

HOUSE JOINT RESOLUTION NO. HJ0007

Taxpayer's bill of rights.

Sponsored by: Representative(s) Gray

A JOINT RESOLUTION

for

1 A JOINT RESOLUTION proposing to amend the constitution by
2 creating a new section establishing the taxpayer's bill of
3 rights; prohibiting any tax increase by the state or any
4 local government or increase of debt unless approved by the
5 voters; specifying ballot requirements; providing for a
6 refund of excess taxes; providing for emergency taxes;
7 prohibiting increasing state expenditures; providing for
8 distribution of surplus funds; providing definitions;
9 authorizing persons to commence a civil action against
10 state governmental entities and officials as specified;
11 allowing the state to intervene in actions; and providing
12 for an award of litigation costs as specified.

13

14 *BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF WYOMING,*
15 *two-thirds of all the members of the two houses, voting*
16 *separately, concurring therein:*

1

2 **Section 1.** The following proposal to amend Wyoming
3 Constitution, Article 1, by creating a new Section 40 is
4 proposed for submission to the electors of the State of
5 Wyoming at the next general election for approval or
6 rejection to become valid as a part of the Constitution if
7 ratified by a majority of the electors at the election:

8

9 **Article 1, Section 40. Taxpayer's bill of rights.**

10

11 (a) Taxpayer's bill of rights. The following shall
12 apply:

13

14 (i) Districts shall have voter approval in
15 advance for:

16

17 (A) Any new tax, tax rate increase, mill
18 levy above the mill levy for the prior year, valuation or
19 assessment ratio increase for any property class, extension
20 of an expiring tax or adoption of any tax policy directly
21 causing a net tax revenue gain to any district; and

22

1 (B) Except for refinancing district bonded
2 debt at a lower interest rate or adding new employees to
3 existing district pension plans, the creation of any
4 multiple fiscal year direct or indirect district debt if
5 the district does not have adequate present cash reserves
6 pledged irrevocably and held for payments on the debt in
7 all future years.

8

9 (ii) The requirements of paragraph (i) of this
10 subsection requiring voter approval shall not apply:

11

12 (A) To an emergency tax or budget increase.
13 An emergency shall be declared only after approval by a
14 two-thirds (2/3) vote of all members of each of the two (2)
15 houses of the Wyoming legislature, voting separately, and
16 signature by the governor for a state tax or budget
17 increase or by two-thirds (2/3) of the members elected to
18 the governing body of any other district imposing or
19 increasing a tax. Any revenue raised under this subsection
20 which is not expended on the emergency for which it was
21 raised shall be refunded in the fiscal year following the
22 expiration of the emergency. An emergency tax imposed under
23 this subsection shall be approved by the voters on the next

1 regular election that is more than sixty (60) days
2 following the declaration of the emergency. If the
3 emergency is not approved under this subsection, the
4 emergency tax shall end on the first day of the month
5 immediately following the month the election results are
6 reported; or

7

8 (B) When annual district revenue is less
9 than annual payments on general obligation bonds, pensions
10 and final court judgments. This paragraph shall only apply
11 for the amount of time necessary to provide for the
12 deficiency.

13

14 (iii) Ballot issues shall be decided in a state
15 general election, biennial local district election or on
16 the first Tuesday in November of odd-numbered years. At
17 least thirty (30) days before a ballot issue election,
18 districts shall mail at the least cost, and as a package
19 where districts with ballot issues overlap, a titled notice
20 or set of notices addressed to "All Registered Voters" at
21 each address with one (1) or more active registered
22 electors. Title notices shall have this order of
23 preference: "NOTICE OF ELECTION TO INCREASE TAXES/TO

1 INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE."

2 Except for district voter approved additions, notices shall
3 include only:

4

5 (A) The election date, hours, ballot title,
6 text of the ballot and local election office address and
7 telephone number;

8

9 (B) For proposed district tax or bonded
10 debt increases, the estimated or actual total of district
11 fiscal year spending for the current year and each of the
12 past four (4) years, and the overall percentage and dollar
13 change;

14

15 (C) For the first full fiscal year of each
16 proposed district tax increase, a district estimate of the
17 maximum dollar amount of each increase and of district
18 fiscal year spending without the increase;

19

20 (D) For proposed district bonded debt, the
21 principal amount of proposed debt and the maximum annual
22 and total district repayment cost, the principal balance of

1 total current district bonded debt and the maximum annual
2 and remaining total district repayment cost;

3

4 (E) Two (2) summaries, of not more than
5 five hundred (500) words each, one (1) for and one (1)
6 against the proposal, of written comments filed with the
7 election officer not more than forty-five (45) days before
8 the election. No summary shall include the name of any
9 person or private group or any endorsement of or resolution
10 against the proposal. Petition representatives following
11 these rules shall write the summary for the petition. The
12 election officer shall maintain and accurately summarize
13 all other relevant written comments.

14

15 (iv) Unless authorized by later voter approval,
16 if a tax increase or fiscal year spending exceeds the
17 estimate provided in paragraph (iii)(c) of this subsection
18 for the same fiscal year, the tax increase shall thereafter
19 be reduced up to one hundred percent (100%) in proportion
20 to the combined excess revenue, and the combined excess
21 revenue shall be refunded in the next fiscal year;

22

1 (v) District bonded debt shall not be issued on
2 terms that could exceed its share of its maximum repayment
3 costs as provided in paragraph (iii)(D) of this subsection;

4

5 (vi) Ballot titles for tax or bonded debt
6 increases under this section shall begin, "SHALL (DISTRICT)
7 TAXES BE INCREASED (amount of first year dollar amount, or
8 if phased in, the final full fiscal year dollar amount)
9 ANNUALLY?" or "SHALL (DISTRICT) DEBT BE INCREASED
10 (principal amount), WITH A REPAYMENT COST OF (maximum total
11 district cost)?";

12

13 (vii) In addition to the limits on increasing
14 taxes under paragraph (i) of this subsection, the maximum
15 annual percentage change in state fiscal year spending
16 shall not exceed inflation in the prior calendar year plus
17 the positive percentage change in state population in the
18 prior calendar year, adjusted for revenue changes approved
19 by voters after the effective date of this section.
20 Expenditures shall be made using a zero-based budgeting
21 process as determined by the legislature. Any negative
22 population change shall not be deducted in the calculation
23 of the maximum spending limit under this subsection.

1 Population shall be determined by annual federal census
2 estimates and the population shall be adjusted every decade
3 to match the federal census;

4

5 (viii) Any surplus annual funds after the
6 spending limits under paragraph (vii) of this subsection
7 are met shall be distributed as determined by the
8 legislature in the following ranges:

9

10 (A) Seventy percent (70%) to eighty percent
11 (80%) of the surplus shall be deposited into reserve
12 accounts, provided that not more than fifteen percent (15%)
13 of this amount shall be placed in the permanent Wyoming
14 mineral trust fund or other inviolate account;

15

16 (B) Ten percent (10%) to twenty percent
17 (20%) of the surplus shall be deposited into capital
18 accounts for future construction projects or other future
19 improvements;

20

21 (C) Ten percent (10%) to twenty percent
22 (20%) of the surplus shall be returned to the voters of
23 Wyoming via a rebate check.

1

2 (ix) The intent of this section is to reasonably
3 restrain most the growth of government. All provisions of
4 this section are self-executing and severable and shall
5 supersede conflicting state constitutional, state
6 statutory, charter or other state or local provisions. Any
7 other limits on district revenue, spending and debt shall
8 be removed or limited only through voter approval under
9 paragraph (iii) of this subsection;

10

11 (x) Individual or class action enforcement suits
12 may be filed for any violation of this section and shall
13 have the highest civil priority of resolution. Successful
14 plaintiffs under this paragraph shall be awarded allowed
15 costs and reasonable attorney fees. A district shall not be
16 entitled to costs or fees for a suit under this paragraph
17 unless it is ruled frivolous. Revenue collected, kept or
18 spent illegally before a suit is filed under this paragraph
19 shall be refunded with ten percent (10%) annual simple
20 interest from the initial conduct. Subject to judicial
21 review, districts may use any reasonable method for refunds
22 under this paragraph, including temporary tax credits or
23 rate reductions;

1

2 (xi) Nothing in this section shall be
3 interpreted to increase the taxing authority of any
4 district prior to the effective date of this section;

5

6 (xii) Taxpayer standing. The following shall
7 apply:

8

9 (A) Any citizen of the state of Wyoming may
10 commence a civil action on his own behalf against the state
11 of Wyoming, any state governmental entity or official for
12 alleged violations or to compel compliance with the
13 constitution and laws of the state of Wyoming;

14

15 (B) Any action filed pursuant to this
16 paragraph shall be filed in the district court for Laramie
17 county;

18

19 (C) The state of Wyoming may intervene as a
20 matter of right in any action filed pursuant to this
21 paragraph;

22

1 (D) The court, in issuing any final order
2 in any action brought pursuant to this paragraph, may award
3 costs of litigation including attorney and expert witness
4 fees to any party whenever the court determines an award is
5 appropriate;

6

7 (E) The availability of judicial review
8 shall not be construed to limit the operation of rights
9 established in this paragraph;

10

11 (F) Nothing in this paragraph shall limit
12 any existing civil or criminal penalty or right arising out
13 of a violation of any provision of the constitution or laws
14 of the state of Wyoming pertaining to separation of powers,
15 procurement and state contracts.

16

17 (xiii) As used in this section:

18

19 (A) "District" means the state, any local
20 government or political subdivision with taxing authority;

21

1 (B) "Emergency" shall not include ordinary
2 economic conditions including a structural budget deficit
3 or salary or fringe benefit increases;

4
5 (C) "Fiscal year spending" means all state
6 expenditures including expenditures from reserves. "Fiscal
7 year spending" shall not include expenditures for schools
8 from the school foundation program account, expenditures
9 for school capital construction, refunds made in the
10 current or next fiscal year or expenditures made from
11 gifts, federal funds, collections for another government,
12 pension contributions by employees, pension fund earnings,
13 damage awards or property sales;

14
15 (D) "Inflation" means the percentage change
16 in the annualized Wyoming cost of living index produced for
17 the second quarter by the state of Wyoming economic
18 analysis division;

19
20 (E) "Tax" means any financial charge,
21 however denominated, imposed by a district and from which
22 revenue accrues to government, other than:

23

1 (I) The price paid in a voluntary
2 transaction in a competitive market where the item for
3 which the price is being imposed is not monopolized by
4 government, including but not limited to educational
5 tuition; or

6

7 (II) Civil and criminal fines and
8 other charges collected in cases of restitution or
9 violation of law or contract.

10

11 **Section 2.** That the Secretary of State shall endorse
12 the following statement on the proposed amendment:

13

1 The adoption of this amendment would establish the
2 taxpayer's bill of rights. The taxpayer's bill of rights
3 would prohibit state and local governments from imposing
4 new taxes, increasing existing taxes or increasing debt
5 without voter approval. The taxpayer's bill of rights
6 establishes requirements for ballots and provides for a
7 refund of taxes collected in excess of the maximum amount
8 specified on the ballot and would also limit state spending
9 and specifies how surplus funds shall be distributed. The
10 taxpayer's bill of rights authorizes emergency taxes in
11 specified circumstances and provides that emergency taxes
12 shall expire if not approved by voters at the next
13 election. Taxpayer standing would authorize citizens to
14 commence a civil action against state governmental entities
15 and officials and allow the state to intervene in those
16 actions.

17

18

(END)