General Assembly immediately following the execution of such executive order. Any previously dedicated revenues which remain unspent as of the fifth day of such session, may be appropriated in a supplemental appropriations Act for that same fiscal year. The Governor shall not exercise this executive privilege more than three times during any ten consecutive fiscal-year period or if the General Assembly has acted pursuant to subparagraph (5)(B).

(B) In the event the Governor declares a financial emergency in the state as provided in subparagraph (5)(A) or where a majority vote of the members elected to each chamber of the General Assembly in a roll-call vote approves a joint resolution finding a financial emergency, which shall be deemed to exist only if the revenue collection in the most recently completed fiscal year decreased by three percent or more below the revenue estimate for such fiscal year or the state experiences three consecutive months of declining revenues during the current fiscal year, the General Assembly may temporarily suspend the dedication of revenues enacted pursuant to this subparagraph, in whole or part, and may appropriate such unspent revenues to maintain the fiscal integrity of the state. Such joint resolution shall not be effective for more than two consecutive fiscal years and may be adopted not more than three times in any ten consecutive fiscal-year period.

(6) No revenues which are dedicated pursuant to any other provision of this Constitution by a general law enacted pursuant to any other provision of this Constitution shall be subject to any further dedication, any rededication to another purpose, or any alteration whatsoever unless specifically authorized pursuant to such other provision of the Constitution, and in the absence of such specific authorization, any such further dedication, rededication to

another purpose, or alteration shall be void and of no force and effect."

SECTION 2.

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
( ) NO of Georgia be amended so as to authorize the General Assembly to dedicate revenues derived from fees or taxes to the public purpose for which such fees or taxes were intended?"

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.

House Resolution No. 1023
Resolution Act No. 596
Ga. L. 2020, p. 917

A RESOLUTION

Proposing an amendment to the Constitution so as to waive sovereign immunity and allow petitions to the superior court for relief from certain acts of this state or certain local governments or officers or employees thereof that violate the laws of this state, the Constitution of Georgia, or the Constitution of the United States; to provide for related matters; 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 I, Section II of the Constitution is amended by revising Paragraph V as follows:

"Paragraph V. ***What acts void.*** (a) Legislative acts in violation of this Constitution or the Constitution of the United States are void, and the judiciary shall so declare them.

(b)(1) Sovereign immunity is hereby waived for actions in the superior court seeking declaratory relief from acts of the state or any agency, authority, branch, board, bureau, commission, department, office, or public corporation of this state or officer or employee thereof or any county, consolidated government, or municipality of this state or officer or employee thereof outside the scope of lawful authority or in violation of the laws or the Constitution of this state or the Constitution of the United States. Sovereign immunity is further waived so that a court awarding declaratory relief pursuant to this Paragraph may, only after awarding declaratory relief, enjoin such acts to enforce its judgment. Such waiver of sovereign immunity under this Paragraph shall apply to past, current, and prospective acts which occur on or after January 1, 2021.

(2) Actions filed pursuant to this Paragraph against this state or any agency, authority, branch, board, bureau, commission, department, office, or public corporation of this state or officer or employee thereof shall be brought exclusively against the state and in the name of the State of Georgia. Actions filed pursuant to this Paragraph against any county, consolidated government, or municipality of the state or officer or employee thereof shall be brought exclusively against such county, consolidated government, or municipality and in the name of such county, consolidated government, or municipality. Actions filed pursuant to this Paragraph naming as a defendant any individual, officer, or entity other than as expressly authorized under this Paragraph shall be dismissed.

(3) Unless otherwise provided herein, this Paragraph shall not affect the power or duty of a court to dismiss any action or deny relief based on any other appropriate legal or equitable ground or other limitation on judicial review, including, but not limited to, administrative exhaustion requirements, ante litem notice requirements, sanctions for frivolous petitions, standing, statutes of limitation and repose, and venue. The General Assembly by an Act may limit the power or duty of a court under this Paragraph to dismiss any action or deny relief.

(4) No damages, attorney's fees, or costs of litigation shall be awarded in an action filed pursuant to this Paragraph, unless specifically authorized by Act of the General Assembly.

(5) This Paragraph shall not limit the power of the General Assembly to further waive the immunity provided in Article I, Section II, Paragraph IX and Article IX, Section II, Paragraph IX. This Paragraph shall not constitute a waiver of any immunity provided to this state or any agency, authority, branch, board, bureau, commission, department, office, or public corporation of this state or officer or employee thereof or any county, consolidated government, or municipality of this state or officer or employee thereof by the Constitution of the United States."

SECTION 2.

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
( ) NO to waive sovereign immunity and allow the people of Georgia to petition the superior court for relief from governmental acts done outside the scope of lawful authority or which violate the laws of this state, the Constitution of Georgia, or the Constitution of the United States?"

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.

SUMMARIES OF PROPOSED CONSTITUTIONAL AMENDMENTS AND STATE-WIDE REFERENDUM QUESTIONS ON THE GENERAL ELECTION BALLOT NOVEMBER 3, 2020

SUMMARIES OF PROPOSED CONSTITUTIONAL AMENDMENTS

Pursuant to requirements of the Georgia Constitution, Attorney General Christopher Carr, Secretary of State Brad Raffensperger, and Legislative Counsel Rick Ruskell hereby provide the summaries of the proposed constitutional amendments that will appear on the November 3, 2020, general election ballot for consideration by the people of Georgia (short captions are those adopted by the Constitutional Amendments Publication Board):

- 1 -

Authorizes dedication of fees and taxes to their intended purposes by general state law.

House Resolution No. 164
Resolution Act No. 597
Ga. L. 2020, p. 919

"( ) YES Shall the Constitution of Georgia be
( ) NO amended so as to authorize the General Assembly to dedicate revenues derived from fees or taxes to the public purpose for which such fees or taxes were intended?"

Summary

This proposal authorizes the Georgia General Assembly by general law to require that fees or taxes collected for some specific intended public purpose be used as so intended. It requires any such general law to identify the specific public purpose, name the state agency to administer the funds, require the agency to make annual reports of revenues and expenses, and automatically end the fee or tax within ten years. It prohibits the General Assembly from designating funds when total revenues so dedicated equal or exceed one percent of the total state revenues based on the previous fiscal year's appropriated state revenues. It exempts such general laws from certain state constitutional restrictions. It requires that such general laws, including amendments, be approved by two-thirds of each chamber of the General Assembly, but allows for repeal of such general laws by simple majority vote. It prohibits attempts to reallocate dedicated funds through any appropriations act or amendment. It provides for temporary suspension of such general laws by the Governor or by the General Assembly in the event of a financial emergency, subject to certain limitations. It amends Article III, Section IX, Paragraph VI of the Georgia Constitution by redesignating the second subparagraph (o), relating to the dedication of the excise tax on the sale of fireworks, as subparagraph (p), by redesignating subparagraph (p), relating to the Georgia Outdoor Stewardship Fund, as subparagraph (q), and by adding a new subparagraph (r).

A copy of this entire proposed constitutional amendment is on file in the office of the judge of the probate court and is available for public inspection.

- 2 -

Waives state and local sovereign immunity for violation of state laws, state and federal constitutions.

House Resolution 1023
Resolution Act No. 596
Ga. L. 2020, p. 917

"( ) YES Shall the Constitution of Georgia be
( ) NO amended to waive sovereign immunity and allow the people of Georgia to petition the superior court for relief from governmental acts done outside the scope of lawful authority or which violate the laws of this state, the Constitution of Georgia, or the Constitution of the United States?"

Summary

This proposal waives state and local sovereign immunity so as to allow citizens to sue the State of Georgia, its departments and other agencies, and its local governments in superior courts and authorizes superior courts to order state and local officers and employees to cease violations of the Georgia Constitution, the laws of the State of Georgia, or the United States Constitution, beginning with violations occurring on or after January 1, 2021. It requires that such suits be brought only against the State or Georgia, or in the case of a local government, against the specific local government. It requires superior courts to dismiss any such lawsuit that names any individual state or local public officer or employee as a defendant. It maintains the ability of superior courts to dismiss such suits based on other appropriate legal or equitable grounds or limitation on review in superior court. It prohibits any type of monetary award, including attorney's fees or costs of litigation, unless authorized by an Act of the Georgia General Assembly. It does not prohibit the General Assembly from further waiving certain other immunities provided for under Georgia's Constitution, though it does not waive any immunity provided for by the United States Constitution. It amends Article I, Section II, Paragraph V of the Georgia Constitution by rendering the current text subparagraph (a) and adding a new subparagraph (b).

A copy of this entire proposed constitutional amendment is on file in the office of the judge of the probate court and is available for public inspection.

SUMMARIES OF PROPOSED STATE-WIDE REFERENDUM QUESTIONS

Pursuant to Code Section 21-2-4 of the O.C.G.A., the Secretary of State is authorized to include with the summaries of proposed constitutional amendments summaries of any state-wide referendum questions to be voted on at the same general election:

- A -

Provides tax exemption for certain single-family homes owned by tax exempt charities.

House Bill No. 344
Act No. 149
Ga. L. 2019, p. 488

"( ) YES ( ) NO Shall the Act be approved which provides an exemption from ad valorem taxes for all real property owned by a purely public charity, if such charity is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code and such real property is held exclusively for the purpose of building or repairing single-family homes to be financed by such charity to individuals using loans that shall not bear interest?"

Summary

This proposal authorizes a new exemption from ad valorem taxes for all real property owned by a purely public charity, if such charity is exempt from federal taxation and such property is used only for building or repairing single-family homes to be financed by such charity to individuals using zero interest loans. It amends Code Section 48-5-41 of the Official Code of Georgia Annotated by deleting "and" at the end of paragraph (14), by replacing the period with "; and" at the end of paragraph (15), and by adding a new paragraph.

If approved by a majority of the voters, the Act becomes effective on January 1, 2021, and applies to all tax years beginning on or after that date.