

Proposition 4

(H.J.R. 2, 88th Leg., 2nd C.S.)

The constitutional amendment to authorize the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes; to increase the amount of the exemption from ad valorem taxation by a school district applicable to residence homesteads from \$40,000 to \$100,000; to adjust the amount of the limitation on school district ad valorem taxes imposed on the residence homesteads of the elderly or disabled to reflect increases in certain exemption amounts; to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations; and to authorize the legislature to provide for a four-year term of office for a member of the board of directors of certain appraisal districts.

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 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 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.

SUMMARY OF COMMENTS

The following comments supporting or opposing the proposed amendment reflect positions that were presented in committee proceedings, during house or senate floor debate, or in the analysis of the resolution prepared by the House Research Organization (HRO) when the resolution was considered by the House of Representatives.

Comments by Supporters

- Since Texas taxpayers are responsible for the state's historic budget surplus, the state should ensure that some of the surplus funds are returned to taxpayers. The proposed amendment will do so by helping to deliver the largest tax cut in state history.
- At a time in which many Texans are struggling to stay in their homes due to rapidly increasing property tax burdens, it is appropriate for the state to step in and dedicate money to help alleviate this burden.

- Increasing the residence homestead exemption to \$100,000 will be especially beneficial to the owners of moderately priced homes—the type of homeowner in the greatest need of property tax relief.
- While renters do not receive direct relief from the proposed amendment, they will still benefit substantially because residential and commercial landlords are going to see their tax burden reduced and those savings will enable landlords to avoid rent increases and even reduce rents.
- By providing tax relief for commercial property owners, the proposed resolution could help stabilize businesses struggling under the weight of rising property taxes and help them to further grow and aid in the state’s overall economic expansion.
- The limit on the increase in the appraised value of non-homestead real property provided for in the proposed amendment will help small business owners stay in business and provide greater predictability to Texans who are helping to drive the state’s economy.
- By making some positions on an appraisal district’s board of directors elected positions in certain counties, appraisal districts in those counties will be more directly accountable to local taxpayers.

Comments by Opponents

- Increasing the residence homestead exemption by such a large amount could result in a shift of the tax burden from homeowners to business owners, which could result in higher prices for consumers.
- The proposed amendment does not go far enough since it does not put the state on a path toward eliminating property taxes entirely.
- Because the tax rate compression may be only temporary if state funding at the increased levels is not maintained, not

much actual relief is being provided. Any property tax relief needs to be permanent.

- By reducing property taxes, public education funding is placed in jeopardy as other revenues made available for public schools, such as sales tax revenues, are more volatile and less predictable than property taxes.
- Nearly four million Texans are renters, and the proposed amendment does nothing to provide them any direct financial relief.
- The proposed tax relief is not targeted enough to those who are struggling the most. The state's historic budget surplus should not be funneled directly to businesses and the wealthy.
- Individuals running for the elected seats on an appraisal district's board of directors may not be focused enough on the overall business of the board and instead focus too heavily on reducing property values.

Text of H.J.R. 2

A JOINT RESOLUTION

proposing a constitutional amendment to authorize the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes; to increase the amount of the exemption from ad valorem taxation by a school district applicable to residence homesteads; to adjust the amount of the limitation on school district ad valorem taxes imposed on the residence homesteads of the elderly or disabled to reflect increases in certain exemption amounts; to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations; and to authorize the legislature to provide for a four-year term of office for a member of the governing body of certain appraisal entities.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1, Article VIII, Texas Constitution, is amended by adding Subsections (n) and (n-1) to read as follows:

(n) This subsection does not apply to a residence homestead to which Subsection (i) of this section applies. Notwithstanding Subsections (a) and (b) of this section, the Legislature by general law may limit the maximum appraised value of real property for ad valorem tax purposes in a tax year to the lesser of the most recent market value of the property as determined by the appraisal entity or 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year. The general law enacted under this subsection may prescribe additional eligibility requirements for the limitation on appraised values authorized by this subsection. A limitation on appraised values authorized by this subsection:

(1) takes effect as to a parcel of real property described by this subsection on the later of the effective date of the law imposing the limitation or January 1 of the tax year following the first tax year in which the owner owns the property on January 1; and

(2) expires on January 1 of the tax year following the tax year in which the owner of the property ceases to own the property.

(n-1) This subsection and Subsection (n) of this section expire December 31, 2026.

SECTION 2. Sections 1-b(c) and (d), Article VIII, Texas Constitution, are amended to read as follows:

(c) The amount of \$100,000 [~~\$40,000~~] of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed \$10,000 of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person 65 years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional exemption authorized by this subsection for disabled persons and for persons 65 years of age or older on economic need. An eligible disabled person who is 65 years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of this subsection, Subsection (d) of this section, and Section 1-d-1 of this article. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives a residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons who are 65 years of age or older or who are disabled, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. If a person who is 65 years of age or older or who is disabled dies in a

year in which the person received the exemption, the total amount of ad valorem taxes imposed on the homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is 55 years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead. However, taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements and except as may be consistent with the transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to \$10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. For a residence homestead subject to the limitation provided by this subsection in the 2014 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 2015 tax year and subsequent tax years in an amount equal to \$10,000 multiplied by the 2015 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. For a residence homestead subject to the limitation provided by this subsection in the 2021 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 2023 tax year and subsequent tax years in an amount equal to \$15,000 multiplied by the 2022 tax rate for general elementary and secondary public school purposes applicable to the residence homestead. Beginning with the 2023 tax year, for any tax year in which the amount of the exemption provided by Subsection (c) of this section applicable to the residence homestead of a married or unmarried adult, including one living alone, or the amount of the exemption provided by Subsection (c) of this section applicable to the residence homestead of a person who is disabled as defined by Subsection (b) of this section and of a person 65 years of age or older is increased, the legislature shall provide for a reduction for that tax year and subsequent tax years in the amount of the limitation provided by this subsection applicable to a residence homestead that was subject to the limitation in the tax year preceding the tax year in which the amount of the exemption is increased in an amount equal to the amount by which the amount of the exemption is increased multiplied by the

tax rate for general elementary and secondary public school purposes applicable to the residence homestead for the tax year in which the amount of the exemption is increased.

SECTION 3. Section 22, Article VIII, Texas Constitution, is amended by adding Subsection (a-1) to read as follows:

(a-1) Appropriations from state tax revenues not dedicated by this constitution that are made for the purpose of paying for ad valorem tax relief as identified by the legislature by general law are not included as appropriations for purposes of determining whether the rate of growth of appropriations exceeds the limitation prescribed by Subsection (a) of this section.

SECTION 4. Section 30, Article XVI, Texas Constitution, is amended by adding Subsection (e) to read as follows:

(e) The Legislature by general law may provide that members of the governing body of an appraisal entity established in a county with a population of 75,000 or more serve terms not to exceed four years.

SECTION 5. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by H.J.R. 2, 88th Legislature, 2nd Called Session, 2023.

(b) The amendments to Section 1-b, Article VIII, of this constitution take effect for the tax year beginning January 1, 2023.

(c) The amendment to Section 22, Article VIII, of this constitution applies to appropriations made for the state fiscal biennium beginning September 1, 2023, and subsequent state fiscal bienniums.

(d) This temporary provision expires January 1, 2025.

SECTION 6. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment to authorize the legislature to establish a temporary limit on the maximum appraised value of real property other than a residence homestead for ad valorem tax purposes; to increase the amount of the exemption from ad valorem taxation by a school district applicable to residence homesteads from \$40,000 to \$100,000; to adjust the amount of the limitation on school district ad valorem taxes imposed on the residence homesteads of the elderly or disabled to reflect increases in certain exemption amounts; to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations; and to

authorize the legislature to provide for a four-year term of office for a member of the board of directors of certain appraisal districts.”

House Author: Metcalf et al.

Senate Sponsor: Bettencourt