PAR Guide to the 2014 Constitutional Amendments

An Independent, Non-Partisan Review

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PAR Guide to the 2014 Constitutional Amendments

An Independent, Non-Partisan Review

Voter Checklist – November 4, 2014

This is the order the amendments will appear on the ballot

YES	NO	
☐	☐	1. Medical trust fund and healthcare provider base rate
☐	☐	2. Hospital assessment, trust fund and fee formula
☐	☐	3. Sales of property with delinquent taxes
☐	☐	4. Fund transfers for an infrastructure bank
☐	☐	5. Elimination of the mandatory retirement age of judges
☐	☐	6. Higher millage cap for police and fire protection in Orleans Parish
☐	☐	7. Property tax exemption for certain disabled veterans
☐	☐	8. Artificial Reef Development Fund
☐	☐	9. Tax exemption reporting for permanently disabled residents
☐	☐	10. Tax sale of vacant, blighted or abandoned property
☐	☐	11. Increases the number of state departments from 20 to 21
☐	☐	12. Louisiana Wildlife and Fisheries Commission membership
☐	☐	13. Orleans Lower Ninth Ward vacant property
☐	☐	14. Tax rebates, incentives and abatements

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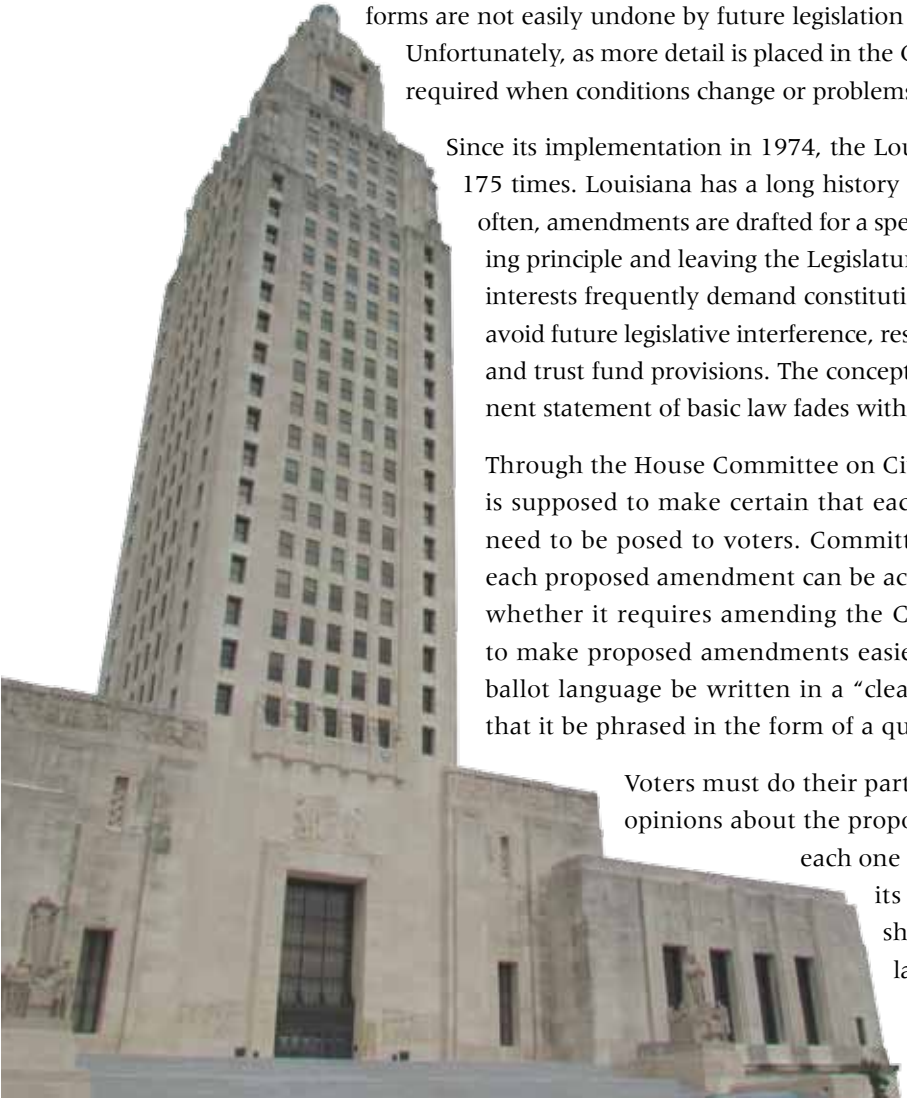
The Public Affairs Research Council of Louisiana
4664 Jamestown Avenue, Suite 300
Baton Rouge, Louisiana 70808
225.926.8414 www.parlouisiana.org

Introduction

Louisiana voters will be asked to decide 14 proposed amendments to the Louisiana Constitution on the Nov. 4 ballot. This *PAR Guide to the 2014 Constitutional Amendments* provides a brief review of each item in the order they will appear on the ballot. Readers who want to look deeper into a proposal can refer to the background material provided in a special section starting on page 20.

These proposals were approved by legislators during the 2013 and 2014 regular sessions. Those receiving a majority vote in the statewide election will be enacted. As required for passage of constitutional amendments, each bill received at least a two-thirds vote in the House of Representatives and in the Senate. The governor cannot veto proposals for constitutional amendments, and in fact the administration opposed the bills that led to amendments 1 and 2 on this year's ballot.

A constitution is supposed to be a state's fundamental law that contains the essential elements of government organization, the basic principles of governmental powers and the enumeration of citizen rights. A constitution is meant to have permanence. Statutory law, on the other hand, provides the details of government operation and is subject to frequent change by the Legislature. Typically, constitutional amendments are proposed to authorize new programs, ensure that reforms are not easily undone by future legislation or seek protections for special interests. Unfortunately, as more detail is placed in the Constitution, more amendments may be required when conditions change or problems arise with earlier provisions.



Since its implementation in 1974, the Louisiana Constitution has been amended 175 times. Louisiana has a long history of frequent constitutional changes. Too often, amendments are drafted for a specific situation rather than setting a guiding principle and leaving the Legislature to fill in the details by statute. Special interests frequently demand constitutional protection for favored programs to avoid future legislative interference, resulting in numerous revenue dedications and trust fund provisions. The concept of a constitution as a relatively permanent statement of basic law fades with the adoption of many amendments.

Through the House Committee on Civil Law and Procedure, the Legislature is supposed to make certain that each proposed amendment does, in fact, need to be posed to voters. Committee members look to see if the goal of each proposed amendment can be accomplished simply by passing a law or whether it requires amending the Constitution. The Legislature has tried to make proposed amendments easier to understand by requiring that the ballot language be written in a "clear, concise and unbiased" manner and that it be phrased in the form of a question.

Voters must do their part as well. In order to develop informed opinions about the proposed amendments, they must evaluate each one carefully and make a decision based on its merits. One important consideration should always be whether the proposed language belongs in the Constitution.

1. Medical trust fund and healthcare provider base rate

YOU DECIDE

A VOTE FOR WOULD

give constitutional protection to provisions in the Louisiana Medical Assistance Trust Fund and set a baseline compensation rate for nursing homes and certain other healthcare providers that pay a provider fee.

A VOTE AGAINST WOULD

not give special constitutional protections to the trust fund or establish a minimum base rate for healthcare providers.

CURRENT SITUATION

Nursing homes, intermediate care facilities for the developmentally disabled (ICF/DD) and community pharmacies are assessed a fee deposited into an account known as the Louisiana Medical Assistance Trust Fund. Under a system used by Louisiana and 43 other states, that money serves as a state match to draw down federal dollars through the Medicaid program. These Medicaid dollars are used to compensate the facilities for the care provided to those with low incomes and others qualified for Medicaid assistance. Most residents of these facilities rely on the Medicaid program to pay for these services.

Essentially, these health care providers pay a fee that can be converted into a larger amount of federal funds flowing back to the providers at no cost to taxpayers. Since the provider fees were implemented in 1993, the federal flow-back often has been diverted to other healthcare needs of the state rather than to the healthcare groups that paid the provider fees. In 2012 the state raised the provider fee without compensating the providers for the increase. A 2013 statute provided some protections to the providers.

PROPOSED CHANGE

This amendment would bring two major changes: 1) A revised Louisiana Medical Assistance Trust Fund would gain the more protected status of a constitutionally established fund, which could be altered only by another constitutional amendment. It could not be raided for other spending purposes in the annual budget process or during mid-year budget cuts. 2) The amendment would set a floor for rates paid by the government to the health care services that pay a provider fee.

The Legislature would be constitutionally mandated each year to appropriate enough money from the fund to pay these healthcare providers at Medicaid program rates no less than the average in fiscal year 2014. This minimum rate may be adjusted upward for inflation in medical costs. Providers' reimbursement rates could be cut during a budget deficit so long as the rate reductions are no worse than reductions for other types of healthcare providers. Such a reduction would require a two-thirds vote of the Legislature or a two-thirds vote of the Joint Legislative Committee on the Budget if the Legislature is not in session.

The proposed amendment would not authorize new fees. It would capture existing fees and put the revenue in the Louisiana Medical Assistance Trust Fund. The Legislative Fiscal Office projected that $123 million would be collected from these health care providers in the current fiscal year, including $91 million from nursing homes, $24 million from ICF/DD and $8 million from pharmacies. The amendment would not apply to home and community based long-term care services, which are not assessed a fee, although this situation could be changed in the future.

ARGUMENT FOR

Quality institutional healthcare for the elderly and disabled should be among the state's highest priorities. Funding for these services should receive the maximum possible financial protection. This amendment would provide protections for these health care providers by constitutionally dedicating funds that result from the provider fees paid by these groups.

Many other states have a provider fee program for nursing homes and intermediate care facilities. The amendment would not increase a fee or create a new one but would simply revise and protect how the current fee is used. The newly required minimum financing system would guarantee that the healthcare providers would get a fair deal in return for their fee investment. The minimum reimbursement rate for providers could change the incentive structure to persuade more providers to offer medical services. Increasing the number of providers can bring greater competition to the marketplace.

ARGUMENT AGAINST

This amendment would reduce the state's budget flexibility. Higher education could be at greater risk for budget reductions. Constitutional provisions that limit the budgetary options of policymakers should be avoided. This change would make management of the Medicaid program more difficult.

Some advocates of home and community based long-term health care are critical of this amendment. They say it fosters a system that will weigh against individuals with disabilities who want to remain in their homes and communities but will have less opportunity for home care compared with institutionalized care in nursing homes. Such disparate treatment has triggered court cases in the past and could lead to additional litigation.

***Legal Citation**: Act 449 (House Bill 533 by Rep. Kleckley) of the 2013 Regular Session, amending Article VII, Section 10.14.*

2. Hospital assessment, trust fund and fee formula

YOU DECIDE

A VOTE FOR WOULD

allow an assessment on hospitals to draw down more federal Medicaid dollars for the institutions and create a Hospital Stabilization Fund.

A VOTE AGAINST WOULD

leave current hospital funding methods as they are, with no new assessment and no special constitutional fund.

CURRENT SITUATION

Most states use a funding mechanism for hospitals in which the institutions are assessed a fee that is then used as a match for federal Medicaid dollars. The federal matching dollars flow back in the form of Medicaid provider rates to the hospitals, which ultimately receive more money than the original assessments. The purpose of the program is to compensate hospitals that are not fully reimbursed for the care they give to Medicaid patients and the uninsured. Louisiana is one of 10 states that does not have this type of hospital funding. The Legislature passed a version of it in 2005 but it was soon repealed and never implemented.

To reduce government spending, the state has cut hospital provider rates by 26% since 2009, which has had a significant impact on hospital budgets. The state also has chosen not to expand Medicaid to low-income adults under the Affordable Care Act, which could have assisted hospitals financially in meeting their costs of care for the uninsured. At the same time, many community and private hospitals in the state have benefited in recent years from a flow of federal dollars through a new program called the Low Income and Needy Care Collaboration Agreement, or LINCCA. But new federal scrutiny of this program may be an indication that this form of revenue generation will be scaled back or eliminated.

PROPOSED CHANGE

The amendment would set in motion a series of steps.

1) It would allow an assessment on eligible hospitals. The amendment would give the Legislature the authority to begin an assessment by approving a funding formula. That first move would require a two-thirds vote of members of each house; recurring formulas may be adopted by a simple majority.

2) The money would be used as a match to draw down federal Medicaid dollars. With approval from the federal Medicaid agency, this money would flow to the hospitals to compensate them for healthcare costs treating those covered by Medicaid or the uninsured. Ultimately, most hospitals would receive more money than the original assessments.

3) The money would flow through a newly created Hospital Stabilization Fund. This fund would be protected in the Constitution from attempts by the Governor or Legislature to divert money to pay for non-healthcare programs.

4) The reimbursement rates to the hospitals would be regulated and more protected from decreases. The amendment would eliminate the government's ability to make targeted cuts to hospital providers. The formula would establish a base level for the rates, which may be increased with inflation each year. The rates could be decreased only to address a state budget deficit and only if two-thirds of the Legislature agrees during a session or two-thirds of the joint budget committee agrees out of session. Even then, the rate reduction could not be more than the average reduction experienced by other types of providers in the Medicaid program.

COMMENT

A central question is whether hospital patients and their insurers ultimately will carry the burden of the hospital assessments, if this amendment passes. While the amendment allows an assessment, it does not specify how the new system will be implemented. If allowed by regulators, the assessments might be passed on as a cost to Medicaid on a hospital's cost report and therefore would not be borne by patients. The Louisiana Hospital Association maintains that the cost of these assessments will not be borne by patients. In some states the assessment has been dubbed a "bed tax" but this nickname can be misleading. A hospital's assessment might be based on its number of beds, revenue or other factors. Yet a "bed tax" does not necessarily mean a hospital compensates itself by charging a special fee to patients. The details remain to be seen of how hospitals in Louisiana and federal regulators will handle the formula and the assessments.

Another central question is whether some hospitals might be worse off under the new system. For example, some states charge an assessment based on hospital revenue. That system tends to penalize institutions, such as specialty hospitals, that treat few uninsured patients and therefore receive fewer government reimbursements. Again, the outcome for Louisiana remains to be seen.

ARGUMENT FOR

Hospitals are legally and morally bound to treat patients needing urgent care but could suffer losses treating Medicaid patients and the uninsured under the current financial system in Louisiana. After years of government cuts in provider rates, Louisiana's community and private hospitals need a more reliable source of funding to fulfill their caretaker mission. Following a plan used in most states, the proposed amendment would allow Louisiana to take advantage of a federal Medicaid program routinely used to stabilize hospital finances nearly nationwide. The new plan would draw down federal matching dollars without ultimately costing either the state or the hospitals more money.

The new system would provide assurances to the hospitals that, if they pay the new assessments, their investment will not be raided to fill holes in the state budget unrelated to healthcare. That is why this plan needs the protections for its formula and its trust fund that only the state constitution can provide. By establishing a more sustainable source of financing, hospitals can better avoid cost shifting their expenses to patients and insurance companies and thereby save money for citizens and business. Hospitals also would have more reliable revenues to invest in technology, wellness programs, health screenings and better access to care.

ARGUMENT AGAINST

Creating constitutional protections for a certain class of health care providers – hospitals – will create problems for other programs without this special status. In particular, higher education and health care providers without this protection will be at greater risk for reductions because of the state's limited discretionary spending authority. Constitutional provisions limiting the budgetary options of policymakers should be avoided.

The financing system created by this amendment could be done without constitutional protection or an amendment. The same program could be created by statute, which would give the governor and Legislature more flexibility to tweak the law if necessary.

Legal Citation: *Act 438 (House Bill 532 by Rep. Kleckley) of the 2013 Regular Session, amending Article VII, Section 10.13.*

3. Sales of property with delinquent taxes

YOU DECIDE

A VOTE FOR WOULD

allow local governments the option to use a private firm to assist in the collection of delinquent property taxes and the process of selling property whose owners are tax delinquent.

A VOTE AGAINST WOULD

keep the current law, which prohibits some forms of outsourced tax collection fees according to recent court rulings .

CURRENT SITUATION

Local governments have a responsibility to collect taxes from property owners and to transfer ownership of properties long delinquent on taxes. Property owner death or property abandonment, particularly for blighted homes, are among the typical causes of this situation. This role of government is essential to fighting urban decay and placing neglected properties back into service.

Louisiana's Constitution in one section says only a tax collector has the authority to perform this function while the Constitution in another section allows for public entities to enter into agreements with third parties to collect debts owed to the government. A current state statute allows the authorized agent a fee, capped at 10% of the amount of taxes collected on the property, to be included in the sale of the property.

According to the Louisiana Municipal Association, some 43 local jurisdictions in the state currently use third-party agents to administer the complicated procedure of selling property that is delinquent on taxes and collecting taxes from tax-delinquent property owners. Abandoned or blighted properties add a number of legal hurdles to comply with this multi-step process.

In New Orleans, an ordinance was passed to allow private agents to collect delinquent taxes on immovable property. This agent charged a collection fee. A suit was brought against New Orleans challenging the ordinance authorizing this third-party system of collecting taxes and charging a collection fee. The Louisiana State Supreme Court ruled in 2014 that, in this case, only the tax collector can collect delinquent property taxes and that the collection fee was a prohibited penalty that could not be assessed against a property owner or acquirer in New Orleans.

This court case applied to a New Orleans ordinance and its method of compensation for the private agent. Questions have arisen about whether the ruling could affect other jurisdictions that use a third-party agent to assist in the collection and sale of taxes and adjudicated property.

PROPOSED CHANGE

If approved, the amendment would let municipalities, parishes and sheriff departments have the option to use an authorized agent to assist in the collection of delinquent property taxes and the sale of taxes and adjudicated property. With regard to the recent court ruling in the New Orleans case, this amendment would determine that parishes and towns have the option to start or continue using these outside services. Entering into an agreement with a third party does not relieve the political subdivision from any obligations or due process in dealing with property owners.

The amendment also explicitly allows the agent to charge a fee that can be capped in statute. The recent Louisiana Supreme Court ruling disapproved the fee method that was used in New Orleans. Under a current statute, the fee is capped at 10% of the amount of taxes collected on the property at the time of sale.

ARGUMENT FOR

The amendment would address the ambiguous impact of the Louisiana State Supreme Court decision in the New Orleans case by clarifying that jurisdictions may use authorized agents for delinquent tax collections and sales. The amendment does not require political subdivisions to use a third-party but simply affords the option. Government hiring of contractors to perform various public services is a common and beneficial practice if conducted fairly and openly.

Proponents of the amendment see it as a tool in "the war on blight" because the hiring of tax-collecting agents streamlines the process to put tax-delinquent blighted and abandoned property back on the tax rolls. Selling such properties requires expertise in navigating the often difficult and complex legal process that is required. Many small political subdivisions lack the staff and expertise to perform this function effectively. Also, contracting this function to an experienced third party would better ensure the protection of the rights of the property owner. Cleaning up blighted and abandoned property can lead to redevelopment and a reduction in crime.

ARGUMENT AGAINST

Opponents of the amendment say tax collectors should simply do the job they were elected to do and should not rely on outside professional services to perform public functions. This sort of contracting is prone to favoritism and should be avoided. If communities choose to privatize the process of selling delinquent taxes, then the fee, presently capped at 10%, would have to be paid by the titled property owner should they redeem the delinquent taxes within the time period set by state statute. This fee is often set at an arbitrary rate and is not necessarily tied to the actual cost of performing the service, which is all a fee is supposed to do. Even if a local government hires a collector, public officials still would have to monitor the activities of the private agent to ensure that the motive for profits does not overshadow the larger public interest and cause unwarranted inconvenience for property owners.

Legal Citation: *Act 871 (House Bill 488 by Rep. Berthelot) of the 2014 Regular Session, amending Article VII, Section 25 (A)(1) and (E).*

4. Fund transfers for an infrastructure bank

YOU DECIDE

A VOTE FOR WOULD

allow the State Treasurer to invest public funds into a Louisiana Transportation Infrastructure Bank, in the event that such a bank is created.

A VOTE AGAINST WOULD

not give permission to the State Treasurer to invest public funds in a Louisiana Transportation Infrastructure Bank.

PROPOSED CHANGE

During the 2014 session the Legislature considered a package of bills that would have created a Louisiana Transportation Infrastructure Bank and a related fund designed to provide a revolving loan program to local governments seeking financing for road and infrastructure projects. In the end the bank was not created. But one of the pieces of the package – House Bill 628 – passed and became Amendment No. 4. This amendment would allow the State Treasurer to invest public funds into a Louisiana Transportation Infrastructure Bank, if such a bank were to be created in the future. No tax or revenue dedication would result solely from this change in the Constitution. The amendment would have no impact except to allow a mechanism for the movement of funds if and when the state decides to establish an infrastructure bank. A similar bank in South Carolina has made more than $3 billion in loans.

ARGUMENT FOR

Proponents of the amendment say new financing sources are needed to address Louisiana's many needs for road improvements and infrastructure that would provide safer and less congested driving conditions and stimulate the economy. The state has deteriorating roads and a severely underfunded infrastructure. The current fuel tax, based on the volume of fuel sales, is not keeping up with the growing costs and needs of highway work. Although this amendment would not create an infrastructure bank, it would be an initial affirmative step in that direction. The infrastructure bank would allow projects to be funded without having to raise a new tax or fee.

ARGUMENT AGAINST

This amendment would allow for the funding of an agency that has not been created yet. Therefore, this amendment and its financing mechanism should not be implemented until the Legislature can agree on a complementary package of bills that would fully implement an infrastructure bank and its financing process. Also, the Louisiana Transportation Infrastructure Bank would cost money. According to the Legislative Fiscal Office, operating expenses for the bank would be $300,000-$400,000 per year, which would have to be covered by revenue generated from its loan program.

Legal Citation: *Act 873 (House Bill 628 by Rep. St. Germain) of the 2014 Regular Session, amending Article VII, Section 14(B).*

5. Elimination of the mandatory retirement age of judges

YOU DECIDE

A VOTE FOR WOULD

eliminate the mandatory retirement age of 70 for judges.

A VOTE AGAINST WOULD

keep the mandatory retirement age of 70 for judges.

PROPOSED CHANGE

This amendment would eliminate the mandatory retirement age of 70 for judges. Currently, candidates for judge who are 70 or older cannot run for election or re-election. Sitting judges turning 70 are not required under current law to retire immediately but may fulfill the remainder of their full term of office. This constitutional amendment would wipe out these age restrictions.

The judge retirement age of 70 has been in place since Louisiana revised its constitution in 1974. In 1995, 62% of voters statewide rejected a constitutional amendment that would have raised judges' mandatory retirement age to 75. Louisiana is one of 21 states that have a mandatory retirement age of 70 for judges and 11 other states plus the District of Columbia have retirement ages for judges above age 70. Eighteen states do not have a mandatory retirement age.

ARGUMENT FOR

Proponents of the amendment say the current law is "unreasonable age discrimination." Voters should decide who serves as judges and whether age is a consideration. Judgeships are the only elected position in Louisiana with a mandatory retirement age. Someone 70 or over can sit on a jury or work in any other profession. Older judges have great experience to rule on cases. The current law sends good and capable judges into retirement. The state retirement systems will save money under this amendment because sitting judges would not be able to draw retirement benefits as long as they continue to serve in office. As for judges who are no longer capable of serving, a system currently in place can remove them and that system would remain in place even if this amendment passes.

ARGUMENT AGAINST

In their vital societal role deciding people's fortunes, judges should be fully alert and capable of performing their work in a manner that instills the public's confidence in the judicial system. An age limit helps ensure this standard. Also, illness can delay justice or shift caseloads to other judges. Although no other elected offices in Louisiana have age limits, many of those offices have term limits. Eliminating the mandatory retirement age would essentially remove term limits for elected judges, who typically receive campaign support from the legal community and are routinely re-elected. Judges already have relatively long terms of office. Without a retirement age, judges can become "untouchable," especially in smaller communities. Many voters don't really know or get a chance to interact with their judges, and the only groups usually interested in judgeship elections are the attorneys and the judges themselves. As a result, it becomes almost impossible to beat a sitting judge. The issue of whether a mandatory retirement age for judges is "age discrimination" is highly debatable and court rulings have drawn varied conclusions.

Legal Citation: *Act 875 (House Bill 96 by Rep. Edwards) of the 2014 Regular Session, amending Article V, Section 23.*

6. Higher millage cap for police and fire protection in Orleans Parish

YOU DECIDE

A VOTE FOR WOULD

raise the Orleans Parish special millage caps for police and fire protection from five to 10 mills, giving the New Orleans City Council authority to levy additional mills with voter approval.

A VOTE AGAINST WOULD

keep the Orleans Parish special millage caps for police and fire protection at five mills.

PROPOSED CHANGE

The Constitution allows Orleans Parish to levy a special, additional five-mills on property values for tax revenue toward police protection and another five mills for fire protection. The proposed change would raise these two Orleans millage caps from five mills to 10 mills. It would not affect Orleans' millages for general or other special purposes. To be enacted, the proposed amendment would have to be approved by a majority of the electors in Orleans Parish as well as a majority in Louisiana.

The new 10-mill cap would be just the maximum possible millage, not the actual millage. To increase the special millage, the New Orleans City Council would have to call an election for the voters of Orleans Parish to decide on a proposition authorizing the additional tax. Consequently, even if the amendment passes in both the statewide and parish elections, the current millage rate of Orleans Parish will not go up unless voters in the parish approve a specific increase.

ARGUMENT FOR

The city of New Orleans has a crying need for better public services to help protect residents from crime, contribute to rebuilding after the tragic effects of Katrina and foster citywide economic development. Because New Orleans has been so constrained by the old millage cap, raising it would allow for desperately needed funds to help New Orleans decide its own destiny. The parish has faced unexpected expenditures stemming from police and sheriff consent decrees along with firefighter retirement settlements. The amendment could raise proceeds for public safety initiatives. This change would affect only owners of property in Orleans Parish. Other parishes across the state would not face any changes to their millage caps or rates as a result of this amendment.

ARGUMENT AGAINST

Orleans already has the highest general and special millage caps of any parish in the state. Doubling the special millage cap would open the door for the New Orleans City Council to raise taxes. While the amendment itself does not raise taxes, a current or future City Council or mayor, sooner or later, is sure to press for higher millages. Once the cap is raised, New Orleans prospectively will become a more expensive and less competitive city for business development and home ownership. Higher taxes are not the best path to post-Katrina recovery. The city would do better to constrain spending and waste.

Legal Citation: *Act 870 (House Bill 111 by Rep. Leger) of the 2014 Regular Session, amending Article VI, Section 26(E).*

7. Property tax exemption for certain disabled veterans

YOU DECIDE

A VOTE FOR WOULD

give a bonus homestead exemption to veterans rated with 100% "unemployability" in parishes where a similar tax break has been approved by voters.

A VOTE AGAINST WOULD

mean that veterans who are rated 100% unemployable but less than 100% disabled would not receive the additional homestead exemption.

CURRENT SITUATION

The Constitution exempts from most property taxes up to $75,000 of the value of a homestead, if the owner both owns and occupies the residence. A 2010 amendment gave parish governing authorities the option to ask voters to double the homestead exemption in their parishes for disabled veterans with a 100% service-connected disability rating. The homestead exemption is now $150,000 for those who qualify in the parishes that voted to adopt the change.

PROPOSED CHANGE

The proposed amendment adds language to the 2010 law to make the higher exemption available to veterans with a 100% unemployability rating as well as the 100% service-connected disability rating. Louisiana law views disability ratings and employability status as the same thing. That is to say, a 100% disability rating would be the same as 100% unemployability. The U.S. Department of Veterans Affairs sees them differently and assigns a percentage rating for each. Some veterans in Louisiana were being rejected for the exemption because the federal agency had assigned an 80% disability rating even though those veterans also had a 100% unemployability rating. The proposed amendment is designed to clarify the constitutional provision by adding "unemployability" to the language.

If this amendment is approved, the parishes that have adopted the increased homestead exemption for disabled veterans will automatically begin to include those with 100% unemployability and will not be required to put the question before voters. Parishes are not allowed to make up the revenue loss by increasing millages and shifting the tax burden to other homeowners.

ARGUMENT FOR

This amendment is a good gesture of support for veterans. The impact on local taxing bodies would be minimal. In 2010, officials estimated approximately 2,000 homeowners in Louisiana would be eligible for the higher exemption. The estimated statewide impact if all parishes offered the new exemption was $2 million in lost annual local revenues, less than 0.1% of total property taxes collected statewide.

ARGUMENT AGAINST

Approval of this proposed amendment would erode the local tax base in parishes that have opted to extend the benefit. Although this expansion of the homestead exemption is relatively minor, the combination of this and other special homestead exemptions has a large impact on the local revenue base. While no single exemption is a significant problem, the trend toward creating more of these exceptions adds up to a negative impact and they should be stopped.

Legal Citation: *Act 433 (Senate Bill 96 by Sen. Adley) of the 2013 Regular Session, amending Article VII, Section 21(K)(1) and (3).*

8. Artificial Reef Development Fund

YOU DECIDE

A VOTE FOR WOULD

establish the Artificial Reef Development Fund in the Constitution and prohibit using its money for purposes other than those described in the amendment.

A VOTE AGAINST WOULD

leave the fund as it currently exists—as a statutory entity—which allows it to be "swept" when the government needs money to balance the state's budget.

CURRENT SITUATION

The state created the Artificial Reef Development Fund in 1986 as part of the state's Fishing Enhancement Act to promote and develop artificial reefs. The money comes from grants and donations and from an arrangement with oil and gas companies that agree to convert their non-productive offshore platforms into artificial reefs. Under that arrangement, the state gets half of whatever savings the company realizes by turning the platform into a reef, and the company retains the other half.

Money in the fund is for operation of the program, including permitting, establishing, monitoring and maintenance of artificial reefs, until such time that the annual interest earnings from the fund are sufficient to run the program. In addition, up to 10% of the annual deposits can be used to help fund the wild-caught fish certification program and up to 10% of annual deposits can be used for inshore fisheries habitat enhancement projects. Because the fund was established in statutes and not in the Constitution, it is vulnerable to being "swept" to cover state budget shortfalls. In recent years about $46 million has been swept from the fund, leaving a balance of $12.5 million.

PROPOSED CHANGE

The proposed amendment would add the Artificial Reef Development Fund to the list of funds protected in the Constitution from being "swept" of cash when the state is looking for additional money to help balance the state budget.

ARGUMENT FOR

The money in the Artificial Reef Development Fund should be used only for its intended purposes—promoting and managing artificial reef development, assisting the state's wild seafood certification program and helping with inshore fisheries projects. Ensuring the fund's long-term viability could help persuade oil and gas companies to consider converting more non-producing platforms into artificial reefs. Protecting the fund from being "swept" would reassure company officials that money put into the fund would be used only to further the artificial reef program and not to bolster the state budget.

ARGUMENT AGAINST

This amendment would add another exception to Louisiana's Constitution. Other funds established for specific interest groups also would like such protection under the Constitution, which could become more clogged with unnecessary exceptions and minutia. Prohibiting alternative uses of the money in the Artificial Reef Development Fund would hamper the Legislature's and the governor's flexibility to address future crises and to alleviate dire budget circumstances for higher education and health care. Meanwhile, no private company actually loses money when the fund is swept.

Legal Citation: *Act 434 (Senate Bill 128 by Sen. Allain) of the 2013 Regular Session, adding Article VII, Section 10.11.*

9. Tax exemption reporting for permanently disabled residents

YOU DECIDE

A VOTE FOR WOULD

eliminate the requirement that homeowners under the age of 65 who are permanently disabled must certify every year that their income meets the threshold for an assessment freeze.

A VOTE AGAINST WOULD

mean that permanently disabled homeowners under the age of 65 would have to continue to certify each year that their income meets the requirements for the freeze.

CURRENT SITUATION

Louisiana offers a special property tax break to the permanently disabled who meet certain income levels. The assessed value of their homes can be locked in to prevent increases that might boost their property tax bill. To be eligible for this special assessment freeze, disabled homeowners must have an income not exceeding $67,670 in 2013. (This threshold is adjusted for inflation each year.) In addition, qualified disabled homeowners under age 65 must verify every year that they meet the income requirement for the assessment freeze. If they are older than 65, they only have to qualify once for the assessment freeze.

PROPOSED CHANGE

The proposed amendment would delete the requirement that homeowners under the age of 65 who are permanently totally disabled certify every year that their adjusted gross income meets the requirement for an assessment freeze. Instead, they would have to qualify with their assessor only once and the freeze would remain in effect until the property was sold or its value increased more than 25% because of reconstruction. This amendment only changes the income reporting requirement and would not provide any new tax break.

ARGUMENT FOR

The recertification requirement is an unnecessary inconvenience. A disabled homeowner should not have to go every year to the assessor's office to recertify that personal adjusted gross income has not exceeded the income threshold for the assessment freeze. The number of homeowners affected is small. In 2012, the Louisiana Tax Commission reported 5,660 permanently totally disabled homeowners across the state had been granted an assessment freeze. The proposed amendment also would save assessors the cost of sending reminder notices or initiating the reassessment process for those who forget to reapply.

ARGUMENT AGAINST

Louisiana has a history of uneven property assessment practices, leading to persistent questions about fairness and equity in how properties are assessed. Authorizing special assessment levels for certain homeowners contributes to suspicions of favoritism. Eliminating the re-verification requirement would mean that assessors would be dependent on homeowners voluntarily reporting that their income had risen above the threshold. In addition, those residents who are permanently totally disabled often benefit from local services, and it is reasonable to expect them to help pay for those services. The legislative fiscal note for the proposed amendment said some local governmental revenues could decrease.

Legal Citation: *Act 432 (Senate Bill 56 by Sen. Morrell) of the 2013 Regular Session, amending Article VII, Section 18(G)(1)(a)(iv).*

10. Tax sale of vacant, blighted or abandoned property

YOU DECIDE

A VOTE FOR WOULD

require each parish to shorten the redemption period for vacant blighted or abandoned property sold at a tax sale to 18 months after the sale has been recorded.

A VOTE AGAINST WOULD

leave the redemption period as is—three years from the date the sale has been recorded—except in Orleans Parish, which already has an 18-month redemption period.

CURRENT SITUATION

Properties for which property taxes are not paid in a given year are offered at a tax sale the following year by the local government. If the tax certificate is purchased by an investor, this purchaser must wait three years from the recordation date of the sale to obtain clear title to the property and put it back into commerce. In the meantime, the investor is responsible for maintaining the property as required by local ordinances and absorbing all the costs, including payment of property taxes.

If the tax certificate is not sold, the property is adjudicated to the local government, which also must wait three years to try to put the property back into productive use. In that case, the local government bears the cost of securing and maintaining the property.

The three-year period is known as the redemption period and is designed to give the original property owner a chance to reclaim the property by reimbursing either the tax certificate purchaser or the local government for all taxes and other charges, plus a 5% penalty, plus interest.

The law, however, does not distinguish between properties that are vacant, blighted or abandoned versus properties where the owners have fallen behind on their taxes but still occupy the premises. In either case, the redemption period is three years. The only exception to that is New Orleans, where the redemption period for blighted and abandoned property sold at a tax sale is 18 months.

PROPOSED CHANGE

The proposed amendment would shorten the redemption period for property that has been declared vacant, blighted or abandoned from three years after the sale's recordation date to 18 months. This change would bring the rest of the state in line with Orleans Parish. The amendment would not shorten the redemption period for non-blighted owner-occupied homes.

COMMENT

Local governments struggle constantly with the problem of blighted and abandoned property. Officials must balance the rights of individual property owners with the rights of neighbors and the citizenry at large. Under the current system, potential investors have little motivation to purchase the tax certificates of blighted and abandoned properties. That means the local government ends up as the responsible party of last resort, creating a financial burden for the public purse.

In Shreveport, for example, officials estimate the city spends $2.2 million a year on maintenance of adjudicated blighted and abandoned properties. That is money that could be spent on other, more needed city services.

In New Orleans, the 18-month redemption period for blighted and abandoned properties has been in effect since voters approved a 1995 constitutional amendment allowing the city to use the shorter time frame. City officials say the shorter redemption period has sped up their ability to put properties back into commerce.

ARGUMENT FOR

A reduced redemption period could help put blighted and abandoned properties back into productive use more quickly and lower the costs to local governments. The faster return of these properties to commerce also could help spur local governments' economic revitalization efforts.

The proposed amendment is the result of more than two years of discussions among officials and organizations across Louisiana and represents a consensus on how to attack the problem of blighted and abandoned properties.

All of the due process and notice requirements that currently exist in state law would remain, including the steps local governments must take to notify property owners and mortgage holders when an administrative hearing is scheduled to determine whether a property is blighted or abandoned. Property owners, in turn, can appeal the decision resulting from the administrative hearing.

ARGUMENT AGAINST

Property ownership is one of the sacred values of American society. Any attempts to take someone's property, especially without full compensation, should be met with the strictest and most skeptical scrutiny. The current redemption period of three years is the minimum amount of time property owners should have to redeem their right to hold on to their real estate assets. During times of financial hardship in particular, the shorter redemption period proposed by this constitutional amendment would cause many citizens undue stress and the unfortunate loss of property.

Also, there is always a chance that despite local officials' best efforts, the proper notices will fail to reach a property owner who could have paid all of the taxes, fines, fees and other costs for a property, and who will, therefore, lose the opportunity to retain the property.

Legal Citation: *Act 436 (House Bill 256 by. Rep. P. Williams) of the 2013 Regular Session, adding Article VII, Section 25(B)(3). Companion legislation is Act 223 (Senate Bill 51 by Sen. Long).*

11. Increases the number of state departments from 20 to 21

YOU DECIDE

A VOTE FOR WOULD

increase the limit of allowed state government departments from 20 to 21, effectively creating a Department of Elderly Affairs.

A VOTE AGAINST WOULD

leave the current limit in place but would not necessarily prevent the future creation of a Department of Elderly Affairs.

CURRENT SITUATION

The constitution limits the number of state departments to 20. The purpose of the limit was to consolidate government functions and to constrain the proliferation of departments and bureaucracies. In the 2013 session the Legislature passed House Bill 352 (Act 384) that allowed for the creation of a Department of Elderly Affairs. Creation of such a department is dependent on either the elimination of one of the 20 existing departments, a consolidation of existing departments or a constitutional amendment allowing for additional departments. An Office of Elderly Affairs already exists under the governor's department but, in an effort to streamline operations, many of the office's duties have been transferred to the Department of Health and Hospitals and other executive departments.

PROPOSED CHANGE

This amendment would increase the limit of constitutionally allowed departments from 20 to 21. (See the current list of 20 departments on page 24.) This change would trigger the implementation of HB 352. So, although the amendment does not create any specific department, it would have the effect of creating the Department of Elderly Affairs. Even if this amendment passes, the Legislature in the future could change the new department's status with another statute.

As defined by HB 352, the Department of Elderly Affairs would be responsible for the functions of the state that are designed to meet the needs of Louisiana residents 60 years of age or older. This would include working with local councils on aging, administration of federal funds, nutrition programs for the elderly and handicapped and elderly transportation services. These services are being provided currently by DHH, the Office of Elderly Affairs and the Office of Aging and Adult Services.

ARGUMENT FOR

Proponents of the amendment point to the growing elderly population. As the baby boomers become senior citizens, the need for elderly services will increase. It makes sense to have a department dedicated to that demographic. Consolidating these services in one department could provide cost savings and a higher coordination of care. Additional federal dollars might also become available for a consolidated department.

ARGUMENT AGAINST

Adding another state department is a needless way to grow the size of government. While the additional cost of a new department will be minimal at first, bureaucracies tend to grow over time. There is no particular need for this expansion because services to the elderly are being provided by the appropriate functional departments, which in fact have the embedded resources to perform these services more efficiently than a newly created department. Thus, the state would have no additional provision of services but would have the cost of additional government bureaucracy.

Legal Citation: *Act 874 (House Bill 341 by Rep. Harrison) of the 2014 Regular Session amending Article IV, Section 1(B).*

12. Louisiana Wildlife and Fisheries Commission membership

YOU DECIDE

A VOTE FOR WOULD

change the membership of the Wildlife and Fisheries Commission to require that two at-large members come from parishes north of a line created by Allen, Avoyelles, Beauregard, Evangeline and Pointe Coupee.

A VOTE AGAINST WOULD

leave the membership as it currently stands – with three members from the coastal parishes and four selected from the state at large.

CURRENT SITUATION

The Louisiana Wildlife and Fisheries Commission, a policy-making board that works in conjunction with other fish and wildlife agencies, is made up of seven members appointed by the governor. Six serve overlapping six-year terms, and the seventh serves concurrently with the governor. Of the seven members, three must come from the coastal parishes and be representatives of the commercial fishing and fur industries. The remaining four members are to be appointed from the state at large, excluding representatives from the commercial fishing and fur industries. Currently, three of the four at-large commission members come from South Louisiana—Luling, Eunice and Lake Charles. The fourth at-large member is from Ruston.

PROPOSED CHANGE

The proposed amendment would change the composition of the commission to ensure that at least two members would represent areas of the state north of the coastal region. Three members would continue to come from the coastal parishes. Two would be appointed at large from parishes north of a line created by the northern boundary of Allen, Avoyelles, Beauregard, Evangeline and Pointe Coupee parishes. Two would come from the state at large, excluding representatives of the commercial fishing and fur industries.

ARGUMENT FOR

North and Central Louisiana are home to a number of natural resources, including Toledo Bend Reservoir, Kisatchie National Forest, the Sabine River, the Red River, Poverty Point Reservoir, Lake D'Arbonne and Lake Bruin, to name just a few. People come from all over the state to take advantage of the hunting and fishing. Yet the policy commission that oversees these resources has only one North Louisiana member on it. The proposed amendment would bring a better sense of geographic balance to the commission.

ARGUMENT AGAINST

Rather than add more needless details to the state constitution, proponents of this change should remove commission membership requirements from the Constitution and place them in statute where they truly belong. A vote against this proposed amendment would send a signal of voter impatience with proposals to clutter the Constitution with minutia. Also, the current method of appointing members is fair. While three of the four at-large members are from South Louisiana right now, nothing in the law prevents the governor from looking for residents from North Louisiana to fill any or all of those spots when the seats become vacant.

Legal Citation: *Act 437 (House Bill 426 by Rep. Armes) of the 2013 Regular Session, amending Article IX, Section 7(A). Companion legislation is Act 198 (House Bill 503 by Rep. Armes).*

13. Orleans Lower Ninth Ward vacant property

YOU DECIDE

A VOTE FOR WOULD

allow government-owned property in the Lower Ninth Ward in New Orleans to be sold to specified classes of buyers at a nominal rate to be established by the Legislature.

A VOTE AGAINST WOULD

not allow this type of property sale in the Lower Ninth Ward.

PROPOSED CHANGE

A local government has the authority to acquire abandoned properties, a situation that occurred manifestly in New Orleans' Lower Ninth Ward after flooding from Hurricane Katrina. If the government sells properties at less than the market value, the transaction is considered a donation. The Louisiana Constitution prohibits government entities from making donations to private parties except under certain circumstances.

This amendment would let the government sell property in the Lower Ninth Ward at below-market value. If this amendment is approved, a statutory companion bill (Act 801 of the 2014 session) would set the price of government-owned vacant properties in the Lower Ninth Ward at $100 per abandoned parcel. The New Orleans Redevelopment Authority, a public agency, owns a few hundred such properties. The amendment and a companion statute would require the agency to sell abandoned properties for $100 a parcel to buyers who meet certain requirements. Developers and corporate entities would not be allowed to purchase the properties.

Federal regulations might prevent implementation of this initiative. NORA officials say many of the properties in question were acquired by the agency through the federally financed Road Home program and that the proposed amendment and companion statute do not conform with federal regulations with regard to disposal of such properties.

ARGUMENT FOR

The Lower Ninth Ward was hit hard by Hurricane Katrina and many residents chose not to return. Proponents of the amendment say it is needed to revitalize and repopulate the Lower Ninth Ward and that selling the properties at a nominal price would facilitate growth. The amendment can put blighted and abandoned property into the hands of private owners and boost the tax rolls. These sales would reduce the expenditures being incurred by the Redevelopment Authority to maintain the properties.

ARGUMENT AGAINST

This amendment would make exceptions in the Constitution for a special class of individuals. Other jurisdictions would seek similar privileges, weakening a fundamental tenet in the Constitution prohibiting governments from giving away public goods. The companion legislation forces the parish to sell the properties at the lower rate rather than giving the parish the option to do so. The amendment is based on the mistaken philosophy that people who acquire properties cheaply will be more likely to cherish and maintain their new homes than those who make a more substantial fair-market investment. Buyers might hold on to the properties to sell later at a large profit rather than actually building homes. Federal regulations may not allow implementation of this program anyway.

Legal Citation: *Act 872 (House Bill 489 by Rep. W. Bishop) of the 2014 Regular Session, amending Article VII, Section 14(B).*

14. Tax rebates, incentives and abatements

YOU DECIDE

A VOTE FOR WOULD

forbid the introduction of legislation related to tax rebates, tax incentives or tax abatements in even-numbered years when the Legislature holds a general session and specifically allow such legislation in odd-numbered years during fiscal sessions.

A VOTE AGAINST WOULD

mean legislators could continue to introduce legislation related to tax rebates, tax incentives or tax abatements in general sessions.

CURRENT SITUATION

The Constitution specifies when the Legislature can convene and what it can consider during regular annual sessions. Legislators meet in general sessions in even-numbered years and fiscal sessions in odd-numbered years. In general sessions, legislators may consider all manner of bills except those levying, authorizing or increasing a tax or those dealing with exemptions, exclusions, deductions or credits. Fiscal sessions may consider those types of bills.

The Constitution does not mention tax rebates, tax incentives or tax abatements in its lists of what would be allowed in general versus fiscal sessions. As a result, legislation related to rebates, incentives and abatements shows up in general legislative sessions rather than being confined to fiscal sessions.

PROPOSED CHANGE

The proposed amendment would list legislation related to tax rebates, tax incentives and tax abatements as matters that could be considered only during fiscal sessions.

ARGUMENT FOR

Tax rebates, incentives and abatements are fiscal matters. A loophole in the law allows legislators to introduce bills related to rebates, incentives and abatements in both general and fiscal sessions. Introducing such legislation during general sessions runs counter to what was intended by the split-session system. The goal in establishing the fiscal-only sessions was to give legislators time to closely scrutinize all matters related to the state's finances. When these bills are introduced in a general session, they do not receive the attention they deserve and are much more likely to be bargained among unrelated bills in the legislative process.

ARGUMENT AGAINST

Legislators need flexibility to offer economic development incentives to boost jobs and business growth in Louisiana. Legislation for tax rebates, incentives and abatements should be allowed every year, not every two years. Also, fiscal sessions have not produced the in-depth focus on fiscal matters that state leaders and the voters hoped for when this new system was approved years ago.

Legal Citation: *Act 435 (House Bill 131 by Rep. James) of the 2013 Regular Session, amending Article III, Section 2(A)(3)(b) and (4)(b)(introductory paragraph).*

PAR Guide Supplement

WANT TO GO DEEPER?

This special section of the "PAR Guide to the 2014 Constitutional Amendments" delves into additional material, historical background, factoids, court cases and related legislation that shed more light on the Nov. 4 ballot items.

NO. 1

This ballot item might be easily confused with a proposal passed two years ago. In 2012, voters statewide approved constitutional protection for the Louisiana Medicaid Trust Fund for the Elderly. Its cash came from a short-lived program that created a one-time windfall of federal Medicaid draw-down dollars. Money from the fund has been used to offset costs of nursing homes and home-care services. As recently as 2012 the fund had a market value of $519 million but it will be nearly depleted this year because the governor and Legislature have dipped heavily into the fund to cover the costs of elderly care and to balance the state budget. That 2012 constitutional amendment prevented the fund from being raided to pay for non-healthcare programs in the state budget. But the fund could be used for health care expenditures unrelated to nursing home and intermediate-care services, and that in fact has taken place. The depleted fund is significant because it removes a financial crutch for the state and creates an environment of greater uncertainty for elderly health care.

This year's constitutional proposal is about the Medical Assistance Trust Fund and stemmed from House Bill 533 in 2013. This fund was the subject of another piece of legislation in 2013 with the passage of Senate Bill 76 by Sen. Buffington. That law requires the Treasurer to create separate accounts (sub accounts) within the Medical Assistance Trust Fund for each health care provider group that pays provider fees. The money collected from those provider groups, and interest earned, must be deposited into the accounts created for the provider groups. The Legislature is supposed to appropriate money from the fund annually, including fees and the federal match on the fees from each sub account, for medical assistance payments only to the health care provider groups that are paying the fees.

NO. 2

Accurate estimates are not yet available for the total amount of hospital assessments and the amount of expected match in return. As an example, in ballpark figures, the assessments could raise between $220 million and $250 million, which could result in about $600 million flowing back to the hospitals.

Amendments 1 and 2 have similarities but are different in at least a couple of important ways: Amendment 1 protects an existing fund and regulates an existing provider fee while Amendment 2 creates a new fund and a new provider fee. In both cases, the amendments are designed to take the fees charged to health care providers and turn them into a source of federally matched revenue to compensate for care of the uninsured.

NO. 3

The Louisiana Supreme Court ruling that set the stage for this constitutional amendment proposal was made in the case of *Jackson versus City of New Orleans*. This amendment would overrule that decision. Among the issues considered by the court are the constitutional limits on the collection of "costs" for a tax sale. The majority ruled that the collection in question in this case was unconstitutional because it included an additional percentage charge for the agent. The majority

opinion said, "… Costs assessed in connection therewith should be *actual* costs reasonably incurred to collect a particular taxpayer's delinquent ad valorem taxes, the assessment of which can be made only on a case-by-case basis…." The dissenting opinion by Justice Guidry said, "Accordingly, I disagree with the majority's determination that the tax collector, and only his or her 'in house' employees, must perform these functions, with no assistance whatsoever from any outside party or contractor through a cooperative endeavor … that would otherwise be authorized by La. Const. Art VII, 41(C)."

Amendment 3 is quite different from Amendment 10 on the same ballot, although they both deal with tax-delinquent properties. Amendment 3 gives permission for local governments to use private parties to deal with tax-delinquent properties. Amendment 10 shortens the time-frame for dealing with abandoned or blighted property.

NO. 4

This amendment would not create a new infrastructure bank. Such a bank would have to be created at some point in the future in order for the Amendment 4 money transfer to become meaningful. If created, the Louisiana Transportation Infrastructure Bank would be modeled on a similar state bank in South Carolina. It would grant loans to local governments for transportation projects. The local governments would pay back the loans with interest to the bank. The bank could then use the money received from the payback to create loans for other transportation projects. The bank could also receive state and local funds if this amendment passes. According to a report from the Council of State Governments, the South Carolina Infrastructure Bank has made more than $3 billion in loans.

In the 2014 session, members of the state Legislature tried to create an infrastructure bank and provide funding for it. House Bill 979 (Act No. 830) allowed for the creation of a Louisiana Transportation Infrastructure Bank in the event that House Bills 628 and 629, which were constitutional amendments, were approved by the voters. House Bill 628 allowed for the State Treasurer to invest public funds into the Louisiana Transportation Infrastructure Bank, while House Bill 629 would have allowed for mineral revenues to be invested in the bank. However, only House Bill 628 passed. As a result, the Louisiana Transportation Infrastructure Bank was not created. Nonetheless, even if the Louisiana Transportation Infrastructure Bank had been created this past session, the State Treasurer cannot invest public funds into it until a constitutional provision such as Amendment 4 is approved by the voters.

In the past, Louisiana has created funds to assist the state and localities in repairing roads and bridges and to finance new infrastructure projects. One such fund was the Transportation Trust Fund created in 1990 by a constitutional amendment (Article VII, Part 4, Section 27). In 2006, a Transportation Mobility Fund was created (R.S. 48:2112-2119). A 2009 report from PAR said that the Transportation Trust Fund's reliance on a volume-based gasoline tax did not allow it to keep up with rising construction costs.

NO. 5

In some states with a retirement age for judges, the actual restriction is a severe curtailment of retirement benefits past a certain age.

This amendment does not affect federal court judges, who are appointed. It applies to more than 300 judges in state trial courts and courts of appeal judges and the Supreme Court Justices. Of these, 14 are older than 70 and 39 are between the ages of 65 and 70, according to Legislative Auditor actuaries. Under current law, judges who surpass 70 while in office cannot run for re-eleciton.

NO. 6

The special fire and police protection millages, including the potential increases that would be allowed under this amendment, are not subject to the homestead exemption. According to the Legislative Auditor, if New Orleans raised millages to the maximum allowed under this amendment, local fund revenue would increase by approximately $31.6 million beginning in fiscal year 2016 and increase annually to approximately $34.6 million by fiscal year 2019. The city has an annual spending and capital budget of about $859 million.

Local governments use millages as a factor in levying property taxes. The higher the millage, the greater the annual tax on the value of a property. The Louisiana Constitution places limits on the base size of millages. For general-purpose taxes on property, the base cap is the same for all parishes except for higher base millages in Jackson and Orleans parishes. The proposed constitutional amendment does not affect these general-purpose millages. Orleans also has a special fire and police millage in addition to the special fire and police millages addressed in this amendment.

NO. 8

The first oil well off the Louisiana coast was drilled in 1947. Currently, just fewer than 3,000 platforms operate in the Gulf of Mexico. One of the unexpected benefits of the proliferation of tower platforms has been the growth of sea life around the bases. Researchers discovered that within a short time after a platform is built, de facto artificial reefs developed and everything from barnacles and mollusks to coral and sponges to large schools of fish and sharks were attracted to the sites.

When a platform no longer produces, federal law requires the company that owns it to clean up the site, which means removing everything from the water or sinking it into deep water. The destruction of the platform means the destruction of the reef.

When they remove a platform, oil and gas companies essentially have two options—they can tow it to shore and scrap it or they can find another use for the structure, including as an artificial reef. Which option they choose depends on the size of the platform, the depth of the water, the difficulty in obtaining the necessary permits to turn it into a reef and the costs.

In the mid-1980s, recognizing that some of the idle platforms could be repurposed as artificial reefs, the federal government began encouraging the coastal states to set up artificial reef programs. The Rigs-to-Reefs initiative allows oil and gas companies to donate decommissioned platforms for artificial reef programs. An artificial reef can be created by toppling the platform in place, removing the top of the structure down to a certain depth and dropping the piece into the water, or pulling the entire structure to a new or existing reef site. Today, the state has 69 offshore reefs using the jackets of 301 obsolete platforms.

In 2010, after the Deepwater Horizon oil spill and the damage caused by several hurricanes between 2004 and 2008, the U.S. Department of the Interior reminded the oil and gas companies that non-producing platforms in the Gulf of Mexico must be removed as required in the companies' leases. The department set a time limit of one to five years, depending on the location and status of the idle structures. According to U.S. Bureau of Safety and Environmental Enforcement figures, 254 idle platforms were removed in 2010, 319 in 2011, 327 in 2012, and 144 as of May 31, 2013. Of the 1,044 platforms taken out during that period, 925 were scrapped, 137 were converted into artificial reefs and 27 were reused in another fashion.

As of June 11, 2013, BSEE officials estimated that 629 platforms were eligible to be decommissioned. Artificial reef proponents are concerned that the rapid rate at which the oil and gas companies are being required to decommission their non-producing platforms -- and the lengthy

permitting process required to convert those platforms into artificial reefs -- will result in lost opportunities to relocate the platforms. The companies may opt for the more expedient solution of pulling the structures out of the water and towing them to shore. Not only would this mean a blow to the development of future artificial reefs, but the existing reefs that have grown around the bases of the platforms would be lost.

At the urging of representatives from the oil and gas industry, the coastal states and the fishing and diving communities, BSEE officials have relented somewhat in their push to have non-producing platforms removed from the Gulf. Instead, they now will consider waiving the requirement that decommissioned platforms be removed entirely and allow partial structure removal or toppling in place so the structures can be used as artificial reefs. In addition, the decommissioning deadlines can be eased if a company is pursuing the necessary reef permits.

Artificial reef proponents believe they must act to stabilize the Artificial Reef Development Fund now while the federal government is willing to give the oil and gas companies some breathing room from the decommissioning deadlines.

The state is responsible for damages caused by a moved rig in the Artificial Reef Program, such as damage to pipelines or other rigs. If the reef fund is not able to cover the cost of damages incurred, the cost shifts to taxpayers to meet the state's responsibility.

The Louisiana Fishing Enhancement Act of 1986 allows donations to the reef fund to be used for fisheries research and enhancement in addition to the development of artificial reefs. The state's marine fisheries research lab at Grand Isle, completed in 2009, was supported with money from the fund.

A video on You Tube, "Rigs to Reefs: Towers of Life", by the Gulf of Mexico Foundation, provides a short documentary on the program. Although this video is industry-sponsored, it provides a useful visual explanation.

NO. 9

The Constitution lists eligible exemptions from property taxes. It exempts from most property taxes up to $75,000 of the value of a homestead. In order to qualify for the homestead exemption, the owner must own and occupy the property. The exemption does not apply to municipal taxes, except in Orleans Parish, which has a mix of taxes exempt and non-exempt from the homestead exemption.

In 1998, voters approved a constitutional amendment to give a special property tax break to homeowners over the age of 65 whose income for federal tax purposes did not exceed $50,000. The $50,000 income threshold is adjusted each year based on the federal Consumer Price Index. In 2013, those homeowners applying for the freeze could not have adjusted gross incomes that exceeded $67,670.

Under the provisions of the 1998 amendment, the property tax assessment of eligible homeowners was frozen at a "special assessment level," which was the assessed value of the property when the homeowner first qualified for the freeze. The freeze was to remain in effect as long as the homeowner recertified his or her income level each year, the property's value did not increase more than 25 percent because of construction or reconstruction and the property was not sold. In 2002, voters approved another amendment that removed the annual recertification requirement for homeowners over the age of 65.

Since then, the Constitution has been amended to allow property assessment freezes for more groups: Veterans with a service-connected disability rating of 50 percent or more; Members of

the armed forces or the Louisiana National Guard who are killed in action, missing in action or being held as prisoners of war; Homeowners who have been declared permanently totally disabled by a state or federal administrative agency. In each case, members of the specified groups must meet the income requirement for the assessment freeze. It is important to note that although a homeowner's assessment is frozen, the tax bill can still rise because of new or increased millages.

In 2012, the Louisiana Tax Commission reported 5,660 permanently totally disabled homeowners across the state had been granted an assessment freeze. In contrast, 149,114 homeowners over age 65 qualified for an assessment freeze.

St. Tammany Parish reported the highest number of disabled homeowners with assessment freezes—1,681—while 22 parishes indicated they had no disabled homeowners who had been granted an assessment freeze.

The legislative fiscal note for the proposed amendment concluded some decrease could occur in local governmental revenues. Orleans Parish officials estimated a possible loss of $113,400 in property tax revenues in 2014-2015, rising to $131,274 for 2017-2018.

NO. 10:

Last year the Legislature passed a law restructuring the process of property tax sales. Act 223 of the 2013 regular session by Sen. Long contains new procedures for local governments to follow. These are effective whether or not constitutional amendment 10 passes or fails.

The property redemption process works this way. A property owner is sent a tax notice. If the bill is not paid, a delinquent notice is sent out. If the property owner still does not pay the bill, the owner receives a notice that a tax sale will be held. The local government then advertises that the property will be put up for sale at a specific date and time.

On the day of the sale, the tax collector must sell the property at a price to cover taxes, interest and costs due. The Constitution does not allow tax collectors to impose any penalties other than the 5 percent redemption penalty owed to the tax sale purchaser if the property is reclaimed.

During the redemption period, the delinquent taxpayer can continue to use the property the same as before. Tax sale purchasers must pay taxes on the property during the redemption period and also certain other costs as necessary, such as maintenance to correct a code violation.

Often, the properties involved are ones from which the owners have walked away and which have been declared blighted or abandoned through an administrative hearing process. In many instances, these properties are in areas where little to no real estate market exists and they have accumulated taxes, fines, fees and other costs. As a result, they are hard to sell at tax sales, and the local government often ends up being responsible for them.

NO. 11

The current list of 20 state departments is: Agriculture and Forestry; Children and Family Services; Culture, Recreation and Tourism; Economic Development; Education; Environmental Quality; Health and Hospitals; Insurance; Justice; Natural Resources; Public Safety and Corrections; Public Service; Revenue; Secretary of State; State Civil Service; Transportation; Treasury; Veterans Affairs; Wildlife and Fisheries; and the Workforce Commission. This list does not include the governor or Lt. governor because their departments do not count against the constitutional limit. CRT operates under the Lt. governor but counts as a separate department.

The proposed amendment also states that "no department may be created that has the powers, duties, and functions to perform and administer programs or services which are historically performed or administered by any other agency, office, or department of the state." This was added to the proposed amendment to ensure that services currently provided by the Louisiana Department of Veteran's Affairs would not be moved into another department. However, there is some question of how this provision would impact other services provided by the newly created Elderly Affairs department because much of what it would do is currently being performed by other departments.

NO. 13

The Lower Ninth Ward is part of Orleans' Ninth Ward. The Ninth Ward covers most of eastern Orleans while the Lower Ninth Ward covers a southeast section of the parish next to St. Bernard Parish.

Under the companion statute to this amendment, the properties could be sold only to individuals who meet certain requirements: residents who live adjacent to such property in the Lower Ninth Ward; individuals who have leased and resided in the Lower Ninth Ward for at least a year and a half; U.S. veterans; emergency responders; teachers or former teachers; former residents of the Lower Ninth Ward; and individuals who agree to build a residence on the property and reside there. Under this statute, some of these buyers would be required to retain and maintain the properties for at least five years while others would not.

NO. 14

In 2002, voters approved a constitutional amendment reversing the order of the general and fiscal sessions. Since then, fiscal sessions have taken place in odd-numbered years and general sessions occur in even-numbered years.

During fiscal sessions, the Legislature may consider matters whose object is to "enact the General Appropriation Bill; enact the comprehensive capital budget; make an appropriation; levy or authorize a new tax; increase an existing tax; levy, authorize, increase, decrease, or repeal a fee; dedicate revenue; legislate with regard to tax exemptions, exclusions, deductions, reductions, repeals, rebates, incentives, abatements, or credits; or legislate with regard to the issuance of bonds." The 2002 amendment lengthened the fiscal session to 45 legislative days in 60 calendar days, allowed legislators to introduce five non-fiscal bills and unlimited special and local bills, and added fees and revenue dedications to the list of matters that could be considered.

In general sessions, legislators may consider all manner of bills except legislation "levying or authorizing a new tax by the state or by any statewide political subdivision whose boundaries are coterminous with the state; increasing an existing tax by the state or by any statewide political subdivision whose boundaries are coterminous with the state; or legislating with regard to tax exemptions, exclusions, deductions or credits."