

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0217/P2dn

PJD:kmg:pg

September 28, 2000

LRB-0217/P1 is 1999 AJR 50. LRB-0217/P2 is 1999 AJR 50, but with the two “all”s on page 3, line 1 deleted. The deletion makes it clearer that it is a partial tax exemption that is authorized.

If this joint resolution is ratified, it will remove the uniformity clause impediment to the legislature creating a tax exemption from property taxes, or from property taxes levied for school purposes, on principal dwellings owned and occupied by residents of this state. This drafter’s note is meant to alert you to the possibility that the exemption under this joint resolution could be challenged as a violation of article II, section 2, of the Wisconsin Constitution, which provides that “in no case shall nonresident proprietors be taxed higher than residents.” Although the meaning of this section has not been interpreted by the courts, the context of this section suggests that the tax referred to is the property tax and that “proprietors” are property owners. Courts in uniformity clause cases have found that property tax exemptions are subject to the uniformity clause, which suggests that the prohibition contained in article II, section 2, of the Wisconsin Constitution would apply to the exemption authorized to be created under this joint resolution. This section and the section preceding it differ from all other sections of the constitution in that those sections cannot be amended without the consent of the United States. Article II, section 2, states that the propositions contained in the federal act that allowed Wisconsin to become a state are accepted and that they “remain irrevocable without the consent of the United States.” Those propositions include the prohibition against higher taxes on nonresident proprietors. In other words, a federal law authorizing this amendment would be needed if there is a violation. While I am not at all certain how a court would rule on a constitutional challenge to the joint resolution, should it become part of the constitution, you should be aware of possible challenges to it. If you have any questions, please do not hesitate to contact me.

Atty. Peter J. Dykman  
General Counsel  
Phone: (608) 266-7098  
E-mail: peter.dykman@legis.state.wi.us