

1 HB784  
2 119388-1  
3 By Representatives Grimes and Mitchell (Constitutional  
4 Amendment)  
5 RFD: Education Appropriations  
6 First Read: 25-MAR-10

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8 SYNOPSIS: Under an existing provision of the  
9 Constitution of Alabama of 1901, any personal  
10 property used in a business that is movable or not  
11 permanently fixed to the land is subject to ad  
12 valorem taxation.

13 This bill would propose an amendment to the  
14 Constitution of Alabama of 1901, to exempt personal  
15 property used in a business that is movable or not  
16 permanently fixed to the land from all ad valorem  
17 taxation.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To propose an amendment to further amend Section 217  
24 to the Constitution of Alabama of 1901, as last amended by  
25 Amendment 373 to the Constitution of Alabama of 1901, now  
26 appearing as Section 217 of the Official ReCompilation of the  
27 Constitution of Alabama of 1901, as amended, to exempt

1 personal property used in a business that is movable or not  
2 permanently fixed to the land from all ad valorem taxation.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The following amendment to the  
5 Constitution of Alabama of 1901, as amended, is proposed and  
6 shall become valid as a part thereof when approved by a  
7 majority of the qualified electors voting thereon and in  
8 accordance with Sections 284, 285, and 287 of the Constitution  
9 of Alabama of 1901, as amended:

10 PROPOSED AMENDMENT

11 Section 217 of the Constitution of Alabama of 1901,  
12 as amended by Amendment 373, is further amended to read as  
13 follows:

14 "(a) On and after October 1, 1978, all taxable  
15 property within this state, not exempt by law, shall be  
16 divided into the following classes for the purposes of ad  
17 valorem taxation:

18 "Class I. All property of utilities used in the  
19 business of such utilities.

20 "Class II. All property not otherwise classified.

21 "Class III. All agricultural, forest and  
22 single-family owner-occupied residential property, and  
23 historic buildings and sites.

24 "Class IV. All private passenger automobiles and  
25 motor trucks of the type commonly known as "pickups" or  
26 "pickup trucks" owned and operated by an individual for

1 personal or private use and not for hire, rent or  
2 compensation.

3 "(b) With respect to ad valorem taxes levied by the  
4 state, all taxable property shall be forever taxed at the same  
5 rate. On and after October 1, 1978, such property shall be  
6 assessed for ad valorem tax purposes according to the classes  
7 thereof as herein defined at the following ratios of assessed  
8 value to the fair and reasonable market value (except as  
9 otherwise provided in subsection (j) hereof) of such property:

10 "Class I. 30 per centum.

11 "Class II. 20 per centum.

12 "Class III. 10 per centum.

13 "Class IV. 15 per centum.

14 "(c) With respect to ad valorem taxes levied by  
15 counties, municipalities or other taxing authorities, all  
16 taxable property shall be forever taxed at the same rate. On  
17 and after October 1, 1978, such property shall be assessed for  
18 ad valorem tax purposes according to the classes of property  
19 defined in subsection (a) hereof and at the same ratios of  
20 assessed value to the fair and reasonable market value thereof  
21 as fixed in subsection (b) hereof, except as otherwise  
22 provided in subsection (j) hereof and this subsection (such  
23 ratios being herein called "assessment ratios"). In connection  
24 with the ad valorem taxes that a county, municipality or other  
25 taxing authority is authorized or required to levy and collect  
26 pursuant to any provision of this Constitution, for the ad  
27 valorem tax year beginning October 1, 1978, any such taxing

1 authority may, subject to criteria established by act of the  
2 legislature, by resolution of the governing body of that  
3 taxing authority, at any time not later than September 30,  
4 1979, increase or decrease the assessment ratio applicable to  
5 any class of taxable property, such increase or decrease to be  
6 effective for ad valorem tax years beginning on and after  
7 October 1, 1978. If (1) a county, municipality or other taxing  
8 authority adjusts an assessment ratio pursuant to the  
9 preceding sentence and (2) the receipts from all ad valorem  
10 taxes levied by or with respect to such taxing authority  
11 during the ad valorem tax year beginning October 1, 1978,  
12 exceed by more than five percent, or are less than 95 percent  
13 of, the receipts from such ad valorem taxes for the ad valorem  
14 tax year beginning October 1, 1977, then at any time not later  
15 than September 30, 1980, for ad valorem tax years beginning on  
16 and after October 1, 1979, the taxing authority may, subject  
17 to criteria established by act of the legislature, by  
18 resolution of the governing body of that taxing authority,  
19 adjust any assessment ratio applicable to any class of taxable  
20 property. On and after October 1, 1979, the governing body of  
21 any county, municipality or other taxing authority may,  
22 subject to criteria established by act of the legislature, at  
23 any time increase or decrease the assessment ratio applicable  
24 to any class of taxable property; provided, that any proposed  
25 adjustment to an assessment ratio to be made pursuant to this  
26 sentence, whether an increase or a decrease, shall have been  
27 (1) proposed by the governing body of the taxing authority

1 after a public hearing on such proposal, (2) thereafter  
2 approved by an act of the legislature, and (3) subsequently  
3 approved by a majority vote of the qualified electors residing  
4 in the taxing authority who vote on the proposal at a special  
5 election called and held in accordance with the law governing  
6 special elections. No decrease in an assessment ratio pursuant  
7 to this subsection (c) shall be permitted with respect to  
8 either of the ad valorem tax years beginning October 1, 1978,  
9 and October 1, 1979, if such county, municipality or other  
10 taxing authority has increased any millage rate under  
11 subsection (e) of this section with respect to such ad valorem  
12 tax year. The legislature shall enact general laws applicable  
13 to all counties, municipalities and other taxing authorities  
14 regulating and establishing criteria for the exercise of the  
15 powers granted such taxing authorities to adjust assessment  
16 ratios as hereinabove provided. Such assessment ratios as  
17 herein authorized may vary among taxing authorities so long as  
18 each such assessment ratio is uniform within a taxing  
19 authority. Any decrease in any assessment ratio pursuant to  
20 this subsection shall not jeopardize the payment of any bonded  
21 indebtedness secured by any tax levied by the taxing authority  
22 decreasing the assessment ratio. Any action authorized by this  
23 subsection to be taken by a taxing authority, or the governing  
24 body thereof, shall, other than in the case of a municipality,  
25 be taken by resolution of the governing body of the county in  
26 which such taxing authority is located acting on behalf of  
27 such taxing authority.

1           "(d) With respect to ad valorem taxes levied by the  
2 state or by any county, municipality or other taxing  
3 authority, no class of taxable property shall have an  
4 assessment ratio of less than five per centum nor more than 35  
5 per centum.

6           "(e) A county, municipality or other taxing  
7 authority may decrease any ad valorem tax rate at any time,  
8 provided such decrease shall not jeopardize the payment of any  
9 bonded indebtedness secured by such tax. For the ad valorem  
10 tax year beginning October 1, 1978, when the tax assessor of  
11 each county shall complete the assembly of the assessment book  
12 for his county for that ad valorem tax year and the  
13 computation of ad valorem taxes that will be paid upon such  
14 assessment, he shall certify to each authority within his  
15 county that levies an ad valorem tax the amount of ad valorem  
16 tax that will be produced by every levy in that ad valorem tax  
17 year but excluding for this purpose any assessment of new  
18 taxable property not previously subject to taxation (except  
19 "escaped" property as defined by law) added to the tax rolls  
20 of such county for the ad valorem tax year in which such  
21 certification is made that was not included on the tax rolls  
22 for the next preceding ad valorem tax year. Any county,  
23 municipality or other taxing authority, at any time not later  
24 than September 30, 1979, may increase the rate at which any ad  
25 valorem tax is levied by or with respect to that taxing  
26 authority above the limit otherwise provided in this  
27 Constitution, provided that the amount of the above-described

1 certification of anticipated tax receipts with respect to such  
2 tax is less than 120 percent of the actual receipts from such  
3 tax for the ad valorem tax year beginning October 1, 1977,  
4 such increase to be effective for ad valorem tax years  
5 beginning on and after October 1, 1978; provided, that any  
6 such millage increase shall not exceed in mills the total of  
7 (i) the number of additional mills that is necessary, when  
8 added to the millage rate imposed with respect to such tax on  
9 each dollar of taxable property situated in the taxing  
10 authority for the ad valorem tax year beginning October 1,  
11 1977, to produce revenue that is not less than and that is  
12 substantially equal to that received by the taxing authority  
13 with respect to such tax during such immediately preceding ad  
14 valorem tax year, plus (ii) a number of additional mills equal  
15 to 20 percent of the total mills imposed by that taxing  
16 authority with respect to such tax on each dollar of taxable  
17 property situated in the taxing authority for the ad valorem  
18 tax year beginning October 1, 1977. If, for the ad valorem tax  
19 year beginning October 1, 1978, the receipts from any ad  
20 valorem tax with respect to which any millage rate has been  
21 increased pursuant to the immediately preceding sentence are  
22 less than 95 percent of the receipts from such ad valorem tax  
23 for the ad valorem tax year beginning October 1, 1977, then at  
24 any time not later than September 30, 1980, the taxing  
25 authority may increase any millage rate with respect to such  
26 ad valorem tax in the manner provided in the immediately  
27 preceding sentence, such increase to be effective for ad



1       valorem tax years beginning on and after October 1, 1979. It  
2       is further provided that all millage adjustments shall be made  
3       in increments of not less than one tenth (1/10) mill.

4               "(f) On and after October 1, 1979, any county,  
5       municipality or other taxing authority may at any time  
6       increase the rate at which any ad valorem tax is levied above  
7       the limit otherwise provided in this Constitution; provided,  
8       that the proposed increase to be made pursuant to this  
9       subsection shall have been (1) proposed by the governing body  
10      of the taxing authority after a public hearing on such  
11      proposal, (2) thereafter approved by an act of the  
12      legislature, and (3) subsequently approved by a majority vote  
13      of the qualified electors residing in the taxing authority who  
14      vote on the proposal at a special election called and held in  
15      accordance with the law governing special elections. Any  
16      adjustments or other actions authorized to be made or taken  
17      pursuant to this subsection and subsection (e) hereof shall be  
18      made or taken by resolution of the governing body of such  
19      taxing authority, or if there is no such governing body and in  
20      the case of a taxing authority other than a municipality, by  
21      resolution of the governing body of the county in which such  
22      taxing authority is located acting on behalf of such taxing  
23      authority. The provisions of subsections (c), (e) and (f) of  
24      this section shall not apply to ad valorem taxes levied by the  
25      state.

26               "(g) The legislature is authorized to enact  
27      legislation to implement the provisions of this section and

1 may provide for exemptions from taxation; provided, that  
2 unless otherwise expressly provided, no amendment to this  
3 section shall be construed to repeal any statutory exemption  
4 existing on the effective date of any such amendment hereto.

5 "(h) Wherever any constitutional provision or  
6 statute provides for, limits or measures the power or  
7 authority of any county, municipality or other taxing  
8 authority to levy taxes, borrow money or incur indebtedness in  
9 relation to the assessment of property therein for state taxes  
10 or for state and county taxes, such provision shall mean as  
11 assessed for county or municipal taxes, as the case may be.

12 "(i) Except as otherwise provided in this  
13 Constitution, including any amendment thereto whenever adopted  
14 with respect to taxable property located in the city of  
15 Mountain Brook, the city of Vestavia Hills, or the city of  
16 Huntsville, the amount of ad valorem taxes payable to the  
17 state and to all counties, municipalities and other taxing  
18 authorities with respect to any item of taxable property  
19 described as Class I property shall never exceed 2 percent of  
20 the fair and reasonable market value of such taxable property  
21 in any one ad valorem tax year, such amount with respect to  
22 any item of Class II property shall never exceed 1 1/2 percent  
23 of the fair and reasonable market value of such taxable  
24 property in any one ad valorem tax year, such amount with  
25 respect to any item of Class IV property shall never exceed 1  
26 1/4 percent of the fair and reasonable market value of such  
27 taxable property in any one ad valorem tax year, and such

1 amount with respect to any item of Class III property shall  
2 never exceed 1 percent of the fair and reasonable market value  
3 of such taxable property in any one ad valorem tax year.  
4 Whenever the total amount of ad valorem property taxes  
5 otherwise payable by any taxpayer with respect to any item of  
6 taxable property shall exceed in any one ad valorem tax year  
7 the maximum amount of such taxes permitted by this section,  
8 such amount of taxes shall be reduced by subtracting that  
9 amount of tax due that is in excess of the amount of tax  
10 otherwise permissible under the Constitution. In connection  
11 with the taxation of any item of taxable property, the amount  
12 of tax to be subtracted with respect to each authority levying  
13 and collecting any ad valorem property tax shall be in the  
14 same proportion to the total amount of tax to be subtracted  
15 that the total number of mills on each dollar of taxable  
16 property situated in the taxing authority levied by such  
17 taxing authority bears to the total number of mills on each  
18 dollar of taxable property situated in the taxing authority  
19 levied by all taxing authorities with respect to such item of  
20 taxable property. Before sending to any taxpayer any notice  
21 relating to the collection of ad valorem taxes, the tax  
22 collector in each county shall determine whether any portion  
23 of the amount of ad valorem property tax otherwise due with  
24 respect to any item of taxable property shall be subtracted  
25 pursuant to the provisions of this subsection and shall  
26 apportion the amount to be subtracted in accordance with the  
27 provisions of this subsection.

1           "(j) Notwithstanding any other provision of this  
2 section, on and after October 1, 1978, taxable property  
3 defined in subsection (a) hereof as Class III property shall,  
4 upon application by the owner of such property, be assessed at  
5 the ratio of assessed value to the current use value of such  
6 taxable property and not the fair and reasonable market value  
7 of such property. The legislature may enact laws uniformly  
8 applicable to the state and all counties, municipalities and  
9 other taxing authorities establishing criteria and procedures  
10 for the determination of the current use value of any eligible  
11 taxable property and procedures for qualifying such property  
12 for assessment at its current use value. The legislature may  
13 also enact laws uniformly applicable to the state and all  
14 counties, municipalities and other taxing authorities  
15 providing for the ad valorem taxation of any taxable property  
16 ceasing to qualify for current use valuation; provided,  
17 however, that any additional tax on taxable property ceasing  
18 to qualify for current use valuation shall not apply to more  
19 than the three ad valorem tax years immediately preceding such  
20 cessation of qualification (including as one such year the  
21 year in which cessation of qualification occurs).

22           "(k) The following property shall be exempt from all  
23 ad valorem taxation: the real and personal property of the  
24 state, counties and municipalities and property devoted  
25 exclusively to religious, educational, or charitable purposes,  
26 household and kitchen furniture, all farm tractors, all  
27 farming implements when used exclusively in connection with

1 agricultural property ~~and,~~ all stocks of goods, wares, and  
2 merchandise, and personal property used in a business that is  
3 movable or not permanently fixed to the land.

4 "(1) Notwithstanding the other provisions of this  
5 section, with respect to the costs of reappraisal incident to  
6 the state-wide reappraisal of property heretofore authorized  
7 by the legislature, each county, municipality or other taxing  
8 authority for ad valorem tax years beginning on and after  
9 October 1, 1978, may impose and levy an additional ad valorem  
10 tax of not more than two mills on all taxable property located  
11 in the taxing authority in order to reimburse itself for its  
12 payment of such costs of reappraisal or to pay any unpaid  
13 costs or its pro rata share of such unpaid costs of  
14 reappraisal. The taxes provided for in this subsection, or any  
15 pro rata part thereof, shall terminate at the end of the ad  
16 valorem tax year in which sufficient funds are received from  
17 the taxes to pay in full the said reappraisal costs and any  
18 receipts from such taxes that are received during the ad  
19 valorem tax year of their termination that are not needed for  
20 the purposes specified herein may be used by the taxing  
21 authority levying the tax for general purposes of the taxing  
22 authority. The taxes authorized in this subsection shall not  
23 exceed in the aggregate, with respect to any item of taxable  
24 property located in the taxing authority, a total of two mills  
25 for all such taxes levied by all taxing authorities in a  
26 county and not two mills for each taxing authority in a  
27 county. If more than one such taxing authority in a county has

1 paid or owes all or a portion of its reappraisal costs, such  
2 two mills shall be prorated among such taxing authorities in  
3 the county as they may agree, or if they cannot agree, in the  
4 percentage which each such taxing authority's costs of  
5 reappraisal bear to the total costs of reappraisal of all  
6 taxing authorities in the county. The provisions of this  
7 subsection shall apply only to the costs incurred by a taxing  
8 authority incident to the state-wide reappraisal of property  
9 heretofore authorized by the legislature, the amount of which  
10 costs shall be certified by the department of revenue, and  
11 shall not be applicable to any future reappraisals that may be  
12 required by law.

13 "(m) If any portion of this section should be  
14 declared invalid by any court of competent jurisdiction, such  
15 invalidity shall not affect the validity of any of the  
16 remaining portions of this section, which shall continue  
17 effective."

18 Section 2. An election upon the proposed amendment  
19 shall be held in accordance with Sections 284 and 285 of the  
20 Constitution of Alabama of 1901, now appearing as Sections 284  
21 and 285 of the Official Recompilation of the Constitution of  
22 Alabama of 1901, as amended, and the election laws of this  
23 state.

24 Section 3. The appropriate election official shall  
25 assign a ballot number for the proposed constitutional  
26 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of  
2 the proposed constitutional amendment:

3 "Proposing an amendment to the Constitution of  
4 Alabama of 1901, to further amend Section 217 to the  
5 Constitution of Alabama of 1901, as last amended by Amendment  
6 373 to the Constitution of Alabama of 1901, to exempt personal  
7 property used in a business that is movable or not permanently  
8 fixed to the land from all ad valorem taxation.

9 "Proposed by Act \_\_\_\_\_."

10 This description shall be followed by the following  
11 language:

12 "Yes ( ) No ( )."