



Constitutional Amendments



**CABL's Recommendations on
the 2016 Constitutional
Amendments for the
November 8 Ballot**

CABL Recommendations on Constitutional Amendments

Amendment # 1 Create Hiring Qualifications for Registrars of Voters

This amendment would allow the Legislature to establish qualifications for new registrars of voters, as well as give lawmakers more influence over how they are appointed.

What It Would Do: Registrars of voters are appointed by the governing authority of each parish, but the constitution allows the Legislature to determine such things as compensation, how they can be removed from office, and the powers and functions of the office. The law is silent about qualifications for the office but this amendment would allow the Legislature to establish such criteria that it deems appropriate.

In fact, they have already expressed what those qualifications should be by passing legislation that spells out educational and professional work experience requirements that would go into effect if this amendment passes. Interestingly, that legislation also says one of the qualifications for employment is that the registrar of voters actually be a registered voter.

In addition, this amendment also gives the Legislature a greater voice in determining how registrars are appointed. Again, through companion legislation it addressed that by establishing requirements for local governments to extensively publicize openings for the position if this amendment passes.

Comment: There have been controversies from time to time in various parts of the state regarding the appointment of registrars as they often tend to be “appointments for life.” This amendment doesn’t get into any of that. The qualifications lawmakers established in the companion legislation are relatively modest and seem unlikely to exclude any but the truly unqualified people who might apply. The added transparency is a welcome addition.

The registrar of voters is a hugely important job in each parish. The very integrity of our electoral process is threatened if registrars are not competent or if they are negligent in performing their job. The constitution already gives the Legislature a role in the affairs of the registrars. Providing lawmakers with some additional input and oversight is not inappropriate and CABL supports this amendment. **SUPPORT**

Amendment #2 Tuition Authority for Higher Education

Louisiana is one of only two states where the Legislature must approve any increases in tuition and fees and the only state that does so by a two-thirds vote. If this amendment passes the authority to establish tuition rates would be transferred to the four university systems creating a situation more like what you see in almost every other state.

What It Would Do: This amendment is fairly straightforward. For decades it was just a normal process for the management boards of the state’s four higher education systems to establish tuition and fee rates at their schools. That, or some variation, is the practice currently used in almost every other state. In 1995 a constitutional amendment changed that and effectively turned over a significant piece of higher education’s fiscal management authority to the Legislature.

Perhaps as a result of that, Louisiana has had some of the lowest tuition rates in the country, but also some of the lowest overall funding per student. The argument that that has hurt Louisiana’s competitiveness and impacted the quality of our universities is compelling. In more recent years, as huge budget cuts to postsecondary education became the norm, the Legislature turned over some limited tuition authority to colleges and universities if they hit certain performance benchmarks in a law that was referred to as the GRAD Act.

As a result, tuition has increased significantly over the last several years. Unfortunately, that money was largely used to mitigate even greater cuts in state support to higher education, not increase quality and improve services, which is what students tend to expect of higher tuition and fees.

If this amendment passes, authority over tuition and fees would transfer from the Legislature to the management boards that operate our four college systems.

Comment: As noted, Louisiana is one of the only states where the Legislature has full control over college tuition and fees. As such, it can be argued that the establishment of tuition and fee rates is more a political function than one based on the needs of institutions to improve quality or respond to market forces when competing for students or top faculty.

One of the reasons the Legislature maintained such tight control over tuition was because of TOPS. Every time tuition would go up, so would the cost of TOPS to the state – so much so that Louisiana was spending close to \$300 million a year for TOPS and couldn't afford to see that escalate any further. But during the 2016 legislative session, lawmakers voted to decouple TOPS from tuition which effectively means that concern has been removed.

They also passed this amendment which would return tuition and fee authority to higher education. One of the reasons they did so was the desire to give schools more flexibility to manage their institutions in a more market-driven way.

For instance, for years institutions received the same tuition from a student whether they took 12 credit hours or 18, even though it's more expensive for the institution to offer the additional hours. At the same time, most high-cost programs like computer science cost the same as low-cost programs like liberal arts. Things like that just don't add up to a smart business model and our schools should be granted the permanent flexibility to manage those types of matters.

Certainly there will be some that have concerns that essentially transferring tuition authority to the schools will make tuition increases more likely. We don't think so and actually believe it will make the issue less political and more rational.

Because of the tuition and fee increases of the past, universities will have to be judicious about trying to adjust them in the future. They can't do it on their own, because they have to make their case to their management boards and they also have to be responsive to a market that has only so much to bear.

If raising tuition causes student enrollment to drop that would translate into a revenue loser. If the money is used to improve student services, increase the quality of faculty or expand openings in high-demand programs, that could actually boost enrollment. But the point is that's something higher education needs to decide – not the Legislature. They need the autonomy to run their enterprises in ways that are sensitive to their markets and allows them to be responsive to the needs and demands of students.

The Legislature is not positioned to do that and nor should they be asked to any longer. **SUPPORT**

Amendment #3 Changes in Corporate Income Tax

The direct effect of passage of this amendment would be to eliminate the ability of corporations to deduct their federal taxes paid from their state tax liability, but it would also trigger a significant reform in Louisiana tax policy that should make the state's tax structure more competitive.

What it Would Do: Louisiana currently sets corporate income tax rates in brackets of 4%, 5%, 6%, 7% and 8%. The 8% bracket represents a significantly high rate in our region and, on paper at least, clearly makes Louisiana appear to be a less desirable place for a corporation to locate than virtually all of our neighboring states. There has long been a desire to reduce that rate and this amendment seeks to do that.

In that regard the amendment on the ballot does one thing: it eliminates the ability of corporations to deduct their federal income taxes from their state taxes. In point of fact, that would actually amount to an increase in state taxes for corporations, but passage of this amendment would also trigger a new statutory law going into effect that would at the same time eliminate Louisiana's multiple corporate tax brackets and go instead to a 6.5% flat tax which is much more in line with our neighbors.

Comment: Though Louisiana has a number of tax exemptions that make the state competitive in terms of the overall tax burden of corporations, our highest income tax rate of 8% still stands out and is seen by many as an obstacle to economic development that the state continuously needs to overcome. This amendment seeks to follow one of the fundamental principles of tax reform. It lowers our highest tax rates by removing a tax exemption that not even a handful of other states even have.

This amendment clearly moves us more in line with other states. It also has the added impact of untying a portion of Louisiana's tax code from the federal government. Most people don't think about it, but if you can deduct your federal taxes from your state return that means that if federal income taxes go up state revenues go down because the state deduction is bigger.

The same is true in reverse. This amendment would give the state greater control over its own tax revenues and decouple a portion of our tax system from the federal government.

Unfortunately, one of the axioms of tax reform is that when you make changes to the system – even if it amounts to solid improvements in tax policy – you have winners and losers. If it's done right, they tend to balance out in the big picture, but it's true that some individual taxpayers benefit and some don't. With this amendment, it is apparent that some small businesses will likely pay a little more, and so could larger businesses that pay a lot of federal taxes. But clearly, some others will pay less.

As for the state, this measure was not designed to raise additional revenues. It was designed to recalibrate a portion of the state's tax structure to make it more competitive. Estimates suggest it could, in fact, raise some relatively small amount of additional revenue, but even that is hard to figure given the tremendous volatility and unpredictability of state corporate tax collections.

CABL has long advocated tax policies that simplify the tax code and lower rates. This proposal does that and CABL supports its passage as a positive step toward long-term tax reform. **SUPPORT**

Amendment #4 Property Tax Exemption for Surviving Spouses of Military and Public Safety Personnel

In addition to the \$75,000 Homestead Exemption that the constitution allows for all homeowners, there are also some other exemptions for people in certain situations. One allows ways for the surviving spouse of a veteran with a recognized service-related disability to have a higher Homestead Exemption. This amendment is a variation on that theme. It would give the surviving spouse of someone in the military, law enforcement or fire protection who dies in the line of duty a complete exemption from property taxes on their home.

What It Would Do: The Legislature and voters decided a couple of years ago that a veteran with a certain level of service-related disability – and the surviving spouse if that veteran dies – should be entitled to a Homestead Exemption twice the standard amount which would be \$150,000 of the assessed value of the property.

This takes that concept a step further and says that the spouse of certain law enforcement or fire protection officers or someone in the military killed in the line of duty should pay no property taxes on their home. The amendment says the full exemption remains in place as long as the surviving spouse does not remarry and contains provisions for extending all or part of the exemption if the spouse moves into another home.

Comment: CABL totally supports our military personnel and other public safety officers who risk their lives to protect us all. They provide a tremendous service to our state. This amendment seeks to provide a significant level of tax relief to the spouse of one of these officers who was killed in the line of duty and the intent of that is admirable.

A few observations are in order. This amendment applies to only certain public safety personnel. There are many positions in our state that provide a degree of public safety or enforcement of state laws that would not be covered by this change, so to some degree it is selective.

On another front, one of the issues we have with our tax code is that it creates so many exemptions to taxes that it hinders the ability of state and local governments to raise sufficient revenues to provide for needed services and it also leads to higher rates for those who do not qualify for the exemption. This is particularly true with property taxes where there is a direct cause and effect: additional exemptions for some mean higher taxes for others.

This particular exemption is relatively small in the scheme of things and its impact would likely be minimal. Nevertheless, it should be noted that as we continue to pile on more exemptions, the costs to state and local governments as well as to other taxpayers do begin to add up.

CABL has generally opposed expanding various property tax exemptions because they create the types of situations just mentioned. However, we do support the men and women in our state who protect us and recognize the sacrifices their families make, as well. In this case in lieu of making a recommendation, we suggest this is an issue that voters should decide based on their personal views on these matters. **NO POSITION**

Amendment # 5 Create the Revenue Stabilization Trust Fund

This amendment would create the Revenue Stabilization Trust Fund and it has two overarching goals: 1) to establish a new trust fund that would in essence act as a savings account for large windfalls in revenue from mineral or corporate taxes, and 2) provide a safeguard so that when state revenues temporarily spike because of high oil prices and corporate tax collections we would be able to avoid large deficits in the budget when those prices inevitably fall.

What it Would Do: Mineral revenues and corporate taxes are the two most volatile sources of revenue the state has. In years past, we have seen instances where those revenues spike to extreme highs, many of those dollars get pumped into the normal operating budget, and then when they fall back, we are left with a deficit. That, in part, is the situation we have been trying to climb our way out of for most of the last decade.

This amendment seeks to avoid those types of situations by creating the Revenue Stabilization Trust Fund and attaching some limitations on what can be done with mineral and corporate revenues that come in above certain levels.

For the most part, this amendment would split mineral revenues between \$660 and \$950 million in two ways: 30% of those windfall revenues would go to help pay off the unfunded accrued liabilities in two major state retirement systems and 70% would be deposited in the new Revenue Stabilization Trust Fund. For corporate taxes, any revenues above \$600 million would go into that fund.

The interesting thing about this approach is that it provides some meaningful protections that would prevent the new fund from being easily raided if it accrued significant revenues, but it's not so tight that the money couldn't be accessed in extreme situations.

In the event that the fund ever reached a balance of \$5 billion, lawmakers could appropriate up to 10% of it in any given year to capital projects and transportation infrastructure – both non-recurring costs that are outside of the regular state operating budget. That's a good safeguard. But they could also appropriate revenues out of it for any purpose by a two-thirds vote of the Legislature.

That means that in extreme budget situations, like we have seen the last several years, those dollars wouldn't be sitting in an untouchable trust fund while higher education and health care are being cut. But it would take a two-thirds vote of the Legislature to access those funds. That's a high bar, but one that would demonstrate a strong intent by the Legislature and the governor to ever use those revenues.

Comment: Passage of this amendment would represent a major policy change. With oil prices relatively low these days it's almost impossible to envision the scenario in the future where we would ever be having the revenue windfalls that would put this trust fund into play. But the history of these volatile revenue sources suggests it would be foolish not to believe that time will eventually come.

Some have expressed concerns that this fund competes with the state's "rainy day" fund, and there is certainly an argument to be made there. At the same time one could also argue that the new fund is to some degree an extension of the rainy day fund. Basically, excess revenues beyond certain limits will be placed in one of these funds or the other – or potentially even into both. The rainy day fund is more restrictive in that it can only be used to address budget deficits and that's appropriate. But in cases of major disasters that can cost the state hundreds of millions of dollars, the rainy day fund is of limited use. The new fund, if it held any significant revenue, could be utilized and would require the same two-thirds vote as the rainy day fund for the Legislature to access those revenues.

There is no immediate impact if this amendment passes and probably wouldn't be for years. Mineral revenues and corporate tax projections are far below the thresholds that would divert dollars into the new trust fund. While the possibility of having this mechanism to make future revenues available to reduce retirement debt or provide more support for transportation infrastructure is appealing, the major thing about this amendment is that it represents a major spending reform unlike any we have seen in recent times.

It offers protections from some of the negative consequences we have experienced because of the extreme volatility of two major sources of revenue and it puts the brakes on fiscally questionable spending increases the likes of which have gotten us into deep financial trouble in the past.

CABL supported this amendment during the Legislative session and we hope voters will support it at the polls. **SUPPORT**

Amendment # 6 Allow Limited Access to Constitutionally Dedicated Funds

This amendment is an effort to give lawmakers more flexibility in difficult budget situations to cut into constitutionally dedicated funds. They already have the ability to do that in certain instances, but this amendment would expand that authority in a couple of significant ways.

What It Would Do: Unless you're one who keeps up with the intricacies of state budgeting, this one is going to seem pretty complicated and fairly nuanced. The bottom line is this one deals with expanding the Legislature's ability to cut or access revenues that are constitutionally protected in certain budget situations.

As things stand now, if the official state revenue forecast for the next fiscal year is projected to be at least 1% less than what it is for the current fiscal year, then lawmakers have the ability to cut the appropriation to most constitutionally dedicated funds by up to 5%. In other words, if revenues are projected to be less next year than they are this year, they can make those cuts.

This amendment expands that authority in two ways:

1. It would allow lawmakers to cut those funds anytime the official revenue forecast for next year falls 1% or more below the previous forecast for next year. Stated another way, even if revenues are projected to be higher next year, the Legislature could cut into the protected funds if the estimate of how much higher they will be is reduced.
2. The current law allows appropriations to many constitutionally dedicated purposes to be cut by 5% in certain circumstances, but this amendment would further allow them to take away or withdraw up to 1% of the balances from constitutionally dedicated funds.

In addition, this amendment also identifies a number of constitutional funds that can be tapped under current law but gives them a higher level of protection if this measure passes. That is somewhat ironic since the intent of this amendment is to give the Legislature more flexibility to deal with constitutionally dedicated funds, but at the same time it dedicates even more funds. While it's true the funds that are receiving new protections probably shouldn't be tampered with, it's interesting that among the outcomes of this amendment would be more constitutionally protected funds.

Comment: There is no question that Louisiana needs to do something to address the number of protected funds and constitutional dedications and this amendment is no doubt very well intended. Like those who supported this amendment at the Legislature, we are concerned with the impact all of these dedications have on such vulnerable areas of the budget as higher education and health care. We believe this amendment could provide them with some modest budget relief in certain situations.

However, from CABL's perspective what is needed is a more comprehensive approach to addressing the problem of constitutionally dedicated funds and revenue sources. Our preference would be a thorough legislative review of all the constitutional protections now in place where we preserve those where there is a clear mandate to do so and eliminate others as appropriate. Unfortunately, the legislative will to do that was lacking this session and this amendment is what voters have before them instead. It might prove helpful to higher education and health care in some situations, but it falls short of the reform we truly need for the future. **NO POSITION**