

amendments

to the

**louisiana
constitution**



Voter's
Guide

Nov. 4, 1980

NO. 1 APPEAL OF CRIMINAL CASES

PURPOSE: To vest jurisdiction for all criminal cases in the courts of appeal, except for direct appeal to the Supreme Court in criminal cases involving the death penalty, to lighten the Supreme Court's workload.

LEGAL CITATION: Act 843 of 1980 amending Article V, Section 5 (D and E), Section 8 (B) and Section 10.

BACKGROUND: Courts of appeal were created in 1879 to relieve the Supreme Court of some types of civil appeals. In 1960, the appeals courts were assigned all civil appeals. Since then, the Supreme Court's criminal caseload has mushroomed.

The seven Supreme Court justices now estimate they spend most of their time reviewing criminal appeals which are often routine. In addition, the Supreme Court is responsible for petitions for review of civil cases, for maintaining harmony in the law and for supervising all courts, including district courts.

The 32 judges in the state's four appeals courts handle only civil and juvenile cases. Average caseloads are:

	Filings Per Judge		Opinions Per Judge	
	<u>Supreme</u>	<u>Appeals</u>	<u>Supreme</u>	<u>Appeals</u>
1977	324	75	88	58
1978	343	75	110	60
1979	406	83	98	56

SOURCE: State Judicial Administrator's Office.

Giving jurisdiction over criminal and civil appeals to an intermediate appeals court is the approach favored by the National Center for State Courts, the Institute for Judicial Administration, the American Bar Association, and an independent study commissioned by the Supreme Court and the appeals courts.

Appeals courts in 25 other states handle both civil and criminal cases. Louisiana is the only state which allows direct appeals to the Supreme Court in all criminal cases.

COMMENT: Transferring criminal appeals to the courts of appeal would allow the Supreme Court more time for overseeing lower courts, for developing the law and for resolving conflicts among the other courts. The Supreme Court still would be the state's court of last resort in criminal cases.

To aid the courts of appeal in the transition to handling criminal cases, Act 661 of 1980 would provide for additional appeals judges and for a new appeals court for the Orleans area, which has the heaviest criminal caseload.

NO. 2 INCREASED HOMESTEAD EXEMPTION

PURPOSE: To increase the property tax exemption on homesteads from \$5,000 to \$7,500 of assessed value, beginning in 1982.

LEGAL CITATION: Act 844 of 1980 amending Article VII, Section 20 (A).

BACKGROUND: In 1978, all property in the state was reassessed and owner-occupied homes were exempt up to \$5,000 of assessed value. A home worth \$50,000 was exempt from all but municipal property taxes (all taxes exempt in Orleans), resulting in 88% of all homesteads being fully covered by the exemption.

The constitution requires reappraisal of all property in 1982. The four-year increase in home values will vary by quality, age and location—but judging by building costs alone, home assessments could rise 40%. Many homeowners would no longer be fully exempt, and those homeowners who now pay property taxes would have relatively sharp increases although their tax bills would remain among the lowest in the nation.

A 50% increase in the homestead exemption, to \$7,500, would fully exempt a home worth \$75,000. Presently, about \$2.2 billion, or 26% of the total statewide assessed value, is homestead exempt. By one estimate, this proposal would exempt an additional \$686 million of the total 1982 assessed value. This would mean a major loss in potential tax base for local governments which rely on the property tax to fund services.

COMMENT: The value of property is increasing. The basic question is whether the homeowner should continue to be protected from paying property taxes for local services that directly benefit him and add to his property values.

By keeping the \$5,000 exemption, many homeowners would begin paying a modest property tax in 1982, the low income homeowner would still be protected, and the tax burden of all property owners would be more equitable. An increased homestead exemption would further erode the property tax base, add to the financial problems of local governments, and lead to more pressure for state aid to local governments.

NO. 3 STUDENT VOTING MEMBERS ON HIGHER EDUCATION BOARDS

PURPOSE: To authorize the Legislature to add one student member to the Board of Regents and allow voting rights to student members serving on all public higher education boards.

LEGAL CITATION: Act 842 of 1980 amending Article VIII, Section 8 (B).

BACKGROUND: The constitution now allows one student to serve, without a vote, on each of the state's three higher education management boards: LSU, Southern University, and Trustees for the other colleges and universities. Students' terms are limited to one year, and they cannot succeed themselves. The accompanying law provides that student board members be selected from and by the student body presidents of campuses under the respective boards.

The constitution does not provide for a student member on the Board of Regents, the state's planning and coordinating body for higher education. This amendment would authorize a student member, but there is no act to do this.

There are 17 voting members on each of the three management boards and 15 on the Board of Regents—all with six-year staggered terms.

COMMENT: During the 1973 Constitutional Convention, it was argued that student membership on higher education boards could provide better board understanding of student problems, and student members could help inform other students on problems of the boards. Some delegates contended that these objectives could be met without granting voting rights to student members.

The Association of Governing Boards of Universities and Colleges established a national commission to develop guidelines for placing the most able persons on higher education boards. A recent report of the commission opposed students serving as voting members because (1) it creates a conflict of interest and (2) terms are often too short to allow students to become knowledgeable in their positions. The commission favored extensive student participation on board committees and inclusion on nominating committees for board members.

Louisiana's three management boards which have had non-voting student members since 1975 endorsed this amendment. The Board of Regents did not take a position.

NO. 4 PROPERTY TAX MILLAGE ADJUSTMENT

PURPOSE: To mandate property tax millage (tax rate) adjustments at each reappraisal and permit taxing bodies to restore rolled back millages without voter approval.

LEGAL CITATION: Act 1 of 1980 Special Session amending Article VII, Section 23.

BACKGROUND: All property must be reappraised at least every four years. It is feared that the four-year reappraisal in 1982 will result in large tax increases and give local governments unjustified revenue windfalls.

The proposed amendment requires a millage adjustment at each reappraisal interval to keep taxes from changing due to reappraisal. It would permit a taxing body, by two-thirds vote, to raise a millage up to its prior level after a public hearing.

COMMENT: Taxes will rise far less in 1982 than the four-year increase in property values. Of the state's present \$8.5 billion in total assessed value, \$3.6 billion (42%) is personal and public service property, most of which is reappraised each year. The majority of this property will have only a normal one-year assessment increase in 1982.

Assessments on the remaining real property would reflect a full four-year growth in values in 1982, but presently almost half of this real estate value is homestead exempt. While residential property values may rise as much as 40%, some other types of real estate may not rise as rapidly. If Amendment No. 2 (the homestead exemption increase) passes, the 1982 tax increase would be reduced further.

Also, a significant share of the taxes levied is for debt retirement, and these millages are automatically adjusted each year to provide only the fixed dollar amount needed. If assessments rise, the bond millage is reduced.

With no millage adjustment in 1982, local revenues and bills for some taxpayers would rise but not exorbitantly in most instances. At the same time, local governments' cost of operating has risen and it is unreasonable to expect them to continue operating with the same amount of tax dollars.

A possible flaw in the proposal is in the mandate for a millage adjustment at each reappraisal interval. This could apply to the one-year interval for reappraising personal property as well as to the four-year interval for real estate.

The proposed mechanism for restoring a millage rollback places responsibility where it belongs—with the taxing body. The public hearing requirement assures that the decision is made openly and with citizen participation.

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