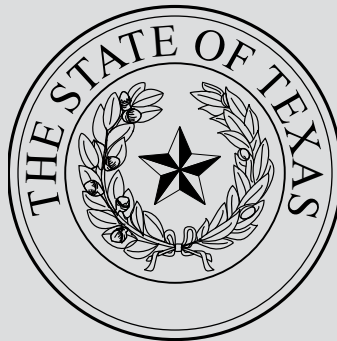


Analyses of Proposed Constitutional Amendments

**87th Texas Legislature, 2nd and 3rd Called Sessions
May 7, 2022, Election**



Texas Legislative Council

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General Information

MAY 2022 ELECTION

During its summer and fall special sessions in 2021, the 87th Texas Legislature passed two resolutions proposing amendments to the state constitution to provide school district tax relief. Because these proposals were adopted after the deadline for placing a measure on the November 2021 ballot, the legislature scheduled the election for voter approval for the May 7, 2022, uniform election date. If approved by the voters, they will apply to property taxes imposed in 2022.

For each proposed amendment that will appear on the May ballot, this publication contains the ballot language, an analysis, and the text of the joint resolution proposing the amendment. The analysis includes background information and a summary of comments made during the legislative process about the proposed constitutional amendment by supporters and by opponents.

BACKGROUND

The Texas Constitution provides that the legislature, by a two-thirds vote of all members of each house, may propose amendments revising the constitution and that proposed amendments must then be submitted for approval to the qualified voters of the state. A proposed amendment becomes a part of the constitution if a majority of the votes cast in an election on the proposition are cast in its favor. An amendment approved by the voters is effective on the date of the official canvass of returns showing adoption. The date of canvass, by law, is not earlier than the 15th or later than the 30th day after election day. An amendment may provide for a later effective date.

From the adoption of the current Texas Constitution in 1876 through November 2021, the legislature has proposed 698 amendments to the constitution, of which 695 have gone before Texas voters. Of the amendments on the ballot, 515 have been approved by the electorate and 180 have been defeated. Three amendments were never placed on the ballot for reasons that are historically obscure. For more information see the online publication [Amendments to the Texas Constitution Since 1876](#).

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Proposition 1

(S.J.R. 2, 87th Leg., 2nd C.S., 2021)

The constitutional amendment authorizing the legislature to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed for general elementary and secondary public school purposes on the residence homestead of a person who is elderly or disabled to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed for those purposes on the homestead.

SUMMARY ANALYSIS

Section 1-b(d), Article VIII, Texas Constitution, provides for a limitation, or freeze, on the total amount of ad valorem taxes that a school district may impose on the residence homestead of a person who is 65 years of age or older or who is disabled and on the homestead of the person's surviving spouse if the spouse is 55 years of age or older at the time of the person's death. This limitation prohibits increases in school taxes for these homeowners other than increases for substantial new improvements. Section 1-b(d-1) of that article, adopted in 2007, authorized the legislature to provide for the reduction of the amount of a limitation provided by Section 1-b(d) and applicable to a residence homestead for the 2007 tax year and subsequent tax years to reflect any reduction in the school district's tax rate for the 2006 and 2007 tax years. Because their taxes had been frozen in a previous year, many of these homeowners would not otherwise have seen a tax reduction when school district tax rates were reduced in 2006 and again in 2007 as a result of an increase in state funding levels. The constitutional amendment proposed by S.J.R. 2, 87th Legislature, 2nd Called Session, 2021, adds Section 1-b(d-2) to authorize the legislature to provide for a similar reduction of the amount of a limitation provided by Section 1-b(d) and applicable to a residence homestead for a tax year to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed by the school district on the

homestead. As in 2006 and 2007, the legislature has provided funding for school district tax rates to be reduced in tax years from 2019 to 2022.

BACKGROUND AND DETAILED ANALYSIS

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 limit the amount of taxes a property owner is required to pay without constitutional authority.

Section 1-b(d), Article VIII, Texas Constitution, provides that if a person receives a residence homestead exemption prescribed by Section 1-b(c) of that article 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, and that 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. This limitation on school tax increases is often referred to as the school tax freeze. Section 11.26, Tax Code, is the enabling legislation for Section 1-b(d).

Chapter 5 (H.B. 1), Acts of the 79th Legislature, 3rd Called Session, 2006, provided for the compression of school district maintenance and operations tax rates for the 2006 tax year and for additional compression of those rates for the 2007 tax year. Tax rate compression refers to a required reduction in school district maintenance and operations tax rates for which the state provides revenue to offset the tax reduction. Under the school tax limitation, the amount of tax owed by an elderly or disabled homeowner is the lesser of the amount computed in accordance with the limitation or the amount computed as for other property owners by applying the current tax rate to the current taxable property value. While H.B. 1 compressed school district maintenance and operations tax rates, it had no effect on

property values. If the value of an elderly or disabled person's home increased since the person first qualified for the limitation, the person would not benefit fully and might not benefit at all from subsequent tax rate reduction. Because an elderly or disabled homeowner with a school tax limitation established in a previous tax year did not necessarily benefit from the tax rate compression in 2006 and 2007, Section 1-b(d-1), Article VIII, Texas Constitution, which was added to the constitution in 2007, authorized the legislature to provide for the reduction of the amount of a limitation provided by Section 1-b(d) and applicable to a residence homestead for the 2007 tax year to reflect any reduction from the 2006 tax year in the local tax rate for general elementary and secondary public school purposes as well as any reduction in the tax rate for those purposes from the 2005 tax year to the 2006 tax year if the homestead was subject to the limitation in the 2006 tax year. Sections 11.26(a-1), (a-2), and (a3), Tax Code, which took effect in 2007, are the enabling legislation for Section 1-b(d-1). These provisions were intended to give elderly and disabled homeowners school tax savings similar to those that other homeowners received in those years from tax rate reduction. Apart from those provisions, the Texas Constitution and the Tax Code do not contemplate the reduction of the amount of the limitation on school district ad valorem taxes applicable to the residence homestead of a person who is elderly or disabled based solely on the future reduction of the district's tax rate.

Chapter 943 (H.B. 3), Acts of the 86th Legislature, Regular Session, 2019, provided for additional compression of school district maintenance and operations tax rates beginning with the 2019 tax year by limiting the maximum compressed rate of a district, which is the tax rate at which a district must levy a maintenance and operations tax to receive the full amount of the tier one allotment to which the district is entitled under the school finance formulas.

The constitutional amendment proposed by S.J.R. 2, 87th Legislature, 2nd Called Session, 2021, amends Section 1-b, Article VIII, Texas Constitution, by adding Subsection (d-2), which provides that, notwithstanding Subsections (d) and (d-1) of that section, the legislature by general law may provide for the reduction of the amount of a limitation provided by Subsection (d) of that section and applicable to a residence homestead for a tax year to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed for general elementary and secondary public school purposes by the local school district. A general law enacted under Subsection (d-2) may take into account the difference between the tier one maintenance and operations rate for the 2018

tax year and the maximum compressed rate for the 2019 tax year of the local school district and any reductions in subsequent tax years before the tax year in which the general law takes effect in the maximum compressed rate of the district.

Chapter 14 (S.B. 12), Acts of the 87th Legislature, 2nd Called Session, 2021, is the enabling legislation for S.J.R. 2. The bill amends Section 11.26, Tax Code, to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed by a school district on the residence homestead of an individual who is elderly or disabled to reflect any reduction from the preceding tax year in the district's maximum compressed rate. The bill contains a series of alternative provisions governing the calculation of the amount of the limitation applicable to a residence homestead in the 2023 tax year depending on whether the owner first qualified for an elderly or disabled exemption under Section 11.13(c), Tax Code, for the homestead before the 2019 tax year or in the 2019, 2020, 2021, or 2022 tax year. In addition, the bill provides for the calculation of the amount of the limitation applicable to a residence homestead in the 2024 or a subsequent tax year to account for any future school district tax rate compression. The bill also provides that a school district is entitled to additional state aid in the amount necessary to fully compensate the district for the amount of ad valorem tax revenue lost due to a reduction of the amount of the limitation on tax increases provided by the amendments to Section 11.26 made by the bill. The bill takes effect January 1, 2023, but only if the constitutional amendment proposed by S.J.R. 2 is approved by the voters.

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

- Legislation passed by the 86th Legislature in 2019 provided for compression of school district property tax rates beginning in that year, which lowered the tax burden for most homeowners and other property owners. However, because homeowners

who are elderly or disabled have their school district property taxes frozen, they did not all benefit from that tax rate compression, which some consider to have been an oversight. The proposed amendment will correct that apparent oversight by ensuring that all elderly and disabled homeowners receive school tax relief as a result of school district tax rate reductions in 2019 and subsequent years at the same time that other homeowners and other property owners receive relief from school taxes as a result of those tax rate reductions.

- The state has a history of reducing school district property tax freezes for elderly and disabled homeowners as school district tax rates are reduced, thereby ensuring that they benefit at the same time that school taxes of other property owners are reduced. A similar measure in 2007 was approved by an overwhelming majority of voters.
- The total amount of state and local funding provided to school districts will not be affected by the tax savings to elderly and disabled homeowners.
- The proposed amendment has broad bipartisan support.

Comments by Opponents

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

Text of S.J.R. 2, 87th Leg., 2nd C.S.

SENATE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed for general elementary and secondary public school purposes on the residence homestead of a person who is elderly or disabled to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed for those purposes on the homestead.

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

SECTION 1. Section 1-b, Article VIII, Texas Constitution, is amended by adding Subsection (d-2) to read as follows:

(d-2) Notwithstanding Subsections (d) and (d-1) of this section, the legislature by general law may provide for the reduction of the amount of a limitation provided by Subsection (d) of this section and applicable to a residence homestead for a tax year to reflect any statutory reduction from the preceding tax year in the maximum compressed rate, as defined by general law, or a successor rate of the maintenance and operations taxes imposed for general elementary and secondary public school purposes on the homestead. A general law enacted under this subsection may take into account the difference between the tier one maintenance and operations rate for the 2018 tax year and the maximum compressed rate for the 2019 tax year applicable to a residence homestead and any reductions in subsequent tax years before the tax year in which the general law takes effect in the maximum compressed rate applicable to a residence homestead.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held May 7, 2022. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the legislature to provide for the reduction of the amount of a limitation on the total amount of ad valorem taxes that may be imposed for general elementary and secondary public school purposes on the residence homestead of a person who is elderly or disabled to reflect any statutory reduction from the preceding tax year in the maximum compressed rate of the maintenance and operations taxes imposed for those purposes on the homestead."

Senate Author: Paul Bettencourt et al.
House Sponsor: Morgan Meyer et al.

Proposition 2

(S.J.R. 2, 87th Leg., 3rd C.S., 2021)

The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from \$25,000 to \$40,000.

SUMMARY ANALYSIS

S.J.R. 2, 87th Legislature, 3rd Called Session, 2021, proposes an amendment to Section 1b(c), Article VIII, Texas Constitution, to increase the portion of the market value of a residence homestead that is exempt from ad valorem taxes for public school purposes from \$25,000 to \$40,000. The proposed amendment takes effect January 1, 2022, and applies to an ad valorem tax year that begins on or after that date.

BACKGROUND AND DETAILED ANALYSIS

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 limit the amount of taxes a property owner is required to pay without constitutional authority.

Section 1-b(c), Article VIII, Texas Constitution, provides that a portion of the market value of a residence homestead is exempt from ad valorem taxes for public school purposes. As originally adopted in 1978, Section 1-b(c) exempted \$5,000 of the market value of a residence homestead from such taxes. Subsequent constitutional amendments have increased the amount of the school tax exemption provided by Section 1-b(c) twice, from \$5,000 to \$15,000 in 1997, and from \$15,000 to \$25,000 in 2015. The constitutional amendment proposed by S.J.R. 2, 87th Legislature, 3rd Called Session, 2021, amends Section 1-b(c) to further increase the amount of the exemption from \$25,000 to \$40,000. The proposed amendment provides that the

amendment to Section 1-b(c) takes effect January 1, 2022, and applies to an ad valorem tax year that begins on or after that date.

Enacted in 2021 by the Texas Legislature in the Third Called Session, S.B. 1 is the enabling legislation for S.J.R. 2. The bill amends Section 11.13, Tax Code, to increase the mandatory school district residence homestead exemption from \$25,000 to \$40,000. The bill also amends various provisions of the Education Code to provide for the provision of additional state aid to school districts in an amount necessary to fully compensate districts for the amount of ad valorem tax revenue lost due to the \$15,000 increase in the mandatory school district residence homestead exemption provided by the amendment to Section 11.13. The bill provides that the amendment to Section 11.13 applies beginning with the 2022 tax year, and authorizes the comptroller of public accounts to adopt rules to implement and administer the changes in law made by the bill for the 2022 tax year.

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

- Because of the economic impact of the COVID-19 pandemic, there was a general consensus among lawmakers supporting some form of relief from property taxes. The school property tax relief in S.J.R. 2 provides that relief by a method generally acceptable to members of both political parties.
- Since school districts are to be held harmless for the local tax reductions resulting from the increase in the homestead exemption through an increase in state funding, S.J.R. 2 will not reduce public education funding. The proposal instead increases the state's share of education funding.
- Property tax relief provided through an increased homestead exemption will be proportionally more helpful to middle-income taxpayers than some alternative methods.

- S.J.R. 2 offers permanent tax relief, unlike some of the alternatives considered, such as a one-time payment to homeowners funded by federal relief money.
- The increased exemption is expected to reduce property taxes for the average homeowner by about \$176 a year.

Comments by Opponents

- No opposition to the proposed constitutional amendment was expressed during legislative consideration of the proposal.

Text of S.J.R. 2, 87th Leg., 3rd C.S.

SENATE JOINT RESOLUTION

proposing a constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes.

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

SECTION 1. Section 1-b(c), Article VIII, Texas Constitution, is amended to read as follows:

(c) The amount of \$40,000 [~~\$25,000~~] 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.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by the 87th Legislature, 3rd Called Session, 2021, increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes.

(b) The amendment to Section 1-b(c), Article VIII, of this constitution takes effect January 1, 2022, and applies only to a tax year beginning on or after that date.

(c) This temporary provision expires January 1, 2023.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held May 7, 2022. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes from \$25,000 to \$40,000."

Senate Author: Paul Bettencourt et al.

House Sponsor: Angie Chen Button et al.