

2001 DRAFTING REQUEST

Assembly Joint Resolution

Received: 09/11/2000

Received By: dykmapj

Wanted: Soon

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: him

This file may be shown to any legislator: NO

Drafter: dykmapj

May Contact:

Alt. Drafters:

Subject: Constitutional Amendments
Legislature - miscellaneous

Extra Copies: JTK
RAC
JK
PG

Pre Topic:

No specific pre topic given

Topic:

Uniformity of taxation: permit reduction of property taxes on individuals residences

Instructions:

See Attached 1999 AJR 50

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dykmapj 09/21/2000	gilfokm 09/21/2000		_____			
/P1			rschluet 09/25/2000	_____	lrb_docadmin 09/25/2000		
/P2	dykmapj 09/27/2000	gilfokm 09/27/2000	pgreensl 09/28/2000	_____	lrb_docadmin 09/28/2000		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	dykmapj 10/09/2000	gilfokm 10/10/2000	rschluet 10/10/2000	_____	lrb_docadmin 10/10/2000	lrb_docadmin 10/13/2000	

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/?	dykmapj 09/21/2000	gilfokm 09/21/2000	<i>[Signature]</i> 10-10-00	<i>[Signature]</i> 10-10-00 RF			
/P1			rschluet 09/25/2000		lrb_docadmin 09/25/2000		
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*1-10/10
KMG*

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/P1		1/2-9/27 KMG	rschluet 09/25/2000		lrb_docadmin 09/25/2000		

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<END>

2001 DRAFTING REQUEST

Assembly Joint Resolution

Received: 09/11/2000

Received By: dykmapj

Wanted: Soon

Identical to LRB: 99-1426/1

For: Spencer Black (608) 266-7521

By/Representing: him

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May Contact:

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1?	dykmapj	1/1-9/21 KMG	9.21.00	9.22.00 KMG			

FE Sent For:

<END>

-0217/81
↑

2001

1999 ASSEMBLY JOINT RESOLUTION

Open

May 6, 1999—Introduced by Representatives BLACK, KREUSER, BERCEAU, J. LEHMAN, HASENOHRL, BOCK, RYBA, BOYLE, MILLER, CARPENTER, LA FAVE and REYNOLDS, cosponsored by Senator BAUMGART. Referred to Committee on Ways and Means.

D-NOTE

- 1 **To amend** section 1 of article VIII of the constitution; **relating to:** authorizing the
- 2 legislature to reduce property taxes on principal dwellings owned and occupied
- 3 by residents of this state (first consideration).

Analysis by the Legislative Reference Bureau

2001

This proposed constitutional amendment, proposed to the ~~1999~~ legislature on first consideration, permits the legislature to reduce property taxes on principal dwellings owned and occupied by residents of this state by creating a tax exemption from all property taxes, or from all property taxes levied for school purposes, in a dollar amount fixed by the legislature.

The general statement of the Wisconsin Constitution that the "rule of taxation shall be uniform" is already subject to a number of exceptions: real estate taxes may be collected in more than one way; forests, minerals, agricultural land, undeveloped land and certain kinds of personal property may be taxed differently than is other property; and nonuniform income taxes, privilege taxes and occupational taxes may be imposed.

In addition to the substantive changes, this joint resolution makes stylistic changes and breaks this section into subsections to facilitate future amendments and to avoid conflicts if other amendments to this section are proposed.

A constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective. The proposed

[Handwritten scribbles]

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amendment is not self-executing; consequently, even after ratification, no change will occur until the legislature enacts laws authorizing the property tax exemption.

Resolved by the assembly, the senate concurring, That:

SECTION 1. Section 1 of article VIII of the constitution is amended to read:

[Article VIII] Section 1. The rule of taxation shall be uniform ~~but the~~ except as follows:

(1) ~~The legislature may empower~~ by law authorize cities, villages or towns to collect and return taxes on real estate located therein by optional methods.

(2) Taxes shall be levied upon such property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature ~~shall prescribe~~ prescribes by law.

(3) Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property.

(4) Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide by law that the value thereof shall be determined on an average basis. ~~Taxes may also be imposed~~

(5) The legislature may by law impose taxes on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided.

(6) The legislature may reduce property taxes imposed on principal dwellings, as defined by law, which are owned and occupied by residents of this state by creating

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1 a tax exemption from all property taxes, or from all property taxes levied for school
2 purposes, in a dollar amount that the legislature provides by law. The dollar amount
3 must be uniform throughout the state.

4 *Be it further resolved, That* this proposed amendment be referred to the
5 legislature to be chosen at the next general election and that it be published for 3
6 months previous to the time of holding such election.

7 (END)

D NOTE
this is 1999 AIR SR 50.
PJD

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0217/P1dn

PJD:kmg:rs

September 22, 2000

This is 1999 AJR 50.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0217/P2dn ✓
PJD:kmg:rs

September 22, 2000

627

SOON

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 all property taxes, or from all 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. 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
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E-mail: peter.dykman@legis.state.wi.us

without the
approval
of Congress
of the
United States

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
2001 ASSEMBLY JOINT RESOLUTION

SOON
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2 legislature to reduce property taxes on principal dwellings owned and occupied
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The general statement of the Wisconsin Constitution that the "rule of taxation shall be uniform" is already subject to a number of exceptions: real estate taxes may be collected in more than one way; forests, minerals, agricultural land, undeveloped land, and certain kinds of personal property may be taxed differently than is other property; and nonuniform income taxes, privilege taxes, and occupational taxes may be imposed.

In addition to the substantive changes, this joint resolution makes stylistic changes and breaks this section into subsections to facilitate future amendments and to avoid conflicts if other amendments to this section are proposed.

A constitutional amendment requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective. The proposed

amendment is not self-executing; consequently, even after ratification, no change will occur until the legislature enacts laws authorizing the property tax exemption.

1 ***Resolved by the assembly, the senate concurring, That:***

2 **SECTION 1.** Section 1 of article VIII of the constitution is amended to read:

3 [Article VIII] Section 1. The rule of taxation shall be uniform ~~but the~~ except as
4 follows:

5 (1) The legislature may empower by law authorize cities, villages or towns to
6 collect and return taxes on real estate located therein by optional methods.

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19 (5) The legislature may by law impose taxes on incomes, privileges and
20 occupations, which taxes may be graduated and progressive, and reasonable
21 exemptions may be provided.

22 (6) The legislature may reduce property taxes imposed on principal dwellings,
23 as defined by law, which are owned and occupied by residents of this state by creating

1 a tax exemption from all property taxes, or from all property taxes levied for school
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5 legislature to be chosen at the next general election and that it be published for 3
6 months previous to the time of holding such election.

7 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0217/P2dn

PJD:kmg:pg

September 28, 2000

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

October 10, 2000

MEMORANDUM

To: Representative Black

From: Attorney Peter J. Dykman, General Counsel

Re: LRB-0217 Uniformity of taxation: permit reduction of property taxes on individuals residences

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-7098 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.