

ENROLLED SENATE JOINT RESOLUTION 32
ENACTED BY THE SECOND REGULAR SESSION OF THE
48TH LEGISLATURE OF THE STATE OF OKLAHOMA
NUMBERED BY THE SECRETARY OF STATE
STATE QUESTION NUMBER 702
LEGISLATIVE REFERENDUM NUMBER 327

RECEIVED: May13, 2002

Resolution

ENROLLED SENATE
JOINT
RESOLUTION NO. 32

By: Douglass of the Senate

and

Phillips and Calvey of the
House

A Joint Resolution directing the Secretary of State to refer to the people for their approval or rejection a proposed amendment to Section 5 of Article X of the Constitution of the State of Oklahoma, which relates to revenue and taxation; authorizing Legislature to enact laws providing for tax abatement under certain circumstances; providing ballot title; and directing filing.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE 2ND SESSION OF THE 48TH OKLAHOMA LEGISLATURE:

SECTION 1. The Secretary of State shall refer to the people for their approval or rejection, as and in the manner provided by law, the following proposed amendment to Section 5 of Article X of the Constitution of the State of Oklahoma, to read as follows:

Section 5. Surrender of power of taxation - Uniformity of taxes.

The A. Except as otherwise provided by this section, the power of taxation shall never be surrendered, suspended, or contracted away.

B. Taxes shall be uniform upon the same class of subjects.

C. The Legislature is hereby authorized to enact laws providing for the abatement of tax assessments, or portions thereof, if:

1. Collection of the tax liability and interest and penalties accruing thereto would reasonably result in the taxpayer declaring bankruptcy;

2. The tax is uncollectible due to insolvency of the taxpayer resulting from factors beyond control of the taxpayer or for other similar cause beyond the control of the taxpayer;

3. The tax liability is attributable to actions of a person other than the taxpayer and it would be inequitable to hold the taxpayer liable for the tax liability; or

4. In cases of nonpayment of trust fund taxes, the taxes were not collected by the taxpayer from its customer and the taxpayer had a good faith belief that collection of the taxes was not required.

SECTION 2. The Ballot Title for the proposed Constitutional amendment as set forth in SECTION 1 of this resolution shall be in the following form:

BALLOT TITLE

Legislative Referendum No. _____ State Question No. _____

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure amends Section 5 of Article 10 of the State Constitution. It will allow the Legislature to pass laws providing for the abatement of taxes or parts of taxes. Taxes will only be abated if:

1. Collection of the tax, and interest and penalties, would cause the taxpayer to declare bankruptcy;

2. The tax is not collectible due to insolvency of the taxpayer or other cause due to factors beyond the control of the taxpayer;

3. The tax results from actions of a person other than the taxpayer and it would be unfair to hold the taxpayer liable for the tax; or

4. The tax is a trust tax, the tax was not collected and the taxpayer had a good faith belief that collection was not required.

SHALL THIS AMENDMENT BE APPROVED BY THE PEOPLE?

YES, FOR THE AMENDMENT

NO, AGAINST THE AMENDMENT

SECTION 3. The President Pro Tempore of the Senate shall, immediately after the passage of this resolution, prepare and file one copy thereof, including the Ballot Title set forth in SECTION 2 hereof, with the Secretary of State and one copy with the Attorney General.

Passed the Senate the 6th day of May, 2002.

David R. Bell
Presiding Officer of the Senate

Passed the House of Representatives the 9th day of May, 2002.

Jerry Matlock
Presiding Officer of the House
of Representatives

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
_____ *13th* day of *May*, 20 *02*,
at *3:17* o'clock _____ *P.*M.

By: *Michael B. Foster*



OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

August 6, 2002

Mr. Mike Hunter, Secretary of State
Office of the Secretary of State
101 State Capitol Building
Oklahoma City, Oklahoma 73105

The Honorable Stratton Taylor
President Pro Tempore
422 State Capitol Building
Oklahoma City, OK 73105

The Honorable Larry E. Adair
Speaker of the House of Representatives
401 State Capitol Building
Oklahoma City, OK 73105

FILED

AUG 6 2002

OKLAHOMA SECRETARY
OF STATE

Re: Ballot Title for State Question No. 702, Legislative Referendum No. 327

Gentlemen:

We previously found that the suggested Ballot Title for the above-referenced State Question was not in harmony with the law and, in accordance with the provisions of 34 O.S.2001, § 9(C)(1), prepared a substituted Ballot Title for filing in your office. We have since determined that the Ballot Title should be revised and have made the necessary revisions. As a Title 34 Ballot Title review, the following does not constitute an Attorney General's Opinion on the merits or constitutionality of the underlying proposed change in the law. The revised Ballot Title reads as follows:

BALLOT TITLE

This measure amends part of Section 5 of Article 10 of the State Constitution. The measure allows the Legislature to pass laws permitting abatement of taxes. Under the proposal, the Legislature could abate taxes only if:

1. Collection of the tax with interest and penalties would cause the taxpayer to declare bankruptcy;
2. The tax is not collectible because, for reasons beyond his control, the taxpayer is insolvent;
3. Other similar factors beyond the taxpayer's control caused the tax not to be collectible;
4. The tax resulted from actions of a person other than the taxpayer. Moreover, it must be unfair to hold the taxpayer responsible; or
5. The tax is a trust fund tax which the taxpayer did not collect from his customer. Additionally, the taxpayer must have believed in good faith that he did not have to collect the tax.

The measure does not amend the portion of Section 5 of Article 10 which requires that taxes be uniform upon the same class of subjects.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL—YES _____

AGAINST THE PROPOSAL—NO _____

Respectfully submitted,



W.A. DREW EDMONDSON
ATTORNEY GENERAL