

Date Printed: 06/16/2009

---

JTS Box Number: IFES\_76  
Tab Number: 97  
Document Title: Proposed Constitutional Amendments and  
Proposed Bond Issues  
Document Date: 2002  
Document Country: United States --  
Virginia  
Document Language: English  
IFES ID: CE02510



\* 7 5 7 4 2 E 8 7 - 9 1 F 0 - 4 F 5 5 - 9 5 C B - 7 1 F C 9 D A 6 8 F 6 7 \*



Commonwealth of Virginia

**Proposed Constitutional  
Amendments and  
Proposed Bond Issues  
to be voted on at the  
November 5, 2002  
Special Election**

Authorized By  
State Board of Elections  
Cameron P. Quinn, Secretary  
200 North 9th Street, Suite 101  
Richmond, VA 23219-3497



## Proposed Constitutional Amendment

### ARTICLE VI, JUDICIARY, SECTION 1 JUDICIAL POWER AND JURISDICTION

#### BALLOT QUESTION

---

*"Question: Shall the Constitution of Virginia be amended to permit the Supreme Court to consider, as part of its original jurisdiction, claims of actual innocence presented by convicted felons in the cases and manner provided by the General Assembly?"*

#### EXPLANATION

---

This amendment concerns cases in which a person is convicted of a felony but is later able to prove his "actual innocence" because of new scientific or DNA evidence that is discovered after his conviction. The new evidence shows that the person did not commit the felony and was wrongly convicted.

This amendment provides that the Supreme Court may "consider claims of actual innocence presented by convicted felons in such cases and in such manner as may be provided by the General Assembly" as part of the Court's original jurisdiction. Article VI, Section 1, establishes the Supreme Court and provides that it may hear some matters as part of its "original" jurisdiction and other matters as part of its "appellate" jurisdiction.

Most cases reach the Supreme Court by an appeal from a lower court and fall within its "appellate" jurisdiction. Section 1 lists the matters that the Supreme Court hears as part of its "original" jurisdiction. These are special situations: for example, habeas corpus petitions and matters involving the discipline of a judge.

A vote to approve this proposed amendment will make it clear that the Supreme Court may consider a claim of actual innocence without requiring the person to file the claim first in a lower court. If the voters approve the proposed amendment, it will take effect November 15, 2002.

The amendment provides that the General Assembly will provide by law for the details of what claims may be filed and the procedures that must be followed to file these claims. The General Assembly has enacted a law to implement this proposed amendment. That law will also take effect November 15, 2002. [Code of Virginia, Title 19.2, Ch. 19.2, §§ 19.2-327.2 through 19.2-327.6. Issuance of Writ of Actual Innocence.]

In brief, that law spells out in detail when and how a convicted felon may petition the Supreme Court to issue a writ of actual innocence. The petition must claim that the petitioner is actually innocent of the crime for which he was convicted, set out an exact description of the human biological or DNA evidence and testing supporting his innocence, and explain that the evidence was not available when the petitioner was convicted. The Supreme Court may dismiss or grant the petition and may overturn or modify the conviction after it considers the petition and the Commonwealth's response, the previous records of the case, and other evidence it may require.

#### FULL TEXT OF AMENDMENT [Proposed new language is underlined.]

Amend Section 1 of Article VI of the Constitution of Virginia as follows:

#### ARTICLE VI JUDICIARY

##### Section 1. Judicial power; jurisdiction.

The judicial power of the Commonwealth shall be vested in a Supreme Court and in such other courts of original or appellate jurisdiction subordinate to the Supreme Court as the General Assembly may from time to time establish. Trial courts of general jurisdiction, appellate courts, and such other courts as shall be so designated by the General Assembly shall be known as courts of record.

The Supreme Court shall, by virtue of this Constitution, have original jurisdiction in cases of habeas corpus, mandamus, and prohibition; to consider claims of actual innocence presented by convicted felons in such cases and in such manner as may be provided by the General Assembly; in matters of judicial censure, retirement, and removal under Section 10 of this Article; and to answer questions of state law certified by a court of the United States or the highest appellate court of any other state. All other jurisdiction of the Supreme Court shall be appellate. Subject to such reasonable rules as may be pre-

scribed as to the course of appeals and other procedural matters, the Supreme Court shall, by virtue of this Constitution, have appellate jurisdiction in cases involving the constitutionality of a law under this Constitution or the Constitution of the United States and in cases involving the life or liberty of any person.

The General Assembly may allow the Commonwealth the right to appeal in all cases, including those involving the life or liberty of a person, provided such appeal would not otherwise violate this Constitution or the Constitution of the United States.

Subject to the foregoing limitations, the General Assembly shall have the power to determine the original and appellate jurisdiction of the courts of the Commonwealth.

# ★ 2 ★

## Proposed Constitutional Amendment

### ARTICLE X, TAXATION AND FINANCE, SECTION 6 EXEMPT PROPERTY

#### BALLOT QUESTION

---

*"Question: Shall the Constitution of Virginia be amended to allow localities by ordinance, rather than the General Assembly by law, to exempt property from taxation that is used for charitable and certain other purposes, subject to the restrictions and conditions provided by general law?"*

#### EXPLANATION

---

Generally, the Constitution provides that all property shall be taxed and then provides how various types of property may be exempted from taxes. This amendment changes how certain types of property may be exempted from taxes.

Subsection (a) (6) of Article X, Section 6, now provides that the General Assembly may exempt property "used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes."

This subsection provides that the General Assembly may exempt this category of property in either of two ways

-- classification or designation. First, it may pass a law to exempt property belonging to a class or type of organization. It has passed a number of these laws. For example, it has exempted the real and personal property that belongs to non-profit volunteer fire departments and rescue squads and is used for the benefit of the general public.

Second, it may pass a law to exempt the property of a designated non-profit organization. It has passed hundreds of these laws to exempt the property of specific, named organizations. The General Assembly requires a resolution by the local governing body in support of the exemption.

The proposed amendment authorizes the local governing body to exempt such property by an ordinance and eliminates the need for action by the General Assembly. The amendment provides that the local governing body may adopt an ordinance to exempt property "used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes." The General Assembly will continue to have authority to enact laws setting out restrictions and conditions on these tax exemptions.

A vote to approve this proposed amendment will provide for these tax exemptions to be authorized by the local governing body rather than by the General Assembly. If the voters approve the proposed amendment, it will take effect January 1, 2003.

FULL TEXT OF AMENDMENT [Proposed new language is underlined; deleted language is 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 ~~a three fourths vote of the members elected to each house of the General Assembly~~ an ordinance adopted by the local governing body and subject to such restrictions and conditions as ~~may be prescribed~~ 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.

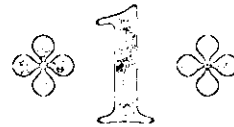
(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(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, of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement.

(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.



## **Proposed Bond Issue** **EDUCATIONAL FACILITIES**

### **BALLOT QUESTION**

---

*"Question: Shall Chapters 827 and 859, Acts of the General Assembly of 2002, authorizing the issuance of general obligation bonds of the Commonwealth of Virginia in the maximum amount of \$900,488,645 pursuant to Article X, Section 9(b) of the Constitution of Virginia for capital projects for educational facilities, take effect?"*

### **EXPLANATION**

---

On April 18, 2002, the Governor signed into law Senate Bill No. 31/House Bill No. 99, the Commonwealth of Virginia Educational Facilities Bond Act of 2002 (or "the Act"). Virginia law requires a majority of voters in a statewide referendum to vote in favor of the Act before it can become effective.

The purpose of the Act is to allow the Commonwealth to sell bonds to raise funds to pay for capital projects at state-supported colleges, universities, museums and other educational facilities. The Constitution of Virginia in Section 9(b) of Article X provides that the General Assembly may authorize the creation of debt to pay for capital projects. If this Act is approved, the Commonwealth may issue Commonwealth of Virginia General Obligation Bonds and sell the bonds to raise funds to pay for specific capital projects. The capital projects contemplated in the Act have an estimated useful life of more than twenty-five years and include, but are not limited to, capital projects for the renovation of instructional facilities, construction of new academic space, construction of new research space, upgrades to heating and cooling systems, and improvements for handicapped accessibility. The total amount of bonds the Commonwealth could issue pursuant to the Act is no more than \$900,488,645 (nine hundred million, four hundred eighty-eight thousand, six hundred forty-five dollars), and no bond may be outstanding for more than twenty-five years. The Act and related laws govern the details regarding the creation, issuance and repayment of the bonds, as well as the use of the funds generated by the sale of the bonds. The educational institutions that would receive funds pursuant to the Act are:

- Christopher Newport University
- The College of William and Mary
- George Mason University
- James Madison University
- Longwood College
- Mary Washington College
- Norfolk State University
- Old Dominion University
- Radford University
- University of Virginia
- University of Virginia's College at Wise
- Virginia Commonwealth University
- Virginia Military Institute
- Virginia Polytechnic Institute and State University
- Virginia State University
- Richard Bland College
- Virginia Community College System
- Virginia Institute of Marine Science
- Virginia Cooperative Extension/  
Virginia Agriculture Experiment Station
- Southwest Virginia Higher Education Center
- Jamestown-Yorktown Foundation
- Science Museum of Virginia
- Virginia Museum of Fine Arts
- Frontier Culture Museum

# ❖ 2 ❖

## Proposed Bond Issue

### PARKS AND RECREATIONAL FACILITIES

#### BALLOT QUESTION

*"Question: Shall Chapters 854 and 884, Acts of the General Assembly of 2002, authorizing the issuance of general obligation bonds of the Commonwealth of Virginia in the maximum amount of \$119,040,000 pursuant to Article X, Section 9(b) of the Constitution of Virginia for capital projects for parks and recreational facilities, take effect?"*

#### EXPLANATION

On April 18, 2002, the Governor signed into law Senate Bill No. 672/House Bill No. 1144, the Commonwealth of Virginia Parks and Natural Areas Bond Act of 2002 (or "the

Act"). Virginia law requires a majority of voters in a statewide referendum to vote in favor of the Act before it can become effective.

The purpose of the Act is to allow the Commonwealth to sell bonds to raise funds to pay for capital projects at state-supported parks and recreational facilities. The Constitution of Virginia in Section 9(b) of Article X provides that the General Assembly may authorize the creation of debt to pay for capital projects. If this Act is approved, the Commonwealth may issue Commonwealth of Virginia General Obligation Bonds and sell the bonds to raise funds to pay for specific capital projects. The capital projects contemplated in the Act have an estimated useful life of more than twenty-five years and include, but are not limited to, capital projects for the acquisition of land for natural area preserves and parks, campground construction, visitor center renovation, road improvements, trail improvements and shoreline erosion repair. The total amount of bonds the Commonwealth could issue pursuant to the Act is no more than \$119,040,000 (one hundred nineteen million, forty thousand dollars), and no bond may be outstanding for more than twenty-five years. The Act and related laws govern the details regarding the creation, issuance and repayment of the bonds, as well as the use of the funds generated by the sale of the bonds. The existing state parks that would receive funds pursuant to the Act are:

- |                     |                              |
|---------------------|------------------------------|
| • Bear Creek Lake   | • Mason Neck                 |
| • Belle Isle        | • Natural Tunnel             |
| • Breaks Interstate | • New River Trail            |
| • Chippokes         | • Occoneechee                |
| • Claytor Lake      | • Pocahontas                 |
| • Douthat           | • Sailor's Creek Battlefield |
| • Fairy Stone       | • Shenandoah "Andy Guest"    |
| • False Cape        | • Sky Meadows                |
| • First Landing     | • Smith Mountain Lake        |
| • Grayson Highlands | • Staunton River             |
| • Holliday Lake     | • Staunton River Battlefield |
| • Hungry Mother     | • Twin Lakes                 |
| • James River       | • Westmoreland               |
| • Kiptopeke         | • Wilderness Road            |
| • Lake Anna         | • York River                 |
| • Leesylvania       |                              |