



PAR Guide to the 2021 Constitutional Amendments

**An Independent,
Non-Partisan Review**

Support for this report was provided by
The Alta and John Franks Foundation
and PAR's membership funds.



Available at www.parlouisiana.org and on
the PAR Guide App for Apple & Android devices

November 13, 2021 Election



PAR Guide to the 2021 Constitutional Amendments

**An Independent,
Non-Partisan Review**

Support for this report was provided by
The Alta and John Franks Foundation
and PAR's membership funds.



Available at www.parlouisiana.org and on
the PAR Guide App for Apple & Android devices

Last Updated September 9, 2021

The Public Affairs Research Council of Louisiana (PAR) is an independent voice, offering solutions to public issues in Louisiana through accurate, objective research and focusing public attention on those solutions. PAR is a private, nonprofit research organization founded in 1950 and supported by membership contributions, foundation and corporate grants and special events.

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.



Please visit our website at parlouisiana.org to access this guide, to be placed on PAR's mailing list or to become a member or donor.

The Public Affairs Research Council of Louisiana
450 Laurel Street, Suite 1650, Baton Rouge, LA 70801
225.926.8414

PAR Guide to the 2021 Constitutional Amendments



Voter Checklist November 13, 2021

YES NO

- Amendment 1** "Do you support an amendment to authorize the legislature to provide for the streamlined electronic filing, electronic remittance, and the collection of sales and use taxes levied within the state by the State and Local Streamlined Sales and Use Tax Commission and to provide for the funding, duties, and responsibilities of the commission?"

- Amendment 2** "Do you support an amendment to lower the maximum allowable rate of individual income tax and to authorize the legislature to provide by law for a deduction for federal income taxes paid?"

- Amendment 3** "Do you support an amendment to allow levee districts created after January 1, 2006, and before October 9, 2021, whose electors approve the amendment to levy an annual tax not to exceed five mills for the purpose of constructing and maintaining levees, levee drainage, flood protection, and hurricane flood protection?"

- Amendment 4** "Do you support an amendment to increase the amount of allowable deficit reductions to statutory dedications and constitutionally protected funds from five percent to ten percent?"

Introduction

Louisiana citizens have been coping with the effects of a surge in Covid cases and yet another terrible hurricane. The impact of Ida led state officials to postpone the Oct. 9, 2021, election to Nov. 13, when voters statewide will cast ballots on four proposed amendments to the Louisiana Constitution. It is understandable that Louisianans would have other matters seizing their attention at this time, yet the process is in place for the public to make historically significant decisions on tax reforms.

As an independent, nonpartisan educational organization, the Public Affairs Research Council of Louisiana (PAR) has been providing reports on constitutional amendments set before voters over the past four decades. This *PAR Guide to the 2021 Constitutional Amendments* provides a review of each proposal in the order they will appear on the ballot. The Guide is educational and does not recommend how to vote. It offers succinct 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 for passage.

“Amendments 1 and 2 are weighty tax reform proposals.”

Since the 1974 Constitution was adopted, voters have been asked to decide on 293 amendment proposals, or about seven per year on average since the changes began. So far, 202 have been approved, with more than half of those on Article VII, the money section. Three of the four on this year’s ballot are within Article VII.

The first two amendments are weighty tax reform proposals. Amendment No. 1 takes major steps toward consolidating and streamlining our unusually fragmented state and local sales tax system. Amendment No. 2 proposes a major overhaul of our state income tax rates and deductions. Amendment No. 3 addresses only a handful of local levee districts but could be especially important given recent events. Amendment No. 4 aims to free up dedicated funds during a fiscal shortfall. In full disclosure, readers should be aware that PAR for years has produced research showing the need for the kinds of changes that would be brought by Amendments 1 and 2. PAR was asked to present its findings in legislative committees and testified that the proposed changes align with PAR’s recommendations. However, PAR has striven to provide a thorough review of the issues and to aim for balanced approach with this Guide.

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. Statutory law, on the other hand, provides the details of governmental operation and is more subject to change by the Legislature. Voters should be aware of both the constitutional and corresponding statutory impacts of Amendments 1 and 2. To develop informed opinions, they must evaluate each amendment carefully and make a decision based on its merits.

PAR’s website – parlouisiana.org – contains a wealth of information under its publications section for constitutional amendments, including voting results and analysis that records every amendment since the 1974 Constitution. Further in-depth guidance can be found in PAR’s publications, *Louisiana Constitutional Reform PART I: Getting the Foundation Right* and *PART II: An Enduring Fiscal Framework*.

Amendment 1 Sales Tax Streamlining

YOU DECIDE



A VOTE FOR WOULD

Allow a single authority to oversee the collection, electronic filing and policy guidance for state and local sales taxes.

A VOTE AGAINST WOULD

Continue to constitutionally require separate collection, filing and policy oversight of sales taxes by the state and local governments.

CURRENT SITUATION

The Louisiana Department of Revenue collects a state sales and use tax at 4.45% while local governments collect their own sales taxes at various rates that average around 5%. Taxes for many sales over the Internet are handled by a special state commission. This highly decentralized system is unusual; nearly all other states allow a central collector who remits the revenue to the appropriate state and local jurisdictions and acts as the central authority for how and when taxes should be applied.*

Heavily dependent on sales tax revenue, local governments have clung tightly to their constitutionally protected right to collect them. According to the Constitution, each parish assigns a single collector to remit revenue to the various sales tax districts within its borders. Depending on the parish, that collector might be the school board, parish government, the sheriff or the major municipality, such as New Orleans. These entities might have different interpretations and policy outlooks about the proper application of sales and use taxes and exemptions. A statewide collaborative Parish E-file system provides an online tool for businesses to help simplify the process. Companies doing business in multiple parishes may be audited by multiple jurisdictions at the same time. Concerns have arisen over whether the Louisiana system creates conflicts with the U.S. Constitution or federal court rulings, particularly with regard to how the state treats in-state versus out-of-state sellers.

PROPOSED CHANGE

This amendment would provide five key changes to the current sales tax system. **1.** It would create a new commission with representatives of state and local agencies. **2.** The commission would provide for electronic filing and would develop a process for combined state, local and remote sales tax collection for all taxing authorities in the state. **3.** The commission would remit revenue to the collector for each local taxing authority and to the state revenue department. **4.** The commission would issue policy advice. **5.** The commission would develop rules relative to the audit process.

If passed by voters on Nov. 13, the amendment would still need implementing statutory legislation to become effective and to further outline the new system. The amendment requires this implementing legislation to achieve a two-thirds majority vote of both chambers of the Legislature to become law. The new commission would replace the Louisiana Sales and Use Tax Commission for Remote Sellers and the Louisiana Uniform Local Sales Tax Board, and their responsibilities and powers would be transferred to the commission. Agency funding would be provided by a portion of both state and local sales and use tax revenues.

WHAT WOULD NOT CHANGE

The amendment does not change tax rates. Louisiana has the highest combined rate of state and local sales taxes in the nation, and the average local sales tax is the third highest among the states. Those rankings are not affected. The amendment does not require uniform state and local tax rates and exemptions. Rates and exemptions would continue to vary from one jurisdiction to another, although the new streamlining structure could facilitate greater uniformity and policy consensus. The amendment does not require a particular process for streamlined audits, although it calls for new rules to be developed.

THE NEW COMMISSION

The new authority would be the State and Local Streamlined Sales and Use Tax Commission. Measured by the gross revenue gathered, the commission would be the largest tax collection agency in the state. This eight-member body would have four members appointed by organizations representing local government, two by the state executive branch and two by the legislative branch. The appointments would require Senate confirmation. The specific appointing authorities would be:

- the Louisiana School Boards Association,
- the Louisiana Municipal Association,
- the Police Jury Association of Louisiana,
- the Louisiana Sheriffs' Association,
- the Secretary of the Department of Revenue,
- the Governor,
- the Speaker of the House of Representatives, and
- the President of the Senate.

ARGUMENT FOR

Louisiana's outdated, complex, fragmented sales tax system is the worst in the nation and an unnecessary burden on those trying to transact business. This amendment would bring a positively transformative change by establishing a central authority for collections, reducing red tape and helping companies comply with the law. It would vastly improve Louisiana's reputation as a place to do business while at the same time providing layers of safeguards for local governments to ensure their revenue streams. The new process would be more likely to prevent lawsuits claiming Louisiana's system does not meet Supreme Court or U.S. constitutional standards for fairness and open commerce. State and local government stakeholders as well as business interests worked together to bring this plan, which was widely supported in a bipartisan manner in the Legislature. Those who defend the current system conjure the same pseudo nightmare scenarios that were used 30 years ago to argue against a proposal to consolidate sales tax collections on the parish level; that reform passed and the impact was overwhelmingly favorable.

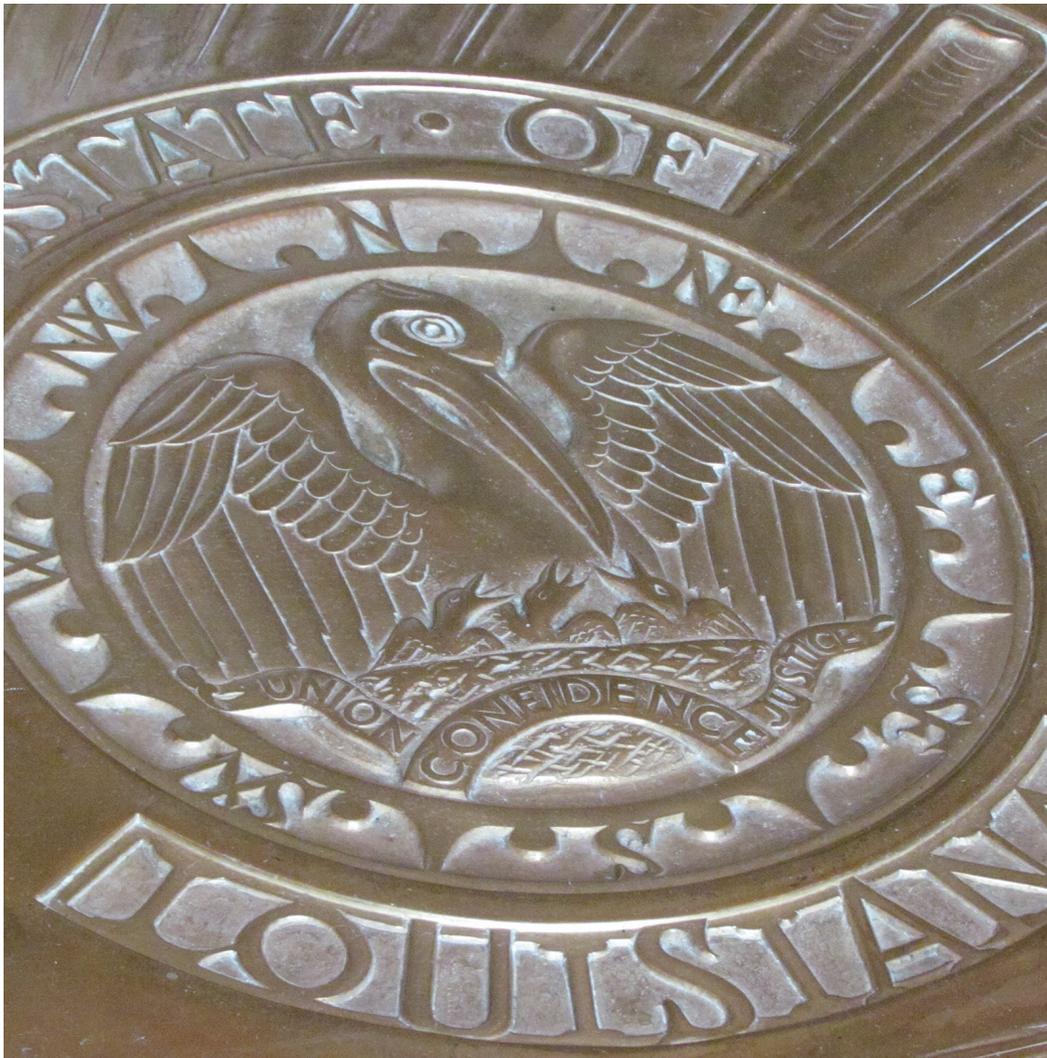
ARGUMENT AGAINST

Moving to a consolidated system takes control from the local governments to collect their sales taxes. No one knows local business behavior better than local authorities. The current Parish E-file system provides a streamlining process that can be adapted and improved with time. While it is true that nearly all other states with sales taxes let the state government collect them on a consolidated basis, most of those local governments are not as reliant on sales taxes as Louisiana local agencies, which have relatively lower property tax support.

Also, if a local jurisdiction receives its sales tax remittance late under the new system, then government cash flow would be disrupted. The amendment does not solve Louisiana's lack of uniformity in sales tax rates and exemptions among jurisdiction across the state, and that's an issue that influences the state's poor national tax rankings. Concerns about lawsuits that might challenge the Louisiana system are overblown and could be addressed by refinements in the collection methods rather than by creating a central tax collection authority.

Legal Citation: Act No. 131 (House Bill 199) by House Speaker Schexnayder of the 2021 Regular Session, adding Article VII, Section 3.1.

*Louisiana is one of only a few states without centralized sales tax administration. Colorado is similar to Louisiana with no level of centralization and Alabama has a hybrid system. Alaska does not have a state sales tax but allows local sales taxes. Arizona has been reforming its decentralized system. A few other states do not collect sales taxes. Up until the early 1990s, each parish, municipality and other local political jurisdictions that levied a sales tax did its own collections. This created a morass for businesses, which had to remit sales taxes to multiple government bodies even if they all were in the same parish. In 1991, voters statewide agreed to change the Constitution to allow for a single entity to collect for each parish. Separately, the state collects state sales tax. Internet purchases are either treated as an in-state sale or collected by a separate commission for remote sales depending on the specific vendor's physical or economic presence.



Amendment 2 Tax Reform

**YOU
DECIDE**



A VOTE FOR WOULD

Lower the maximum rate of the income tax and allow removal of a major state tax deduction, triggering statutory reforms for individual and corporate income and franchise taxes.

A VOTE AGAINST WOULD

Keep the Constitution's current tax rates and the requirement to allow a deduction for federal taxes paid, which would stop all the statutory reforms.

CURRENT SITUATION

The Louisiana Constitution freezes the individual income tax rates and brackets to what they were in 2003, when the top rate was 6% for individuals making over \$50,000. This figure is among the higher top rates in the nation, especially in the southeast. The Constitution also mandates a state income tax deduction fully for all federal income taxes paid, a requirement made in only one other state. The deduction puts state and federal tax policy at crosscurrents. When federal taxes increase, the larger deduction on state income tax returns decreases the tax burden and state revenue. Conversely, when federal taxes are cut, Louisianans pay more state income tax and the state's revenue increases.

PROPOSED CHANGE

This amendment would set in motion a series of tax changes affecting the individual income tax, the corporate income tax and the corporate franchise tax, plus a trigger to reduce taxes if state revenue grows very rapidly. By itself, this amendment lowers the maximum possible rate of individual income tax from 6% to 4.75% while the corresponding tax reform statute would lower the top rate actually to 4.25% and reduce other rates as well. The amendment removes the requirement that a deduction for federal taxes must be allowed for Louisiana income tax filers while the corresponding statute actually would eliminate the deduction. Taxpayers would give up a tax break in exchange for substantially lower rates and less volatility in their tax bills over time. The plan is designed generally to leave taxpayers in all income categories with about the same tax obligation while leaving the state with a similar but more consistent amount of revenue from income taxes. Upon passage of the amendment, three companion statutes would become effective. Let's look at those bills.

INDIVIDUAL INCOME TAX (ACT 395)

Act 395 would change the state income tax in multiple ways. It would eliminate the federal tax deduction for state individual income tax filers and offset that break with lower individual income tax rates in each bracket:

Individual Income Tax Rate Changes

INCOME BRACKET	CURRENT	PROPOSED
First \$12,500 of net income for single filers (\$25,000 for joint filers)	2%	1.85%
Next \$37,500 of net income for single filers (Next %75,000 for joint filers)	4%	3.5%
Net income in excess of \$50,000 for single filers (\$100,000+ for joint filers)	6%	4.25%

For state income taxpayers, Act 395 also would limit the tax break for excess itemized deductions to just medical care expenses. Currently, when taxpayers add up their itemized deductions on their federal tax form, the amount in excess of the standard federal deduction can be used as a deduction

on the Louisiana state income tax form. This is in addition to the deduction for federal taxes paid. When federal tax changes in 2017 doubled the standard deduction and made other itemized rules, fewer people reported an excess of itemized deductions on their federal returns, greatly reducing the impact of this state tax break on Louisiana taxpayers and state revenue.

Act 395 also creates a mechanism that potentially could reduce income tax rates further if tax collections turn out to be higher than expected. This mechanism would trigger if future tax revenue exceeds the amount of taxes collected in fiscal year 2018-2019 by a growth factor based on the state’s personal income growth. The tax reduction would not happen if the Budget Stabilization Fund (Rainy Day Fund) is below 2.5% of total state revenue. The rate of each tax bracket would decrease proportionally according to a growth factor formula.

CORPORATE INCOME TAX (ACT 396)

Act 396 makes changes to corporate income taxes similar to what Act 395 does for individual income taxes. Act 396 would remove the federal income tax deduction for the corporate income tax. The Act would reduce the number of brackets and reduce tax rates.

Corporate Income Tax Rate and Bracket Changes

CURRENT BRACKET	CURRENT RATE	PROPOSED BRACKET	PROPOSED RATE
first \$25,000 of taxable income	4%	first \$50,000 of taxable income	3.5%
above \$25,000 but not in excess of \$50,000	5%	above \$50,000 but not in excess of \$150,000	5.5%
above \$50,000 but not in excess of \$100,000	6%	income in excess of \$150,000	7.5%
above \$100,000 but not in excess of \$200,000	7%		
income in excess of \$200,000	8%		

FRANCHISE TAX (ACT 389)

The corporate franchise tax is a business tax on retained earnings and investment capital rather than annual income. Most states do not have or are phasing out their franchise tax, and those keeping it charge a relatively nominal amount compared to Louisiana. The current tax is \$1.50 per \$1,000 of taxable capital up to \$300,000 and \$3 per \$1,000 of taxable capital above \$300,000. Act 389 would eliminate any franchise tax on capital below \$300,000 and reduce the rate to 2.75% on capital above \$300,000. Similar to the mechanism in Act 395, there is a trigger to further reduce the franchise tax rate if corporate income and franchise tax collections exceed taxes collected in fiscal year 2018-2019 by a growth factor based on the state’s personal income growth.

EFFECT ON TAXPAYERS AND STATE REVENUE

The individual income tax changes were calculated so that typical taxpayers in each bracket would likely not see much if any change in their tax obligation. Likewise, the income tax changes would have a neutral impact overall on state revenue under the current federal tax laws. In a separate analysis, the nonpartisan Tax Foundation concluded that the reforms would bring a small tax cut for almost all taxpayers. While the upper tax bracket gets the biggest rate reduction, the taxpayers in that bracket tend significantly to benefit the most from the deductions for federal taxes and excess itemized write-offs. According to the Louisiana Department of Revenue’s most recent Tax Exemption Budget report, the federal income tax deduction was the state’s largest single tax break, amounting to \$795 million for both individual and corporate taxes. That includes \$690 million in breaks for filers

of the individual income tax. The tax break for excess itemized deductions is valued at \$146 million. The lower tax rates plus revenue neutrality are made possible by eliminating these huge deductions.*

Currently, 32 states have a lower upper rate of income tax than Louisiana or do not have an income tax. By going to 4.25%, Louisiana would have the lowest rate except for South Dakota and the nine states that don't have an income tax. According to the Legislative Fiscal Office, the overall impact of the full package of individual income and corporate tax changes would be roughly revenue neutral for about two years and then would reduce taxes by approximately \$27 million annually by fiscal year 2025. Most of the reduced revenue would come from the corporate and franchise tax changes.

ARGUMENT FOR

This is true tax reform and is long overdue in Louisiana. The package would create a more fair and stable tax system that would encourage in-migration, job creation and business investment. Moving our upper individual income tax rate from approximately 18th highest to the 40th highest in the nation will do wonders for Louisiana's image. Experts and studies have been saying for over a decade that Louisiana needs to eliminate exemptions and lower rates, and that's what this package would do. Only Alabama and Louisiana have a full deduction for federal taxes paid and Iowa just got rid of it. These reforms simplify the tax structure and uncouple the state and federal tax systems in a way that will increase stability for taxpayers and the state budget. The overall reforms are designed for a minimal budget impact of less than 0.3% of the general fund and for all practical purposes are revenue neutral. If federal taxes increase in the future, the state revenue outlook would remain steady, unlike the disruptive budget impact Louisiana would experience if the reforms don't pass. The reduction to the franchise tax is particularly welcome as it is a toxic tax on capital and retained earnings that discourages investment and headquarters operations in the state. This disincentive is why so many states, including Mississippi, have eliminated or are phasing out the franchise tax. Overall, this constitutional amendment and the related bills simplify our system, encourage future economic growth and cut tax rates.

ARGUMENT AGAINST

There can be different arguments against the amendment depending on one's perspective. Some opponents say the deduction for federal taxes is a good one and should be kept while also lowering individual income tax rates, because Louisiana taxpayers should get a cut and the state government already has too much revenue. If the reforms are not passed and federal taxes are raised in the future, the state would get less money but Louisiana taxpayers would get a better deal. Others might argue the opposite and say that the deduction for federal taxes should be eliminated and that the higher tax rates should be kept in place to expand state revenue to meet the Louisiana government's many needs. Another argument is that income tax revenue should be increased while sales taxes should be lowered because Louisiana has the nation's highest combined state and local sales tax rate. Sales taxes are more regressive than income taxes. Also, the reform's triggers that would prevent revenue spikes might not allow the state budget to grow with the economy.

Legal citation: Act 134 (Senate Bill 159) by Senator Allain of the 2021 Regular Session, amending Article VII, Section 4(A). Companion bills include Act 395 (House Bill 278) by Representative Bishop, Act 396 (House Bill 292) by Representative Riser and Act 389 (Senate Bill 161) by Senator Allain.

*In its fiscal notes on the tax reforms, the Legislative Fiscal Office does not identify the value of the tax deductions or its assumptions about them. The fiscal notes say the reform for the individual income tax is basically revenue neutral. Fiscal Office analysis says the preponderance of the current deductions fall to the advantage of the wealthier tax filers.

Amendment 3 Taxing Authority for New Levee Districts

YOU DECIDE



A VOTE FOR WOULD

Allow the boards of the levee districts created since 2006 to raise up to a 5-mill property tax without voter approval.

A VOTE AGAINST WOULD

Continue to allow levee districts created since 2006 to get voter approval for any tax millage.

CURRENT SITUATION

Levee districts are responsible for the construction and maintenance of levees. The state Constitution grants the Legislature the power to create new levee districts. Districts created before Jan. 1, 2006, may levy up to 5 mills in property tax simply by a vote of the levee board.* Districts created since then must gain the approval of district voters for dedicated property tax millages. Under the state Constitution, these new boards, unlike their predecessors, do not have the sole authority to raise up to a 5-mill tax. Eight levee districts have been created since 2006 and five of them do not have a property tax millage.

PROPOSED CHANGE

This amendment would allow districts created from Jan. 1, 2006, through Oct. 9, 2021, to levy a 5-mill property tax with a vote of the board. The amendment would not affect levee districts the Legislature might create in the future. Eligible districts will opt out if a majority of voters in a district say no in the election. To become effective in a levee district, the amendment must pass statewide and within the particular levee district. If approved statewide but not in a particular levee district, the amendment will not be effective in that levee district.

ARGUMENT FOR

Flood control is a constant battle in Louisiana. That is why levee boards have had a base tax base of 5 mills since the 1800s. While districts can supplement this funding with additional voter-approved taxes, that is not always feasible; a district might have insufficient funding or organization to call for an election. The core value of fairness says that a handful of districts should not be excluded from the same authority held by other levee districts in the state. Also, improvements made by a levee district could benefit neighboring levee districts, so the impact of this amendment could be felt beyond the borders of the new districts.

ARGUMENT AGAINST

Let the people decide. Levee district boards should have to make the case to their constituents that taxes are needed and that the money will be put to good and efficient use. Just because Louisiana levee boards in the past have had authority to assess a 5-mill tax doesn't mean that's good public policy. If the districts lack the funds to get started they can rely on private fundraising or other government entities for backing until a tax passes.

Legal Citation: Legal citation: Act 132 (Senate Bill 87) by Senator Connick of the 2021 Regular Session, amending Article VI, Section 39.

MORE ON AMENDMENT 3:

IS YOUR LEVEE DISTRICT AFFECTED?

Eight levee districts have been created since 2006. Among those, five have not raised millages and therefore would be affected by Amendment 3. If you live in one of these five jurisdictions, Amendment 3 will apply to your district only if a majority of voters in your district vote favorably for it. In other words, even if voters statewide approve the amendment, voters in these districts can opt out. If you do not live in one of these five districts, your vote on Nov. 13 still matters because the statewide tally will determine whether the amendment is passed but your levee district's taxation will not be impacted.

Of the eight new districts since 2006, three would not actually be impacted by Amendment 3. The St. Mary Levee District already has voter approval for 5 mills, which means that residents in that district already are taxed. The Algiers Levee District and Lafitte Area Independent Levee District were created after 2006 but were carved out of the Orleans and Jefferson levee districts and therefore already claim authority for a 5-mill tax. The authors of this legislation expect that even if a majority of voters in any of these three districts say "no" to Amendment 3, their levee district tax will continue.

Here are the five new districts without millages that will be impacted by Amendment 3, along with the estimated total annual tax revenue if the entire 5 mills were adopted.**

- Chenier Plain Coastal Restoration and Protection Authority (Calcasieu, Cameron, and Vermilion Parishes) - \$12.2 million
- Iberia Parish Levee, Hurricane and Conservation District (Iberia Parish) - \$2.9 million
- Squirrel Run Levee and Drainage District (Iberia Parish) - \$20,192
- St. Tammany Levee, Drainage and Conservation District (St. Tammany) - \$11.9 million
- Tangipahoa Levee District (Tangipahoa Parish) – \$191,000

*Orleans is an exception with a 2.5-mill base rate limit. However, Orleans and other districts can go beyond their base limits with voter approvals. For example, the millage rate for the Orleans levee district is 11.18 mills.

**Revenue figures are from the Legislative Fiscal Office and the report Regional Flood Protection Governance in Louisiana by the Blanco Public Policy Center.

NOTE: If a Louisiana constitutional amendment specifically affects five parishes or fewer, then it must pass in all of those parishes as well as statewide to be adopted into law. In the case of Amendment No. 3, eight levee districts involving 10 parishes fit the definition of the amendment. So, the local parish rule would not apply and the voters of a single parish cannot kill the whole amendment. But the voters of a levee district can opt out of Amendment No 3. To be effective in a levee district, the amendment must pass statewide and within the particular levee district. If approved statewide but not in a particular levee district, the authors intend that it will not be effective in that levee district.

Amendment 4 Tapping more dedicated money to fix a deficit

YOU DECIDE



A VOTE FOR WOULD

Allow the transfer of more dedicated funds to fix a state budget deficit.

A VOTE AGAINST WOULD

Keep the current 5% limit for tapping dedications to fix a deficit.

CURRENT SITUATION

The state Constitution requires a balanced budget. If official state revenue projections foresee a deficit, the state must act to correct the situation and balance spending with revenue. Several tools are available to the governor and Legislature that can be used outside of a legislative session. The governor can lower state general fund appropriations with limited reductions to agency budgets. Once the governor reduces total state general fund appropriations by 7/10 of 1%, there are additional actions the chief executive can take with the approval of the Joint Legislative Committee on the Budget. One of these actions is to take up to 5% of each of the state's dedicated funds and redirect the money to the state general fund. These types of dedications finance specific activities or programs but are not part of the state's general operating fund. Moving money from these dedications to the general fund can help fix a budget shortfall. Several constitutional funds and dedications are protected from this kind of sweep,* leaving a few constitutional funds and hundreds of statutory dedications that can be targeted.

PROPOSED CHANGE

This amendment would increase the amount that can be tapped from these dedications from 5% to 10%. The governor's action still requires the approval of the joint budget committee. The funds and dedications protected under the current system would remain protected.

ARGUMENT FOR

Dedicated funds are rampant and tie the hands of policy makers by restricting flexibility in the appropriations process. This fact can be particularly problematic during a fiscal crisis, when the state might have many pots of protected money but inadequate authority to free up that revenue. Increasing the amount of dedications that can be tapped would rescue vital programs that are often targeted in budget deficit situations, such as healthcare and higher education. In cases of extreme deficits, this amendment would allow budget cuts to be felt more evenly and fairly throughout the state financial landscape. Besides, a lot of the dedications are simply ill-advised protections of special interests and should never have been dedicated in the first place.

ARGUMENT AGAINST

The whole point of dedicating funds is to maintain the integrity of important programs and priorities that the Legislature has determined deserve special protection. State leaders already have ample flexibility with a 5% cap to redirect dedications when facing a deficit. More importantly, allowing large taps on dedicated funds encourages the governor and Legislature to act in a less disciplined manner during the normal annual budget process because they will always think there's more revenue available in crunch time.

The government will spend as much money as we let it. Tapping dedications for the sake of operating revenue causes us to live beyond our means and perpetuates more deficits. If there's a problem with dedicated funds being too restrictive, the solution is to permanently un-dedicate the money in some of the funds, not to rob the funds.

Legal Citation: Act 157 (House Bill 487) by Representative Echols of the 2021 Regular Session, amending Article VII, Section 10(F)(2)(a) and (b).

*These include the Bond Security and Redemption Fund (used to pay for state debt), the Budget Stabilization Fund (or Rainy Day Fund), the Medicaid Trust Fund for the Elderly, retirement payments, local severance and royalty allocations, the Louisiana Education Quality Trust Fund, the Millennium Trust Fund (tobacco settlement dollars) and the Louisiana Unclaimed Property Permanent Trust Fund. Up to 1% of the appropriation for the Minimum Foundation Program, which funds school districts, can be redirected if the cut does not affect instructional activities.