# **PROPOSED**

# CONSTITUTIONAL AMENDMENTS

# AND

# STATE-WIDE REFERENDUM QUESTION

**GENERAL ELECTION** 

NOVEMBER 2, 2010

Constitutional Amendments 1-5 Summary of Amendments and State-wide Referendum Question This booklet contains copies of the five proposed amendments to the Constitution in their entirety. These amendments will be submitted at the general election on November 2, 2010. As required by the Constitution, these proposed amendments in their entirety are on file in the office of the judge of the probate court in each county and are available for public inspection. This booklet also includes summaries of the five proposals as prepared by Attorney General Thurbert E. Baker, Secretary of State Brian P. Kemp, and Legislative Counsel Sewell R. Brumby and published in the newspaper which is each county's official legal organ. In addition, a summary of the state-wide referendum question prepared by Secretary of State Brian P. Kemp is included.

CONSTITUTIONAL AMENDMENTS 1-5 House Resolution No. 178 Ga. L. 2010, p. 1260

### A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the General Assembly to provide for contracts that limit competitive activities between or among employers employees, distributors and manufacturers, lessors and lessees, partnerships and partners, franchisors franchisees, sellers and purchasers of a business or commercial enterprise, or two or more employers; to provide for the submission of this amendment for ratification or rejection; and for other purposes. BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Article III, Section VI, Paragraph V of the Constitution is amended by revising subparagraph (c) as follows:

- The General ''(c)(1)Assembly shall not have the power to authorize any contract or agreement which may have the effect of or which is intended to have the effect of encouraging a provided contract or agreement which following: may have the effect of or "() YES Shall the Constitution which is intended to have the ( ) NO effect of defeating or lessening competition, which is hereby declared to be unlawful and void.
- The General (2) Assembly shall have the power to authorize and provide by general law for

judicial enforcement of contracts or agreements between or among:

- (A) employees;
- (B) manufacturers:
- (C) Lessors lessees:
- partners;
- (E) Franchisors and franchisees;
- (F) Sellers and purchasers of a business Senate Resolution No. 277 or commercial enterprise; Ga. L. 2010, p. 1260
- (G) Two or more employers.
- was made."

### SECTION 2.

declared to be unlawful and to the Constitution shall be GEORGIA: void. Except as otherwise published and submitted as in provided in Article X, Section I, Article III, Section IX, Paragraph power to authorize any written or printed thereon the

> of Georgia be amended so as to make Georgia more e c o n o m i c a l l y competitive by authorizing legislation to

> > uphold reasonable

competitive agreements?"

restricting or regulating All persons desiring to vote in competitive activities favor of ratifying the proposed amendment shall vote "Yes." All Employers and persons desiring to vote against ratifying the proposed Distributors and amendment shall vote "No." If such amendment shall be ratified and as provided in said Paragraph of the Constitution, it shall become (D) Partnerships and a part of the Constitution of this state.

- 2 -

## A RESOLUTION

(3) The authority granted Proposing an amendment to the to the General Assembly in Constitution so as to impose an subparagraph (c)(2) of this annual \$10.00 trauma charge on paragraph shall include the certain passenger motor vehicle authority to grant to courts registrations in this state for the by general law the power to purpose of funding trauma care; limit the duration, to provide for a trauma trust geographic area, and scope fund; to provide for a definition; of prohibited activities to provide for procedures; to provided in a contract or provide for exceptions; to agreement restricting or provide that such funds shall not regulating competitive be subject to lapse and certain activities to render such other restrictions; to provide for contract or agreement related matters; to provide for the reasonable under the submission of this amendment circumstances for which it for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE monopoly, which is hereby The above proposed amendment GENERAL ASSEMBLY OF

### **SECTION 1.**

subparagraph (c)(2) of this Paragraph II of the Constitution. VI of the Constitution is paragraph, the General The ballot submitting the above amended by adding a new Assembly shall not have the proposed amendment shall have subparagraph to read as follows:

> ''(0)(1)pickup trucks, motorcycles, following: passenger vans.

- There shall be (2) imposed an annual \$10.00 trauma charge on each passenger vehicle, as defined in this subparagraph, registered in this state. Such trauma charge shall be collected at the same time as other license tag and registration fees required by law are collected and prior to the issuance of a license plate or revalidation decal for such passenger vehicle in such manner as may be provided for by general law.
- (3) The trauma charge under this subparagraph shall not apply to vehicles owned by the state or its departments, agencies, or authorities or by any political subdivision of the state.
- (4) Proceeds of the trauma charge under this subparagraph shall be deposited on a monthly basis in a trauma trust fund. The General Assembly shall provide for the operation of such trust fund and shall specify the trauma care purposes for which such funds are to be expended.
- (5) Revenues deposited into the trauma trust fund shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) and shall not be subject to the limitations of subparagraph (a) of this Paragraph or of Article VII, Section III, Paragraph II."

### SECTION 2.

As used in this The above proposed amendment subparagraph, the term to the Constitution shall be 'passenger vehicle' means published and submitted as every motor vehicle provided in Article X, Section I, designed to carry ten or Paragraph II of the Constitution. fewer passengers and that is The ballot submitting the above used for the transportation of proposed amendment shall have persons and shall include written or printed thereon the

sport utility vehicles, and "( ) YES Shall the Constitution ( ) NO of Georgia be amended so as to

impose an annual \$10.00 trauma charge on certain passenger motor vehicles in this state for the purpose of funding trauma care?

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes." All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of state.

- 3 -

Senate Resolution No. 821 Ga. L. 2010, p. 1263

### A RESOLUTION

Proposing an amendment to the Constitution so as to authorize the General Assembly to allow the Georgia Department of Transportation to enter into multiyear construction agreements without obligating present funds for the full obligation to the state under the full term of such agreements; to provide for procedures, conditions, and limitations; to provide for the submission of this amendment for ratification or rejection; and for other purposes. BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

as follows:

Transportation to enter into state. construction agreements without obligating present funds for the full amount of

obligation the state may bear under the full term of any such construction agreement. Any Senate Resolution No. 1231 such agreement shall provide Ga. L. 2010, p. 1264 for the termination of the agreement in the event of insufficiency of funds and complete fiscal year."

### SECTION 2.

the Constitution, it shall become The above proposed amendment attributable solely to the a part of the Constitution of this to the Constitution shall be improvements; to provide for published and submitted as related matters; to provide for All persons desiring to vote in The ballot submitting the above for other purposes. following:

> "( ) YES Shall the Constitution ( ) NO Department Transportation to enter into multiyear construction agreements without requiring appropriations in the current fiscal year for the total amount of payments that would be due under the entire agreement so as to reduce long-term construction costs

All persons desiring to vote in Article VII, Section IV of the favor of ratifying the proposed Constitution is amended by amendment shall vote "Yes." All adding a new Paragraph to read persons desiring to vote against ratifying the proposed "Paragraph XII. Multiyear amendment shall vote "No." If construction agreements. The such amendment shall be ratified General Assembly may by as provided in said Paragraph of general law authorize the the Constitution, it shall become The above proposed amendment Georgia Department of a part of the Constitution of this to the Constitution shall be

paid by the state?"

### A RESOLUTION

shall limit the payments or Proposing an amendment to the other obligations of the state to Constitution so as to authorize not more than ten fiscal years. state multiyear contracts for For the purposes of calculating governmental energy efficiency fiscal years, any portion of a or conservation improvement fiscal year shall count as a projects in which vendors guarantee realization of specified savings or revenue gains

written or printed thereon the GENERAL ASSEMBLY OF vote "No." If such amendment GEORGIA:

### SECTION 1.

of Georgia be Article VII, Section IV of the Constitution, it shall become a amended so as to Constitution is amended by part of the Constitution of this allow the Georgia adding a new Paragraph to read state. of as follows:

> "Paragraph XII. Multiyear contracts for energy efficiency or conservation House Resolution No. 136 improvement. The General Ga. L. 2010, p. 1259 Assembly may by general law authorize state governmental entities to incur debt for the solely to the improvements; GEORGIA: provided, however, that any provided by general law."

### SECTION 2.

published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above

proposed amendment shall have written or printed thereon the following:

"( ) YES ( ) NO

Shall the Constitution be amended so as to provide f o r guaranteed cost savings for the state by authorizing a state entity to enter into multiyear contracts which obligate state funds for energy efficiency or conservation improvement projects?"

provided in Article X, Section I, submission of this amendment favor of ratifying the proposed Paragraph II of the Constitution. for ratification or rejection; and amendment shall vote "Yes." All persons desiring to vote against proposed amendment shall have BE IT RESOLVED BY THE the proposed amendment shall shall be ratified as provided in said Paragraph of the

- 5 -

### A RESOLUTION

purpose of entering into Proposing an amendment to the multiyear contracts for Constitution so as to allow the governmental energy owners of real property located in efficiency or conservation industrial areas to remove the improvement projects in which property from the industrial area; payments are guaranteed over to provide for the submission of the term of the contract by this amendment for ratification or vendors based on the rejection; and for other purposes. realization of specified savings BE IT RESOLVED BY THE or revenue gains attributable GENERAL ASSEMBLY OF

### **SECTION 1.**

such contract shall not exceed Article XI, Section I, Paragraph ten years unless otherwise IV of the Constitution is amended by revising subparagraph (e) as follows:

> Any person owning "(e) property in an industrial area described subparagraph (d) of this Paragraph may voluntarily remove the property from

the industrial area by filing a certificate to that effect with the clerk of the superior court for the county in which the property is located. All persons desiring to vote in longer be in the industrial state. area and shall upon the filing of the certificate be annexed to the city which provides water service to the property, or if no city provides water service shall be annexed to the city providing fire service as provided under t h e constitutional amendments that created such industrial areas described subparagraph (d) of this Paragraph. The filing of a certificate shall be irrevocable and shall bind the owners, their heirs, and their assigns. The term 'owner' includes anyone with a legal or equitable ownership in property but does not include a beneficiary of any trust or a partner in any partnership owning an interest in the property or anyone owning an easement right in the property."

### **SECTION 2.**

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"( ) YES Shall the Constitution ( ) NO of Georgia be amended so as to allow the owners of real property located

in industrial areas to remove the property from the industrial area?"

Once the certificate is filed, favor of ratifying the proposed the property described in the amendment shall vote "Yes." All certificate, together with all persons desiring to vote against public streets and public ratifying the proposed rights of way within the amendment shall vote "No." If property, abutting the such amendment shall be ratified property, or connecting the as provided in said Paragraph of property to property outside the Constitution, it shall become the industrial area, shall no a part of the Constitution of this

# SUMMARY OF PROPOSED CONSTITUTIONAL AMENDMENTS AND STATE-WIDE REFERENDUM QUESTION ON THE GENERAL ELECTION BALLOT NOVEMBER 2, 2010

Constitutional Amendments 1-5 and State-wide Referendum Question A

# CONSTITUTIONAL **AMENDMENTS**

Georgia Constitution, Attorney among: (a) provide the summaries of the franchisees; (f) by the people of Georgia:

- 1 -

House Resolution No. 178 Ga. L. 2010, p. 1260

"( ) YES ( ) NO of Georgia be was made. amended so as to legislation agreements?"

authorize and provide by general customer. law for judicial enforcement of contracts or agreements constitutional amendment is on year would not lapse to the restricting or regulating file in the office of the judge of general fund but would rather Pursuant to requirements of the competitive activities between or the probate court and is available remain in the trust fund. General Thurbert E. Baker, employees; (b) distributors and Secretary of State Brian P. manufacturers; (c) lessors and Kemp, and Legislative Counsel lessees; (d) partnerships and Sewell R. Brumby hereby partners; (e) franchisors and Adds \$10 tag fee on private for public inspection. proposed constitutional purchasers of a business or statewide amendments that will appear on commercial enterprise; or (g) expansion. the November 2, 2010, general two or more employers. This election ballot for consideration would include legislative Senate Resolution No. 277 authority to grant to courts by Ga. L. 2010, p. 1260 general law the power to "blue-pencil" or limit the duration, geographic area, and Allows competitive contracts to scope of prohibited activities be enforced in Georgia courts. provided in a contract or agreement restricting or regulating competitive activities in order to render such contract or agreement reasonable under Shall the Constitution the circumstances for which it

The General Assembly has make Georgia more enacted a law to exercise the e c o n o m i c a l l y authority granted by the proposed \$10.00 trauma charge to be competitive by constitutional amendment. This imposed annually on each motor a u t h o r i z i n g law will become effective only if vehicle designed to carry ten or to the constitutional amendment is fewer persons that is used for the uphold reasonable ratified by the voters. This law is transportation of persons, c o m p e t i t i v e published at Georgia Laws 2009, including pickup trucks, p. 231, and was enacted by 2009 motorcycles, sport utility House Bill 173, Act No. 64. vehicles, and passenger vans. This proposal provides an Examples of contracts which The trauma charge would be exception to the current would be authorized by the law collected together with license constitutional provision which include, but are not limited to: tag and registration fees. The prohibits the General Assembly (1) an agreement by an employee proceeds of the trauma charge from authorizing any contract or to refrain from competing with would be placed in a trauma trust agreement which may have the the employer after termination of fund and used for trauma care effect of or which is intended to employment; and (2) an purposes specified by law. exception to the general rule that have the effect of defeating or agreement by a seller not to Proceeds would not have to be lessening competition. Under the compete with the seller's placed in the general fund of the entering into contracts with proposal, the General Assembly customer or solicit business from state treasury but would instead private vendors that obligate

employers and for public inspection.

- 2 -

sellers and passenger vehicles to fund

"() YES Shall the Constitution ( ) NO amended so as to Ga. L. 2010, p. 1263 impose an annual \$10.00 trauma charge "() YES on certain passenger motor vehicles in this state for the purpose of funding trauma

care?

This proposal provides for a

SUMMARY OF PROPOSED would be empowered to customers of the seller's be placed in the trust fund; and any amounts in the trust fund not A copy of this entire proposed expended at the end of a fiscal

> A copy of this entire proposed constitutional amendment is on file in the office of the judge of the probate court and is available

> > - 3 -

Allows the State to execute multiyear contracts for long-term transportation projects.

of Georgia be Senate Resolution No. 821

Shall the Constitution ( ) NO of Georgia be amended so as to allow the Georgia Department Transportation to enter into multiyear construction agreements without requiring appropriations in the current fiscal year for the total amount of payments that would be due under the entire agreement so to reduce long-term construction costs paid by the state?"

This proposal provides an prohibits a state agency from

payments beyond the funds prohibits a state agency from available to the agency within its entering into contracts with fiscal year. It would allow the private vendors that obligate General Assembly by statute to payments beyond the funds let the Department of available to the agency within the Transportation enter into fiscal year. It would permit the construction agreements without General Assembly to authorize obligating present funds for the by general law state full amount of the obligation. governmental entities to incur Any such agreement would debt for the purpose of entering provide for the termination of the into contracts extending for not agreement in the event of more than ten years for provisions of the Constitution remove the property from the insufficiency of funds and would governmental energy efficiency relating to industrial areas which industrial area. By a general limit the payments to not more or conservation improvement exist in only two counties in the constitutional amendment ratified than ten fiscal years.

constitutional amendment is on file in the office of the judge of realization of specified savings or "local for public inspection.

- 4 -

projects to improve energy efficiency and conservation.

Senate Resolution No. 1231 Ga. L. 2010, p. 1264

"() YES Shall the Constitution ( ) NO be amended so as to provide guaranteed savings for the state for public inspection. by authorizing a state entity to enter into multiyear contracts which obligate state Allows improvement property.

This proposal provides an Ga. L. 2010, p. 1259 exception to the general rule that

projects?"

projects in which payments are state. to the improvements.

Allows the State to execute constitutional amendment. This creating industrial areas in multiyear contracts for law will become effective only if Chatham County. the constitutional amendment is 1950, p. 444, and Ga. Laws filing of a removal certificate, the ratified by the voters. This law is 1956, p. 352.

> constitutional amendment is on taxes in such areas. Under the constitutional amendment is on f o r file in the office of the judge of local constitutional amendment file in the office of the judge of cost the probate court and is available procedure, the governing the probate court and is available

> > - 5 -

owners conservation designation from their Laws 1963, p. 674.

House Resolution No. 136

in industrial areas to through from the industrial area?"

"( ) YES

( ) NO

A copy of this entire proposed guaranteed over the term of the Constitution in effect prior to authorized to remove the contract by vendors based on the 1983 it was possible to have property, but only if the property the probate court and is available revenue gains attributable solely amendments" which affected Laws 1996, p. 1667. The current only certain areas in the state. proposed amendment would The General Assembly has Under this procedure local remove the island limitation, so enacted a law to exercise the constitutional amendments were that any owner of property in an authority granted by the proposed ratified in 1950 and 1956 industrial area could choose to Ga. Laws Under these published at Georgia Laws 2010, constitutional amendments annexed into the city which p. 1091, and was enacted by property in the industrial areas provides water services, or if 2010 Senate Bill 194, Act No. could never be annexed to any none, then into the city that city, but any city could provide provides fire services. A copy of this entire proposed certain services and levy certain authorities of Jeff Davis County for public inspection. and its political subdivisions were also authorized to have a different type of industrial area in of which they could exempt new funds for energy industrial-zoned property to industries from property taxes for or choose to remove the industrial a certain period of time. Ga.

> Under the current Georgia Constitution which took effect in 1983, new local constitutional amendments were prohibited, but certain prior local constitutional

Shall the Constitution amendments, including those of Georgia be creating industrial areas, were amended so as to continued in effect. Any allow the owners of modification in such industrial real property located areas must now be carried out a state-wide remove the property constitutional amendment.

The current proposal would modify the conditions under which an owner of property in an The proposal amends the industrial area may choose to Under the Georgia in 1996 a property owner was constitutional was located on an island. Ga. remove the property from the industrial area. Further, upon the property shall be irrevocably

A copy of this entire proposed

### SUMMARY OF PROPOSED STATE-WIDE REFERENDUM QUESTION

Pursuant to Code Section 21-2-4 of the O.C.G.A., the Secretary of State is authorized to include with the summary of proposed constitutional amendments a summary of any state-wide referendum questions to be voted on at the same general election:

- A -

Provides for inventory of businesses to be exempt from state property tax.

House Bill No. 482 Ga. L. 2010, p.

"( ) YES Shall the Act be
( ) NO approved which
grants an exemption
from state ad valorem
taxation for inventory
of a business?"

This Act provides that all tangible personal property constituting the inventory of a business shall be exempt from state ad valorem taxation.

If approved by a majority of the voters, the Act becomes effective on January 1, 2011, and applies to all tax years beginning on or after that date.