

Senate Resolution 163

By: Senators Seabaugh of the 28th, Cagle of the 49th, Shafer of the 48th and Mullis of the 53rd

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide for a limitation on taxation,
 2 spending, and new or expanded activities by state government; to provide for submission of
 3 this amendment for ratification or rejection; and for other purposes.

4 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 SECTION 1.

6 Article VII of the Constitution is amended by adding at the end thereof a new Section V to
 7 read as follows:

8 "SECTION V

9 LIMITATION ON STATE TAXATION AND SPENDING

10 Paragraph I. *Limitation on taxation, expenditures, and new or expanded activities.*
 11 State taxation and spending may not be increased above the limitations specified in this
 12 section without direct voter approval as provided by this Constitution. The state is
 13 prohibited from requiring any new or expanded activities by counties, municipalities, and
 14 other political subdivisions without full state financing or from shifting the tax burden to
 15 counties, municipalities, and other political subdivisions. A provision for emergency
 16 conditions is established and the repayment of voter approved bonded indebtedness is
 17 guaranteed. Implementation of this section is specified in Paragraphs II through VIII,
 18 inclusive, of this section.

19 Paragraph II. *Definitions.* As used in this section:

20 (1) 'General price level' means the *Consumer Price Index for All Urban Consumers for*
 21 *the United States*, or its successor publications, as defined and officially reported by the
 22 United States Department of Labor, or its successor agency.

23 (2) 'Personal income of Georgia' is the total income received by persons in Georgia
 24 from all sources, as defined and officially reported by the United States Department of
 25 Commerce, or its successor agency.

1 (3) 'Total state revenues' includes all general and special revenues, licenses, and fees,
2 excluding federal funds, as defined in the budget message of the Governor for fiscal year
3 2003-2004. Total state revenues shall exclude the amount of any credits based on actual
4 tax liabilities or the imputed tax components of rental payments, but shall include the
5 amount of any credits not related to actual tax liabilities.

6 Paragraph III. ***State revenue limit; refund of excess revenues; exceptions; adjustments.***

7 (a) There is established a limit on the total amount of taxes which may be imposed by the
8 General Assembly in any fiscal year on the taxpayers of this state. Effective with fiscal
9 year 2004-2005, and for each fiscal year thereafter, the General Assembly shall not impose
10 taxes of any kind which, together with all other revenues of the state, federal funds
11 excluded, exceed the revenue limit established in this Paragraph. The revenue limit shall
12 be calculated for each fiscal year and shall be equal to the product of the ratio of total state
13 revenues in fiscal year 2003-2004 divided by the personal income of Georgia in calendar
14 year 2002 multiplied by the personal income of Georgia in either the calendar year prior
15 to the calendar year in which appropriations for the fiscal year for which the calculation is
16 being made or the average of personal income of Georgia in the previous three calendar
17 years, whichever is greater.

18 (b) For any fiscal year in the event that total state revenues exceed the revenue limit
19 established in this Paragraph by 1 percent or more, the excess revenues shall be refunded
20 pro rata based on the liability reported on the Georgia state income tax (or its successor tax
21 or taxes) annual returns filed following the close of such fiscal year. If the excess is less
22 than 1 percent, this excess shall be transferred to the general fund of the state.

23 (c) The revenue limit established in this Paragraph shall not apply to taxes imposed for
24 the payment of principal and interest on bonds approved by the voters and authorized under
25 the provisions of this Constitution.

26 (d) If responsibility for funding a program or programs is transferred from one level of
27 government to another as a consequence of a constitutional amendment, the state revenue
28 and spending limits may be adjusted to accommodate such change, provided that the total
29 revenue authorized for collection by state government does not exceed the amount that
30 would have been authorized without such change.

31 Paragraph IV. ***Emergencies.*** The revenue limit of Paragraph III of this section may be
32 exceeded only if all of the following conditions are met: (1) the Governor requests the
33 General Assembly to declare an emergency; (2) the request is specific as to the nature of
34 the emergency, the dollar amount of the emergency, and the method by which the
35 emergency will be funded; and (3) the General Assembly thereafter declares an emergency
36 in accordance with the specifics of the Governor's request by a majority vote for fiscal year
37 2004-2005 and thereafter by a two-thirds vote of the members elected to and serving in

1 each house. The emergency must be declared in accordance with this Paragraph prior to
 2 incurring any of the expenses which constitute the emergency request. The revenue limit
 3 may be exceeded only during the fiscal year for which the emergency is declared. In no
 4 event shall any part of the amount representing a refund under Paragraph III of this section
 5 be the subject of an emergency request.

6 Paragraph V. ***Expense limitation.*** No expenses of state government shall be incurred in
 7 any fiscal year which exceed the sum of the revenue limit established in Paragraphs III and
 8 IV of this section plus federal funds and any surplus from a previous fiscal year.

9 Paragraph VI. ***Funding of local activities and services.*** The state is prohibited from
 10 reducing the state financed proportion of the costs of any existing activity or service
 11 required of counties, municipalities, and other political subdivisions. A new activity or
 12 service or an increase in the level of any activity or service beyond that required by existing
 13 law shall not be required by the General Assembly or any state agency of counties,
 14 municipalities, or other political subdivisions unless a state appropriation is made and
 15 disbursed to pay the county, municipality, or other political subdivision for any increased
 16 costs.

17 Paragraph VII. ***Taxpayer suits.*** Notwithstanding other provisions of this Constitution
 18 or other law, any taxpayer of the state shall have standing to bring suit in a superior court
 19 of proper venue and additionally in the Supreme Court of Georgia to enforce the provisions
 20 of this section and, if the suit is sustained, shall receive from the state treasury his or her
 21 costs, including reasonable attorneys' fees incurred in maintaining such suit.

22 Paragraph VIII. ***Voter approval; enforcement.*** (a) The provisions for voter approval
 23 contained in Paragraphs I through VII, inclusive, of this section do not abrogate and are in
 24 addition to other provisions of this Constitution requiring voter approval to incur bonded
 25 indebtedness and to authorize certain taxes.

26 (b) The provisions contained in Paragraphs I through VII, inclusive, of this section are
 27 self-enforcing; provided, however, that the General Assembly may enact laws
 28 implementing such provisions which are not inconsistent with the purposes of said
 29 Paragraphs."

30 SECTION 2.

31 The above proposed amendment to the Constitution shall be published and submitted as
 32 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
 33 above proposed amendment shall have written or printed thereon the following:

34 "() YES Shall the Constitution be amended so as to provide for a limitation on
 35 () NO taxation, spending, and new or expanded activities by state government?"

- 1 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
- 2 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
- 3 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
- 4 become a part of the Constitution of this state.