



2022 CABL Recommendations for November Ballot

CONSTITUTIONAL AMENDMENTS

Amendment #1 Allow Trust Funds to Invest More Revenues in Stocks

Amendment #2 Provide Additional Property Tax Exemptions to Disabled Veterans

Amendment #3 Allow Classified Civil Service Employees to Support Campaigns of Family Members

Amendment #4 Allow Local Governments to Reduce Water Bills in Certain Circumstances

Amendment #5 Flexibility in Property Tax Adjustments

Amendment #6 Limit Increases in Property Assessments in Orleans Parish

Amendment #7 Remove Exception in the Prohibition of Involuntary Servitude

Amendment #8 Remove Requirement that Disabled Tax Payers Annually Certify Their Income to Receive a Special Tax Break

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 October 25-November 1. Election Day is November 8.

Introduction

This fall there are 11 constitutional amendments on the ballot for voters to decide. It's not a record, by any means, but it is still well above what we usually see. Eight will be decided on the November 8 ballot, and three others come up on December 10. As always, these amendments are something we believe voters need to pay attention to.

At least a couple deal with issues that are fairly substantive, such as allowing the state to invest more of its revenues in stocks and permitting some civil service employees to participate in political activities. Some could be seen as attempts to fix problems in the current constitution or revisit issues voters have already addressed to some degree. And others might be considered as symbolic, but make statements on important issues such as slavery and voting.

It is interesting to note that six of the 11 amendments up for consideration seek changes to Article VII of the constitution that deals with state and local fiscal issues. That is hardly surprising since we see similar patterns year after year, especially with proposals to adjust and expand various property tax exemptions.

We should remember that ideally our constitution is the framing document that states our basic principles and outlines the powers and duties of the government. But reading through these amendments, it is easy to see how we have taken that notion much further, prescribing things in our foundational document that would more appropriately be placed in statute and decided by our elected leaders.

Be that as it may, almost every year voters are asked to approve changes to the constitution and this year there are more to consider than usual. One thing to keep in mind is that in most cases these amendments are not as simple as they seem. There is a backstory, of sorts, to all of them and it soon becomes apparent that context is important. The ballot language is usually kept short and simple, but rarely does it tell you what you need to know to make an informed decision.

Once again CABL has analyzed the amendments and offered our thoughts and recommendations. But mostly, we hope voters will use this guide and other resources that are available to familiarize themselves with the issues before they cast their votes. We will release our analysis of the amendments on the December ballot prior to that election.

Changing our constitution is not something we should undertake lightly. If we make a mistake, it is often difficult to repair it in short order. Nevertheless, deciding constitutional matters is one of our important responsibilities as citizens, and we hope voters will consider these proposals thoughtfully and make their voices heard.

Amendment # 1 Allow Trust Funds to Invest More Revenues in Stocks

What It Does: Increases the cap for investing trust fund revenues to 65%.

Background: Louisiana is blessed to have about \$3.4 billion preserved in permanent trust funds. The largest, the Louisiana Education Quality Trust Fund and the Millennium Trust Fund, have together provided earnings of billions of dollars to help meet critical state needs in areas including health care, education at all levels, university research, and TOPS funding.

But since their inception, most have been able to invest no more than 35% of their portfolio in stocks. Generally, the remainder must be invested in things like certificates of deposit, government and corporate bonds, money market funds, and commercial paper. While those are safe investments, their yields have been minimal over the last decade or more. Passage of this amendment would allow the Treasurer to invest up to 65% of revenues from a total of seven trust funds in stocks.

Comments: It seems apparent that Louisiana needs to update its investment strategy for the billions of dollars it holds in permanent trust funds. While financial markets of all varieties are in a state of flux at this moment, investments for permanent funds such as these suggest a long-term strategy where greater access to the stock market seems appropriate. It is also worth noting that the income coming into most of these funds is from declining sources, primarily offshore oil and gas royalties and a 1998 settlement with major tobacco companies. That means investment income is critical to maintain or slow the erosion of earnings available for the state to spend.

One example is the Louisiana Quality Education Trust Fund. In 2008 it generated \$70 million that was split between the Board of Elementary and Secondary Education and the Board of Regents. This past year it generated only \$45 million.

While there seems to be no standard across the country that other states use for managing their investment portfolios, it appears that many large funds managed by state Treasurers' offices do invest higher percentages in stocks. It's worth noting that here in Louisiana, passage of this amendment would align investment from these funds with the investment practices of state retirement systems, which are also focused on long-term gains.

As the fiscal note accompanying this amendment points out, investment in stocks is accompanied by higher risks than fixed income investments like bonds, but it should also result in greater yields over the long-term. Since these are permanent funds, we would ideally want them to grow over time. This

Eligible Funds

LOUISIANA EDUCATION QUALITY
TRUST FUND
MILLENNIUM TRUST FUND
ROCKEFELLER WILDLIFE REGUGE
TRUST & PROTECTION FUND
RUSSELL SAGE OR MARSH ISLAND
REFUGE FUND
ARTIFICIAL REEF DEVELOPMENT
FUND
LIFETIME LICENSE ENDOWMENT
TRUST FUND
MEDICAID TRUST FUND FOR THE
ELDERLY

amendment would not require 65% of the funds to be invested in stocks, but would provide the portfolio managers additional flexibility to respond to market conditions whatever they might be.

The Treasurer's office has said its investment strategy is to expose its portfolio to less risk than the overall stock market, recognizing yields might be lower than some aggressive investors achieve, but so would the losses. CABL believes greater flexibility in investing these valuable assets which belong to the citizens of Louisiana better serves their interests and makes sense for the future of our state. **SUPPORT**

Amendment #2 Provide Additional Property Tax Exemptions to Disabled Veterans

What It Does: Exempts veterans who are totally disabled because of their military service from local property taxes and provides new exemptions for other veterans based on the degree of their disability.

Background: In recent years, lawmakers and voters have been creating new property tax exemptions for the spouses of public safety and military personnel killed in the line of duty and some disabled veterans with service-related injuries.

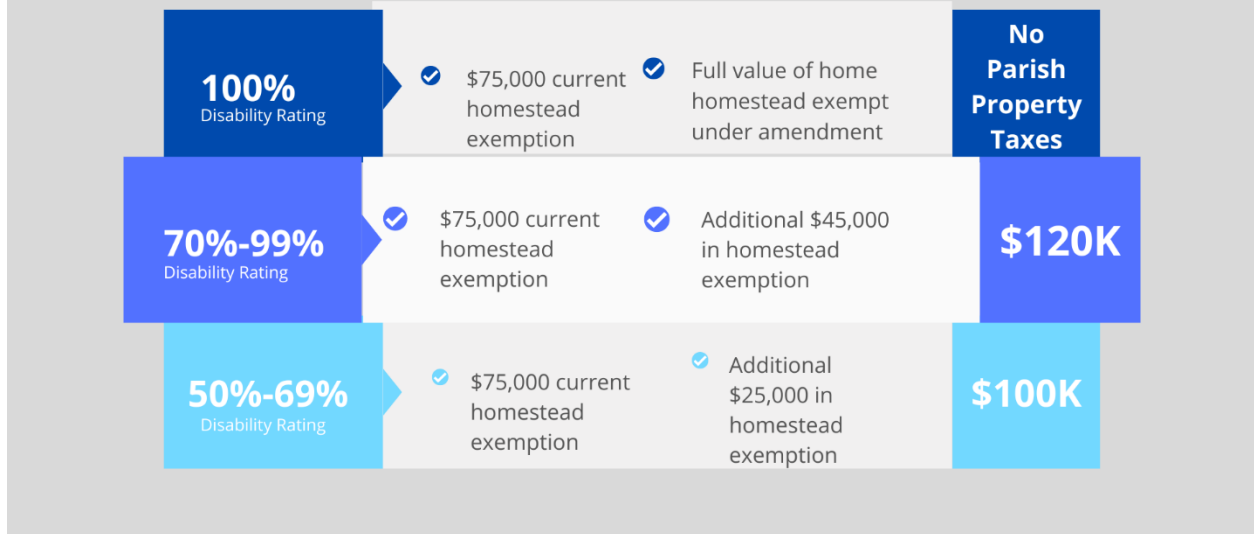
Today in some parishes, a disabled veteran with a disability rating of 100%, as recognized by the U.S. Department of Veterans Affairs, can receive a property tax exemption of \$150,000. That basically doubles the current Homestead Exemption which is valued at \$75,000.

This amendment takes that further, waiving all parish property taxes across the state for veterans with a 100% disability rating and providing veterans with lesser disabilities an added measure of property tax relief that they do not now have. (See chart on page 5.)

These exemptions also apply to the surviving spouse of a veteran who had qualified regardless of whether the exemptions were in effect when the veteran died. The amendment also stipulates that the decrease in property taxes that will result from passage of this amendment will be absorbed by the local taxing authority and will not create any additional tax liability for other taxpayers.

Comments: Supporters of this amendment have made it clear one of their goals is to make Louisiana one of the most veteran-friendly states in the country. With a significant military presence in Louisiana encompassing Barksdale Air Force Base, Fort Polk, the Naval Air Station at Belle Chasse, and the Louisiana National Guard, the state is home to many veterans both from Louisiana and those who have served here. The U.S. Census Bureau estimates about 55,000 of them have some sort of service-connected disability.

Property Tax Changes Under Proposed Amendment



CABL certainly supports our disabled veterans, and we, too, would like to see Louisiana as a place that retired veterans, whether disabled or not, would like to call home. But over the years there has been a proliferation of amendments, all well-intended, that continue to erode the tax base of local governments. While most are relatively narrow, they add up. And as they reduce the revenues available to provide local service, they increase the likelihood that local governments will turn to the state for additional support. That’s not the scenario we are trying to achieve.

Property taxes are local taxes, and we would prefer to see local voters making local decisions about the tax breaks they provide to various groups of citizens. For example, in some areas that are close to military installations, they might want to provide even more tax incentives for veterans to stay. But they can’t do that because the constitution does not allow it. Of note is the fact that the current tax exemption for disabled veterans that was placed in the constitution several years ago requires a local vote of the people. This one does not.

Historically, we have often opposed state efforts to pass amendments to erode the local tax base. We remain wary of this continuing trend, no matter how well intended, but we value the service and efforts of our veterans and believe this is an issue best left to voters to decide. **NO POSITION**

Amendment #3 Allow Classified Civil Service Employees to Support Political Campaigns of Family Members

What It Does: Allows classified civil service employees at the state level, and in some municipalities, to support the campaign of “an immediate family member” in certain circumstances.

Background: Louisiana, like most states and the federal government, places some restrictions on what classified employees can do in terms of engaging in political activities. Classified employees are basically career civil servants who are not political appointees. They are part of a civil service system that affords

them a number of job protections, but also places some restrictions on them – primarily in the area of involvement in politics.

Louisiana’s restrictions on political activity for classified employees are somewhat more robust than you see in most states and the federal government. That’s likely because of the state’s infamous experience with the “spoils system” and Huey Long’s “deduct box.” From the 1800s and through the 1930s, public employees were largely those who supported the winner in races for various elected offices. They got a job, sometimes more than one, but to stay employed they had to support the politician who got elected, both politically and financially.

In the years after Huey Long, a reform movement sought to end the spoils system. The Civil Service Commission was created in the early 1940s. It provided a number of protections for employees while outlawing political coercion from their bosses. In doing so, it also prohibited employees from involvement in political campaigns, fundraising, and contributing to people running for office. This was done primarily for their protection. The reasoning was that if the law clearly prohibits employees from engaging in political activities, it would be both difficult and risky for politicians to compel them to do it. Those restrictions remain embedded in the state constitution to this day.

But this amendment seeks to create an exception to those longstanding rules. It would allow an “immediate family member” of a candidate for office to support them in their election by “attending campaign events and appearing in campaign advertisements and photographs.” This does not impact spouses who are already allowed to participate in various political activities.

While the proposed change might seem relatively small to some, immediate family members in this case includes any of 21 different relatives. The amendment would allow these family members to attend fundraisers and other campaign events, appear in political advertisements, and dress in police or other uniforms without mentioning they are relatives. Those are fairly significant changes to rules that have been in place for decades.

Comment: Passage of this amendment would affect more than 51,000 employees who are under state Civil Service, New Orleans Civil Service, Plaquemines Parish Civil Service, Opelousas Civil Service, and Municipal Fire & Police Civil Service. It would not impact other local employees or the Louisiana State Police who have their own civil service systems.

Lawmakers who supported it were pretty clear that they did so because they were frustrated that their own family members who were classified civil service employees couldn’t publicly support them in their campaigns. This amendment is opposed by the Louisiana State Civil Service Commission, the Louisiana Civil Service League, and the civil service organizations in New Orleans, Plaquemines, and Opelousas.

Their concern is that the amendment opens a door that has been tightly closed for decades which keeps classified employees out of the political arena. The current constitutional restrictions are there, they say, for the protection of both the employees and the taxpayers.

It's also not hard to notice that the term "immediate family member" is actually pretty large. Twenty-one different relatives is a lot and if you're running for office in some jurisdictions, you could potentially be talking about a large part of a small town.

Finally, it is interesting to note, that while this amendment opens participation in political activities to a broad group of classified civil servants, it specifically excludes employees of the Registrars of Voters and the state Elections Division. If we don't want them to get involved in politics, why would we want their colleagues in other agencies to be allowed to? That suggests there remains a good reason to keep our current laws in place. **OPPOSE**

IMMEDIATE FAMILY LIST



Parent Step Parent Grandparent Step Grandparent	Spouse Spouse's Parent or Step Parent
Child Child's Spouse Stepchild Stepchild's Spouse	Grandchild Grandchild's Spouse Step Grandchild Step Grandchild's Spouse
Sibling Sibling's Spouse Step Sibling	Step Sibling's Spouse Half-sibling Half-sibling's Spouse

Amendment #4 Allow Local Governments to Reduce Water Bills in Certain Circumstances

What It Does: Gives local governments that run water systems the flexibility to waive or reduce water charges that are the result of damage to the system that was not caused by the customer.

Background: The general rule of thumb is that if there is damage to a water line before it gets to your meter, it's the responsibility of the water provider to deal with. If it's on the other side of the meter, the responsibility lies with the property owner.

The author of this amendment described a situation where a constituent had a large leak in a water line running through a bayou on his property, but the damage to the line was caused by someone else, not the customer. He ended up with a large water bill and went to the local water district to try to have his bill reduced because, though the leak was on his property, it wasn't his fault. What he found is the water district was prohibited from doing that.

That's because of a longstanding clause in the constitution that generally prohibits state or local governments from loaning, pledging, or donating things of value to any person or company. The water is a thing of value that is purchased from the local government that provides the service, and that constitutional language was cited in an Attorney General's opinion a number of years ago prohibiting local water boards from providing discounts or waiving fees for whatever reasons.

Supporters of this amendment brought up similar instances across the state, particularly in rural areas, where customers received water bills approaching \$1,000 in a month because of damage to water lines running through their property. They also pointed to the 2016 floods which caused extensive damage to many water lines. In that instance, an Attorney General's opinion based on an emergency statute provided customers some relief from what would have otherwise been huge water bills. But supporters

of this amendment acknowledged that was a unique situation and a questionable opinion that likely would not have withstood a challenge in court. Hence this proposal to create an exception.

It should be noted, nothing prevents water boards from working out payment plans with customers to spread the costs out over a period of time, and that is currently the typical form of relief that is provided. This amendment goes much further giving local water boards the flexibility to decide on a case-by-case basis whether to reduce high water bills to customers because of damage to parts of the water system on their property that was not their fault.

Comments: There are a number of things to consider here. One is that some private water companies apparently do provide assistance or relief for customers in similar circumstances. So do public water utilities in some other states. The Louisiana Municipal Association and the Louisiana Rural Water Association support this amendment saying circumstances like this arise on occasion following floods, hurricanes, and ice storms. And there are already a handful of exceptions to the constitutional provision this seeks to amend, mostly dealing with social service nonprofits and those that deal with blighted properties.

But passage of this amendment would seem to be creating a slippery slope. Whether we like it or not, customers do have a responsibility to maintain and protect the integrity of water and sewerage lines on their property. If the forecast says it's not going to freeze so I don't wrap my pipes, but there's a hard freeze and they burst, should I get some relief? What if a washing machine hose bursts while I'm out of town and leaks water for three days?

Those scenarios might seem facetious, but they will be exactly the types of requests that come before water boards if customers know they can waive parts of their bill. And keep in mind, these are not businesses, they're political bodies subject to political pressures which some worry could lead to instances of favoritism.

Another consideration is that many rural water systems across the state are not doing well financially. Many are struggling and barely surviving as it is. The product they are providing is water which they may not have to pay for, but delivering it to people's homes requires electricity, labor, infrastructure that needs to be maintained, and chemical treatments to keep the water safe. There is a public cost involved in all of that.

CABL is sympathetic to the plight of individuals in these circumstances, but we fear passage of this amendment could open doors that are probably best left closed. If the problem is as widespread as some suggest, perhaps a more narrow and targeted solution would better serve both the public and individual interests. **OPPOSE**

Amendment #5 Flexibility in Property Tax Adjustments

What It Does: Allows a taxing authority more discretion to maintain millage rates for property taxes below their authorized maximum level.

Background: Some of the laws involving property tax millages can be a little complicated and this one falls in that category. So, let's start with an example of how this might work.

Let's say voters approve an annual property tax of 2.5 mills to support a local fire district. Current law requires property values in every parish to be reassessed by the Parish Assessor at least once every four years. Historically, in most jurisdictions that reassessment generates higher property values and when values go up, so does the revenue the millage brings in. When this happens, taxing authorities are generally required to lower the millage rate to a level that brings in no more revenue than the amount that was generated before the reassessment.

So, let's say the 2.5 mills tax was passed in 2018 and when property is reassessed in 2020 those values go up. Since the tax would now be bringing in more than what was originally called for the local taxing district reduces the millage to 2.0 mills to keep the revenues the same.

But the constitution seems to recognize that there are emergencies or other circumstances when the local taxing authority might need the full 2.5 mills approved by voters, so it allows them a way to go back up to that maximum millage voters approved. However, there is a quirk in the law that says in order to maintain that full taxing authority, the local entity must exercise it at least once every four years between reassessments or permanently lose it.

The resulting effect is that over a four-year period, many local governments reduce the tax rate to keep revenues at the same level, then raise it back for a year to keep its maximum taxing authority, and then reduce it again after property is reassessed. This amendment would remove that requirement.

Comments: Taxing authorities, understandably, do not want to give up any of the taxing authority they are granted by voters, even if they don't need the additional revenues a millage might generate over time. That's because they want to have the flexibility to act in the event of an emergency or special need. To keep that flexibility, the current system basically forces them to raise taxes once every four years.

So, in the year just before the required reassessment many of them roll the millage back up to the maximum so they don't lose their taxing authority, and then ratchet it back down for a time before repeating the cycle again four years later. This doesn't make a lot of sense.

This amendment will essentially end that constitutional requirement and allow local governments to have the flexibility they want without a four-year roller coaster ride of tax changes. It passed overwhelmingly in the Legislature with support on all sides. **SUPPORT**

Amendment # 6 Limit Increases in Property Assessments in Orleans Parish

What It Does: Limits the increase in the assessed value of a residential property covered by the Homestead Exemption to no more than 10% per year in Orleans Parish.

Background: For the second time in recent years, voters are being asked to amend the constitution to address the issue of soaring home values in parts of Orleans Parish. In 2018 voters approved an amendment to phase in property tax increases statewide over a four-year period on residences where the assessed value went up 50% or more.

Apparently, that has not been enough. Testimony on this amendment in committee indicated that thousands of residential properties in New Orleans with a Homestead Exemption saw property assessment increases of more than 50% since 2019. This has been driven by short-term rentals,

gentrification of neighborhoods, historically low interest rates at the time, extensive renovations, and more people moving into New Orleans. According to the Orleans Parish Assessor, the result has been that homes in some neighborhoods with prior assessed values in the range of \$150,000 are now seeing property valuations ranging from \$325,000-\$400,000. But the same is happening on high-end properties, as well.

The impact falls most squarely on retired homeowners, who might not yet be 65 years old and unable to qualify for another available tax break, and low-to-moderate income families who have been in a house for some time, but do not have the income to afford the steep rise in property taxes. The concern in both cases is that those families would be displaced from their homes because of taxes, and either be forced into the rental market, which is also expensive, or face other consequences.

So, this amendment would limit property tax increases on residential households with a Homestead Exemption to no more than 10% per year. It would continue to increase at that rate until eventually reaching the assessed value. Improvements or new construction on the property would not be covered. If the property were sold, it would be taxed at fair market value, as would all commercial properties.

This amendment applies only to Orleans Parish and would have to be approved by voters statewide and in Orleans.

Comments: Rising property values are usually a good thing and seen as a healthy indicator of a community's vitality. But that typically happens gradually over time and short-term spikes in property taxes can be devastating, particularly if incomes are fixed or not rising at the same rates. This same dynamic is being seen in areas outside of Orleans, but for different reasons. In communities with widespread hurricane destruction, rebuilt homes are often costing significantly more because of supply chain issues, inflation, and higher labor costs. Those communities would not be impacted by this amendment, however.

Language in the amendment states that local taxing authorities will have to absorb the impact of the reduced tax collections, but it's unclear just how much that will cost them. According to the fiscal note accompanying the legislation, in 2021 there were more than 7,000 residential properties in New Orleans that had an assessed value of more than 10% above the previous year. So, this amendment would apply to all of them. Theoretically, owners of these properties would eventually catch up to paying taxes at fair market value, but in some cases that could take years, particularly if property values continue to rise.

While it's true that current higher interest rates could put a damper on continued construction and renovation of properties which could tamp down the rise in property values for the future, New Orleans will reassess properties next year. That reassessment will be looking backwards to the last four years of a hot market when interest rates were low and activity in the housing market was booming.

In looking at the New Orleans housing market overall, we should point out that this amendment will not provide any relief to the thousands of people in the city who are renters. They are essentially living in commercial properties which have no Homestead Exemption and are taxed at market rates. That is reflected in their rising rents.

The bottom line is that this does seem to be a significant problem in some areas of New Orleans. Housing is a major issue in cities across the country which are struggling to keep people in their homes

and make housing as affordable as possible. At this tenuous time for the economy, no one wants to exacerbate that situation.

But we question whether this is the best, or only, policy option to address the problem. It seems overly broad and goes beyond just the homeowners most in need. We can also see the distinct possibility of unintended consequences in the future which could require yet another constitutional fix. Yet we are also torn by our long-held belief that local governments should have the autonomy to deal with local tax issues as they see fit. When it comes to property taxes, much of what local governments can and cannot do is unfortunately prescribed in the constitution.

But for New Orleans citizens to be able to make that decision, it will require voters statewide to give them that permission by voting yes on this amendment. **NO POSITION**

Amendment # 7 Remove Exception in the Prohibition of Involuntary Servitude

What It Does: Eliminates an exception in the constitution that allows for involuntary servitude as punishment for a crime.

Background: This amendment is an example of why it is so important to get the language right when presenting constitutional amendments to voters.

For the last couple of years there has been discussion around the Capitol about changing language in the constitution that deals with the vestiges of slavery in general and “involuntary servitude” in particular. Currently the Louisiana constitution states that “Slavery and involuntary servitude are prohibited, except in the latter case as punishment for a crime.”

A technical reading of that line would suggest that slavery is constitutionally prohibited, but involuntary servitude is permitted as a form of criminal punishment. The issue has been that in the eyes of many, the terms “slavery” and “involuntary servitude” are synonymous, based on historical usage, and the current constitutional language effectively creates an exception that allows something analogous to slavery to continue.

Because of that, some legislators in Louisiana have been pushing to do what three other states have recently done and clarify the meaning of that type of language in their constitutions. But this amendment does not seem to have accomplished what its author intended.

Again, our current constitution says that “Slavery and involuntary servitude are prohibited, except in the latter case as punishment for a crime.” Compare that with the wording of this amendment: “Slavery and involuntary servitude are prohibited, (but this) does not apply to the otherwise lawful administration of criminal justice.”

This wording may seem nuanced, but technically it can be read to permit both slavery and involuntary servitude in a certain circumstance where the current constitution says that slavery is explicitly prohibited.

Comments: Supporters of changing the language are admittedly trying to thread a needle that makes clear that slavery and involuntary servitude are constitutionally prohibited in Louisiana, but the use of inmate labor is not. Four other states have similar ballot measures up for votes this year, including Tennessee.

The Tennessee amendment might be helpful. It states: “Slavery and involuntary servitude are forever prohibited. Nothing in this section shall prohibit an inmate from working when the inmate has been duly convicted of a crime.” That type of language could provide more clarity for Louisiana and offer guidance to the amendment’s author who now says he will vote against it in the hopes of coming back with a new version next year.

All of this has to be confusing for voters. On the one hand, it would seem the whole discussion is largely symbolic because nothing would actually change with the passage of this amendment. But symbolism can be important. When it’s effective it can represent a big thought or lofty ideal that we want to convey within the context of our constitution. In this case, that’s all the more reason to take the time to get the language on this one right. **OPPOSE**

Amendment #8 Remove Requirement that Disabled Taxpayers Annually Certify their Income to Receive a Special Tax Break

What It Does: Removes the current constitutional requirement that homeowners who are permanently totally disabled must re-certify their income each year to maintain the “special assessment” they have that freezes the assessed value of their property.

Background: Louisiana currently has a “special assessment” for four groups of property owners in specialized circumstances which allows them to freeze the assessed value of their property to protect them from future property tax increases. This includes property owners who are permanently totally disabled. However, it applies only to homeowners with adjusted gross household incomes of \$100,000 or less and it requires them to certify with the assessor each year that they meet the income criteria. Passage of this amendment would eliminate that requirement to recertify.

The constitution is filled with a litany of specialized tax breaks that apply to certain groups of people and the list seems to grow almost every year. While it’s true that this particular requirement for recertifying income eligibility does not apply to homeowners 65 years of age or older, it’s also true that voters considered what was basically this same amendment in 2014 and defeated it at the polls.

Comments: As we have said countless times over the years, we sympathize with the circumstances of all kinds of taxpayers in our state, most certainly those who are disabled. But we sometimes forget that disability does not necessarily correlate to household income. If it did, that would assume that a person with a disability, even though serious, could never work or earn a good salary. And presumably, the same would be true of their spouse. That’s simply not the case. It is not difficult to certify one’s income on an annual basis. If we are going to have special exemptions for some homeowners, then we should ensure that they are applied fairly, and the program is accountable to all taxpayers. **OPPOSE**