

PROPOSED
CONSTITUTIONAL AMENDMENTS
AND
STATE-WIDE REFERENDUM QUESTION
GENERAL ELECTION
NOVEMBER 2, 2010

Constitutional Amendments 1-5
Summary of Amendments and
State-wide Referendum Question

This booklet contains copies of the five proposed amendments to the Constitution in their entirety. These amendments will be submitted at the general election on November 2, 2010. 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 five proposals as prepared by Attorney General Thurbert E. Baker, Secretary of State Brian P. Kemp, and Legislative Counsel Sewell R. Brumby 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 Brian P. Kemp is included.

CONSTITUTIONAL
AMENDMENTS
1-5

House Resolution No. 178
Ga. L. 2010, p. 1260

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the General Assembly to provide for contracts that limit competitive activities between or among employers and employees, distributors and manufacturers, lessors and lessees, partnerships and partners, franchisors and franchisees, sellers and purchasers of a business or commercial enterprise, or two or more employers; 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 VI, Paragraph V of the Constitution is amended by revising subparagraph (c) as follows:

"(c)(1) The General Assembly shall not have the power to authorize any contract or agreement which may have the effect of or which is intended to have the effect of encouraging a monopoly, which is hereby declared to be unlawful and void. Except as otherwise provided in subparagraph (c)(2) of this paragraph, the General Assembly shall not have the power to authorize any contract or agreement which may have the effect of or which is intended to have the effect of defeating or lessening competition, which is hereby declared to be unlawful and void.

(2) The General Assembly shall have the power to authorize and provide by general law for

judicial enforcement of contracts or agreements restricting or regulating competitive activities between or among:

- (A) Employers and employees;
- (B) Distributors and manufacturers;
- (C) Lessors and lessees;
- (D) Partnerships and partners;
- (E) Franchisors and franchisees;
- (F) Sellers and purchasers of a business or commercial enterprise; or
- (G) Two or more employers.

(3) The authority granted to the General Assembly in subparagraph (c)(2) of this paragraph shall include the authority to grant to courts by general law the power to limit the duration, geographic area, and scope of prohibited activities provided in a contract or agreement restricting or regulating competitive activities to render such contract or agreement reasonable under the circumstances for which it was made."

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 so as to make Georgia more economically competitive by authorizing legislation to uphold reasonable

competitive agreements?"

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.

Senate Resolution No. 277
Ga. L. 2010, p. 1260

A RESOLUTION

Proposing an amendment to the Constitution so as to impose an annual \$10.00 trauma charge on certain passenger motor vehicle registrations in this state for the purpose of funding trauma care; to provide for a trauma trust fund; to provide for a definition; to provide for procedures; to provide for exceptions; to provide that such funds shall not be subject to lapse and certain other restrictions; 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 III, Section IX, Paragraph VI of the Constitution is amended by adding a new subparagraph to read as follows:

"(o)(1) As used in this subparagraph, the term 'passenger vehicle' means every motor vehicle designed to carry ten or fewer passengers and that is used for the transportation of persons and shall include pickup trucks, motorcycles, sport utility vehicles, and passenger vans.

(2) There shall be imposed an annual \$10.00 trauma charge on each passenger vehicle, as defined in this subparagraph, registered in this state. Such trauma charge shall be collected at the same time as other license tag and registration fees required by law are collected and prior to the issuance of a license plate or revalidation decal for such passenger vehicle in such manner as may be provided for by general law.

(3) The trauma charge under this subparagraph shall not apply to vehicles owned by the state or its departments, agencies, or authorities or by any political subdivision of the state.

(4) Proceeds of the trauma charge under this subparagraph shall be deposited on a monthly basis in a trauma trust fund. The General Assembly shall provide for the operation of such trust fund and shall specify the trauma care purposes for which such funds are to be expended.

(5) Revenues deposited into the trauma trust fund shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) and shall not be subject to the limitations of subparagraph (a) of this Paragraph or of Article VII, Section III, Paragraph II."

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 so as to

impose an annual \$10.00 trauma charge on certain passenger motor vehicles in this state for the purpose of funding trauma care?

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.

- 3 -

Senate Resolution No. 821
Ga. L. 2010, p. 1263

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the General Assembly to allow the Georgia Department of Transportation to enter into multiyear construction agreements without obligating present funds for the full obligation to the state under the full term of such agreements; to provide for procedures, conditions, and limitations; 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 VII, Section IV of the Constitution is amended by adding a new Paragraph to read as follows:

"Paragraph XII. **Multiyear construction agreements.** The General Assembly may by general law authorize the Georgia Department of Transportation to enter into construction agreements without obligating present funds for the full amount of

obligation the state may bear under the full term of any such construction agreement. Any such agreement shall provide for the termination of the agreement in the event of insufficiency of funds and shall limit the payments or other obligations of the state to not more than ten fiscal years. For the purposes of calculating fiscal years, any portion of a fiscal year shall count as a complete fiscal year."

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 so as to allow the Georgia Department of Transportation to enter into multiyear construction agreements without requiring appropriations in the current fiscal year for the total amount of payments that would be due under the entire agreement so as to reduce long-term construction costs paid by the state?"

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 be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.

- 4 -

Senate Resolution No. 1231
Ga. L. 2010, p. 1264

A RESOLUTION

Proposing an amendment to the Constitution so as to authorize state multiyear contracts for governmental energy efficiency or conservation improvement projects in which vendors guarantee realization of specified savings or revenue gains attributable solely to the improvements; to provide for related matters; to provide for submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article VII, Section IV of the Constitution is amended by adding a new Paragraph to read as follows:

"Paragraph XII. **Multiyear contracts for energy efficiency or conservation improvement.** The General Assembly may by general law authorize state governmental entities to incur debt for the purpose of entering into multiyear contracts for governmental energy efficiency or conservation improvement projects in which payments are guaranteed over the term of the contract by vendors based on the realization of specified savings or revenue gains attributable solely to the improvements; provided, however, that any such contract shall not exceed ten years unless otherwise provided by general law."

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 be amended so as to provide for guaranteed cost savings for the state by authorizing a state entity to enter into multiyear contracts which obligate state funds for energy efficiency or conservation improvement projects?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against 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.

- 5 -

House Resolution No. 136
Ga. L. 2010, p. 1259

A RESOLUTION

Proposing an amendment to the Constitution so as to allow the owners of real property located in industrial areas to remove the property from the industrial area; 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 XI, Section I, Paragraph IV of the Constitution is amended by revising subparagraph (e) as follows:

"(e) Any person owning property in an industrial area described in subparagraph (d) of this Paragraph may voluntarily remove the property from

the industrial area by filing a certificate to that effect with the clerk of the superior court for the county in which the property is located. Once the certificate is filed, the property described in the certificate, together with all public streets and public rights of way within the property, abutting the property, or connecting the property to property outside the industrial area, shall no longer be in the industrial area and shall upon the filing of the certificate be annexed to the city which provides water service to the property, or if no city provides water service shall be annexed to the city providing fire service as provided under the constitutional amendments that created such industrial areas described in subparagraph (d) of this Paragraph. The filing of a certificate shall be irrevocable and shall bind the owners, their heirs, and their assigns. The term 'owner' includes anyone with a legal or equitable ownership in property but does not include a beneficiary of any trust or a partner in any partnership owning an interest in the property or anyone owning an easement right in the property."

in industrial areas to remove the property from the industrial area?"

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.

the property is located. Once the certificate is filed, the property described in the certificate, together with all public streets and public rights of way within the property, abutting the property, or connecting the property to property outside the industrial area, shall no longer be in the industrial area and shall upon the filing of the certificate be annexed to the city which provides water service to the property, or if no city provides water service shall be annexed to the city providing fire service as provided under the constitutional amendments that created such industrial areas described in subparagraph (d) of this Paragraph. The filing of a certificate shall be irrevocable and shall bind the owners, their heirs, and their assigns. The term 'owner' includes anyone with a legal or equitable ownership in property but does not include a beneficiary of any trust or a partner in any partnership owning an interest in the property or anyone owning an easement right in the property."

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 allow the owners of real property located

SUMMARY OF PROPOSED
CONSTITUTIONAL AMENDMENTS
AND
STATE-WIDE REFERENDUM QUESTION
ON THE GENERAL ELECTION BALLOT
NOVEMBER 2, 2010

Constitutional Amendments 1-5
and
State-wide Referendum Question A

**SUMMARY OF PROPOSED
CONSTITUTIONAL
AMENDMENTS**

Pursuant to requirements of the Georgia Constitution, Attorney General Thurbert E. Baker, Secretary of State Brian P. Kemp, and Legislative Counsel Sewell R. Brumby hereby provide the summaries of the proposed constitutional amendments that will appear on the November 2, 2010, general election ballot for consideration by the people of Georgia:

- 1 -

Allows competitive contracts to be enforced in Georgia courts.

House Resolution No. 178
Ga. L. 2010, p. 1260

"() YES Shall the Constitution of Georgia be amended so as to make Georgia more economically competitive by authorizing legislation to uphold reasonable competitive agreements?"
() NO

This proposal provides an exception to the current constitutional provision which prohibits the General Assembly from authorizing any contract or agreement which may have the effect of or which is intended to have the effect of defeating or lessening competition. Under the proposal, the General Assembly

would be empowered to authorize and provide by general law for judicial enforcement of contracts or agreements restricting or regulating competitive activities between or among: (a) employers and employees; (b) distributors and manufacturers; (c) lessors and lessees; (d) partnerships and partners; (e) franchisors and franchisees; (f) sellers and purchasers of a business or commercial enterprise; or (g) two or more employers. This would include legislative authority to grant to courts by general law the power to "blue-pencil" or limit the duration, geographic area, and scope of prohibited activities provided in a contract or agreement restricting or regulating competitive activities in order to render such contract or agreement reasonable under the circumstances for which it was made.

The General Assembly has enacted a law to exercise the authority granted by the proposed constitutional amendment. This law will become effective only if the constitutional amendment is ratified by the voters. This law is published at Georgia Laws 2009, p. 231, and was enacted by 2009 House Bill 173, Act No. 64. Examples of contracts which would be authorized by the law include, but are not limited to: (1) an agreement by an employee to refrain from competing with the employer after termination of employment; and (2) an agreement by a seller not to compete with the seller's customer or solicit business from

customers of the seller's customer.

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 -

Adds \$10 tag fee on private passenger vehicles to fund statewide trauma care expansion.

Senate Resolution No. 277
Ga. L. 2010, p. 1260

"() YES Shall the Constitution of Georgia be amended so as to impose an annual \$10.00 trauma charge on certain passenger motor vehicles in this state for the purpose of funding trauma care?"
() NO

This proposal provides for a \$10.00 trauma charge to be imposed annually on each motor vehicle designed to carry ten or fewer persons that is used for the transportation of persons, including pickup trucks, motorcycles, sport utility vehicles, and passenger vans. The trauma charge would be collected together with license tag and registration fees. The proceeds of the trauma charge would be placed in a trauma trust fund and used for trauma care purposes specified by law. Proceeds would not have to be placed in the general fund of the state treasury but would instead

be placed in the trust fund; and any amounts in the trust fund not expended at the end of a fiscal year would not lapse to the general fund but would rather remain in the trust fund.

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.

- 3 -

Allows the State to execute multiyear contracts for long-term transportation projects.

Senate Resolution No. 821
Ga. L. 2010, p. 1263

"() YES Shall the Constitution of Georgia be amended so as to allow the Georgia Department of Transportation to enter into multiyear construction agreements without requiring appropriations in the current fiscal year for the total amount of payments that would be due under the entire agreement so as to reduce long-term construction costs paid by the state?"
() NO

This proposal provides an exception to the general rule that prohibits a state agency from entering into contracts with private vendors that obligate

payments beyond the funds available to the agency within its fiscal year. It would allow the General Assembly by statute to let the Department of Transportation enter into construction agreements without obligating present funds for the full amount of the obligation. Any such agreement would provide for the termination of the agreement in the event of insufficiency of funds and would limit the payments to not more than ten fiscal years.

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.

- 4 -

Allows the State to execute multiyear contracts for projects to improve energy efficiency and conservation.

Senate Resolution No. 1231
Ga. L. 2010, p. 1264

"() YES Shall the Constitution be amended so as to provide for guaranteed cost savings for the state by authorizing a state entity to enter into multiyear contracts which obligate state funds for energy efficiency or conservation improvement projects?"

This proposal provides an exception to the general rule that

prohibits a state agency from entering into contracts with private vendors that obligate payments beyond the funds available to the agency within the fiscal year. It would permit the General Assembly to authorize by general law state governmental entities to incur debt for the purpose of entering into contracts extending for not more than ten years for governmental energy efficiency or conservation improvement projects in which payments are guaranteed over the term of the contract by vendors based on the realization of specified savings or revenue gains attributable solely to the improvements.

The General Assembly has enacted a law to exercise the authority granted by the proposed constitutional amendment. This law will become effective only if the constitutional amendment is ratified by the voters. This law is published at Georgia Laws 2010, p. 1091, and was enacted by 2010 Senate Bill 194, Act No. 669.

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.

- 5 -

Allows owners of industrial-zoned property to choose to remove the industrial designation from their property.

House Resolution No. 136
Ga. L. 2010, p. 1259

"() YES Shall the Constitution of Georgia be amended so as to allow the owners of real property located in industrial areas to remove the property from the industrial area?"

The proposal amends the provisions of the Constitution relating to industrial areas which exist in only two counties in the state. Under the Georgia Constitution in effect prior to 1983 it was possible to have "local constitutional amendments" which affected only certain areas in the state. Under this procedure local constitutional amendments were ratified in 1950 and 1956 creating industrial areas in Chatham County. Ga. Laws 1950, p. 444, and Ga. Laws 1956, p. 352. Under these constitutional amendments property in the industrial areas could never be annexed to any city, but any city could provide certain services and levy certain taxes in such areas. Under the local constitutional amendment procedure, the governing authorities of Jeff Davis County and its political subdivisions were also authorized to have a different type of industrial area in which they could exempt new industries from property taxes for a certain period of time. Ga. Laws 1963, p. 674.

Under the current Georgia Constitution which took effect in 1983, new local constitutional amendments were prohibited, but certain prior local constitutional

amendments, including those creating industrial areas, were continued in effect. Any modification in such industrial areas must now be carried out through a state-wide constitutional amendment.

The current proposal would modify the conditions under which an owner of property in an industrial area may choose to remove the property from the industrial area. By a general constitutional amendment ratified in 1996 a property owner was authorized to remove the property, but only if the property was located on an island. Ga. Laws 1996, p. 1667. The current proposed amendment would remove the island limitation, so that any owner of property in an industrial area could choose to remove the property from the industrial area. Further, upon the filing of a removal certificate, the property shall be irrevocably annexed into the city which provides water services, or if none, then into the city that provides fire services.

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.

**SUMMARY OF
PROPOSED STATE-WIDE
REFERENDUM
QUESTION**

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

- A -

Provides for inventory of businesses to be exempt from state property tax.

House Bill No. 482
Ga. L. 2010, p.

"() YES Shall the Act be
() NO approved which
grants an exemption
from state ad valorem
taxation for inventory
of a business?"

This Act provides that all tangible personal property constituting the inventory of a business shall be exempt from state ad valorem taxation.

If approved by a majority of the voters, the Act becomes effective on January 1, 2011, and applies to all tax years beginning on or after that date.