

amendments

to the

louisiana constitution



Voter's
Guide

Nov. 6, 1984



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The Yearly Round of Amendments

The original 1974 state constitution was a fairly brief and simple document which replaced what had been called a "constitutional monstrosity." Louisiana's constitution is only 10 years old, but it is getting longer and more complicated through the yearly submission of constitutional amendments.

Five proposed constitutional amendments are on the November 6, 1984 ballot, making a total of two dozen proposed since adoption of the constitution. Voters have approved 15 of the 19 proposed amendments previously submitted to them, although only a small percentage of registered voters even vote and a much smaller percentage of potential voters are responsible for ratification. All that is needed for ratification of an amendment is approval by a majority of those voting on it.

The following table shows results of previous voting on constitutional amendments:

| <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 |
| Oct. 22, 1983 | 3 | 3 | 44.2 | 29.2 |

The five amendments proposed on the 1984 ballot run the gamut from major changes in state financial policies (Amendment No. 1) to a minor change related to private colleges which submit nominees for the civil service commission in New Orleans (Amendment No. 5). Amendment No. 2 would lower local property taxes on motor vehicle inventories although a companion act would replace the lost revenues, while Amendment No. 3 would increase the state corporate income tax. Amendment No. 4 would give constitutional backing to organizational sessions of the Legislature.

The purpose of this *Guide* is to inform voters of the varied constitutional issues they will decide.

**LIMIT STATE SPENDING,
USE SURPLUSES FOR A RAINY DAY FUND
AND ECONOMIC DEVELOPMENT**

PURPOSE: To limit growth in recurring state spending and use surpluses, including possible windfalls from settlements on offshore mineral revenue, for a "rainy day" fund should revenues fall below estimates, and for a permanent trust fund, with earnings from investment used to finance a variety of programs aimed at economic development.

LEGAL CITATION: Act 963 of 1984 amending Article VII, Section 10 (B) and adding Section 10-A.

BACKGROUND: This proposal is part of the administration's economic development package to stabilize state spending and to develop new types of business and expand existing ones through research and other state subsidies so the state government is not so dependent on its erratic and depleting oil and gas revenues. It would make a number of changes:

The annual increase in state general fund appropriations, excluding those for capital outlay, could not exceed 85% of the average of the three prior-year annual percentage increases in Louisiana personal income. Personal income is a measure of the people's ability to pay taxes, and reflects inflation and economic growth. The spending limit could be exceeded by a three-fourths vote of the elected members of each house. The 1984-85 base year for determining the spending cap would be adjusted every four years to reflect actual rather than allowable spending.

Year-end general fund surpluses would be divided three ways: 40% would go to a Stabilization (rainy day) Fund until a maximum of 15% of the prior year state taxes, licenses and fees was reached; 36% would go to a Permanent (trust) Fund, and 24% would be available for legislative appropriation. If and when the Stabilization Fund reached its maximum, 60% of the general fund surplus would go to the Permanent Fund, and 40% would be subject to appropriation. Earnings from invested money in the Stabilization Fund would stay in that fund until the maximum was reached; after that, earnings would go to the state general fund.

Up to a third of the money in the rainy day fund is to be transferred to the general fund by the state treasurer if revenues for a given year are determined to be insufficient to finance approved spending. The proposal refers to a general law to

stipulate procedures for determining when state revenues are inadequate, and a study is planned to formulate such a law.

Principal in the trust fund would be invested according to a "prudent-investor rule" which allows a wide range of investments, and only the earnings could be spent. First priority on earnings would be to add to the principal of the trust fund each year to offset inflation. Two thirds of the remaining earnings would go to a Louisiana Science and Technology Foundation, and the balance to a Louisiana Renewable Resources Foundation.

The proposed cap on spending as well as the two funds would expire in 20 years—the end of fiscal 2004-05—and money remaining in the two funds or receivable by them would go to the state general fund.

Act 889 of 1984 is a related measure which became effective July 20. Although technically not dependent on passage of this proposed amendment, Act 889 is linked to it for financing from the trust fund, and to validate some activities of the two foundations that may be questionable under the present constitution.

Act 889 creates a unified investment board and a board for each of the two foundations, and defines the scope of their activities. The boards are in the Governor's Office, and most members are appointed by the governor.

COMMENT: This proposal would impose fiscal restraints on the Legislature, but allow flexibility should the need arise by allowing the cap to be exceeded by a three-fourths vote of the Legislature, and "sunset" the entire plan after 20 years. Some implications of the proposal include the following:

1. The proposal does not appear to follow the constitutional requirement that a proposed amendment be "confined to one object." There are a number of issues involved, some only indirectly related to economic development, but voters will be unable to vote separately on the issues.

2. It would supersede several existing constitutional provisions without specifically amending or repealing them:

- It would set aside the constitutional dedication of money from tidelands settlements (for early retirement of state debt and up to 10%, or \$10 million a year, for capital outlay) in favor of dedicating a portion to the two funds and freeing another portion for legislative appropriation. Louisiana has been negotiating a tidelands settlement with the federal government concerning \$2.5 billion of royalties and bonuses placed

in escrow, as well as other possible revenues to be derived from activities in the outer continental shelf.

● It would modify a constitutional prohibition on use of state funds, credit, property or things of value for loans, pledges or donations to persons, associations or corporations, public or private, as well as a prohibition on the state purchasing stock of a corporation or association. Under the proposed amendment, money in the Permanent Fund would be subject only to the prohibition on "donations." All of the prohibitions would apply to earnings of the two foundations unless used for specified purposes, such as endowments, grants and scholarships, or to purchase up to 25% of the stock of a corporation if the state would not incur a liability and if approved by three-fourths vote of the Legislature.

3. The proposed cap on state spending, pegged to 85% of the growth in the state's personal income, would not apply in instances where state general fund spending grew at a slower pace. Nevertheless, the cap would act as a continuing restraint on excessive growth in spending. It also would assure that if the state receives another large windfall, there would be restraints on how it is spent. A portion would go to a rainy day fund for use in times of adverse conditions, and part would be preserved in a trust fund with only the earnings used to finance recurring spending.

4. Since the limit applies only to financing from general fund revenues which are not dedicated, it could encourage dedications to other restricted funds to circumvent the restriction.

5. The self-executing proposed constitutional dedications would commit the state to financing a variety of activities for 20 years, even if this approach proved to be unwise or ineffective.

6. If this amendment fails, funding for the two foundations would have to be by direct appropriation, grants or borrowing. The state appropriated \$6.2 million to the Louisiana Science and Technology Foundation for the 1984-85 fiscal year, contingent on funds becoming available.

CONCLUSION: The proposed amendment, as well as the related statute, have constitutional, substantive and technical problems, including language which is confusing and difficult to interpret. However, the choice for voters is whether the state will be better off with or without this proposal.

Its objectives are to curb unsound and excessive growth in state spending which can lead to financial crises; prevent ir-

responsible spending of one-time windfalls; provide a rainy day fund to deal with the erratic and cyclical nature of state revenues, and assure continuous state support for economic development activities aimed at making the state less dependent on oil and gas.

NO. 2 VEHICLE INVENTORY TAX EXEMPTION

PURPOSE: To exempt motor vehicles held in inventory from state, parish and special ad valorem taxes.

LEGAL CITATION: Act 960 of 1984 amending Article VII, Section 21 (E).

BACKGROUND: Motor vehicle dealers now pay property taxes on vehicles held as business inventory, but this amendment would eliminate those taxes. The exemption would cover inventories of new and used motor vehicles including automobiles, trucks, motorcycles and motor homes. These motor vehicle inventories would be exempt from all property taxes except municipal taxes, unless the municipality enacted the exemption.

Act 339, a companion act which would become effective only upon passage of this amendment, would increase the state motor vehicle title fee from \$15 to \$25 to replace revenues lost by local governments because of this property tax exemption. Revenue from the added \$10 fee would be allocated among the parishes according to the number of titled vehicles. The sheriff in each parish and the director of finance in the City of New Orleans would distribute the money to "the appropriate taxing authorities" in proportion to their share of property taxes collected in the parish.

COMMENT: Taxes on business inventories generally are considered among the most inequitable and difficult to administer. The proposed exemption would remove this administrative problem and relieve automobile and other vehicle dealers of paying the inventory tax.

An estimated \$2.7 million a year in motor vehicle inventory taxes would be lost, while the title fee increase would raise \$8.9 million a year. Local governments would benefit initially from a three to one replacement of lost tax revenues from the added title fees paid by the consumer. This fee would apply to occasional sales of used vehicles by individuals as well as dealer sales. Consumers may or may not benefit from price reductions due to the lower dealer taxes.

While the companion act was intended to exclude municipalities from receiving title fee money, some cities may be able to receive those funds while continuing to collect city property taxes on motor vehicle inventories. For the City of Baton Rouge and perhaps other cities, the sheriff collects city taxes and would distribute title fee money "in the same manner as other ad valorem taxes collected." In New Orleans, the city would receive title fees but might continue to tax inventories under those levies traditionally considered city taxes.

Also, taxing jurisdictions without motor vehicle inventories to tax would receive the title fee money even though the exemption would not lower their taxes.

NO. 3 CORPORATE INCOME TAX INCREASE

PURPOSE: To increase the state corporate income tax by eliminating deduction of the federal tax except for a minimum of \$1,000 for a corporation.

LEGAL CITATION: Act 15 of 1984 First Extraordinary Session amending Article VII, Section 4 (a), and Article XIV by adding Part V.

BACKGROUND: The 1974 state constitution incorporated a 1973 act which makes federal income taxes deductible from the state corporate and personal income taxes in computing state income tax liability.

The proposed corporate income tax increase would become effective for tax years beginning after December 31, 1983 and thus would be retroactive. The increase is estimated to yield \$65.8 million for fiscal 1984-85.

Corporations would not have to pay the full cost of the increase since they can deduct state income taxes from their federal income tax liability which has a maximum tax rate of 46%.

Of the 46 states that levy a corporate income tax, only six states including Louisiana allow deduction of federal taxes.

Act 4 of the 1984 special session, a companion act dependent on passage of this amendment, sets \$1,000 as the maximum deductible federal tax for a corporation, which is the minimum allowed by this proposed amendment.

COMMENT: This proposal is part of the Governor's tax package which totals almost \$1 billion of increases approved at the December 1983 and March 1984 special sessions and the 1984 regular session.

Approval of this amendment would provide money to finance 14 items totaling \$51.2 million which are to be financed in fiscal 1984-85 if funds become available. The largest of these 14 contingent items is \$30 million for the Governor's Discretionary Public Works Fund. Money in this fund is not tied to specific projects; instead, the governor determines how the money is to be spent—a slush fund.

NO. 4 ORGANIZATIONAL SESSIONS OF THE LEGISLATURE

PURPOSE: To require an organizational session of a newly elected Legislature prior to the regular session.

LEGAL CITATION: Act 962 of 1984 amending Article III, Section 2, by adding Paragraph D.

BACKGROUND: The 1974 constitution provides that legislators take office approximately one month before the regular session convenes. Under Senate and House rules, legislators have met on the day they assumed office to take the oath, judge qualifications and elections of members, and organize and select officers. This proposed amendment would provide constitutional authority for such organizational sessions every four years. These sessions would be limited to three days, and proposed legislation could not be considered.

COMMENT: Although the Senate and House have held organizational sessions, it remains unresolved as to whether they have the inherent authority to do so. This amendment would resolve this constitutional question by granting specific authority for organizational sessions of the Legislature.

NO. 5 NEW ORLEANS CIVIL SERVICE COMMISSION

PURPOSE: To replace St. Mary's Dominican College with Our Lady of Holy Cross College as one of the private colleges which nominates persons to serve on the New Orleans city civil service commission.

LEGAL CITATION: Act 961 of 1984 amending Article X, Section 4 (B).

BACKGROUND: The New Orleans city council appoints the five members of the New Orleans city civil service commission

from lists of nominees submitted by five private institutions of higher education in New Orleans. The presidents of Dillard University, Loyola University, St. Mary's Dominican College, Tulane University and Xavier University each nominate three persons, and the council appoints one member to the commission from among the three nominees of each institution.

COMMENT: St. Mary's Dominican College is scheduled to close in August of 1984 and will no longer be able to provide nominees for one of the five seats on the commission. The amendment would replace St. Mary's Dominican College with Our Lady of Holy Cross College as one of the five nominating private colleges.

This proposal must be approved in New Orleans as well as statewide.

Contact PAR for more information on its research program and other publications.

Voter's Checklist

| <u>Yes</u> | <u>No</u> | <u>Ballot Number</u> | <u>Subject</u> |
|--------------------------|--------------------------|--------------------------|------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | 1 | Cap growth in state spending; dedicate surpluses to a "rainy day" fund and a trust fund for economic development |
| <input type="checkbox"/> | <input type="checkbox"/> | 2 | Repeal property tax on motor vehicle inventories |
| <input type="checkbox"/> | <input type="checkbox"/> | 3 | Increase corporate income tax |
| <input type="checkbox"/> | <input type="checkbox"/> | 4 | Organizational sessions for the Legislature |
| <input type="checkbox"/> | <input type="checkbox"/> | 5 | Nominees for New Orleans Civil Service Commission* |

* Requires voter approval in New Orleans as well as statewide.

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