

CABL RECOMMENDATIONS ON 2017 CONSTITUTIONAL AMENDMENTS

This year there are three constitutional amendments on the October ballot:

**Amendment # 1 Property Tax Exemption for
Projects Under Construction**

**Amendment #2 Property Tax Exemption for
Surviving Spouses of First Responders**

Amendment # 3 New Transportation Fund



CABL has reviewed and analyzed each of the amendments, and here are our recommendations. Don't forget to cast your vote. Early voting runs from September 30–October 7. Election Day is October 14.

**your VOTE
is your VOICE**



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CABL Recommendations on Constitutional Amendments

Amendment # 1 Property Tax Exemption for Construction Projects

This amendment provides an exemption from local property taxes for building materials that are delivered to a construction site. It includes both commercial sites and residential.

What It Would Do: It has been a traditional practice in Louisiana going back decades, if not longer, that new construction was not placed on the property tax rolls until the building or project was completed. The property or land itself would be on the rolls and taxes would be paid on that. But the materials used to build the project were not taxed while construction was underway and the final improvements didn't go onto the tax rolls until the project was completed. That has been the case for any type of construction, whether it was a commercial or industrial project, or if someone was building a home or adding on.

That practice has changed in at least one instance where the tax assessor in Cameron Parish is seeking to assess property taxes on the construction materials used in a portion of Cheniere Energy's \$20 billion LNG export facility at Sabine Pass. That particular case is now being litigated, but it's sent shock waves through much of the state's construction world.

This amendment is meant to address the silence in the constitution about whether property taxes can be levied on construction materials before the construction is completed. If this amendment passes, it will clarify that construction materials would be exempt from taxation until "construction is finished to the extent that the project can be used or occupied for its intended purpose." It goes on to say that for projects constructed in multiple phases, any portion that is complete and available for its intended use is subject to assessment.

Comment: As you talk to people involved in the construction sector, no one seems to know of any time, until recently, where the materials used to construct a project, building, or residence were assessed a property tax before the work was completed. Nevertheless, the constitution seems to be silent on this. One thing that's very clear is that this is not a small issue.

Companies continue to make billions of dollars in industrial investments in Louisiana under the assumption that there is no property tax to pay on their construction materials. Some of these projects can take years to complete and a property tax on construction materials could cost them hundreds of millions of dollars.

The same issues would also apply to residential properties. If someone is building a new home or adding on to an existing residence, it's possible they would have to pay property taxes on the construction materials before the work was finished. But it's also worth pointing out that the practice could vary from parish to parish. Today there is little interest in the vast majority of parishes for assessing pre-construction building materials. In fact, both the Louisiana Municipal Association and the Louisiana Police Jury Association support passage of this constitutional amendment.

Still, without some clarification or expression of intent in the law, one could foresee the possibility of different practices in different jurisdictions over time. That could lead to all kinds of unintended consequences such as pyramiding costs for reconstruction or rebuilding after a major weather event like a hurricane or last year's floods. It could also hamper the economic development efforts of state and local agencies working to recruit new companies and projects into the state.

Finally it's also worth noting that both the governor and Louisiana Economic Development support this amendment, as did most legislators who voted overwhelmingly to send it to voters. Clearly, the practice for as far as anyone can remember is to levy property taxes on new construction when it is completed, not before it's started or while it's underway. Louisiana's 1974 constitution didn't seem to foresee the possibility of the current confusion. Passage of this amendment would make the intent clear. **SUPPORT**

Amendment #2 Property Tax Exemption for Surviving Spouses of Certain First Responders

This amendment extends a property tax exemption approved last year to a broader group of surviving spouses of certain first responders killed in the line of duty.

What It Would Do: 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. Last year, voters approved another one of those exemptions by giving 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.

This amendment expands that list to include surviving spouses in three additional categories of first responders: 1) an emergency medical responder, technician, or paramedic, 2) a volunteer firefighter, and 3) a law enforcement officer or firefighter who would have been eligible under the previous amendment except for the fact that they had been on the job for less than a year.

Comment: CABL totally supports all of our first responders 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 public service officers who is killed in the line of duty and the intent of that is admirable.

A few observations are in order. Once again, this amendment applies to only certain public safety personnel. There are many people in our state who provide a public safety service and could be placed at risk, but who would not be covered by this change. So, to some degree this amendment is selective.

On another front, one of the issues we have with our tax code is that it creates so many exemptions from taxes that it sometimes hinders the ability of state and local governments to raise sufficient revenues to provide for needed services. That, in turn, 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.

It is true that this 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 add more exemptions to our tax laws, the costs 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 #3 New Transportation Fund

This amendment would create a fund within the state's Transportation Trust Fund which would receive revenues from any new, future motor fuels tax and restrict their usage to the direct costs of transportation and infrastructure projects.

What It Would Do: The current constitution includes what's called the Transportation Trust Fund (TTF) to receive the revenues generated from gasoline or other motor fuels taxes. Essentially, once the money is in the fund, all proceeds are dedicated to the costs associated with construction of roads, bridges and other transportation infrastructure, though there are some exceptions. One is that gasoline tax revenues can also be used to fund state police "traffic control" needs. Another is that the law has been interpreted to allow some of those proceeds to be used for administrative costs at the Department of Transportation & Development (DOTD).

During the recent legislative debates over raising the state gasoline tax, these exceptions became an issue. That's because in recent years, close to \$100 million was being diverted annually from construction projects and used instead to fund state police and DOTD administration. The argument was that it would be politically impossible to raise the gasoline tax if there wasn't a guarantee that 100-percent of any new revenues would be used on the projects themselves.

This amendment is an attempt to address that concern. It creates a new "Construction Subfund" within the TTF and requires that all revenues from new gasoline taxes would be deposited into this fund. It further restricts the use of those dollars to the "direct costs associated with actual project delivery, construction, and maintenance of transportation and capital transit infrastructure projects."

In other words, the intent of this amendment is to say that any *new* revenues received because of an increase in gasoline taxes must be used for the direct costs of the projects themselves and cannot be used to help fund state police or any of the employee costs of DOTD.

Comment: In recent years, there has been a growing understanding that Louisiana's current 20-cent per gallon gasoline tax is no longer adequate to meet the state's ongoing infrastructure needs and at some point lawmakers must seriously consider an increase in that tax. That debate came to a head during the 2017 legislative session and part of the discussion was about ensuring that all of the proceeds from any new tax would go directly to the projects themselves and not be siphoned off for other purposes, even though they may be allowed by the constitution.

An amendment of this type was key to that discussion. Language in the legislation to raise the gasoline tax specifically stated that no increase could go into effect unless this amendment, or one like it, was approved by voters. The gasoline tax died on the House floor, but the amendment passed and is now on the October ballot.

A couple of things are exceedingly clear. The debate about raising gasoline taxes to meet critical infrastructure needs is not going away, and there will likely be no change in those taxes unless this amendment, or something like it, is approved by the voters.

It should also be noted that passage of this amendment does nothing to change current gasoline taxes. They will remain exactly where they are now. Neither does it do anything to improve our roads or infrastructure. That is a function of generating additional revenues and this amendment does not do that. But CABL does believe that approval of this item represents a necessary next-step to continuing this important discussion and we support that effort. **SUPPORT**