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HOUSE JOINT RESOLUTION NO. 684

Offered January 10, 2007

Prefiled January 9, 2007

Proposing an amendment to the Constitution of Virginia by adding in Article X a section numbered 8-A, relating to spending limits on government.

Patron—Frederick

Referred to Committee on Privileges and Elections

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend the Constitution of Virginia by adding in Article X a section numbered 8-A as follows:

ARTICLE X

TAXATION AND FINANCE

Section 8-A. Spending limits on government.

A. Spending limits.

A "state spending limit" is established equal to the total amount of state fiscal year spending in the preceding fiscal year increased by a percentage equal to the result obtained by adding any positive increase in the rate of inflation for the calendar year ending during the preceding fiscal year, plus any positive percentage change in state population during the calendar year ending during the preceding fiscal year. This state spending limit is the binding constraint on the total amount of revenue the state can spend in any fiscal year in which revenue exceeds the state spending limit.

For any fiscal year in which state revenue is less than the state spending limit for that year, the state spending limit for that fiscal year becomes the binding constraint on the amount of revenue the state can spend in all subsequent fiscal years until revenue again exceeds that state spending limit.

The maximum annual percentage change in each local district's fiscal year spending equals inflation in the prior calendar year plus annual local growth. "Local growth" for a non-school district means a net percentage change in actual value of all real property in a district from construction of taxable real property improvements, minus destruction of similar improvements, and additions to, minus deletions from, taxable real property. For a school district, "local growth" means the percentage change in its student enrollment.

B. Revenue limits.

The maximum annual percentage change in each local district's property tax revenue equals inflation in the prior calendar year plus annual growth, adjusted for property tax revenue changes approved by voters.

Regardless of reassessment frequency, valuation notices shall be mailed annually and may be appealed annually, with no presumption in favor of any pending valuation. Past or future sales by a lender or government shall also be considered as comparable market sales and their sales prices kept as public records. Actual value shall be stated on all property tax bills and valuation notices and, for residential real property, determined solely by the market approach to appraisal.

C. Budget stabilization fund.

For any fiscal year in which district revenue exceeds the district spending limit, the district shall deposit into a budget stabilization fund all of the excess revenue, except that the total amount in the budget stabilization fund may not exceed an amount equal to 10 percent of the district's spending limit for that fiscal year.

For any fiscal year in which district revenue is less than the amount of the spending limit for that year, the district shall transfer money from the district budget stabilization fund to the general fund from available funds in the minimum amount necessary to offset a shortfall of revenue below the spending limit. The district may also make expenditures from its budget stabilization fund, only by a majority vote to provide relief from taxes imposed by state or local government. Under no other circumstances shall money be transferred from the budget stabilization fund.

D. Tax refunds.

The district shall return to the taxpayers the amount of any excess revenue received in any fiscal year that is not deposited into the budget stabilization fund. If the revenue received by the district in any calendar year, for the calendar year districts, or in any fiscal year, for fiscal year districts, exceeds

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59 *the district's spending limit, it shall return to the taxpayers the amount of the excess revenue received in*
60 *the calendar year or fiscal year, as applicable. The tax refund shall be made in the calendar year, for*
61 *calendar year districts, or in the fiscal year, for fiscal year districts, immediately following the calendar*
62 *year or the fiscal year in which the district has the excess revenue.*

63 *Subject to judicial review, districts may use any reasonable method for refunding surplus revenue.*
64 *This may include tax rebates and/or rate reductions. When possible these refunds should be proportional*
65 *to the excess taxes paid; however, refunds need not be proportional when prior payments are*
66 *impractical to identify or return.*

67 *E. Emergency spending and suspension of spending limits.*

68 *The state spending limit may only be exceeded in an emergency, as defined herein, or by a*
69 *voter-approved suspension. The state spending limit may be exceeded only during the fiscal year for*
70 *which the emergency is declared or suspension is approved. In no event shall any part of the amount*
71 *representing a refund be the subject of an emergency request.*

72 *(a) Emergency spending may occur only if all of the following conditions are met: (1) The governor*
73 *determines that an imminent threat to public health or safety exists and requests the legislature to*
74 *declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount*
75 *of the emergency, and the method by which the emergency will be funded; and (3) the legislature*
76 *thereafter declares an emergency in accordance with the specific terms of the governor's request by a*
77 *two-thirds vote of the members elected to and serving in each house. The emergency must be declared*
78 *in accordance with this subsection prior to incurring any of the expenses which constitute the emergency*
79 *request. Emergency excludes economic conditions, revenue shortfalls or fringe benefit increases.*
80 *Emergency expenditures shall be made only when funds are available in the budget stabilization fund.*
81 *When the above conditions are met the State Treasurer shall transfer funds from the budget stabilization*
82 *fund to the general fund in the amount of emergency expenditures authorized. The funds so transferred*
83 *must be replaced in the budget stabilization fund from surplus revenue in the next fiscal year in which*
84 *surplus revenue is available. Emergency spending does not modify the state spending limits applicable*
85 *in subsequent fiscal years.*

86 *(b) A voter-approved suspension of the state spending limit may occur only if all of the following*
87 *conditions are met: (1) two-thirds of the members of each house vote to refer a suspension of the limits,*
88 *up to a predetermined maximum, to the voters; (2) a ballot advisory in bold capital letters directly*
89 *above the ballot title instructs voters: 'a "yes" vote on this measure will authorize the state to retain*
90 *extra taxes and spend them in excess of constitutional limits by [insert amount of predetermined*
91 *maximum additional spending.];' and (3) the suspension is approved by a majority of eligible voters*
92 *participating in a statewide general election.*

93 *F. State mandates.*

94 *The legislature may, by law, adjust any spending limit imposed under this article:*

95 *(a) To accommodate the transfer of services from any district subject to a spending limit under this*
96 *article to any other such district, including the transfer of services that results from annexation. Any*
97 *increase to a district's spending limit under this subdivision shall be offset with a corresponding*
98 *decrease to the spending limit of other entities affected by the transfer of services.*

99 *(b) To reflect the elimination or reduction of a state-mandated service. The state spending*
100 *limit under this article for any year shall be reduced by the amount of any reduction in that year in the*
101 *aggregate amount of state aid to any of the categories of county, city, village, town, special purpose*
102 *district, school district, or technical college district, as compared to the previous year.*

103 *A state law or administrative rule that increases a local governmental unit's expenditures may not be*
104 *enacted or adopted on or after the ratification of this article unless the state pays the reasonable costs*
105 *incurred by the entity to comply with the law or rule. This article does not apply to any law or rule that*
106 *is enacted or adopted in order to comply with a requirement of federal law, including a requirement*
107 *related to receiving federal aid.*

108 *No local governmental unit may be required under state law to increase its annual compensation for*
109 *any employee or group of employees by a percentage that exceeds the allowable percentage increase in*
110 *the spending limit for that local governmental unit under this article.*

111 *Except for public education through grade 12 or as required of a local district by federal law, a*
112 *local district may reduce or end its subsidy to any program delegated to it by the general assembly for*
113 *administration. For current programs, the state may require 90 days notice and that the adjustment*
114 *occur in a maximum of three equal annual installments.*

115 *G. Election provisions.*

116 *Starting January 1, 2009, districts must have voter approval in advance for:*

117 *(a) any new tax, tax rate increase, mill levy above that for the prior year, valuation for assessment*
118 *ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly*
119 *causing a net tax revenue gain to any district.*

120 *(b) Except for refinancing district bonded debt at a lower interest rate or adding new employees to*

121 existing district pension plans, creation of any multiple-fiscal year direct or indirect district debt or
122 other financial obligation whatsoever without adequate present cash reserves pledged irrevocably and
123 held for payments in all future fiscal years.

124 Election provisions are as follows:

125 (a) Ballot issues shall be decided in a state general election, biennial local district election, or on
126 the first Tuesday in November of odd-numbered years. Except for petitions, bonded debt, or charter or
127 constitutional provisions, districts may consolidate ballot issues and voters may approve a delay of up to
128 four years in voting on ballot issues. District actions taken during such a delay shall not extend beyond
129 that period.

130 (b) At least 30 days before a ballot issue election, districts shall mail at the least cost, and as a
131 package where districts with ballot issues overlap, a titled notice or set of notices addressed to "All
132 Registered Voters" at each address of one or more active registered electors. The districts may
133 coordinate the mailing required by this subdivision (b) with the distribution of the ballot information in
134 order to save mailing costs.

135 Titles shall have this order of preference: **"NOTICE OF ELECTION TO INCREASE TAXES/TO**
136 **INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE."** Except for district
137 voter-approved additions, notices shall include only:

138 (i) The election date, hours, ballot title, text, and local election office address and telephone number.

139 (ii) For proposed district tax or bonded debt increases, the estimated or actual total of district fiscal
140 year spending for the current year and each of the past four years, and the overall percentage and
141 dollar change.

142 (iii) For the first full fiscal year of each proposed district tax increase, district estimates of the
143 maximum dollar amount of each increase and of district fiscal year spending without the increase.

144 (iv) For proposed district bonded debt, its principal amount and maximum annual and total district
145 repayment cost, and the principal balance of total current district bonded debt and its maximum annual
146 and remaining total district repayment cost.

147 (v) Two summaries, up to 500 words each, one for and one against the proposal, of written
148 comments filed with the election officer by 45 days before the election. No summary shall mention
149 names of persons or private groups, nor any endorsements of or resolutions against the proposal.
150 Petition representatives following these rules shall write this summary for their petition. The election
151 officer shall maintain and accurately summarize all other relevant written comments.

152 Except by later voter approval, if a tax increase or fiscal year spending exceeds any estimate in (iii)
153 for the same fiscal year, the tax increase is thereafter reduced up to 100% in proportion to the
154 combined dollar excess, and the combined excess revenue refunded in the next fiscal year. District
155 bonded debt shall not issue on terms that could exceed its share of its maximum repayment costs in (iv).
156 Ballot titles for tax or bonded debt increases shall begin, **"SHALL (DISTRICT) TAXES BE**
157 **INCREASED (first, or if phased in, final, full fiscal year dollar increase) ANNUALLY...?"** or
158 **"SHALL (DISTRICT) DEBT BE INCREASED (principal amount), WITH A REPAYMENT COST**
159 **OF (maximum total district cost), ...?"**

160 H. Enforcement provisions.

161 This amendment to the Constitution takes effect January 1, 2009. Its preferred interpretation shall
162 reasonably restrain most the growth of government. All provisions are self-executing and severable and
163 supersede conflicting state constitutional, state statutory, charter, or other state or local provisions.
164 Other limits on district revenue, spending, and debt may be weakened only by future voter approval.

165 Individual or class action enforcement suits may be filed and shall have the highest civil priority of
166 resolution. Successful plaintiffs are allowed costs and reasonable attorney fees, but a district is not
167 unless a suit against it be ruled frivolous. Revenue collected, kept, or spent illegally since four full fiscal
168 years before a suit is filed shall be refunded with 10% annual simple interest from the initial conduct.

169 I. Definitions.

170 Term definitions are as follows:

171 (a) "Ballot issue" means a non-recall petition or referred measure in an election.

172 (b) "District" means the state or any local government, excluding enterprises.

173 (c) "Emergency" excludes economic conditions, revenue shortfalls, or district salary or fringe benefit
174 increases.

175 (d) "Enterprise" means a government-owned business authorized to issue its own revenue bonds and
176 receiving under 10% of annual revenue in grants from all state and local governments combined.

177 (e) "Fiscal year spending" means all district expenditures except, as to both, those for refunds made
178 in the current or next fiscal year or those from gifts, federal funds, collections for another government,
179 pension contributions by employees and pension fund earnings, damage awards, or property sales.
180 Fiscal year spending does not include 1) any appropriations to fund 'emergencies' as defined in this
181 subsection; 2) any appropriations funded by a suspension vote pursuant to this article; 3) any surplus

182 revenues transferred or rebated pursuant to this article; 4) the payment of principal and interest on
183 bonds contracted specifically for the acquisition of tangible assets or the construction of public projects
184 which are amortized over a period of at least 20 years; 5) the proceeds of any bonds expended before
185 the end of the 2006-2007 fiscal year and the proceeds of any bonds contracted specifically for the
186 acquisition of tangible assets or the construction of public projects which are amortized over a period of
187 at least 20 years issued after November 7, 2006; 6) revenue from licenses and fees, if the money does
188 not exceed the cost of issuing the license or providing the service associated with the license or fee.

189 (f) "Local growth" for a non-school district means a net percentage change in actual value of all
190 real property in a district from construction of taxable real property improvements, minus destruction of
191 similar improvements, and additions to, minus deletions from, taxable real property. For a school
192 district, it means the percentage change in its student enrollment.

193 (g) "Inflation" means the percentage change in the United States Bureau of Labor Statistics
194 Consumer Price Index for all items, all urban consumers, or its successor index.

195 (h) "Population" means the number of people residing in the state, excluding armed forces stationed
196 overseas, as estimated by the annual census conducted by the Federal Census Bureau, and such number
197 shall be adjusted to match the federal decennial census.

198 (i) "Bonds" means any form of multi-fiscal year indebtedness, including non-recourse, limited tax
199 general obligation bonds, or limited liability bonds.