

AMENDMENT NO. 10

AMENDMENT OF ARTICLE 10: TAXATION AND PUBLIC FINANCE

DESCRIPTION OF CHANGES
PROPOSED BY THE
CONSTITUTIONAL CONVENTION

AMENDED CONSTITUTION AS PROPOSED
BY THE CONSTITUTIONAL CONVENTION

ARTICLE X: TAXATION AND PUBLIC FINANCE

Section 1: Add a definition of “public purpose”.

Former Section 2 is deleted entirely. It provided:

Section 2: Report on Tax Exemptions.

Every five years the governor shall report to the legislature on the social, fiscal and economic impact of tax exemptions provided by law. The report may included recommendations by the governor on tax exemption policy or laws.

Section 2: No change. (This is former Section 3.)

Section 3: Add limitation that public debt may not be authorized for purposes of retiring a deficit. (This is former Section 4.)

Section 4: Decrease the number of votes required to approve real property taxes from 3/4 to a majority of the votes cast. (This is former Section 5.)

Section 1: Public Purpose.

A tax may not be levied and an appropriation of public money may not be made, directly or indirectly, except for a public purpose. A public purpose is one that is directly related to the functions of government and benefits the people as a whole.

Section 2: Public Debt Authorization.

Public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature.

Section 3: Public Debt Limitation.

Public indebtedness other than bonds or other obligations of the government payable solely from the revenues derived from a public improvement or undertaking may not be authorized in excess of ten percent of the aggregate assessed valuation of the real property within the Commonwealth. Public indebtedness may not be authorized for retiring a deficit or for operating expenses of the Commonwealth government or its political subdivisions.

Section 4: Real Property Taxes.

No tax may be levied upon any owner-occupied single family residential, agricultural, or unimproved real property, unless approved by a majority of the votes cast in an election conducted in the senatorial districts in which the tax is to be levied.

Section 5: Deficit Retirement.

Section 5: Change the constitutional requirement for retirement of deficits. Impose a hiring and salary freeze when a deficit occurs (except for public health and safety) to continue until the deficit is retired. (This is former Section 6.)

A deficit shall be retired within two fiscal years following the fiscal year in which it is incurred or within three years if the aggregate deficit exceeds ten percent of the Commonwealth's anticipated revenues for the next fiscal year. The governor shall submit a deficit retirement plan to the legislature pursuant to the provisions of article III, section 9 (a). Until the deficit is eliminated, Commonwealth funds shall not be used, directly or indirectly, to increase salaries or to fill any vacant positions or create any new positions, except for those requiring legislative confirmation, for division directors, or for vacancies that the governor certifies would jeopardize public health or safety and the legislature fills by joint resolution requiring a two-thirds vote of the members of each house. All resulting savings in personnel costs shall be applied toward retiring the deficit.

Section 6: Government Employment.

Section 6: Delete the authority of the legislature to go beyond employment ceilings by joint resolution. (This is former Section 7.)

In the annual appropriations acts, the legislature shall establish ceilings on the number of persons that may be employed by each branch, department, agency, authority and public corporation of the Commonwealth to which public funds are appropriated.

Section 7: Control of Public Finance.

Section 7: Add a limitation that the secretary of finance, once appointed, may be removed only for cause. Delete the direction to the department of finance to issue regulations as this is a legislative or administrative matter, not a constitutional matter. (This is former Section 8.)

The Department of Finance or its successor department shall control and regulate the expenditure of public funds. The Secretary of Finance may be removed by the governor only for cause.

Section 8: Tax Rebate Trust Fund.

Section 8: Require taxes collected that will be rebated to be maintained in a separate trust fund used only for tax rebates. This is new.

The percentage of income taxes collected that the Secretary of Finance anticipates will be necessary to provide tax rebates as provided by law shall be maintained in a trust fund and used only for tax rebates. Income from the trust fund shall go into the general fund.

Section 9: Taxpayer's Right of Action.

Section 9: Expand the subject of permitted taxpayer actions to cover all expenditure of public funds in violation of the Constitution

A taxpayer may bring an action against the government or one of its instrumentalities in order to enjoin the expenditure of public funds in violation of this Constitution. The court shall award costs and attorney fees to any person who prevails in such an action in a reasonable amount relative to the public benefit of the suit.

SCHEDULE ON TRANSITIONAL AND RELATED MATTERS

Section 5: Transition with Respect to Article X, Taxation and Public Finance.

In the event there exists a deficit on the date section 5 becomes effective, the hiring and salary restrictions in this section shall not become effective until the start of the next fiscal year. Within five years of the effective date of this article, the legislature shall consider whether to enact legislation limiting the amount of damages that are recoverable in litigation against a private party. Any taxpayer's action filed under section 9 pending on the day section 9 becomes effective shall proceed under the former section 9 as if it had not been amended.