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Proposed Constitutional Amendment
To Be Voted on at the November 7, 2006, Election

PROPOSED CONSTITUTIONAL AMENDMENT

Article I. Bill of Rights.
Section 15-A. Marriage.

BALLOT QUESTION NUMBER 1

Shall Article I (the Bill of Rights) of the Constitution of Virginia be amended to state:

“That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions.

This Commonwealth and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage. Nor shall this Commonwealth or its political subdivisions create or recognize another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage.”?

EXPLANATION

Present Law

The Constitution does not define marriage. Under current statutory law in Virginia, persons who marry must have a license and be married by a licensed minister, judge, or other person authorized by law to perform marriages. Present law prohibits marriages between certain individuals. For example, the law prohibits a marriage between a brother and sister, between a couple where one of the parties is married to someone else, and between couples of the same sex.

In 1975, the General Assembly enacted a statute (present Code of Virginia § 20-45.2) that states "A marriage between persons of the same sex is prohibited." In 1997, the General Assembly added a sentence to § 20-45.2 that states that:

Any marriage entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created by such marriage shall be void and unenforceable.

In 2004, the General Assembly passed a law to prohibit certain civil unions or other arrangements between persons of the same sex. That law (Code of Virginia § 20-45.3) states that:

A civil union, partnership contract or other arrangement between persons of the same sex purporting to bestow the privileges or obligations of marriage is prohibited. Any such civil union, partnership contract or other arrangement entered into by persons of the same sex in another state or jurisdiction shall be void in all respects in Virginia and any contractual rights created thereby shall be void and unenforceable.

Thus, civil unions or other arrangements which purport “to bestow the privileges or obligations of marriage” are prohibited by statute.

Proposed Amendment

If approved by the voters, this proposed amendment will become part of the Constitution of Virginia. The proposed amendment adds a definition of marriage as the “union between one man and one woman” to the Constitution's Bill of Rights and prohibits Virginia and its counties, cities, and towns from creating or recognizing any legal status by any name which is comparable to marriage.

Marriage in the Commonwealth creates specific legal rights, benefits, and obligations for a man and a woman. There are other legal rights, benefits, and obligations which will continue to be available to unmarried persons, including the naming of an agent to make end-of-life decisions by an Advance Medical Directive (Code of Virginia § 54.1-2981), protections afforded under Domestic Violence laws (Code of Virginia § 18.2-57.2), ownership of real property as joint tenants with or without a right of survivorship (Code of Virginia § 55-20.1), or disposition of property by will (Code of Virginia § 64.1-46).

A "yes" vote on the proposed amendment will result in the addition of the proposed Section 15-A to Article I, the Bill of Rights. A "no" vote will mean that there will be no change made in Article I, the Bill of Rights.

FULL TEXT OF AMENDMENT

[Proposed new language is underlined. Existing language that is deleted is shown as stricken (~~stricken~~).]

Amend Article I of the Constitution of Virginia by adding a section numbered 15-A as follows:

ARTICLE I
BILL OF RIGHTS

Section 15-A. Marriage.

That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions.

This Commonwealth and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage. Nor shall this Commonwealth or its political subdivisions create or recognize another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage.

Attorney General's Office
5/9/06
Explanation -- 473 words

Approved by House Committee on Privileges and Elections 5/10/06
Approved by Senate Committee on Privileges and Elections 5/12/06

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Proposed Constitutional Amendment
To Be Voted on at the November 7, 2006, Election

PROPOSED CONSTITUTIONAL AMENDMENT

Article IV. Legislature.
Section 14. Powers of the General Assembly; limitations.

BALLOT QUESTION NUMBER 2

Shall Section 14 of Article IV of the Constitution of Virginia be amended by deleting the provision that prohibits the incorporation of churches, a provision that was ruled to be unconstitutional and therefore now is obsolete?

EXPLANATION

Present Law

Section 14 of Article IV of the Constitution of Virginia now states in part:

The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.

The federal district court for the Western District of Virginia ruled in April 2002 that this provision of the Virginia Constitution is unconstitutional because it violates the federal constitutional right to the free exercise of religion. Falwell v. Miller, 203 F. Supp.2d 624 (W.D.Va. 2002). The court found that it is unconstitutional to deny a church the option to incorporate under state law when any other group can incorporate. It noted that the Virginia Commission on Constitutional Revision in its 1969 report had recognized that the prohibition was probably invalid.

Following the court's decision in 2002, the State Corporation Commission, which is charged with the duty of administering the corporate statutes of the Commonwealth, began routinely to grant certificates of incorporation to churches and religious denominations that filed for incorporation under Virginia law.

The 2004 General Assembly established a joint subcommittee to study issues related to the incorporation of churches and other appropriate matters. Senate Joint Resolution 89 (2004). In the executive summary for its report, the joint subcommittee recommended the repeal of the provision quoted above. Senate Document No. 9 (2005).

Proposed Amendment

The proposed amendment would delete the provision found to be unconstitutional. It would not change the current law on other powers of the General Assembly.

A "yes" vote on the proposed amendment will result in the deletion of the current paragraph in Section 14 of Article IV that prohibits the General Assembly from granting charters of incorporation to churches and religious denominations. A "no" vote will leave that paragraph in Section 14 of Article IV.

FULL TEXT OF AMENDMENT [Proposed new language is underlined. Existing language that is deleted is shown as stricken (~~stricken~~).]

Amend Section 14 of Article IV of the Constitution of Virginia as follows:

ARTICLE IV LEGISLATURE

Section 14. Powers of General Assembly; limitations.

The authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted; and a specific grant of authority in this Constitution upon a subject shall not work a restriction of its authority upon the same or any other subject. The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear.

The General Assembly shall confer on the courts power to grant divorces, change the names of persons, and direct the sales of estates belonging to infants and other persons under legal disabilities, and shall not, by special legislation, grant relief in these or other cases of which the courts or other tribunals may have jurisdiction.

The General Assembly may regulate the exercise by courts of the right to punish for contempt.

The General Assembly's power to define the accrual date for a civil action based on an intentional tort committed by a natural person against a person who, at the time of the intentional tort, was a minor shall include the power to provide for the retroactive application of a change in the accrual date. No natural person shall have a constitutionally protected property right to bar a cause of action based on intentional torts as described herein on the ground that a change in the accrual date for the action has been applied retroactively or that a statute of limitations or statute of repose has expired.

The General Assembly shall not enact any local, special, or private law in the following cases:

- (1) For the punishment of crime.
- (2) Providing a change of venue in civil or criminal cases.
- (3) Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before the courts or other tribunals, or providing or changing the methods of collecting debts or enforcing judgments or prescribing the effect of judicial sales of real estate.
- (4) Changing or locating county seats.
- (5) For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests.
- (6) Extending the time for the assessment or collection of taxes.
- (7) Exempting property from taxation.
- (8) Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association to the Commonwealth or to any political subdivision thereof.
- (9) Refunding money lawfully paid into the treasury of the Commonwealth or the treasury of any political subdivision thereof.
- (10) Granting from the treasury of the Commonwealth, or granting or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent, or contractor.
- (11) For registering voters, conducting elections, or designating the places of voting.
- (12) Regulating labor, trade, mining, or manufacturing, or the rate of interest on money.
- (13) Granting any pension.
- (14) Creating, increasing, or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.
- (15) Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.

(16) Affecting or regulating fencing or the boundaries of land, or the running at large of stock.

(17) Creating private corporations, or amending, renewing, or extending the charters thereof.

(18) Granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.

(19) Naming or changing the name of any private corporation or association.

(20) Remitting the forfeiture of the charter of any private corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution and the laws passed in pursuance thereof.

~~The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.~~

DLS

4/5/06

Explanation -- 307 words

Approved by House Committee on Privileges and Elections 5/10/06

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PROPOSED CONSTITUTIONAL AMENDMENT

Article X. Taxation and Finance.
Section 6. Exempt property.

BALLOT QUESTION NUMBER 3

Shall Section 6 of Article X of the Constitution of Virginia be amended to authorize legislation to permit localities to provide a partial exemption from real property taxes for real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas?

EXPLANATION

Present Law

The Constitution now allows the General Assembly to give local governments the power to provide a partial exemption from real estate taxes as an incentive for property owners to make substantial improvements to existing structures by renovating, rehabilitating, or replacing those structures.

The General Assembly has passed laws that give the governing bodies of counties, cities, and towns the authority to provide for partial exemptions from real estate taxes for rehabilitated, renovated, or replacement residential, hotel, motel, commercial, or industrial structures. See, for example, § 58.1-3220 of the Code of Virginia.

Proposed Amendment

The proposed amendment would expand the possibilities for this type of tax relief or incentive. It authorizes the General Assembly to pass laws that will allow counties, cities, and towns to provide a partial exemption from real estate taxes for new structures and improvements located in a conservation, redevelopment or rehabilitation area.

The 2006 General Assembly passed Senate Bill 358 to implement this constitutional amendment if it is approved by the voters. Senate Bill 358 would authorize local governing bodies to provide for the partial exemption from taxation of (i) new structures located in redevelopment or conservation areas or rehabilitation districts and (ii) other improvements to real estate located in redevelopment or conservation areas or

rehabilitation districts. The partial exemption would be a percentage of the increase in assessed value as a result of the new structure or improvement or an amount not to exceed 50 percent of the construction cost of such structure or improvement. The local governing body would be allowed to establish criteria for qualifying real estate including, but not limited to, the square footage for new structures. Senate Bill 358 will become effective if the proposed constitutional amendment is approved.

A "yes" vote on the proposed amendment will give the General Assembly authority to permit localities to provide a partial exemption from real property taxes for real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas and will give effect to Senate Bill 358. A "no" vote will leave the present Constitution and statutory law unchanged.

FULL TEXT OF AMENDMENT [Proposed new language is underlined. Existing language that is deleted is shown as stricken (~~stricken~~).]

Amend Section 6 of Article X of the Constitution of Virginia as follows:

ARTICLE X
TAXATION AND FINANCE

Section 6. Exempt property.

(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes:

(1) Property owned directly or indirectly by the Commonwealth or any political subdivision thereof, and obligations of the Commonwealth or any political subdivision thereof exempt by law.

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.

(3) Private or public burying grounds or cemeteries, provided the same are not operated for profit.

(4) Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

(5) Intangible personal property, or any class or classes thereof, as may be exempted in whole or in part by general law.

(6) Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by an ordinance adopted by the local governing body and subject to such restrictions and conditions as provided by general law.

(7) Land subject to a perpetual easement permitting inundation by water as may be exempted in whole or in part by general law.

(b) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for the exemption from local property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate and personal property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law who are deemed by the General Assembly to be bearing an extraordinary tax burden on said property in relation to their income and financial worth.

(c) Except as to property of the Commonwealth, the General Assembly by general law may restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.

(d) The General Assembly may define as a separate subject of taxation any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth or for the purpose of transferring or storing solar energy, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(e) The General Assembly may define as a separate subject of taxation household goods, personal effects and tangible farm property and products, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(g) The General Assembly may by general law authorize any county, city, town, or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

(h) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for a partial exemption from

local real property taxation, within such restrictions and upon such conditions as may be prescribed, (i) of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement or (ii) of real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas.

(i) The General Assembly may by general law allow the governing body of any county, city, or town to exempt or partially exempt from taxation any generating equipment installed after December thirty-one, nineteen hundred seventy-four, for the purpose of converting from oil or natural gas to coal or to wood, wood bark, wood residue, or to any other alternate energy source for manufacturing, and any co-generation equipment installed since such date for use in manufacturing.

(j) 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.

DLS
3/23/06
Explanation -- 348 words

Approved by Senate Committee on Privileges and Elections April 19, 2006