

Constitution

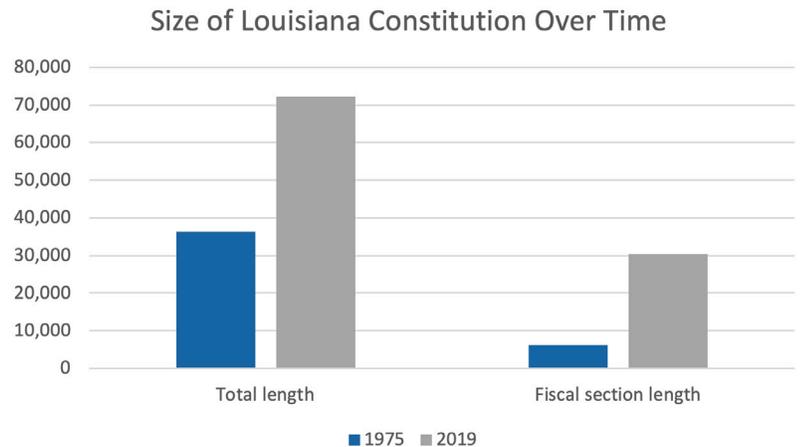
Louisiana should simplify the state constitution to increase fiscal flexibility, allow improvements to tax and spending policies and modernize state and local relations.

**Design a Modern,
Workable State
Constitution**

The Louisiana Constitution has become an unwieldy and restrictive document that governs fiscal matters through narrow rules and restrictions rather than broad grants of authority. This hinders the effective operation of government and the ability of elected officials to meet the current needs of citizens. The number of constitutional funds and detailed restrictions in the Louisiana Constitution has increased, as has the inability of our state and lawmakers to address current and pressing fiscal concerns or to reset priorities.

Since it was adopted by a constitutional convention and ratified by voters in 1974, the current Louisiana Constitution has been amended 195 times. Ninety-nine of those amendments have been to Article VII, which covers revenue and finance matters, including the state budget process and taxation. Each change has occurred separately through the piecemeal amendment process provided for in Article XIII, which authorizes an amendment if approved by two-thirds of each legislative chamber and a majority of voters in a statewide election.

The Louisiana Constitution is three times the length of the average state constitution (26,000 words) and nearly 10 times longer than the U.S. Constitution (7,500 words). At over 72,000 words, it ranks as the fourth longest constitution in the United States, trailing only Alabama (approximately 376,000 words), Texas (approximately 87,000 words) and Oklahoma (approximately 82,000 words).



Source: Louisiana State Constitution

More important than the length of the Louisiana Constitution is its effectiveness. As the number of constitutional funds and detailed restrictions in the Louisiana Constitution increases, so does the inability of the state and lawmakers to address current and pressing fiscal concerns. The original constitution adopted in 1974 had only a couple of specific funds; today's constitution has approximately 30 funds and references even more. These restrictions leave the Governor and Legislature little flexibility to deploy funds on other pressing priorities. Constitutional revenue provisions curtail the state's flexibility to reform the state's tax system. It is not surprising that over the last three years, the Legislature has held seven special sessions solely to craft a workable state budget.

The Financial Heart of the Constitution

Articles VI (local government) and VII (revenue and finance) set forth the basic structure and operation of Louisiana's tax and spending system. Broadly speaking, the Louisiana Constitution authorizes both state and local governments to impose and collect certain categories of taxes, including income taxes, sales taxes and property taxes. Yet, the Louisiana Constitution also imposes important limitations on government's ability to adjust revenue, primarily through mechanisms like numerical caps on the level of taxation and mandatory exemptions, credits and deductions that are available to many categories of individual and corporate taxpayers.

Regardless of whether there is consensus on the continued value of each of Louisiana's many tax exemptions and deductions, there is a benefit to providing the Legislature with more flexibility to adjust or restructure Louisiana's tax system to fix old problems and to respond to changing fiscal circumstances. Less detail in the Louisiana Constitution, not more, will help achieve greater fiscal flexibility and help prevent the need for continuous constitutional amendments to achieve minor policy changes.

Of the 99 amendments to Article VII, not a single one removed an existing fiscal provision from the Louisiana Constitution. Instead, each amendment has added new fiscal constraints – in most cases, new budget rules or dedicated funds. The result is an article that is now nearly as long as the entirety of the original 1974 Louisiana Constitution and contains a complex set of rules and restrictions that govern how state revenues are appropriated and spent.

State-Local Imbalance

The Louisiana Constitution allows local governments to raise their own revenue, primarily through sales and property taxes, but also contains several important restrictions and limitations that affect local governments' ability to manage their own fiscal affairs. This has resulted in the state government subsidizing local government to offset lost potential revenue. The Louisiana Constitution limits the opportunity to redefine the state-local relationship in ways that would build more sustainable communities, create a better environment for economic development and allow a broad tax restructuring. It limits efforts both for centralization and decentralization of important aspects of state-local relations, making reform difficult.

Methods for Change

There are multiple ways to revamp the Louisiana Constitution. It can be done through a package of regular constitutional amendments designed to implement a combination of changes at one time. This approach could be presented as a coordinated group of proposals with each piece placed individually before voters statewide to decide. The Louisiana Constitution also allows an entire article to be rewritten through the amendment process. For example, all of Article VII could be rewritten by the Legislature and put before voters as a single ballot proposal.

Also, the Legislature can call a convention. The specifics of a convention and how delegates are selected are determined by legislation. The Governor has influence with veto power over that legislation, unlike with constitutional amendments. If a convention of delegates succeeds in drawing up a new constitution, the new document would be placed before voters on a statewide ballot. The Louisiana Constitution does not provide for a "limited" convention, and so the basis for a fiscal-only convention would be under legal scrutiny. However, advocates of a convention have outlined ways that a convention might be focused upon fiscal matters. One argument for a convention, as opposed to letting the Legislature compose the changes, is that convention delegates might be bolder and less beholden to special interests than legislators generally. A convention also would allow a better balance of participation among all three branches of state government.

A Fresh Analysis

Whether through a convention or amendment process, Louisiana should fix the fiscal elements – broadly speaking – of its constitution. The Louisiana Constitution should be transformed from a complex, detailed and limiting document to a foundational document that defines basic rights and provides the principles, government structure and main responsibilities of state government and its operation.

In the summer of 2019, Public Affairs Research Council of Louisiana (PAR) will release a report explaining the content and impact of the current constitution. This online report will serve as an educational resource for those wishing to evaluate the constitution and opportunities for improvement. PAR also will provide its own recommendations on constitutional changes. Policymakers and candidates should look to PAR's report as a valuable resource for understanding the Louisiana Constitution and as a guide for improving it.

The RESET

The Louisiana Constitution should be understandable and accessible to Louisiana citizens. Its fiscal complexity should be removed and replaced with provisions that focus on the fundamental operation of government rather than specifying details better left to statutes. It should give lawmakers the flexibility to improve Louisiana's tax and budget rules so the state can compete with other states by focusing limited resources on key priorities and set the stage for growing our economy and improving the lives of citizens.

Before changes to the Louisiana Constitution are sought, key principles must be established if reform is to be successful. In other words, the first principle is to have good principles. The following principles are based on the notion that a state's constitution should be a foundational document that defines basic rights guaranteed to a state's citizens and outlines the powers and responsibilities granted to the state's branches of government.

- **Louisiana's Constitution should be brief and limited to general principles rather than specific provisions. In other words, it should provide a basic framework for the scope and operation of government but should leave policy details to be defined in statutory law.**
- **Louisiana's Constitution should grant authority to specific institutions but leave decisions regarding how those agencies and institutions exercise that authority to individuals elected or appointed to public office.**
- **Louisiana's Constitution should provide for orderly change but should not be written in such a restrictive way that requires continual revision to meet contemporary needs.**
- **Louisiana's Constitution should be a stable document that reflects long-term, enduring values of the state. Policy provisions that reflect shifting attitudes or are responses to temporary external factors should generally be placed in statute. The Louisiana Constitution should enable Louisiana to be economically competitive and flexible enough to respond to the needs of its citizens.**