

Date Printed: 06/16/2009

JTS Box Number: IFES_76
Tab Number: 146
Document Title: Proposed Constitutional Amendments to be
voted on at the November 3, 1998 Special
Document Date: 1998
Document Country: United States --
Virginia
Document Language: English
IFES ID: CE02559



* E 1 9 1 9 8 0 B - 0 8 9 0 - 4 6 7 A - 8 0 8 F - 7 1 C C 8 5 6 A 3 1 8 B *

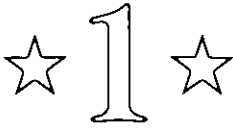


Commonwealth of Virginia

**Proposed Constitutional
Amendments
to be voted on at the
November 3, 1998
Special Election**

**INTERNATIONAL FOUNDATION
FOR ELECTION SYSTEMS
1101 15th ST. NW 3rd FLOOR
WASHINGTON, DC 20005**

Authorized By
State Board of Elections
M. Bruce Meadows, Secretary
200 North 9th Street, Room 101
Richmond, VA 23219-3497



Proposed Constitutional Amendment

OVERSEAS VOTERS ARTICLE II, SECTION 1

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to permit persons employed overseas, and their families, who are qualified to vote in Virginia except for having given up a home in Virginia, to continue to vote in Virginia while overseas subject to the conditions and time limits set by law?"

EXPLANATION

To vote in Virginia, a voter must be a United States citizen, at least eighteen years old, registered to vote in Virginia, and a resident of Virginia and the precinct where he or she votes. This amendment concerns the residence requirement and how it applies to voters who leave Virginia to work overseas.

Virginia residents who leave Virginia may continue to vote in Virginia in a number of cases. For example, federal law provides that citizens who reside outside the United States may continue to vote in federal elections. They may vote at their last residence in the United States. Federal and Virginia law also allow military personnel and others who are absent from Virginia on active duty to continue to vote in Virginia in all elections.

This amendment gives the General Assembly more flexibility to provide by law how and when overseas employees and their families may continue to vote in Virginia in state and local elections and in situations not covered by federal law. Family includes the spouse and dependents residing with the overseas employee.

Present Constitution and Background

Since 1970, the Constitution has required that a voter must show two facts to be a resident of Virginia for voting purposes. The voter must be domiciled in Virginia and have a place of abode in Virginia.

Domicile is a matter of intent. A voter who leaves

Virginia to work overseas can continue to be "domiciled" in Virginia if the voter intends to return to Virginia and does not choose a new domicile. A "place of abode" is the place where the voter lives. It may be a house, apartment, or room.

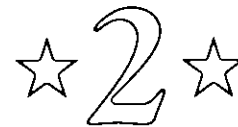
Some voters who leave Virginia to work overseas consider Virginia to be home and continue to be domiciled in Virginia, but they may sell their house or stop renting an apartment while working overseas. Without a "place of abode," these voters may not be qualified to vote in Virginia. They may not meet the residence requirement of the Constitution.

Other voters who leave Virginia to work overseas may continue to be domiciled in Virginia and may keep their "place of abode" while working abroad. These voters remain residents of Virginia and may continue to be qualified to vote.

Proposed Change

The proposed amendment gives the General Assembly additional authority to spell out by statute when Virginians employed overseas may continue to vote in Virginia. The amendment makes it possible for voters who consider Virginia their home to continue to vote in Virginia even though they have given up their housing or place of abode in Virginia. Their right to continue to vote will be subject to the conditions and time limits that the General Assembly sets by statute.

The General Assembly must pass legislation to implement the proposed amendment. If the proposed amendment is approved by the voters, it will take effect January 1, 1999. The General Assembly will have authority to enact laws on this topic after that date.



Proposed Constitutional Amendment

JUDICIAL INQUIRY AND REVIEW COMMISSION ARTICLE VI, SECTION 10

BALLOT QUESTION

“Shall the Constitution of Virginia be amended to delete the present requirement that the proceedings of the Judicial Inquiry and Review Commission concerning charges against judges shall be confidential so that the General Assembly can provide by law to what extent Commission proceedings and documents will be confidential?”

EXPLANATION

The Judicial Inquiry and Review Commission investigates charges against judges. The present Constitution states that “Proceedings before the Commission shall be confidential.” This proposed amendment provides instead that “Proceedings and documents before the Commission may be confidential as provided by the General Assembly in general law.”

This amendment gives the General Assembly the responsibility to provide by statute the extent to which Commission proceedings and documents will be confidential.

Present Constitution and Background

The present Constitution established the Commission in 1971 to consider charges that can lead to the retirement, censure, or removal of a judge.

The Commission reviews complaints concerning judicial misconduct or a serious disability that interferes with a judge’s performance of his duties. Examples of judicial misconduct or disability include: lack of impartiality, improper courtroom behavior, alcohol or drug abuse, or serious illness.

Commission investigations and proceedings are currently confidential. The Commission may dismiss a complaint when it finds no misconduct or serious disability. It may counsel a judge, place the judge under supervision, or close the matter if the judge retires. Proceedings become public only in the rare case that the Commission files a formal complaint with the Virginia Supreme Court.

Present law provides that the Commission’s proceedings are confidential but requires disclosure in two cases:

- ★ The Commission must disclose information to the Virginia State Bar about alleged misconduct by a part-time or substitute judge in his private practice of law. The State Bar oversees matters involving lawyer misconduct.

- ★ It must disclose information to the Committees on Courts of Justice of the General Assembly, if requested by the committee chairman, about alleged misconduct by a judge being considered for election by the General Assembly. These Committees review the qualifications of judicial candidates before the election.

Since the present Constitution states that the Commission’s proceedings “shall be confidential,” it is not clear to what extent the General Assembly has authority to require disclosure.

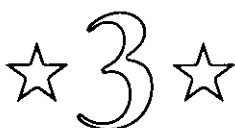
Proposed Change

The proposed amendment makes it clear that the General Assembly has authority to provide by law both for the confidentiality of the Commission’s proceedings and documents and for the disclosure of information by the Commission in specific situations.

In 1998, the General Assembly passed a law that will take effect if this constitutional amendment is approved by the voters. The new law will not change the basic provisions for the confidentiality of Commission proceedings. It will make three changes concerning disclosure:

- ★ It will require the Commission to disclose information about alleged misconduct by a judge, who is a candidate for election by the General Assembly, to the Committees on Courts of Justice and to any other member of the General Assembly requesting the information.
- ★ It will spell out what information the Commission must disclose.
- ★ It will provide that a General Assembly member who knowingly discloses the information will be subject to discipline by the legislature.

The General Assembly may revise this 1998 law to provide for more or less disclosure in future years.



Proposed Constitutional Amendment

ECONOMIC DEVELOPMENT AREAS; GOVERNING BODIES ARTICLE VII, SECTION 2

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to authorize agreements among localities for sharing the revenues and costs of a specified land area and establishing a special governing body for the area, and to provide that fiscal commitments related to the land area will not be deemed local debt?"

EXPLANATION

This amendment concerns joint efforts by two or more localities to develop a specific land area such as an industrial park. The amendment gives the General Assembly a new option concerning these joint efforts. This amendment is broader in scope than Amendment # 4.

The General Assembly will be able to provide for local agreements to develop a specific area with a special governing body to oversee the area. The participating localities may agree to share the economic benefits and costs of the development. The amendment exempts the fiscal commitments made by the localities from certain constitutional requirements or limits on local debt.

Present Constitution and Background

At present, localities may agree to undertake a joint project and share the costs and revenues of the project. However, there is no constitutional authority to establish a special governing body for the project area. The Constitution does provide for regional governments, but the General Assembly has not passed laws to establish any regional government. The Constitution requires approval by the voters of the areas which would be covered by a regional government.

The Constitution places restrictions on local debt. The total amount of city or town debt cannot exceed ten

percent of the assessed value of the locality's taxable real estate. County or regional government debt is not subject to a ceiling, but voters must approve bonds in a referendum. A county may choose to be treated like a city for debt purposes if the county voters approve that change.

The Constitution provides a number of exceptions to these restrictions. For example, "revenue" bonds are not subject to these restrictions. Revenue bonds are paid and secured by the revenues from a specific project such as the parking fees from a public parking deck. Another exception covers county bonds that are approved by the county governing body and the school board, used to finance school construction, and sold to the Virginia Public School Authority.

Proposed Change

Under this amendment, the General Assembly will be able to provide for local agreements to develop a specific area and for a special governing body to oversee the area. The General Assembly may provide by law for the approval of the agreement by the governing bodies of the participating localities.

The governing bodies of the participating localities would appoint the members of the special governing body. The General Assembly will provide by law what powers the special governing body will exercise.

Local debt incurred by the participating localities will not be subject to the constitutional ceiling on city or town debt or the referendum requirement for county debt. The General Assembly will have power to set the requirements or limits on such debt by law.

The General Assembly must pass legislation to implement the proposed amendment. If the proposed amendment is approved by the voters, it will take effect January 1, 1999. The General Assembly will have authority to enact laws on this topic after that date.



Proposed Constitutional Amendment

ECONOMIC GROWTH-SHARING AGREEMENTS

ARTICLE VII, SECTION 10

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to allow a combination of localities to contract debt as part of an agreement to share the revenues, tax base, or the benefits of economic growth and exempt this class of debt from the ceiling on local debt for cities and towns and from the requirement for a local referendum for counties?"

EXPLANATION

This amendment concerns joint efforts by two or more localities to promote economic development. The amendment relates to economic growth-sharing agreements that are allowed under present law. This amendment is narrower in scope than Amendment # 3.

At present, two or more localities may agree to share the revenues, taxes, and economic benefits of an economic development project such as an industrial park. The localities may agree to share the costs and benefits of the project for the period of time stated in the agreement. (Code of Virginia, Section 15.2-1301.)

A long-term agreement may create fiscal obligations. For example, a city and county may agree to develop an industrial park. The city may provide sewer services for a site located in the adjacent county. The county that will receive the tax revenues from the project may agree to pay part of those future tax revenues to the city that furnished the services. The county's promise to pay future revenues is a type of local debt.

This amendment will exempt the fiscal obligations involved in economic growth-sharing agreements from certain constitutional limits or requirements that usually apply to local debt. The amendment will treat this type of obligation like other special types of local debt that are not subject to those constitutional limits.

Present Constitution and Background

The Constitution places restrictions on local debt. The total amount of city or town debt cannot exceed ten percent of the assessed value of the locality's taxable real estate. County debt is not subject to a ceiling, but county voters must approve county bonds in a referendum. A county may choose to be treated like a city with respect to debt limits if the county voters approve that change.

The Constitution provides a number of exceptions to these restrictions. For example, "revenue" bonds are not subject to these constitutional restrictions. Revenue bonds

are paid and secured by revenues from a specific project such as the parking fees from a public parking deck. Another exception covers county bonds that are approved by the county governing body and the school board, used to finance school construction, and sold to the Virginia Public School Authority.

Proposed Change

The proposed amendment adds another exception to the constitutional limits on local debt. The new exception covers the debt that results from an agreement among two or more localities to share "the revenue, tax base, or benefits of economic growth."

If this amendment is approved by the voters, the debt created by an economic growth-sharing agreement will not be subject to the constitutional ceiling on city or town debt or the referendum requirement for county debt.

Under Code Section 15.2-1301, an economic growth-sharing agreement is subject to an advisory review and evaluation by the Commission on Local Government and must be approved by the governing bodies of the participating localities following public hearings on the proposed agreement. These requirements are not changed by this amendment.



Proposed Constitutional Amendment

TAX EXEMPTIONS ARTICLE X, SECTION 6

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to authorize the General Assembly by general law to give local governments the option of eliminating, in whole or in part, either the business, professional or occupational license tax or the merchants' capital tax or both?"

EXPLANATION

This amendment concerns exemptions from two local taxes: license taxes imposed on businesses, occupations,

and professions (commonly known as BPOL taxes) and taxes on merchants' capital. BPOL taxes are based on the gross receipts of a business. Merchants' capital taxes are property taxes and cover the merchant's inventory and other specified property.

The new provision states:

The General Assembly may by general law allow the governing body of any county, city, or town to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

Present Constitution and Background

The Constitution contains general provisions that require all property to be taxed and taxes to be levied uniformly on the same class of property.

The issue has been raised that these general provisions may restrict the power to grant exemptions to either the BPOL tax or the merchants' capital tax or both taxes. The issue involves the General Assembly's power to give localities the authority to create exemptions to these taxes and to eliminate both taxes.

Under present law, counties and cities have the option to impose the BPOL tax. Approximately 40 counties and most cities impose the BPOL tax. Approximately 50 counties impose a tax on merchants' capital. If a locality does not impose the BPOL tax, it must impose the merchants' capital tax. A locality may not impose both taxes on the same class of merchants or businesses.

Proposed Change

The proposed change adds language to the Constitution to clarify that the General Assembly may give local governments an option to grant exemptions to either the BPOL tax or the merchants' capital tax, or to both taxes. The amendment allows total or partial exemptions from either or both taxes.

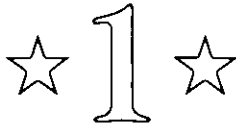
The General Assembly must pass legislation to implement the proposed amendment. If the proposed amendment is approved by the voters, it will take effect January 1, 1999. The General Assembly will have authority to enact laws on this topic after that date.



Commonwealth of Virginia

**Proposed Constitutional
Amendments
to be voted on at the
November 3, 1998
Special Election**

Authorized By
State Board of Elections
M. Bruce Meadows, Secretary
200 North 9th Street, Room 101
Richmond, VA 23219-3497



Proposed Constitutional Amendment

OVERSEAS VOTERS ARTICLE II, SECTION 1

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to permit persons employed overseas, and their families, who are qualified to vote in Virginia except for having given up a home in Virginia, to continue to vote in Virginia while overseas subject to the conditions and time limits set by law?"

EXPLANATION

To vote in Virginia, a voter must be a United States citizen, at least eighteen years old, registered to vote in Virginia, and a resident of Virginia and the precinct where he or she votes. This amendment concerns the residence requirement and how it applies to voters who leave Virginia to work overseas.

Virginia residents who leave Virginia may continue to vote in Virginia in a number of cases. For example, federal law provides that citizens who reside outside the United States may continue to vote in federal elections. They may vote at their last residence in the United States. Federal and Virginia law also allow military personnel and others who are absent from Virginia on active duty to continue to vote in Virginia in all elections.

This amendment gives the General Assembly more flexibility to provide by law how and when overseas employees and their families may continue to vote in Virginia in state and local elections and in situations not covered by federal law. Family includes the spouse and dependents residing with the overseas employee.

Present Constitution and Background

Since 1970, the Constitution has required that a voter must show two facts to be a resident of Virginia for voting purposes. The voter must be domiciled in Virginia and have a place of abode in Virginia.

Domicile is a matter of intent. A voter who leaves

Virginia to work overseas can continue to be "domiciled" in Virginia if the voter intends to return to Virginia and does not choose a new domicile. A "place of abode" is the place where the voter lives. It may be a house, apartment, or room.

Some voters who leave Virginia to work overseas consider Virginia to be home and continue to be domiciled in Virginia, but they may sell their house or stop renting an apartment while working overseas. Without a "place of abode," these voters may not be qualified to vote in Virginia. They may not meet the residence requirement of the Constitution.

Other voters who leave Virginia to work overseas may continue to be domiciled in Virginia and may keep their "place of abode" while working abroad. These voters remain residents of Virginia and may continue to be qualified to vote.

Proposed Change

The proposed amendment gives the General Assembly additional authority to spell out by statute when Virginians employed overseas may continue to vote in Virginia. The amendment makes it possible for voters who consider Virginia their home to continue to vote in Virginia even though they have given up their housing or place of abode in Virginia. Their right to continue to vote will be subject to the conditions and time limits that the General Assembly sets by statute.

The General Assembly must pass legislation to implement the proposed amendment. If the proposed amendment is approved by the voters, it will take effect January 1, 1999. The General Assembly will have authority to enact laws on this topic after that date.



Proposed Constitutional Amendment

JUDICIAL INQUIRY AND REVIEW COMMISSION ARTICLE VI, SECTION 10

BALLOT QUESTION

“Shall the Constitution of Virginia be amended to delete the present requirement that the proceedings of the Judicial Inquiry and Review Commission concerning charges against judges shall be confidential so that the General Assembly can provide by law to what extent Commission proceedings and documents will be confidential?”

EXPLANATION

The Judicial Inquiry and Review Commission investigates charges against judges. The present Constitution states that “Proceedings before the Commission shall be confidential.” This proposed amendment provides instead that “Proceedings and documents before the Commission may be confidential as provided by the General Assembly in general law.”

This amendment gives the General Assembly the responsibility to provide by statute the extent to which Commission proceedings and documents will be confidential.

Present Constitution and Background

The present Constitution established the Commission in 1971 to consider charges that can lead to the retirement, censure, or removal of a judge.

The Commission reviews complaints concerning judicial misconduct or a serious disability that interferes with a judge’s performance of his duties. Examples of judicial misconduct or disability include: lack of impartiality, improper courtroom behavior, alcohol or drug abuse, or serious illness.

Commission investigations and proceedings are currently confidential. The Commission may dismiss a complaint when it finds no misconduct or serious disability. It may counsel a judge, place the judge under supervision, or close the matter if the judge retires. Proceedings become public only in the rare case that the Commission files a formal complaint with the Virginia Supreme Court.

Present law provides that the Commission’s proceedings are confidential but requires disclosure in two cases:

- ☆ The Commission must disclose information to the Virginia State Bar about alleged misconduct by a part-time or substitute judge in his private practice of law. The State Bar oversees matters involving lawyer misconduct.

- ☆ It must disclose information to the Committees on Courts of Justice of the General Assembly, if requested by the committee chairman, about alleged misconduct by a judge being considered for election by the General Assembly. These Committees review the qualifications of judicial candidates before the election.

Since the present Constitution states that the Commission’s proceedings “shall be confidential,” it is not clear to what extent the General Assembly has authority to require disclosure.

Proposed Change

The proposed amendment makes it clear that the General Assembly has authority to provide by law both for the confidentiality of the Commission’s proceedings and documents and for the disclosure of information by the Commission in specific situations.

In 1998, the General Assembly passed a law that will take effect if this constitutional amendment is approved by the voters. The new law will not change the basic provisions for the confidentiality of Commission proceedings. It will make three changes concerning disclosure:

- ☆ It will require the Commission to disclose information about alleged misconduct by a judge, who is a candidate for election by the General Assembly, to the Committees on Courts of Justice and to any other member of the General Assembly requesting the information.
- ☆ It will spell out what information the Commission must disclose.
- ☆ It will provide that a General Assembly member who knowingly discloses the information will be subject to discipline by the legislature.

The General Assembly may revise this 1998 law to provide for more or less disclosure in future years.



Proposed Constitutional Amendment

ECONOMIC DEVELOPMENT AREAS; GOVERNING BODIES ARTICLE VII, SECTION 2

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to authorize agreements among localities for sharing the revenues and costs of a specified land area and establishing a special governing body for the area, and to provide that fiscal commitments related to the land area will not be deemed local debt?"

EXPLANATION

This amendment concerns joint efforts by two or more localities to develop a specific land area such as an industrial park. The amendment gives the General Assembly a new option concerning these joint efforts. This amendment is broader in scope than Amendment # 4.

The General Assembly will be able to provide for local agreements to develop a specific area with a special governing body to oversee the area. The participating localities may agree to share the economic benefits and costs of the development. The amendment exempts the fiscal commitments made by the localities from certain constitutional requirements or limits on local debt.

Present Constitution and Background

At present, localities may agree to undertake a joint project and share the costs and revenues of the project. However, there is no constitutional authority to establish a special governing body for the project area. The Constitution does provide for regional governments, but the General Assembly has not passed laws to establish any regional government. The Constitution requires approval by the voters of the areas which would be covered by a regional government.

The Constitution places restrictions on local debt. The total amount of city or town debt cannot exceed ten

percent of the assessed value of the locality's taxable real estate. County or regional government debt is not subject to a ceiling, but voters must approve bonds in a referendum. A county may choose to be treated like a city for debt purposes if the county voters approve that change.

The Constitution provides a number of exceptions to these restrictions. For example, "revenue" bonds are not subject to these restrictions. Revenue bonds are paid and secured by the revenues from a specific project such as the parking fees from a public parking deck. Another exception covers county bonds that are approved by the county governing body and the school board, used to finance school construction, and sold to the Virginia Public School Authority.

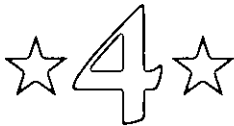
Proposed Change

Under this amendment, the General Assembly will be able to provide for local agreements to develop a specific area and for a special governing body to oversee the area. The General Assembly may provide by law for the approval of the agreement by the governing bodies of the participating localities.

The governing bodies of the participating localities would appoint the members of the special governing body. The General Assembly will provide by law what powers the special governing body will exercise.

Local debt incurred by the participating localities will not be subject to the constitutional ceiling on city or town debt or the referendum requirement for county debt. The General Assembly will have power to set the requirements or limits on such debt by law.

The General Assembly must pass legislation to implement the proposed amendment. If the proposed amendment is approved by the voters, it will take effect January 1, 1999. The General Assembly will have authority to enact laws on this topic after that date.



Proposed Constitutional Amendment

ECONOMIC GROWTH-SHARING AGREEMENTS ARTICLE VII, SECTION 10

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to allow a combination of localities to contract debt as part of an agreement to share the revenues, tax base, or the benefits of economic growth and exempt this class of debt from the ceiling on local debt for cities and towns and from the requirement for a local referendum for counties?"

EXPLANATION

This amendment concerns joint efforts by two or more localities to promote economic development. The amendment relates to economic growth-sharing agreements that are allowed under present law. This amendment is narrower in scope than Amendment # 3.

At present, two or more localities may agree to share the revenues, taxes, and economic benefits of an economic development project such as an industrial park. The localities may agree to share the costs and benefits of the project for the period of time stated in the agreement. (Code of Virginia, Section 15.2-1301.)

A long-term agreement may create fiscal obligations. For example, a city and county may agree to develop an industrial park. The city may provide sewer services for a site located in the adjacent county. The county that will receive the tax revenues from the project may agree to pay part of those future tax revenues to the city that furnished the services. The county's promise to pay future revenues is a type of local debt.

This amendment will exempt the fiscal obligations involved in economic growth-sharing agreements from certain constitutional limits or requirements that usually apply to local debt. The amendment will treat this type of obligation like other special types of local debt that are not subject to those constitutional limits.

Present Constitution and Background

The Constitution places restrictions on local debt. The total amount of city or town debt cannot exceed ten percent of the assessed value of the locality's taxable real estate. County debt is not subject to a ceiling, but county voters must approve county bonds in a referendum. A county may choose to be treated like a city with respect to debt limits if the county voters approve that change.

The Constitution provides a number of exceptions to these restrictions. For example, "revenue" bonds are not subject to these constitutional restrictions. Revenue bonds

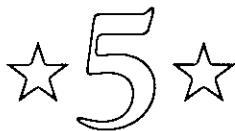
are paid and secured by revenues from a specific project such as the parking fees from a public parking deck. Another exception covers county bonds that are approved by the county governing body and the school board, used to finance school construction, and sold to the Virginia Public School Authority.

Proposed Change

The proposed amendment adds another exception to the constitutional limits on local debt. The new exception covers the debt that results from an agreement among two or more localities to share "the revenue, tax base, or benefits of economic growth."

If this amendment is approved by the voters, the debt created by an economic growth-sharing agreement will not be subject to the constitutional ceiling on city or town debt or the referendum requirement for county debt.

Under Code Section 15.2-1301, an economic growth-sharing agreement is subject to an advisory review and evaluation by the Commission on Local Government and must be approved by the governing bodies of the participating localities following public hearings on the proposed agreement. These requirements are not changed by this amendment.



Proposed Constitutional Amendment

TAX EXEMPTIONS ARTICLE X, SECTION 6

BALLOT QUESTION

"Shall the Constitution of Virginia be amended to authorize the General Assembly by general law to give local governments the option of eliminating, in whole or in part, either the business, professional or occupational license tax or the merchants' capital tax or both?"

EXPLANATION

This amendment concerns exemptions from two local taxes: license taxes imposed on businesses, occupations,

and professions (commonly known as BPOL taxes) and taxes on merchants' capital. BPOL taxes are based on the gross receipts of a business. Merchants' capital taxes are property taxes and cover the merchant's inventory and other specified property.

The new provision states:

The General Assembly may by general law allow the governing body of any county, city, or town to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

Present Constitution and Background

The Constitution contains general provisions that require all property to be taxed and taxes to be levied uniformly on the same class of property.

The issue has been raised that these general provisions may restrict the power to grant exemptions to either the BPOL tax or the merchants' capital tax or both taxes. The issue involves the General Assembly's power to give localities the authority to create exemptions to these taxes and to eliminate both taxes.

Under present law, counties and cities have the option to impose the BPOL tax. Approximately 40 counties and most cities impose the BPOL tax. Approximately 50 counties impose a tax on merchants' capital. If a locality does not impose the BPOL tax, it must impose the merchants' capital tax. A locality may not impose both taxes on the same class of merchants or businesses.

Proposed Change

The proposed change adds language to the Constitution to clarify that the General Assembly may give local governments an option to grant exemptions to either the BPOL tax or the merchants' capital tax, or to both taxes. The amendment allows total or partial exemptions from either or both taxes.

The General Assembly must pass legislation to implement the proposed amendment. If the proposed amendment is approved by the voters, it will take effect January 1, 1999. The General Assembly will have authority to enact laws on this topic after that date.