House Bill 593 (AS PASSED HOUSE AND SENATE)

By: Representatives Evans of the 89th, Drenner of the 85th, Tran of the 80th, Mitchell of the 88th, Bennett of the 94th, and others

A BILL TO BE ENTITLED AN ACT

1 To amend a former local constitutional amendment (Ga. L. 1982, p. 2659), which former 2 local constitutional amendment was continued in effect as statutory law pursuant to Article 3 VII, Section II, Paragraph IV of the Constitution of Georgia and which provided that each 4 resident of the DeKalb County School District who is 62 years of age or over or who is 5 disabled and whose gross income, together with the gross income of the spouse and all members of the family who reside at and occupy the homestead of such resident, does not 6 7 exceed \$16,000.00 per annum shall be granted an exemption from all DeKalb County School 8 District ad valorem taxes on \$20,000.00 of the value of the homestead owned and occupied 9 by such resident, so as to increase the income cap on said homestead exemption 10 to \$40,000.00; to provide for compliance with constitutional requirements; to provide for a 11 referendum, effective dates, and automatic repeal; to provide for mandatory execution of 12 election and judicial remedies regarding failure to comply; to repeal conflicting laws; and for 13 other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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15 SECTION 1.

The former local constitutional amendment (Ga. L. 1982, p. 2659), which former local constitutional amendment was continued in effect as statutory law pursuant to Article VII, Section II, Paragraph IV of the Constitution of Georgia and which provided that each resident of the DeKalb County School District who is 62 years of age or over or who is disabled and whose gross income, together with the gross income of the spouse and all members of the family who reside at and occupy the homestead of such resident, does not exceed \$16,000.00 per annum shall be granted an exemption from all DeKalb County School District ad valorem taxes on \$20,000.00 of the value of the homestead owned and occupied by such resident, is amended by revising said Act as follows:

25 "SECTION 1.

(a) For the purposes of this section 'adjusted gross income' shall have the same meaning as provided for in the Internal Revenue Code of 1954, as now or hereafter amended, provided that 'adjusted gross income,' as used herein, shall include any Federal old-age, survivors or disability insurance benefits or any benefits under the Federal Railroad Retirement Act and benefits received under a retirement or pension fund when such benefits are based on contributions made thereto by such resident or his or her spouse.

- (b) Each resident of the DeKalb County School District who is 62 years of age or over or who is disabled:
 - (1) Is granted an exemption from all DeKalb County School District ad valorem taxes on the full value of his or her homestead owned and occupied by him or her as a residence if his or her adjusted gross income together with the adjusted gross income of his or her spouse and all other members of his or her family who also reside at and occupy such homestead, does not exceed \$8,000.00 for the immediately preceding taxable year; and

40 (2) Is granted an exemption from all DeKalb County School District ad valorem taxes 41 on \$20,000.00 of the value of such homestead if the adjusted gross income of each such 42 resident does not exceed \$40,000.00 for the immediately preceding taxable year.

- (c) In order to qualify for the exemption provided for herein as being disabled, the person claiming such exemption shall be required to obtain a certificate from not more than three physicians licensed to practice medicine under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relative to medical practitioners, certifying that in the opinion of such physician, or physicians, such person is mentally or physically incapacitated to the extent that such person is unable to be gainfully employed and that such incapacity is likely to be permanent.
 - (d)(1) Any qualifying resident of the DeKalb County School District shall not receive the benefits of the homestead exemption provided for herein unless he or she, or an agent acting in behalf of such resident, files an affidavit with the Tax Commissioner of DeKalb County, giving his or her age, or if disabled, the certificate or certificates provided for herein, and the amount of income which he or she and his or her spouse and other members of his or her family occupying and residing at such homestead received during the last taxable year for income tax purposes, and such additional information relative to receiving the benefits of such exemption as will enable the Tax Commissioner to make a determination as to whether such owner is entitled to such exemption.
 - (2) The Tax Commissioner shall provide affidavit forms for this purpose. Such applications shall be processed in the same manner as other applications for homestead exemptions, and the provisions of law applicable to the processing of homestead exemptions, as the same now exists or may hereafter be amended, shall apply thereto.
 - (3) After any qualified resident has filed the proper affidavit and certificate or certificates if disabled, as provided for herein, and has been allowed the exemption provided herein, it shall not be necessary that he or she make application and file the said affidavit and

certificate thereafter for any year and said exemption shall continue to be allowed to such
 owner.

- 68 (4) It shall be the duty of any resident of the DeKalb County School District who has 69 claimed the homestead exemption provided for herein to notify the Tax Commissioner
- in the event he becomes ineligible for any reason to receive such homestead exemption.

71 SECTION 2.

- 72 The increased exemption provided for herein shall apply to all taxable years beginning after
- 73 December 31, 2023."

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74 SECTION 2.

- 75 In accordance with the requirements of Article VII, Section II of the Constitution of the State
- of Georgia, this Act shall not become law unless it receives the requisite two-thirds' majority
- vote in both the Senate and the House of Representatives.

78 **SECTION 3.**

The election superintendent of DeKalb County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of the DeKalb County school district for approval or rejection. The election superintendent shall conduct that election on the Tuesday after the first Monday in November, 2023, and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of DeKalb County. The ballot shall have written or printed thereon the words:

"() YES Shall the Act be approved which increases the income cap to \$40,000.00 on
the homestead exemption from DeKalb County school district ad valorem
taxes for educational purposes in the amount of \$20,000.00 of the assessed
value of the homestead for residents of that school district who are 62 years
of age or older or who are disabled?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Section 1 of this Act shall become of full force and effect on January 1, 2024. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective, and this Act shall be automatically repealed on the first day of July immediately following that election date. The expense of such election shall be borne by DeKalb County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State. The provisions of this section shall be mandatory upon the election superintendent and are not intended as directory. If the election superintendent fails or refuses to comply with this section, any elector of the DeKalb County school district may apply for a writ of mandamus to compel the election superintendent to perform his or her duties under this section. If the court finds that the election superintendent has not complied with this section, the court shall fashion appropriate relief requiring the election superintendent to call and conduct such election on the date required by this section or on the next date authorized for special elections provided for in Code Section 21-2-540 of the O.C.G.A.

108 **SECTION 4.**

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Except as otherwise provided in Section 3 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

111 SECTION 5.

112 All laws and parts of laws in conflict with this Act are repealed.