

amendments

to the

louisiana constitution



Voter's
Guide

election issues

Oct. 22, 1983



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Constitutional Amendments: Getting To Be A Habit?

Three proposals to amend Louisiana's state constitution will be on the October 22, 1983 ballot. Amendment Nos. 1 and 2 require a constitutional amendment to achieve the change sought, while Amendment No. 3 basically would give constitutional status to provisions already in the statutes.

The current proposals make a total of 19 amendments presented to voters for ratification since the 1974 constitution was approved. Voters approved all proposed amendments in the first three elections, but only half in the last election of 1982. The following table shows results of previous voting on constitutional amendments to the 1974 constitution:

<u>Date</u>	<u>Number of Amendments</u>		<u>Average Percent of Registrants</u>	
	<u>Proposed</u>	<u>Approved</u>	<u>Voting</u>	<u>Approving</u>
Nov. 7, 1978	1	1	29.9%	18.2%
Oct. 27, 1979	3	3	37.5	23.8
Nov. 4, 1980	4	4	55.7	38.0
Sept. 11, 1982	8	4	24.9	12.6

Amending Louisiana's constitution is a serious matter in which all eligible voters should participate. This *PAR Guide* is provided to help voters make informed decisions.

NO. 1 FEWER SPECIAL ELECTIONS FOR JUDGES

PURPOSE: To allow 12 months instead of the present six months to hold special elections to fill judgeship vacancies, thereby reducing the number of special elections, increasing voter participation and saving on election costs.

LEGAL CITATION: Act 728 of 1983 amending Article V, Section 22 (B).

BACKGROUND: All Louisiana judges are elected—Supreme Court and Courts of Appeal judges for 10 years and lower court judges for six years. Judgeships frequently are vacated before the end of the full term as judges retire, die, run for other offices or reenter private life. A new judgeship or vacancy

often results in a succession of vacancies as lower court judges move up the judicial ladder.

The Supreme Court appoints a person to fill the vacancy until a new judge is elected, and the appointee cannot run in the election. These constitutional provisions would continue.

The constitution requires that a special election be held within six months for a judgeship vacancy with more than six months left in the term. Because vacancies occur irregularly, holding the election on a regularly scheduled election date is often impossible. A special election often must be called just to fill the judgeship. During 1982, 15 special judgeship elections were held at an estimated cost of \$2 million. According to a fiscal note, about \$300,000 of this cost could have been saved if another six months had been available to schedule the elections, as proposed in the amendment.

Voter turnout for single-issue special elections is often much lower than for regularly scheduled elections. One large parish with a 52% voter participation in the 1982 congressional election had only 11% and 7% of the registered voters turn out for two special judgeship elections held in 1983.

A companion act, No. 152 of 1983, would provide statutory implementation of the proposed amendment.

COMMENT: This proposal would eliminate many costly special elections and could increase voter participation in the election of judges.

The proposed amendment could result in appointees sitting on various courts longer than at present. However, an appointee who is qualified to sit for six months should also be qualified to sit for a year. The appointee, being ineligible for the seat, would gain no undue advantage from the extra months.

NO. 2 AUTHORIZE RETURN OF EXPROPRIATED PROPERTY, INCLUDING MINERAL RIGHTS

PURPOSE: To allow the Legislature to return public property, including mineral rights, to previous owners when the purpose for which the property was expropriated no longer exists.

LEGAL CITATION: Act 729 of 1983 amending Article VII, Section 14, Paragraph (B).

BACKGROUND: The amendment would allow the Legislature to order the return of property and mineral rights expropriated or bought under threat of expropriation by declaring by law that the original purpose for the expropriation no longer exists. The Legislature could impose conditions on the return.

The proposal would be an exception to a constitutional requirement that the state retain the mineral rights on any of its property that is sold, unless the property was seized for taxes due.

The amendment was prompted by efforts to reclaim property and mineral rights expropriated by the Orleans Levee Board, under a 1924 act, for construction of the Bohemia Spillway in Plaquemines Parish to relieve flooding in New Orleans. However, the Bonnet Carré Spillway was later constructed for this purpose.

COMMENT: Former owners have some rights to their former property since current law requires a government that decides to sell property it owns to first offer to sell it at the fair market value to the former owner or his successors. State law also now prohibits the expropriation of mineral rights when state or local governments expropriate property, unless necessary for the public project. In the past, mineral rights sometimes were expropriated with the land even though they were unnecessary for the public purpose. The amendment could rectify this inequity, but would go farther by allowing the Legislature to require the return of property, regardless of whether the property is being used or the government desires to dispose of it.

Some problems could arise because:

- The proposal has broad application since it would apply to all land and mineral rights expropriated by the state or local government not being used for the original purpose.

- No general law spells out the guidelines under which expropriated land and mineral rights would be returned.

- The expropriated land could be used currently for a public purpose but not the original one, or have been used in the past for a public purpose but not be in use at the present time. In both cases, the current use would not be the original purpose for which the property was expropriated, thus giving the former owner a basis to request return of the property.

NO. 3 CONSTITUTIONAL STATUS FOR THE LIFE FUND

PURPOSE: To provide permanence to the state's LIFE fund, and place all oil and gas windfall money in the fund.

LEGAL CITATION: Act 730 of 1983, amending Article IX by adding Section 10.

BACKGROUND: The state attempted to plan for use of windfall revenues from federal oil price decontrol by creating in 1979 a special fund, later renamed the Louisiana Investment Fund for Enhancement (LIFE). The act set a base of \$640 million from oil and gas revenues (severance tax and royalties) to help finance the state's operating budget. The base would increase each year by an inflation factor. Revenues in excess of the base amount were divided equally between the trust fund and the state general fund. Interest earnings went to the state general fund.

In 1980, the base was raised to \$1.085 billion and implementation of the fund was postponed for two years—reducing potential revenues of the fund by about \$1 billion.

No restrictions were placed on purposes for which money in the LIFE fund could be spent, and money could be appropriated out of the fund by majority vote of the Legislature.

The LIFE fund is practically depleted, and no additional money is expected because the price of oil has stabilized and taxable production continues to decline.

The proposed amendment would make three changes:

1. The LIFE fund and the formula for allocating money to it would be placed in the constitution, thereby precluding the Legislature from making changes on its own.

2. The formula would be changed to require that *all* rather than *half* of the excess money go to the LIFE fund.

3. A two-thirds vote of the Legislature rather than a majority would be needed to spend money from the LIFE fund.

COMMENT: This proposal would have no immediate effect since very little money is in the LIFE fund and no further money is anticipated. Should the situation change, the amendment would assure that the Legislature could not reduce money going into the LIFE fund as was done in the past.

The two-thirds vote requirement could encourage "pork barrel" legislation to gain the required votes.

Use of windfall money to increase the level of the state's operating budget is a major cause of the state's current financial problems. The proposed amendment would place no restrictions on use of the windfall money in the LIFE fund, thereby permitting it to be used for recurring purposes.

Some states with mineral wealth have created trust funds. The LIFE fund is not a trust fund since both principal and interest earnings can be spent. This proposal would preclude creation of a trust fund from future windfall mineral revenues, except by another constitutional amendment.

Election Issues

Louisiana has resolved many of its problems, but some old ones remain and new ones have surfaced. Voters should be aware of these issues and the candidates' positions on dealing with them.

Elementary-Secondary Education

- Create a state commission to study ways to implement recommendations of the National Commission on Excellence in Education's 1983 report, "A Nation At Risk: The Imperative for Educational Reform."

- Tie salaries for the teaching profession to performance and differences in assigned responsibilities, based on an effective evaluation system, rather than the present single salary schedule which rewards only experience and education degrees.

- Eliminate the dual elected heads of public education by appointing either the state superintendent or the state board.

- Revamp the state school aid formula to place emphasis on students, not jobs for educators.

- Abolish tenure in positions for local school administrators and supervisors.

- Institute a formula to pay justified state costs of school transportation incurred by local school systems.

- Transfer responsibility for transporting vo-tech and college students from local systems to those institutions which the students attend.

- Replace lifetime teaching certificates with periodic recertification.

- Encourage more public participation in public schools, particularly by parents and businesses.

Vo-Tech Education

- Develop and implement a statewide management information system to improve utilization of the vo-tech schools.

- Fund schools through an equitable formula rather than the present political system.

- Stop building more vo-tech schools.

- Have better communication with employers through such means as advisory councils for specific courses and job placement of students.
- Coordinate program offerings with those at high schools and colleges to avoid duplication.
- Extend the daily hours of operation of vo-tech schools.

Higher Education

- Continue to eliminate weak or unneeded programs and concentrate on quality and changing needs.
- Develop at least one institution with the goal of attaining national stature for quality scholarship and research.
- Institute selective admissions at designated campuses when the federal consent decree expires at the end of 1987.

Financial Policies

- Revamp the state's tax structure to offset the dwindling oil and gas income and also to provide revenue growth in line with economic growth.
- Stop enacting state tax exemptions designed to benefit select groups rather than the economic growth of the state, and repeal those exemptions that are unjustified.
- Change the state budget concept to one based on programs, performance standards and achievement of goals.
- Establish a component in the Office of the Governor to evaluate the management and cost of state programs.
- Implement acceptable recommendations of the Governor's Cost Control Commission.
- Increase fees to cover costs of special services.
- Reduce state reliance on bonuses (derived from leasing state land for oil and gas exploration) to balance the operating budget, and use the money instead to help finance the capital budget.
- Abolish the governor's discretionary fund for public works (slush fund).
- Repeal the state prevailing wage law.

Capital Budget

- Enact realistic one-year state capital budgets and formulate planned five-year programs.
- Stop state funding of strictly local projects except through equitable statewide programs.

- Develop a comprehensive statewide plan to provide office space for state agencies.
- Use a recurring source of money for routine maintenance and repair of state buildings.

Economic Development

- Develop a comprehensive and coordinated state economic development policy.
- Use research and other techniques to attract new businesses as well as encourage growth and expansion of existing firms.
- Develop an ongoing system to supply accurate and useful information to firms considering a Louisiana site.
- Assure that state and local governments perform their functions in the most effective and efficient manner.

Environment

- Assure proper staffing to enforce federal and state environmental standards.
- Develop a comprehensive and coordinated state water resources policy.

Public Retirement

- Set normal retirement age at 65 years for most state and local employees, and reduce benefits actuarially for early retirees.
- Give cost-of-living adjustments (COLAs) only to retirees who are of normal retirement age.
- Enact a schedule to reduce the state's unfunded accrued liability which now exceeds \$4 billion and is growing.
- Eliminate special benefits for full-time elected officials, and eliminate retirement benefits for legislators and other part-time elected officials.
- Prohibit special benefits to individuals or small groups.
- Stop giving retirement credit for unused annual and sick leave.
- Consolidate administration and benefit plans of the 13 state and statewide retirement systems.

State Personnel

- Implement the 1982 law establishing a personnel control system.

- Simplify civil service job classifications and provide flexible pay plans based on employee performance upon completion of the study now underway.

- Bring Louisiana's liberal annual and sick leave policies for state employees more in line with the private sector and public employees in other states.

Reorganization

- Appoint rather than elect the commissioners of agriculture, elections and insurance.

- Undertake a study of the entire structure of the state's executive branch to determine if the present departments and functions assigned to them can be improved.

- Use undersecretaries for their intended role—to improve services, cut costs and eliminate unneeded programs.

- Reduce the number of boards and commissions and the governor's appointments to them.

- Streamline the Office of the Governor by transferring to the appropriate departments those offices and agencies which administer state programs.

Local Finance

- Lower homestead exemptions but provide tax relief for low-income homeowners.

- Strengthen authority of local governments to raise revenue locally.

- Provide a comprehensive, equitable system of state aid to local governments to replace the present fragmented approach.

Contact PAR for more information on these issues.

Voter's Checklist

<u>Yes</u>	<u>No</u>	<u>Ballot Number</u>	<u>Subject</u>
<input type="checkbox"/>	<input type="checkbox"/>	1	Fewer special elections to fill vacancies in judgeships
<input type="checkbox"/>	<input type="checkbox"/>	2	Authorize Legislature to return expropriated property, including mineral rights, to former owner
<input type="checkbox"/>	<input type="checkbox"/>	3	Constitutional status for LIFE fund (oil and gas windfall revenues)

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