

ANALYSES OF PROPOSED CONSTITUTIONAL AMENDMENTS

88th Texas Legislature November 7, 2023, Election

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SUMMARY ANALYSIS

H.J.R. 2, 88th Legislature, 2nd Called Session, 2023, proposes several amendments to the Texas Constitution relating to ad valorem taxes and the administration of the ad valorem tax system. S.B. 2, 88th Legislature, 2nd Called Session, 2023, the Property Tax Relief Act, is the enabling legislation for the proposed amendments.

1. The proposed constitutional amendment authorizes the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead in a tax year of the lesser of the market value of the property or 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year. If the proposed amendment is approved by the voters, S.B. 2 implements this appraisal limit so that the appraised value of real property does not increase by more than 20 percent a year for the next three years.
2. The proposed amendment increases the portion of the market value of a residence homestead that is exempt from ad valorem taxation for public school purposes from \$40,000 to \$100,000.
3. The proposed amendment provides for a reduction of the limitation, or "tax freeze," on the total amount of ad valorem taxes that may be imposed for public school purposes on the homestead of an elderly or disabled person to reflect increases in the amount of school district residence homestead exemptions, including the increase to \$100,000 described above and any future increases.
4. The proposed amendment excepts appropriations of state tax revenue for purposes of paying for ad valorem tax relief from the constitutional limit on the rate of growth of appropriations. This change has the effect of exempting state payments to reduce school district taxes from the general state spending cap on appropriations and applies to the amounts appropriated by the 88th Legislature to decrease school tax rates as directed by S.B. 2.
5. Finally, the proposed amendment authorizes the legislature to provide for four-year terms for members of the governing body of an appraisal district established for a county with a population of 75,000 or more. S.B. 2, which provides for a combination of elected and appointed appraisal district board members in counties with a population of 75,000 or more if this amendment is approved, increases the terms of board members in those populous counties to four years.

BACKGROUND AND DETAILED ANALYSIS

H.J.R. 2, 88th Legislature, 2nd Called Session, 2023, proposes several amendments to the Texas Constitution relating to ad valorem taxes and the administration of the ad valorem tax system. S.B. 2, 88th Legislature, 2nd Called Session, 2023, the Property Tax Relief Act, is the enabling legislation for

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H.J.R. 2. The amendments proposed by H.J.R. 2 are necessary to allow the legislature to make the changes in law proposed by S.B. 2.

Section 1, Article VIII, Texas Constitution, requires that taxation be equal and uniform and that all real and tangible personal property be taxed in proportion to its value unless the property is exempt as required or permitted by the constitution. Any exception to that rule that is not authorized by the Texas Constitution is invalid. Neither the legislature nor a local government that imposes ad valorem taxes may exempt property from ad valorem taxation or otherwise limit the amount of taxes a property owner is required to pay without constitutional authority.

The Texas Constitution does not currently authorize the legislature to limit the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes. The constitutional amendment proposed by H.J.R. 2 amends Section 1, Article VIII, Texas Constitution by adding Subsections (n) and (n-1) to that section. Section 1(n), Article VIII, Texas Constitution, as added by the proposed amendment, authorizes the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead in a tax year of the lesser of the market value of the property or 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year. Section 1(n-1), Article VIII, Texas Constitution, as added by the proposed amendment, provides that the legislature's authority to limit the maximum appraised value of real property other than a residence homestead under added Section 1(n) expires on December 31, 2026. The expiration provided under added Section 1(n-1) means that the appraisal limit authorized under added Section 1(n) may be in effect only for the 2024, 2025, and 2026 tax years. If the amendment proposed by H.J.R. 2 is approved by the voters, S.B. 2 implements the appraisal limit by adding Section 23.231, Tax Code, and making other conforming changes. Section 23.231 provides that the appraised value of real property other than a residence homestead may not increase by more than 20 percent a year for the next three years.

The constitutional amendment proposed by H.J.R. 2 amends Sections 1-b(c) and (d), Article VIII, Texas Constitution, to increase the portion of the market value of a residence homestead that is exempt from ad valorem taxation for public school purposes and to reduce the amount of ad valorem taxes imposed by school districts on the residence homesteads of certain elderly or disabled homeowners. As originally adopted in 1978, Section 1-b(c) exempted \$5,000 of the market value of a residence homestead from those school district taxes. Subsequent constitutional amendments have increased the amount of the school tax exemption provided by Section 1-b(c) from \$5,000 to \$15,000 in 1997, from \$15,000 to \$25,000 in 2015, and from \$25,000 to \$40,000 in 2022. The constitutional amendment proposed by H.J.R. 2 amends Section 1-b(c) to further increase the amount of the exemption from \$40,000 to \$100,000. Section 1-b(d), Article VIII, Texas Constitution, provides that if a person receives a residence homestead exemption from school district taxes under Section 1-b(c) for the homesteads of persons who are elderly or disabled, the total amount of ad valorem taxes imposed on that homestead for public school purposes may not be increased while it remains the residence homestead of the person or the person's spouse who receives the exemption. This is commonly referred to as a "tax freeze" for elderly or disabled homeowners. In order for elderly or disabled homeowners whose homesteads are currently subject to the limitation to benefit from the increase in the amount of the mandatory school district residence homestead exemption applicable to all homesteads proposed by H.J.R. 2, as well as any future

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increases in the amount of the school district residence homestead exemptions provided by Section 1-b(c), the proposed amendment provides that, beginning with the 2023 tax year, for a residence homestead subject to the limitation in that tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation to account for any increase in the amount of the school district residence homestead exemptions provided by Section 1-b(c). The proposed amendment further provides for a reduction in the amount of the limitation for elderly or disabled homeowners whose homesteads were subject to the limitation in the 2021 or an earlier tax year to account for the fact that a similar reduction to the amount of the limitation was not provided for in 2022 when the mandatory school district residence homestead exemption was increased by \$15,000. The proposed amendment provides that the amendments to Sections 1-b(c) and (d) take effect January 1, 2023, and apply to an ad valorem tax year that begins on or after that date. If the amendment proposed by H.J.R. 2 is approved by the voters, S.B. 2 conforms the relevant provisions of law to the amendments to Sections 1-b(c) and (d) proposed by H.J.R. 2 and provides for school districts to receive additional state revenue to make up for any revenue the school districts would lose as a result of the proposed amendments to Sections 1-b(c) and (d). Under S.B. 2, the increased residence homestead exemption and additional state aid to school districts would apply beginning in 2023 if the constitutional amendment is approved.

Section 22, Article VIII, Texas Constitution, limits the rate of growth of appropriations from certain state tax revenue from one state fiscal biennium to the next to the estimated rate of growth of the state's economy. The constitutional amendment proposed by H.J.R. 2 amends Section 22 to except appropriations for purposes of paying for ad valorem tax relief from the limitation imposed by that section. The proposed amendment provides that the legislature by general law may determine whether an appropriation is made for the purpose of paying for ad valorem tax relief and further provides that the proposed amendment applies to appropriations made for the state fiscal biennium that begins September 1, 2023. S.B. 2 provides the manner in which certain state money appropriated by the legislature for school district ad valorem tax relief is to be used to decrease school tax rates; the amendment proposed by H.J.R. 2, if approved by the voters, would have the effect of excepting state payments made to decrease school tax rates as directed by S.B. 2 from the constitutional state spending limit. In the General Appropriations Act for the state fiscal biennium beginning September 1, 2023, the legislature appropriated a total of \$17.6 billion for school district property tax relief, of which nearly \$12.3 billion is contingent on voter approval of this constitutional amendment excepting these amounts from the spending limit. See H.B. 1, 88th Legislature, Regular Session, 2023, Article IX, Section 18.79 (page IX-138).

Section 30, Article XVI, Texas Constitution, provides that the term of all public offices not established by the Texas Constitution may not exceed two years. The constitutional amendment proposed by H.J.R. 2 amends Section 30 to authorize the legislature to provide for up to a four-year term of office for members of the board of directors of an appraisal district in counties with a population of 75,000 or more. If the amendment proposed by H.J.R. 2 is approved by the voters, S.B. 2 amends the law to provide that the board of directors of an appraisal district established in a county with a population of 75,000 or more consists of both elected and appointed board members who serve staggered four-year terms.