



PAR Guide to the 2018 Constitutional Amendments

**An Independent,
Non-Partisan Review**

Support for this report was provided by the
Collins C. Diboll Foundation and PAR's membership funds.



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For more information, media interviews or public presentation requests regarding this constitutional amendment guide, please contact PAR President Robert Travis Scott at RobertScott@parlouisiana.org.



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PAR Guide to the 2018 Constitutional Amendments



Voter Checklist November 6, 2018

YES NO

- ☐ ☐ **Amendment 1** – Prohibit felons from public office for five years after serving a sentence.
- ☐ ☐ **Amendment 2** – Require a unanimous jury verdict in all felony cases.
- ☐ ☐ **Amendment 3** – Allow political subdivisions to exchange public equipment and personnel for authorized activities.
- ☐ ☐ **Amendment 4** – Prohibit using money in the Transportation Trust Fund by state police for traffic control purposes.
- ☐ ☐ **Amendment 5** – Allows special assessments for certain homes held in trust.
- ☐ ☐ **Amendment 6** – Require a tax phase-in for primary homes when an assessment increases by more than 50%.
- ☐ ☐ **Statewide parish ballot** – “Shall fantasy sports contests be permitted in the parish of (your parish)”

Introduction

Voters statewide will be asked to decide yes or no on six proposed amendments to the Louisiana Constitution on the Nov. 6, 2018, ballot. These amendments address a number of serious issues. In particular, Amendment No. 2 would require unanimous verdicts in all felony cases. Unlike so many incidental proposals for changes to our Constitution over the years, Amendment No. 2 addresses an issue of historic proportions in that the current non-unanimous jury law is rooted in 19th Century cultural settings and sets the state apart from the rest of the nation. In addition to the six amendments, voters will face a ballot question determining which parishes will allow fantasy sports contests.

This PAR Guide to the 2018 Constitutional Amendments provides a review of each proposed amendment in the order they will appear on the ballot, plus the fantasy sports item. The Guide is educational and does not recommend how to vote. It offers concise analysis and provides arguments of proponents and opponents. These proposals were passed during the regular legislative session earlier this year. Each bill received at least a two-thirds favorable vote in the House of Representatives and in the Senate and now needs a majority vote at the polls as required for passage of constitutional amendments. The governor cannot veto proposals for constitutional amendments.



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, seek protections for special interests or ensure that reforms are not easily undone by future legislation. Special interests often demand constitutional protection for favored programs to avoid future legislative interference, resulting in numerous revenue dedications and trust fund provisions. The concept of the constitution as a relatively permanent statement of basic law fades with the adoption of many amendments.

Since its creation in 1974, the Louisiana Constitution has been amended 189 times. Louisiana has a long history of frequent constitutional changes. Notably, Article VII of the Constitution, which focuses on fiscal issues, has seen more amendment activity over the years than any other article. Until this year, the Legislature had proposed 147 amendments to Article VII, with the public passing 95 of them.

The Legislature has tried to make it easier for voters to determine what a given amendment would do 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. In this Guide's coverage of Amendment No. 6, PAR has provided a special explanation of the ballot language to help clarify its meaning and avoid voter misperceptions.

Voters must do their part. 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.

Amendment 1 Felons in public office

YOU DECIDE



A VOTE FOR WOULD

Constitutionally prohibit convicted non-pardoned felons from seeking or holding public office until five years after completion of sentence.

A VOTE AGAINST WOULD

Continue to allow convicted felons to qualify to hold office after serving a sentence.

CURRENT SITUATION

Under current statutes, a convicted felon is unqualified to seek elected office in Louisiana while under an order of imprisonment. A “public officer,” which includes elected and appointed positions, shall be removed from office if convicted of a felony. Although voters in 1998 approved a constitutional amendment to prevent convicted non-pardoned felons from seeking and holding public office for 15 years after completing a sentence, the Supreme Court in 2016 ruled the amendment null and void because the Legislature’s final enrolled version of the act left out a significant provision added during the legislative process.*

PROPOSED CHANGE

The proposed amendment would prohibit felons from holding or seeking elective public office or an “appointment of honor, trust or profit in this state” for five years after completing a sentence. This restriction would not apply to felons who are pardoned. The law does not specify the appointed positions that would be affected. A convicted felon would not be prohibited from employment by the state or a local government. This amendment differs from the 1998 amendment, which had a 15-year post-sentence prohibition and was silent as to government employment.



ARGUMENT FOR

Convicted felons should not be serving in office. This amendment is particularly needed in Louisiana with its long history of corruption. Those in public office need to be held to a high standard, and the political system should not be eager to invite corrupt individuals and their cronies into the ranks of leadership and influence. This law would not prevent felons from ever holding office, just for five years after they complete a sentence. Citizens already weighed in on this issue with the 1998 amendment, which was nullified only because the courts found the Legislature failed to properly follow requirements for amending the Constitution. This amendment would reaffirm the core intent of the previous vote of the people.

ARGUMENT AGAINST

Convicted felons who have completed their sentence have paid their debt to society and should be allowed to seek office and reintegrate into society without undue delay. Whether a felony conviction makes someone unsuitable for office should be an issue for the voters to decide. There is no prohibition for felons seeking a federal office; there is no need for this in Louisiana, either.

Legal Citation: Act 719 (Senate Bill 31 by Sen. Appel) of the 2018 Regular Session adding Article I, Section 10.1.

**Voters in 1998 approved a constitutional amendment to prevent convicted non-pardoned felons from seeking and holding public office for 15 years after they had completed a sentence. In 2016 the Louisiana Supreme Court ruled the amendment null and void in the case of Shepherd v Schedler. The case was brought by former state Sen. Derrick Shepherd, who had pleaded guilty in 2008 to federal felony charges of conspiracy to commit money laundering. The Court found that the final enrolled version of the act that created the ballot item was missing a provision adopted during the legislative process. That provision authorized felons to qualify for office following completion of probation. Thus, the Court said the constitutional amendment that came before voters was not the same one the Legislature had approved. The Court held that the proposed amendment on the 1998 ballot had not conformed to state constitutional requirements.*

Amendment 2 Unanimous juries for felony cases

YOU DECIDE



A VOTE FOR WOULD

Require unanimous jury decisions for verdicts in noncapital felony cases for offenses committed after 2018.

A VOTE AGAINST WOULD

Maintain that at least 10 of 12 jurors must agree for verdicts in noncapital felony cases.

CURRENT SITUATION

Louisiana is one of two states that allow for the conviction or acquittal of a felony defendant without a unanimous decision. This provision was instituted at the state's 1898 Constitutional Convention where 9 out of 12 jury votes were required to reach a verdict. This provision was revised in the 1974 Constitution, as the standard shifted to 10 out of 12. This specific rule applies to all felony trials on charges in which the required punishment is hard labor. Capital murder trials as well as six-member juries that consider lesser felony charges require unanimous votes to reach a verdict.

PROPOSED CHANGE

The proposed amendment would require all 12 members of a jury to concur to render a verdict in cases where the punishment would be confinement at hard labor. The unanimous vote requirement includes verdicts to convict as well as to acquit. Lesser felony offenses still will require all members of a six-member jury to convict. This change would not be retroactive as it would apply to offenses committed on or after January 1, 2019.

ARGUMENT FOR

President John Adams once stated, "It is the unanimity of the jury that preserves the rights of mankind." While this was the attitude of our founding fathers, it is not reflected in Louisiana's fundamental law. The federal court system and all other states but Oregon require unanimous verdicts in felony cases. The reason appears rooted in the state's racist past. The Official Journal of the 1898 Constitutional Convention states, "Our mission was, in the first place, to establish the supremacy of the white race in this State to the extent to which it could be legally and constitutionally done." Recent research suggests that even today the law has a disparate impact on minorities. A vote in favor of this amendment would improve Louisiana's image and signal to the rest of the nation and the world that the state is continually striving to become a more modern society with stronger and fairer values and culture.

Furthermore, the current law encourages gamesmanship by prosecutors. A prosecutor might overcharge a defendant in order to qualify for a 12-person jury needing 10 votes, and thus perhaps an easier conviction, as opposed to a six-person jury in which unanimity is required. This distortion can make it easier to convict someone of a greater crime than a lesser one.

ARGUMENT AGAINST

The racial motive behind the origin of this law is something we can all agree that Louisiana got wrong. While there is no way to validate the racial component of the current law, we should recognize the ways that this law has been beneficial. Having a lower verdict threshold reduces the likelihood of a hung jury. In a unanimous system even if 11 jurors think one way, a single juror can create a mistrial. This type of inefficiency and ineffectiveness is exactly what delegates had in mind

when this law was revisited in Louisiana's 1973-74 constitutional convention. The current law is more efficient as it prevents hung juries and saves time and taxpayer money on potential retrials.

The non-unanimous jury law has withstood the test of the U.S. Supreme Court. In 1972 the Supreme Court heard *Johnson v Louisiana* as well as *Apodaca v Oregon*. In these cases the Supreme Court justices noted they did not believe three dissenting votes assumed an inaccurate decision and pointed out that nine jurors could satisfy the burden of "beyond reasonable doubt." While unanimous juries are standard in the United States, that is not the practice in many other developed nations. For example, England, Scotland, Ireland, Brazil, Belgium, and Denmark all refrain from requiring unanimous juries.

Since the amendment would not apply to verdicts before 2019, there could be an issue of fairness. While future convictions could not happen unless there was a unanimous verdict, there would be no relief for those already convicted.

Legal Citation: *Act 722 (Senate Bill 243 by Sen. Morrell) of the 2018 Regular Session amending Article I, Section 17 (A).*



Amendment 3 Allow local governments to share resources

YOU DECIDE



A VOTE FOR WOULD

Allow donations of the use of public equipment and personnel from one political subdivision to another under the Constitution.

A VOTE AGAINST WOULD

Continue to require that local governments receive comparable value for any donation provided to another governmental entity.

CURRENT SITUATION

The state Constitution prohibits donations or loans by state or local government entities except in cases of emergency. The Louisiana Supreme Court has recognized that governmental entities may make agreements to share with each other but has ruled that this authority does not relieve entities of the requirement to receive at least equivalent value in exchange for services or assets provided.**

PROPOSED CHANGE

The proposed amendment would allow local governments or other political subdivisions to donate equipment and personnel to other local entities as long as they have a written agreement without a requirement for receiving comparable value. This amendment would not allow borrowing between the state and local entities.

ARGUMENT FOR

Donations between governments provide for great efficiency. For example, if a fire district needs to borrow a bulldozer from a city, it can save the cost of purchasing a bulldozer. The constitutional prohibition against donations is an important law that prevents governments from just giving away taxpayer dollars. But it was not meant to stop local governments from sharing resources and coping with urgent needs.

ARGUMENT AGAINST

The amendment is not needed. Where one entity has an unmet need, and another entity could satisfy it, the agencies could enter into a written cooperative endeavor agreement for renting or leasing needed personal and equipment. The Constitution's Article VII Section 14 (C) clearly allows for cooperative endeavor agreements between public bodies as long as there is a public purpose and comparable values are exchanged.

Legal Citation: Act 717 (Senate Bill 263 by Sen. Erdey) of the 2018 Regular Session amending Article VII, Section 14 (B).

***The Louisiana Legislature passed Act 191 in the 2017 regular session to create a statute allowing public entities to share equipment provided that both entities enter into a contract known as a cooperative endeavor agreement. However, Article VII, Section 14, of the Constitution prohibits donations or loans by state or local government entities except in cases of emergency. Although the Constitution allows cooperative endeavor agreements for some types of transactions, questions have been raised about whether Act 191 provided a sufficient exception from the constitutional provision. In particular, the issue arose when the Legislative Auditor noted in a routine report that the city of Denham Springs had loaned some equipment to the city of Walker.*

Amendment 4 Diversions of dedicated transportation funding to state police

YOU DECIDE



A VOTE FOR WOULD

Remove the authority to use money in the Transportation Trust Fund by state police for traffic control purposes.

A VOTE AGAINST WOULD

Continue to allow a portion of the Transportation Trust Fund to be used by state police for traffic control purposes.

CURRENT SITUATION

To ensure that state fuel tax dollars would go to transportation projects, the Transportation Trust Fund (TTF) was created with constitutional protections in 1990. Money in the Trust Fund can be used only for the costs associated with construction and maintenance of roads and bridges, flood control, ports, airports, transit, and state police for traffic control purposes. A portion is also set aside for local governments through the Parish Transportation Fund. Funding for ports, the Parish Transportation Fund, flood control and state police cannot exceed 20% of the state tax revenue put into the fund each year.



Since its establishment, the Trust Fund has intermittently been used by governors and the Louisiana Legislature to fund Louisiana State Police at an amount totaling approximately \$700 million. These funds were used to replace general fund tax dollars that otherwise would have been necessary to fund police salaries and other operating expenses as part of their traffic enforcement program. These longstanding legislative actions have, in recent years, prompted critics of state road spending practices and trust fund diversions to claim there is not much “trust in the trust fund.” Consequently, in 2015, the Legislature passed Act 380 that capped Trust Fund allocations for the State Police at \$10 million annually. Since 2016, the Legislature has not used the Trust Fund to support State Police. During recent efforts in the Legislature to increase the state fuel tax, critics claimed that more accountability was needed on how new funds would be spent before the state should expand revenue for transportation and infrastructure.

PROPOSED CHANGE

This amendment would remove “state police for traffic control purposes” from the allowed uses of money in the Transportation Trust Fund. It would have no immediate impact because no money in the TTF is being used to fund state police at this time. It would prevent such diversion in the future. Other uses of the TTF such as for flood control and ports would still be permitted.

ARGUMENT FOR

Almost everyone agrees Louisiana needs better infrastructure. The state has a greater than \$14 billion backlog of needs on its existing surface roads system and even more for other modes of transportation. This is in addition to the \$15 billion worth of mega-projects that would increase the size and scope of the system. This amendment will provide more confidence to taxpayers by guaranteeing that tax dollars will be used on infrastructure projects and not diverted to pay for the operating costs of state police. This amendment would raise confidence in the state transportation funding process. For those concerned about the best use of revenue from potential future fuel tax increases, this amendment would provide more comfort that the money actually would be spent on construction and maintenance. Without this type of guarantee, new revenue solutions to our infrastructure needs would be unlikely in the foreseeable future.

ARGUMENT AGAINST

Traffic control is a needed and legitimate use of transportation funds. Traffic patrols help with public safety by reducing accidents. These accidents slow traffic flow. While no TTF dollars are currently being used to support state police, it is easy to imagine a time when it could be needed in the future such as after a downturn in the economy. We should be removing restrictions on how state funds can be spent, not adding them. The Constitution currently limits appropriations to state police, ports, parishes and flood control to 20% of the TTF. This is a reasonable limit that still gives the Legislature flexibility in future years. Some opponents of a fuel tax increase view this amendment as an unfortunate stepping stone toward higher taxes.

Legal Citation: Act 720 (Senate Bill 59 by Sen. Cortez) of the 2018 Regular Session amending Article VII, Section 27 (B)(1).

Amendment 5 Tax exemptions for property in trust

YOU DECIDE



A VOTE FOR WOULD

Extend eligibility for certain special property tax treatments to property held in trust.

A VOTE AGAINST WOULD

Keep eligibility for certain special property tax treatment restricted to the owner of the property.

CURRENT SITUATION

The Louisiana Constitution has several special property tax treatments for various groups. All homeowners receive a homestead exemption on their primary residence. The exemption basically means the first \$75,000 of value of the home is not included as part of the primary local property tax. Property tax assessments are frozen, and therefore will not increase, for homestead owners who are: over the age of 65; disabled veterans; surviving spouses of members of the military who were killed in action; or the totally disabled. Disabled veterans or their surviving spouses receive an additional \$75,000 property tax exemption. Also, a 100% property tax exemption is available for homeowners who are the surviving spouse of a member of the military, state police, local law enforcement or a firefighter who died in the line of duty.

PROPOSED CHANGE

Occasionally for succession planning purposes, owners may put their home into a trust. The trust allows the former owners to use the home, but otherwise transfer ownership. For example, grandparents may wish to place their home in trust for their grandchildren. Property placed in such a trust is explicitly eligible for the standard homestead exemption. However, a 2017 Attorney General's opinion questions whether all of the other special exemptions apply to property held in trust. This constitutional amendment would allow those other exemptions to apply to the trusts. The exemptions would no longer apply after the death of the original owners who set up the trust.

Companion legislation specifies that trusts would be eligible for special tax treatment if certain conditions are met. These conditions include that the person who establishes the trust must live in the property and, but for the creation of the trust, they would have been eligible for the exemption.

ARGUMENT FOR

Louisiana voters have made it clear that they want groups such as the disabled and the elderly to receive special tax treatment. These exemptions should apply to property in trust, just like the homestead exemption already does. There is no good policy reason to discriminate against those trying to provide for a smooth succession for their family.

ARGUMENT AGAINST

While the various property tax exemptions help worthy groups, it begs the question of when does the state draw the line for property tax exemptions. Although this expansion of these exemptions to trusts is a relatively minor loss of revenue from the local government standpoint, the combination of this and other special homestead exemptions has a cumulative impact on the local tax base.

Legal Citation: Act 721 (Senate Bill 163 by Sen. Perry) of the 2018 Regular Session to add Article VII, Section 18(G)(6), Section 21(K)(4) and (M)(4).

Amendment 6 Large tax increases on homes

YOU DECIDE



A VOTE FOR WOULD

Require a four-year phase-in of tax liability for homes subject to the homestead exemption when a reappraisal increases assessments by more than 50%

A VOTE AGAINST WOULD

Continue to require all homeowners to pay taxes owed on the same basis according to the assessed values

CURRENT SITUATION

All property subject to taxation is constitutionally required to be reassessed at least every four years. Property is either reassessed as it is sold or as part of a periodic parish-wide assessment. Assessors determine the value of properties, other local authorities such as parish councils determine the millage rates applied to the assessments, and the local tax collector (often the sheriff) sends out notices and collects the property taxes owed. Increases in assessments will result in the owners paying more property taxes unless the taxing authorities take action to adjust the millage rates.



PROPOSED CHANGE

According to the legislation, if a reassessment of a primary residence is greater than 50% of the prior assessment, the tax collector will phase-in the additional liability over four years. The assessor's job does not change; the assessor will register the higher assessment on the books as the new value of the home. It would be the tax collector who implements the phase-in for lower taxes by artificially calculating the appraisal at a lower rate. The first year would recognize 25% of the additional tax liability with an additional 25% recognized for the next three years. In the fourth year, all 100% of the additional tax liability would be owed.

The reduction only applies to dwellings that qualify for the homestead exemption. This phase-in would cease if the property is sold to another owner. The amendment would not apply to any increase in assessment that is a result of construction or improvement in the property. Any resulting negative impact on property tax revenue must be absorbed by the taxing entity and cannot be used to create additional tax liability for other taxpayers.

ARGUMENT FOR

Through no fault of their own, some property owners can receive large increases in their property tax bill. This might be because the surrounding neighborhood has shot up in value or because some neighbors are using their homes for short-term rentals, such as Airbnb. While such large increases might be rare, they do happen. This amendment gives owners time to adjust to the higher payments and eases the sticker shock of a large reassessment. Although the resulting revenue gain to local governments might be a little less with this new system, the amendment helps those experiencing a sudden boost in the value of their property.

ARGUMENT AGAINST

This amendment is unfair to homeowners with assessment increases of less than 50% and further compounds a fundamental problem and inequity in the property tax methods of Louisiana. Under the proposed system, a homeowner with a 40% increase in assessment would be paying approximately 8% more in taxes over four years than a homeowner with an increase of just over 50%. In fact, for homes valued at more than \$75,000, a 31% assessment increase would result in about the same amount of tax over four years as a 50% assessment increase. As studies and investigative reports have shown, home values in some parishes can differ widely even for comparable houses. The result is an inequitable system that burdens some homeowners more than others and potentially shortchanges the local governments and schools that depend on fair and reliable tax collections. This amendment exacerbates that problem. The amendment also provides an unnecessary cushion for property owners using their homes for short-term rentals. The amendment will complicate the role of the tax collector, who would have to distinguish different taxing methods depending on whether an assessment increase is based on a sale, improvement or simply higher value. Finally, this is a relatively rare problem and does not warrant amending the state Constitution.

BALLOT LANGUAGE ADVISORY

Voters should be aware that the ballot proposition for Amendment No. 6 that will appear on the statewide ballot does not completely match the content of the legislation. A House floor amendment was adopted to Senate Bill 164 to switch the responsibility for the phase-in from the assessor

to the tax collector. The House floor also changed the bill to limit the special tax reduction only to properties subject to the homestead exemption. Although the central body of this bill was duly amended with those changes, the final section containing the ballot language was not amended to reflect these important changes.

The ballot language says that any “reappraisal” by more than 50% “be phased in over the course of four years.” According to the legislation, the reappraisal is not phased in over time. Homes with a reappraisal of more than 50% would be listed by the assessor at the new, fully assessed amount. It is the tax liability that is subject to the phase in, which would be computed by the tax collector according to a new formula. Proponents of the amendment might argue that the eventual impact on the taxpayer would be the same even if the ballot language had been updated. But PAR points out this issue because it could lead to confusion and misinterpretation by voters and homeowners. For those qualifying under this legislation, if you have a super-sized assessment increase it will be registered as a super-sized assessment increase, but your tax bill would be reduced.

A second omission in the ballot proposition is a House floor change that limits any effect of this bill to those residential properties that qualify for the homestead exemption, which of course must be the owner’s primary home. Consequently, a voter owning residential property not subject to the exemption, such as those who own rental property or a second home, may be surprised to learn that they will not receive the benefit of this reduced property tax, contrary to the understanding they might get from reading only the ballot proposition.

Legislation for a constitutional amendment must contain the actual proposition that will appear on the ballot. The proposition must be in a yes-or-no question form and should provide reasonable notice to the voters of the amendment’s impact. The House Committee on Civil Law and Procedure specifically is responsible for reviewing the ballot language of a proposed constitutional amendment. In this case, Senate Bill 164 was changed after the committee’s review. The bill was not referred to the committee for an additional hearing to review the ballot language in light of the changed legislation.

Legal Citation: Act 718 (Senate Bill 164 by Sen. Morrell) of the 2018 Regular Session to amend Article VII, Section 18(A) and (F).

BALLOT LANGUAGE FOR AMENDMENT NO. 6

Do you support an amendment that will require that any reappraisal of the value of residential property by more than 50%, resulting in a corresponding increase in property taxes, be phased-in over the course of four years during which time no additional reappraisal can occur and that the decrease in the total ad valorem tax collected as a result of the phase-in of assessed valuation be absorbed by the taxing authority and not allocated to the other taxpayers?

Ballot item: The Louisiana Fantasy Sports Contests Act

Although not a constitutional amendment, this item will appear on all ballots statewide on November 6.

**YOU
DECIDE**



A VOTE FOR WOULD

permit online fantasy sports betting contests in the voter's parish

A VOTE AGAINST WOULD

not allow online fantasy sports betting contests in the voter's parish

CURRENT SITUATION

Fantasy sports are popular across the nation including Louisiana. This activity includes games like fantasy football, where contestants create teams by “drafting” players to fill out different positions on their roster. A contestant’s roster is comprised of players from different teams across the league. That might mean a quarterback from the New Orleans Saints and a running back from the Atlanta Falcons. Each player then scores points for their fantasy team during the week or over the course of a season based on player statistics (for example, yards gained, passes completed, etc.). Contestants often pool money for prizes. This is but one of many varieties of fantasy sports. Generally the activity focuses on player performance rather than the actual outcomes of football or other sports games.

Fantasy sports games are legal in Louisiana if no wagering is involved. Several websites such as ESPN and Yahoo allow people to sign up for fantasy sports for no charge and without any related prizes for winning. Certain other online fantasy sports sites like DraftKings or FanDuel charge entry fees and give out cash prizes. People in Louisiana are not allowed to use those sites and others like them to compete in fantasy sports where winners receive prizes. Currently, such activities are expressly prohibited by law in Louisiana and would be a crime punishable by a fine up to \$500 and imprisonment for up to six months.

Legal and political disputes surround the terminology of the various forms of fantasy sports. For example, fantasy sports companies prefer that their games be considered “contests” rather than “gambling,” which can have different legal implications. Also, while “gambling” technically remains illegal in Louisiana, many forms of “gaming” – including casinos, video poker, lotteries and racetracks -- do not. Nationally, sports betting for many years was illegal except for a few states such as Nevada. In May 2018, the U.S. Supreme Court ruled that the federal ban on sports betting violated the rights of states and thus opened sports betting for those states wishing to legalize the activity.

PROPOSED CHANGE

Under this act, Internet and mobile device fantasy sports contests would be permitted in any parish that votes for it. However even in those parishes it would not necessarily happen immediately. Such contests would continue to be illegal until state laws and regulations are adopted. These laws and regulations would include how the fantasy sports contests would be taxed. Gambling winnings already count as income for personal income tax purposes, but it is possible if not likely that additional taxes and fees could be created. Regulation would fall to the Louisiana Gaming Control Board, which is already responsible, along with State Police, for other similar activities such as video poker and casinos.

This vote does not address whether casinos or other locations in Louisiana will be able to book bets on the outcome of actual sports games. After the Supreme Court ruling in May, all states are allowed to move in that direction with whatever state statutory and constitutional changes are needed to do so. But this particular law does not address that style of wagering, which is popular in Las Vegas.

Would a yes vote on this ballot create a legal environment allowing a group of people in Louisiana to engage strictly among themselves in fantasy leagues with money for prizes? Would the office fantasy league be legal? The law is not distinct on this question, but Louisianans have been playing such games for years without prosecutions taking place.

ARGUMENT FOR

People already bet on fantasy football and similar games. This vote would just legalize it and allow the state and local government to regulate and tax it. Although the games probably would not generate a lot of government revenue, any amount would help the state budget. This change would help fantasy sports participants because currently they do not have legal recourse in Louisiana if they believe they are treated unfairly by a contest. Except for truly serious problems such as sponsorship of harmful criminal activity, government should not tell citizens what they can and cannot do with their money.

ARGUMENT AGAINST

This is an expansion of gambling in Louisiana. Proponents may call it a sports fantasy contest, but this activity is in fact sports betting. That means an expansion of all the ills that come with “gaming,” which is just the legal fiction developed in Louisiana to allow gambling. According to a recent analysis by Wallethub, Louisiana is the 5th most gambling addictive state. This problem harms our youth. A report by the University of Louisiana - Lafayette Picard Center stated that over 40% of school age children from 6th to 12th grade had participated in some form of gambling. Government should not encourage citizens to gamble and then force the taxpayers to pay for the financial and family problems it causes. The Fantasy Sports Contests Act not only authorizes participation by desk and notebook computers but also by any “mobile device” in any location in a parish voting to authorize such gaming. Minors will find ways around technology aimed at blocking them. We already have a problem and we should not vote to make it worse.

Legal Citation: Act 322 (House Bill 484 by Rep. Talbot) of the 2018 Regular Session to amend and reenact R.S. 27:15(B)(1) and to enact R.S. 14:90(D) and 90.3(J) and Chapter 6 of Title 27 of the La Revised Statutes.