



Guide to the Constitutional Amendments

November 2, 2004 Ballot

INTRODUCTION

After dealing with 15 proposals in 2003 and 12 in 2002, voters might feel some relief in having a much shorter ballot this year. However, while there are fewer proposals to consider, voters will still have to familiarize themselves with a number of complex and technical issues. The four proposed amendments on the November 2 ballot deal with a right to hunt and fish; the homestead exemption; the veterans' preference policy for public employment; and, a special fund to assist farmers and fishermen.

The constitution is considered the fundamental law of the state. It addresses the rights of the citizens and the authority of the government. The concept of the constitution as a relatively permanent statement of basic law for governing the state, however, fades with the adoption of new amendments. Since 1974, voters have approved 123 out of 185 proposed amendments, which have nearly doubled the length of the constitution.

In evaluating each proposal, voters should consider whether the proposal is a sound concept and also whether the proposed language belongs in the constitution. In the past, amendments have often been drafted for a specific situation rather than to set a guiding principle and allow the Legislature to fill in the details by statute. In some cases, very rigid principles are set, but numerous exceptions are then added by amendment. Occasionally, the Legislature approves amendment proposals hurriedly without considering all of the potential costs or ramifications. In addition, special interests and the general public frequently demand constitutional protection for favored provisions to avoid legislative interference, resulting in numerous detailed revenue dedications and trust fund provisions.

Thus, voters are often asked to decide issues that are highly complex, specialized, applicable to a single place or

time, extremely minor or, in some cases, purely symbolic. Some of these situations are illustrated by the current proposals:

- The first proposal would establish a constitutional right to hunt and fish, which some may view as largely a symbolic measure.
- The second proposal involves complicated and detailed changes in the homestead exemption that some suggest could require further interpretation and possible revision in the future.
- Because much detail regarding public employment is lodged in the constitution, the third proposal is necessary to extend the veterans' preference for state and local civil service and state police employment to include military service after September 11, 2001. An amendment would not have been required if this type of policy were in statutory law.
- The final proposal creating a special fund for farmers and fishermen conflicts with its companion statutory legislation. Should the proposal pass, the companion legislation will have to be revised to make its purpose consistent with that of the proposed amendment.

VOTER CHECKLIST

November 2, 2004 Ballot

	For	Against	Proposed Amendment	See Page
No. 1.	<input type="checkbox"/>	<input type="checkbox"/>	Freedom to Hunt, Fish & Trap	2
No. 2.	<input type="checkbox"/>	<input type="checkbox"/>	Homestead Exemption	2
No. 3.	<input type="checkbox"/>	<input type="checkbox"/>	Veterans' Preference	6
No. 4.	<input type="checkbox"/>	<input type="checkbox"/>	Agricultural & Seafood Fund	7

No. 1 Freedom to Hunt, Fish and Trap

CURRENT SITUATION: The constitution requires the state to conserve and protect natural resources in accordance with its healthful, scenic, historic and esthetic qualities. The Declaration of Rights in the constitution also protects the right to own and enjoy private property subject to reasonable regulation and the exercise of the police power. However, the constitution does not explicitly address a right to hunt, fish or trap.

Seven states have constitutional provisions protecting the right to hunt and fish. Proposed amendments are pending in nine states, including Louisiana. Several states have begun to curtail hunting and fishing. For example, some states prohibit hunting on Sundays; ban hunting of various species; and ban the use of certain hunting or fishing methods. In Louisiana, an effort has been made to ban fishing in state parks.

PROPOSED CHANGE: The amendment would add a provision to the constitution's Declaration of Rights that:

- protects the freedom to hunt, fish and trap as a valued heritage;

- confirms the state's duty to protect, conserve and replenish natural resources;
- maintains the state's current burden of proof requirements for challenges to the state's authority to regulate hunting and fishing; and,
- acknowledges the rights of property owners against trespass.

COMMENT: Proponents argue that many citizens view the freedom to hunt and fish as a fundamental right that should be enshrined in the constitution. They believe the amendment is necessary to preempt efforts to curtail hunting and recreational fishing in the state. Anti-hunting and fishing advocates have successfully achieved bans or limits on various sportsmen's activities in many states. Proponents see the same trend in this state because of recent efforts to ban fishing in state parks and protests lodged by animals' rights and environmental groups at sporting events.

Proponents point out that there was no opposition to this measure, as the state's duty to regulate hunting and fishing and landowners' rights are specifically included in the proposal.

You Decide

A vote **for** would constitutionally protect the right to hunt, fish and trap, subject to the state's duty to protect the natural resources and landowners' rights against trespass.

A vote **against** means a statement confirming the right to hunt, fish and trap would not be added to the constitution.

Critics question the need to add the amendment to the constitution, as there has been no major effort mounted to undo current recreational hunting and fishing practices. They also suggest the proposal may lack force, because it references rights and duties already contained in the constitution.

LEGAL CITATION: Act 927 (Senator McPherson) of the 2004 Regular Session adding Article I, Section 27.

No. 2 Homestead Exemption

CURRENT SITUATION: The state constitution lists all eligible exemptions from property taxes. It exempts from most property taxes up to \$7,500 of the assessed value of a homestead **owned** and **occupied** by a **person**. As Louisiana is a community property state, a "person" can be an individual or a married couple. The constitution also specifies that a surviving spouse or minor children who continue to occupy the home are eligible.

Because homes are assessed at 10% of fair-market value, the first \$75,000 in market value is exempt. However, the exemption does not apply to municipal taxes, except in Orleans, and the state does not levy a property tax. The significance of the exemption is illustrated by the fact that 63% of homes statewide were fully covered in 2003.

Various forms of home "ownership" arrangements have developed

that do not clearly meet the specific constitutional eligibility requirements. This has resulted in a lack of uniformity in the way assessors have interpreted eligibility.

In 2003, the Legislative Auditor reported findings from an audit of 12 of Louisiana's 70 property tax assessors. The report found wide variation in the way eligibility for the homestead exemption was interpreted and applied by the 12 assessors sampled.

Exemptions were frequently granted to recipients who were not constitutionally authorized or who had been ruled ineligible by a court, the administrative code or an attorney general's opinion.

Depending on the assessor, the following persons were among those granted exemptions for which they were deemed ineligible:

- living parents who transfer ownership of their home to their children
- multiple unmarried persons with shared ownership
- persons living in homes placed in living trusts (including principle beneficiaries, income beneficiaries and beneficiaries of revocable trusts)
- purchasers of homes under bond-for-deed (lease/purchase) contracts
- persons with land assessed at use value rather than fair-market value

The report recommended that the eligibility requirements in each of these cases be clarified by the Louisiana Tax Commission and strictly followed by assessors. The report made it clear that if assessors were to continue granting homestead exemptions in these situations, legal authorization would be required.

In response to the auditor's report, the Louisiana Tax Commission, which oversees assessors, issued a moratorium order in June 2003. The order allowed certain types of exemptions, noted in the report, to remain unchallenged until the votes on the proposed constitutional amendment are counted.

The proposal was a collaborative effort of several groups including the Louisiana Assessors' Association, Louisiana Realtors, Louisiana Tax Commission and the Louisiana Association of Business and Industry.

PROPOSED CHANGE: The amendment would extend the homestead exemption to apply fully to:

- 1) A surviving spouse or former (separated or divorced) spouse when

either one occupies the homestead and title is held in the name of:

- a) the surviving spouse (as owner of any interest) and/or the former spouse;
 - b) the surviving spouse who has the legal right (usufruct) to use the homestead; or
 - c) a testamentary trust (created in a will) for the surviving spouse and descendants of the deceased or surviving spouse.
- 2) Otherwise eligible property placed in an irrevocable trust by the prior owner and current occupant who is also the principal beneficiary and settlor of the trust; and,
 - 3) Property where one or two prior owners have usufruct and one is the current occupant.

The amendment would extend the homestead exemption to property owned in indivision (shared ownership), limited to the *pro rata* share owned by the occupant(s). The amendment also would prohibit granting a homestead exemption for bond-for-deed property but would allow exemptions granted to such property prior to June 20, 2003 to continue in effect.

The amendment would specify that the homestead could include land assessed at use value and land with timber. It would also limit any one person in the state to one exemption and define "person" as a "natural person" (as opposed to a corporation).

COMMENT: The proposed amendment involves a number of complex legal issues. In the simplest terms, it would constitutionally legitimize practices many assessors have followed in granting homestead exemptions and prohibit others. New constitutional language would specifically extend homestead exemption eligibility to a surviving spouse in various situations, or a former spouse; other unmarried persons who share ownership in a home; persons who put their home in an

You Decide

A vote **for** would ratify practices common to many assessors in granting homestead exemptions to certain persons whose eligibility has come into question.

A vote **against** would leave in question or result in the loss of homestead exemptions granted by many assessors to certain persons sharing ownership of homes (including some surviving spouses, former spouses and unrelated owners); persons with homes in trusts; bond-for-deed buyers and use-value property.

irrevocable living trust; persons with use-value property or timberland; and, existing bond-for-deed buyers. In each case, there are limitations, exclusions or other complicating factors.

PROPOSERS' ARGUMENTS

The primary argument of proponents is that the proposal would constitutionally ratify assessor practices commonly used throughout the state in granting the homestead exemption to persons who need and deserve the tax break. If this authority is not granted, various types of taxpayers could lose homestead exemptions they currently enjoy. Proponents argue the importance of the exemption in promoting homeownership. Proponents argue that concepts of ownership have been evolving (e.g., the growing use of living trusts) and that assessors have had to interpret how these situations should be treated.

The proposal would provide a method of applying the homestead exemption uniformly across the state.

Proponents' arguments concerning the eligibility of specific types of homeowner include the following:

Spouses The constitution specifically grants the homestead exemption to a surviving spouse who, due to inheritance, shares ownership of a home with the minor children of the deceased. However, the constitution does not specify what happens when the children reach the age of majority.

A divorced spouse who still shares ownership with the former spouse is technically ineligible for the exemption. Apparently, many assessors have continued to allow the exemption on a home when these situations arise.

It would be unfair for a person to lose the exemption simply because his or her spouse died or divorced them. Specific constitutional language is needed to ensure the exemption eligibility for a surviving or former spouse who remains in the home.

Shared Ownership Frequently, through inheritance, two or more related persons may share ownership in a residence. It is also becoming more common for unrelated persons to pool their resources and purchase a residence jointly. Currently, none of these owners is entitled to a homestead exemption regardless of whether one or all of them occupies the home.

The proposed *pro rata* exemption would provide at least partial relief in all cases and a full exemption when all owners occupy the property.

Transfer of Ownership to Another Person or a Trust The proposed amendment would allow homeowners to transfer ownership of the home either to their children, another person or to a trust and retain the homestead exemption. First, the proposal would allow one or two prior

owners to transfer ownership to someone else and retain the exemption as long as they retain usufruct and one remains in the home. Second, homeowners could transfer ownership to a trust and continue to live in the home. The exemption would apply only for transfers to an **irrevocable** trust, as **revocable** trusts could be easily changed and thus abused.

Homeowners should be able to transfer ownership and retain the exemption for as long as they remain in the home. Elderly homeowners are increasingly transferring ownership of their homes to their children either to qualify for medical assistance while others wish to protect their estates. Currently, the transfer of ownership to another person or to a trust would render the property legally ineligible for the exemption, because one must both **own** and **occupy** the homestead. Many assessors currently grant an exemption even though the ownership requirement is no longer met. The proposal would legitimize exemptions where such transfers have occurred.

Use Value A homestead can include up to 160 acres in one or more tracts of land, with a residence on one and a field, pasture or garden on the other(s). Certain lands may be assessed based on their use value, which is typically much lower than assessments based on fair-market value. Use value is allowed to encourage private owners to keep agricultural and timber lands in production and open spaces undeveloped. Most assessors have been granting exemptions for homesteads that include property assessed at use value even though the administrative code prohibits the exemption for income-earning property, which most use-value property is.

Removing the exemption for use-value property would place a hardship on small farmers and could force some owners to sell or develop their land prematurely. In addition, as the value of

the home approaches or exceeds \$75,000, the benefit from use value in holding the overall assessment under \$75,000 will disappear.

Bond for Deed A bond-for-deed contract is essentially a lease-purchase agreement where the purchaser only receives title to the home after a certain amount has been paid. A statute extending the exemption to bond-for-deed purchases was ruled unconstitutional. However, some assessors continued to grant them after the ruling. Placing the prohibition in the constitution would clarify the situation. It would be unfair not to grandfather in those persons who have factored the exemption into their decision to purchase a home. Purchasers under bond for deed are typically less affluent, cannot qualify for a standard mortgage and typically pay high interest rates. Losing the homestead exemption could prevent these purchasers from becoming owners.

OPPONENTS' ARGUMENTS

While there has been no organized opposition, critics have challenged various aspects of the proposal. Opposing arguments take two basic approaches: either the proposal goes too far or not far enough.

The Proposal Goes Too Far: The homestead exemption originated as a public policy promoting homeownership. The proposal would remove the ownership requirement for the homestead exemption under certain circumstances and create new avenues for abuse.

For example, affluent homeowners could avoid higher taxes by transferring ownership to an irrevocable trust. They would benefit from "double dipping" by avoiding certain federal taxes and yet keep a state tax exemption. In another case, homeowners could qualify for cer-

tain public benefits intended for low-income recipients by transferring ownership of their home, a major asset, to another person. In both instances, the amendment would allow homeowners to continue living in the home and claim the exemption.

The amendment would also result in some amount of property being removed from the tax assessment rolls, particularly in those parishes where the assessor has most strictly interpreted the rules for granting homestead exemptions. Ultimately, other tax payers would have to pick up the slack for any new tax reductions granted.

The amendment would create some administrative problems for assessors. The *pro rata* exemption for joint owners, in particular, would make it difficult to determine the correct percentage of the exemption to grant. Keeping track of the occupants over time could be difficult, as one or more co-owners could come and go from a residence without notifying the assessor.

Allowing the homestead exemption for agricultural and timberland assessed at use value rather than fair-market value would, inappropriately, provide a double tax break. It is unlikely that the tax increase from losing the exemption on use-value property would be sufficient to jeopardize the farm. (See Box.)

By attempting to cover such a wide variety of situations in one proposal, the drafters have opened up a number of new areas of uncertainty that will require further interpretation. Placing so much specific language in the constitution will only make future constitutional revision efforts more likely.

Proposal does not go far enough: The proposal allows the exemption in certain situations but denies or limits it in similar situations. Legitimizing homestead exemptions that have been granted to bond-for-deed purchasers in the past, while prohibiting exemptions for new contracts, would be discriminatory. If the exemption has been useful in helping marginal home buyers to become homeowners in the past, it would be just as useful to future buyers.

If this proposal were defeated, a more thorough proposal covering all of the issues left unaddressed could be drafted for re-submission. Otherwise, additional clean-up proposals will be required in the future.

CONCLUSION: Homestead exemption eligibility has developed into an extremely complex set of issues requiring a host of court decisions, attorney general opinions, statutes and administrative rulings to interpret the simple constitutional requirement that a per-

son must own and occupy the homestead. The proposed amendment deals with a number of complex issues in an attempt to provide some certainty and uniformity in the statewide application of the homestead exemption. The proposal also is designed to protect exemptions, granted by many assessors, to persons of questionable eligibility and to others deemed ineligible under various interpretations of the constitution.

The basic arguments for and against granting additional eligibilities involve decisions about the justification for giving tax breaks to taxpayers in the selected situations. Proponents stress the role of the proposal in protecting the exemption for surviving spouses who share ownership of the home with an adult child. This is only one of a variety of situations that would be covered.

Unfortunately, it is difficult to estimate the effect the amendment might have on local government finances and other taxpayers. However, one impact of extending a homestead exemption that can be estimated is the maximum potential property tax savings for a homeowner who would otherwise be ineligible. In 2003, the average millage statewide was 113.6 mills, and the parishwide average millages ranged from 49.7 in East Feliciana to 180 in St. Tammany. Thus, for a home worth \$75,000 or more, the statewide average maximum tax savings would be \$852 ($\$7,500 \text{ AV} \times 0.1136$) and the parish average maximum savings would range from \$373 to \$1,350. In the taxing jurisdictions where the proposed exemptions are not currently being granted, savings would either result in tax losses or added burden shifted to other taxpayers. However, more often than not, the proposed exemptions apparently are already being granted.

By the same token, failure of the amendment would likely result in the loss of homestead exemptions for certain taxpayers, particularly if the state

Homestead Exemption For Use-Value Land

Use value tops out at about \$350 an acre for agricultural land, while its market value can approach or exceed \$10,000 in many parts of the state. The assessment at 10% would thus be \$35 versus \$1,000. A homestead with a \$50,000 home and 70 acres of use-value farmland could be completely covered by the homestead exemption. Based on statewide average tax levies, the owner would benefit from both a tax savings from the use-value assessment of roughly \$7,500 and about \$300 tax savings in homestead exempt use-value property (70 acres X \$35 use value = \$2,450 assessed value X 0.1136 average statewide millage = \$278). Even if the home was worth only \$25,000, allowing the homestead exemption on the use value would save the owners less than \$600.

steps up its efforts to monitor eligibility. This would be a gain for taxing bodies and other taxpayers. The number of homes and the amount of taxes that might be affected are unknown. A sur-

vey by proponents indicated that, on average, about 15% of homes would lose exemptions if the proposal is not adopted, while one critic estimates that less than 2% might be affected.

LEGAL CITATION: Act 929 (Senator Dupre) of the 2004 Regular Session, amending Article VII, Section 20(A).

No. 3 Veterans' Preference

CURRENT SITUATION: The constitution requires an additional five points to be added to the final passing score on a competitive civil service examination in original job appointment for eligible military service. A five-point preference must be given to veterans who served honorably in the U.S. armed forces during a war declared by Congress, including World War I, World War II, the Korean Conflict, Vietnam Theater or Vietnam Era. In 1995, Louisiana voters approved an amendment to the constitution also extending the five-point preference to veterans who served in a peacetime campaign or expedition for which a campaign badge was congressionally authorized (e.g., Desert Storm) or in a war period designated by state law, enacted by two-thirds of each house of the Legislature.

The constitution also requires a five-point preference to be granted to eligible veterans applying for state police positions. Those who were honorably discharged, after serving in the Vietnam Era, Vietnam Theater, or in a peacetime campaign or expedition for which a campaign badge was congressionally authorized, are eligible for the five-point preference.

PROPOSED CHANGE: The proposed constitutional amendment would extend the five-point preference given on competitive exams for original state and local civil service and state police employment to include veterans who served honorably in the U.S. armed forces, for reasons other than training, for at least 90 days since September 11,

2001. It would also add to the list of conflicts in the constitution for which veterans applying for state police employment are eligible to receive this five-point preference all wars declared by the U.S. Congress and additional war periods or armed conflicts designated by state law, enacted by two-thirds of each house of the Legislature.

COMMENT: The proposed amendment would considerably expand the state's eligibility criteria for veterans' preference. Veterans from any branch of the U.S. armed forces, including the Reserves and National Guard, could receive preference after serving as few as 90 days in any capacity other than training. Veterans would no longer be required to serve in actual combat or be mobilized to receive preference.

The proposal would likely increase the number of applicants that receive preference in original civil service job appointment. Approximately 1.5% of 50,747 civil service applicants were granted veterans' preference in original job appointment in the 2003-04 fiscal year. The Department of Civil Service estimates this number would increase, at most, to 5% under the proposed amendment.

The proposal would have little impact on the state police original job appointment process. The Louisiana State Police Commission currently does not employ a point system in evaluating the eligibility of its applicants. Moreover, the Louisiana State Police already considers all forms of military service, along with a number of other criteria (e.g., education and experience),

You Decide

A vote *for* would extend the veterans' preference for state and local civil service and state police employment to military service after September 11, 2001.

A vote *against* would continue to deny veterans' preference for certain military service after September 11, 2001.

in judging candidates' qualifications during the oral interview process.

Proponents of the proposed constitutional amendment argue that Louisiana has one of the most restrictive veterans' preference policies in place. Most states as well as the federal government offer veterans' preference on civil service appointments. Louisiana, however, is among a minority of states that requires a congressionally authorized campaign badge or participation in a formally declared war to receive preference. Some states, such as Alabama, Illinois, Oregon, Pennsylvania and South Carolina, simply require veterans to actively serve in the U.S. armed forces, while others, including Maine and Oklahoma, require veterans to serve for as few as 90 days.

Supporters also argue that the state's veterans' preference should be expanded to reflect the changing face of war. Since September 11, 2001, sol-

dieters have been sent to dangerous places around the world to wage a “war on terror.” However, the current veterans’ preference only recognizes participation in formally declared wars or those for which a campaign badge has been congressionally authorized.

Proponents also claim that the proposed amendment would eliminate the administrative difficulty involved in obtaining a congressionally authorized campaign badge. It also may take years for a badge to be awarded. Soldiers who recently served in Operation Iraqi Freedom, for example, currently do not

qualify for Louisiana’s veterans’ preference, as combat badges have not yet been congressionally authorized.

LEGAL CITATION: Act 930 (Representative Futrell) of the 2004 Regular Session, amending Article X, Sections 10(A)(2) and 48(A)(2).

No. 4 Agricultural and Seafood Fund

CURRENT SITUATION: The number of dairy farms in Louisiana has steadily declined throughout the last two decades, falling from 1,000 in 1981 to 313 in 2004. Since 2002, the number of dairies in the state has decreased 25%. In an effort to curb this trend and to assist dairy farmers, state lawmakers proposed several unsuccessful bills during the 2004 Regular Session. One bill would have placed a 1% fee on the retail sale of all milk and milk products; a second bill would have placed a 1.35% fee at the wholesale level; and, a third would have charged retailers a civil penalty of \$500 for failing to reserve sufficient shelf space for the sale of Louisiana dairy products. If these bills had passed, the money from the fees could have been used to assist Louisiana dairy farmers. In this context, the proposed constitutional amendment was enacted to create a special fund to assist farmers and fishermen.

PROPOSED CHANGE: The proposed constitutional amendment would authorize the Legislature to create programs to assist Louisiana farmers and fishermen. It would also create the Agricultural and Seafood Products Support Fund, a special fund in the state treasury to receive grants, gifts, donations or state appropriations as well as any money received by the state from the licensing of state-owned trademarks or labels used to promote Louisiana products. Monies in the Fund

would be appropriated solely for programs or purposes, as required by the Department of Economic Development, to help farmers and fisherman support and expand their industries.

The companion legislation (Act 58) would require any state agency, at the request of the Department of Agriculture and Forestry, to assist in the development, registration and licensing of trademarks or labels used to promote Louisiana agricultural products. “Agricultural products” would be defined as furbearing animals raised or produced on a defined acreage as well as horticultural, viticultural, forestry, dairy, livestock, poultry, bee, and farm and range products. The Department would be authorized to sell the licenses to persons, firms, partnerships, corporations, associations or other organizations for the sole purpose of promoting Louisiana products.

The companion legislation also would establish an Agricultural Product Support Fund to receive grants, gifts, donations and money received from the licensing of state-owned trademarks or labels used to promote Louisiana products. The Fund would be used exclusively for payments to farmers for use in sustaining or expanding their operations in the state. It also authorizes the Commissioner of Agriculture and Forestry to adopt rules and regulations to determine the eligibility criteria for which farmers may apply for and receive funding.

COMMENT: As originally introduced, the proposed constitutional amendment was to create a special fund for dairy farmers. A series of amendments, however, broadened it to an “agricultural and seafood” fund. The companion legislation, drafted to implement the original proposal, was signed into law a month before the passage of the proposed amendment. As a result, the companion legislation differs materially from the amendment.

The companion legislation, for example, uses a different name for the

You Decide

A vote **for** would establish the Agricultural and Seafood Products Support Fund to receive money from the licensing of state-owned trademarks or labels used to promote Louisiana products and would authorize the use of the Fund to assist Louisiana farmers and fishermen.

A vote **against** would not establish a special fund in the constitution to assist Louisiana farmers and fishermen.

Fund, leaving out seafood. It also narrowly specifies that the Fund be used exclusively for payments to farmers, while the proposed amendment more broadly requires the Fund be used for programs to assist farmers and fishermen.

The implementing legislation also does not indicate what trademarks or labels might be used; how “seafood products” would be defined; or which state agency would ultimately be responsible for administering the Fund. The proposed amendment authorizes the Fund to be appropriated solely for programs and purposes as required by the Department of Economic Development. The companion legislation, however, authorizes the Commissioner of Agriculture and Forestry to adopt rules and regulations for appropriating the Fund. Furthermore, the Department of Wildlife and Fisheries could also play a role, since seafood falls under its regulatory authority. Neither the proposed amendment nor its companion legislation places a limit on what the state can charge for licenses or how much money could be placed in the Fund.

Proponents of the proposed constitutional amendment argue that a special fund is necessary to help farmers and fishermen stay in business and remain competitive. In the last two decades, the state has lost 687 dairies.

Likewise, the recent influx of foreign shrimp into the state’s fishing market has driven down the prices paid to Louisiana fishermen. Any donations, gifts, grants and money from the sale of licenses for trademarks or labels used on Louisiana agricultural and seafood products would be placed into the special fund rather than in the state’s general fund. It would be constitutionally protected and could only be appropriated by the Legislature for programs, such as grants, loan guarantees or technology research, used to assist farmers and fishermen.

Supporters also claim that the licensing and sale of state-owned logos is a creative marketing strategy for promoting economic development. Consumers would be more likely to purchase products that are known to be produced or manufactured in Louisiana. State logos would promote Louisiana products while at the same time assisting farmers and fishermen.

Proponents also argue that the sale of licensed products would benefit farmers and fishermen at no cost to the state. Further, business participation is voluntary. Manufacturers, wholesalers or retailers could choose to purchase a Louisiana logo to enhance the appeal of their products.

Opponents of the proposed amendment question the need to add another special fund to the state’s con-

stitution. Currently, some 23 funds are constitutionally protected and include, for example, the TOPS Fund, the Wetlands Conservation and Restoration Fund, and the Budget Stabilization Fund, among others.

Critics claim that the proposal would carve out a special fund exclusively for farmers and fishermen. The fund would not be subject to budget cuts or legislative oversight.

Opponents also contend that while participation in the program is supposed to be voluntary, the proposal could essentially strong-arm manufacturers, wholesalers and/or retailers into purchasing state-owned logos. The legislation provides no indication as to what rules or regulations the Department of Agriculture could establish. The Department, for example, could require all Louisiana milk to have a state logo, requiring those who sell Louisiana milk to purchase a license from the state. The additional cost could be passed on to consumers, perhaps raising the price of agricultural and seafood products.

LEGAL CITATION: Act 928 (Senator Nevers) of the 2004 Regular Session, adding Article VII, Section 10.12. Companion legislation is Act 58 (Senator Nevers) of the 2004 Regular Session.



Public Affairs Research Council of Louisiana, Inc.
4664 Jamestown Ave., Suite 300 • P.O. Box 14776
Baton Rouge, LA 70898-4776
Phone: (225) 926-8414 • Fax: (225) 926-8417
E-mail: staff@la-par.org • Web site: www.la-par.org

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