



2024 CABL Recommendations

CONSTITUTIONAL AMENDMENTS

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CABL has reviewed and analyzed each of the amendments, and here are our recommendations.
Don't forget to cast your vote.



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Introduction

There was a lot of discussion this year about calling a constitutional convention to overhaul Louisiana's notoriously long, complicated, and overly-prescriptive state constitution. That effort eventually died due to session fatigue and other factors, but lawmakers' desire to make changes to the constitution was evident in the number of constitutional amendments they filed during this year's regular legislative session.



More than 40 proposed changes to the constitution were introduced covering a broad range of topics. But the looming possibility of a constitutional convention prompted legislative leaders to defer votes on most of those amendments. As a result, only five amendments passed, significantly fewer than we normally see.

Voters will consider one amendment on the November 5 ballot and four on December 7. Three of them are fairly straightforward and, compared to many amendments, relatively easy to understand. Two others are fairly complicated and go beyond the type of matters voters could easily be expected to weigh in on. All of them have backstories that few citizens would be familiar with.

That is why CABL has once again analyzed the amendments and offered our thoughts and recommendations. Our hope is that voters will use this guide and other resources that are available to familiarize themselves with the issues before they cast their votes.

Changing our constitution is not something we should undertake lightly. If we make a mistake, it is often difficult to repair 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.

Constitutional Amendment on November 5 Ballot

Amendment #1: Revenues from Alternative Offshore Energy to Coastal Restoration

What it Does: Dedicate federal revenues the state receives from alternative or renewable offshore energy sources to the Coastal Protection and Restoration Fund.

Background: In 2006 voters approved a constitutional amendment creating the Coastal Protection and Restoration Fund. It required that any future federal mineral revenues received by the state from oil and gas drilling in the Outer Continental Shelf of the Gulf of Mexico be placed in that fund. And it limited the use of those funds to wetlands preservation, coastal restoration, hurricane protection, and infrastructure directly impacted by coastal wetlands loss.



This amendment takes that a step further by additionally requiring revenues received from alternative or renewable energy production such as wind, solar, tidal, wave, and geothermal energy to be deposited into the fund. In a sense, this is a prospective approach because there is currently no federal legislation that authorizes the sharing of these types of revenues with the states.

U.S. Rep. Steve Scalise and U.S. Sen. Bill Cassidy have filed legislation to allow for federal revenues generated from offshore wind projects to be shared with states, but neither of those bills have passed the U.S. Congress.

This amendment is tied to enabling legislation passed during the 2024 regular session that also dedicates revenues from alternative energy sources generated within state waters to the coastal fund. That portion did not require a constitutional change and is now state law.

Commentary: The Louisiana Legislature passed the constitutional amendment creating the Coastal Protection and Restoration Fund in 2005 with the expectation that a windfall of federal revenues from offshore oil and gas production would soon be coming to the state which could be used for coastal restoration and hurricane protection projects. Voters followed suit and approved the amendment in September of 2006.

Just three months later, in the aftermath of Hurricanes Katrina and Rita, President George W. Bush signed the Gulf of Mexico Energy Security Act into law. GOMESA, as it is usually

called, opened the door for Louisiana to receive hundreds of millions of dollars over the last 18 years.

Those funds, augmented by more than \$7 billion in fines and legal settlements from the BP Deepwater Horizon oil spill and hundreds of millions of dollars in non-recurring state revenues, have fueled a massive investment in coastal restoration and hurricane protection efforts along Louisiana's coast. Since 2007, 157 projects have been completed, more than \$15 billion has been spent, and 2025 spending is expected to top \$1.7 billion.

Those are investments that could hardly have been foreseen when the state's \$50 billion coastal restoration master plan was unveiled nearly two decades ago.

But there are serious funding issues on the horizon. The BP oil spill funds have been the biggest driver of the state's coastal projects and that money goes away in 2031. The large surpluses that contributed unprecedented amounts of state dollars are dwindling. And while the GOMESA funds and other smaller amounts of state and federal funds remain recurring sources of revenue, they do not come close to sustaining the coastal investments the state has seen in recent years.

The passage of this amendment could help, at least some. First, federal legislation authorizing the sharing of offshore wind revenues still needs to pass. Even if that happens, wind speeds off much of Louisiana's coast don't appear strong enough to encourage large-scale investment in the near future. Current projections suggest wind energy generation would bring in only about 10% of the revenues received through GOMESA, which at current levels suggest about \$15-\$16 million per year for the state.

Still, while CABL is not a big supporter of new dedications, we believe this one makes sense. Just as it is logical to dedicate gasoline taxes to transportation, it is appropriate to target revenues generated by offshore activities to the coast – much like we have been doing for almost two decades. **Recommendation: SUPPORT**



Constitutional Amendments on December 7 Ballot

Amendment #1: Changes to the Judiciary Commission



What It Does: Passage of this amendment would add five new members to the Judiciary Commission of Louisiana, allow the state Supreme Court to direct the Judiciary Commission to investigate various types of allegations against state court judges, and allow the Supreme Court to suspend or remove a judge for certain reasons without a recommendation from the commission. It also removes language from the constitution requiring the Supreme Court to develop and implement rules providing for confidentiality surrounding Judiciary Commission proceedings.

Background: The Judiciary Commission of Louisiana is a constitutional body that is charged with investigating allegations of misconduct involving state court judges and recommending any disciplinary actions it believes are appropriate. It cannot take any such actions on its own. Only the Supreme Court is authorized to impose sanctions against judges.

The constitution requires that the commission be made up of nine members:

- One appellate court judge and two district court judges appointed by the Supreme Court.
- Two attorneys who have practiced law for at least 10 years and one attorney who has practiced for between 3-10 years, appointed by the Conference of Court of Appeal Judges.
- Three citizens who are not lawyers, active or retired judges, or public officials appointed by the Louisiana District Judges' Association.

In recent years, the Judiciary Commission has come under fire from lawmakers and the news media over concerns about transparency. Instances emerged where judges were disciplined for inappropriate behavior, but the sanctions against them and even the nature of the misconduct were kept secret because of the confidentiality rules the Supreme Court has put in place.

In 2020, as public pressure mounted and lawmakers threatened legislative action, the Supreme Court adopted rule changes that opened up more of the commission's work to public scrutiny. Though many of the changes were significant compared to the prior

practices, some of the commission's actions remain confidential, presumably because they involve minor infractions that do not rise to the level of significant misconduct.

Some legislators, however, continue to express concerns about the level of transparency within the judicial oversight process and complain that it takes too much time. This amendment is their attempt to address that.

It adds five new members to the Judiciary Commission, two appointed by the Speaker of the House, two by the President of the Senate, and one by the governor. There are no requirements or prohibitions attached to those appointments.

It also gives the Supreme Court the authority to direct the Judiciary Commission to undertake an investigation instead of only deciding on its own whether to proceed with one.

Currently, the constitution seems to preclude the Supreme Court from taking disciplinary actions against a judge without a recommendation to do so from the Judiciary Commission. This amendment would allow the Supreme Court to bypass that and suspend or remove a judge from the bench after an investigation by the Judiciary Commission regardless of whether the commission recommends any sanctions.

Comment: It is unclear how this amendment will directly impact the issues of transparency and timeliness that lawmakers say they want to address with the Judiciary Commission. Testimony during legislative hearings suggested that one of the reasons the process of bringing cases goes slowly at times is because the commission is short-handed, with only five investigators doing all the preparatory work for 300-500 cases per year. This amendment does not address that.

We value the desire for transparency in this process and believe the system is significantly more transparent than it was just a few years ago. We acknowledge that it is possible more might be done, but we wonder if this amendment is the solution.

For one thing, it seems it could open the door to allow the Legislature to write the court's rules governing the confidentiality of proceedings. We are not sure if that is a good idea.

More importantly, we are concerned about adding five new political appointees to the board without any of the qualifications required for other appointees. For instance, the constitution currently states that the appointees who are citizens and lawyers cannot be public officials. Stated another way that means they cannot be political figures. When you are talking about a commission that is supposed to conduct investigations and make recommendations based only on the facts and the law, it would seem best to avoid adding new political appointees.

It is clear that many legislators have frustrations with the current process, and this amendment does include some provisions that might be helpful. But it feels like this issue still needs more study and might be better addressed later through the more comprehensive rewrite of the state constitution that many are still advocating.

In the meantime, we would urge the judiciary to continue to work with lawmakers to find a meaningful solution that is less political in nature and recognizes both the sensitivity and importance of the mission of the Judiciary Commission. **Recommendation: OPPOSE**

Amendment #2: Allow More Time for Lawmakers to Review Spending Bills

What it Does: Allows lawmakers at least 48 hours to consider proposed changes to any bill that appropriates money before voting on final passage.



Background: Consideration of spending bills is always a big deal at the Legislature. By law, bills that appropriate money must originate in the House of Representatives. These include the bills that appropriate money for the general operations of the state and the construction projects that are near and dear to the hearts of legislators. Typically, they start with weeks of hearings in the House which approves its version of the bills and sends them to the Senate. Senators follow up with several more weeks of hearings in which changes, often significant, are made.

The Senate then approves its version of the bills and then returns them to the House. House members usually reject the Senate's changes and then "conference committees" made up of three members from each chamber hash out a compromise before a final vote on the floor of each chamber.

In most cases these spending bills are passed on the last day of the session amid a flurry of activity that is often confusing, frustrating, and hard to keep up with.

As circus-like as it is, that's pretty much the norm.

But what happened at the close of the 2023 legislative session took that process to the limit when lawmakers had little more than half-an-hour to consider and vote on the proposed changes to four major spending bills before the session was required to end.

That process rightly angered many legislators, and this amendment stems directly from that fiasco. If passed, it would constitutionally require that lawmakers have at least 48

hours to consider conference committee changes to bills that spend money and that they be given a summary of all the changes made to the legislation.

The irony of this amendment is that legislative rules already require much the same process for the state's primary spending bill, but they also allow them to waive the requirement, which over the years has been done routinely.

This would enshrine the 48-hour requirement in the constitution, expand it to include any bill that spends money, and remove the option to waive it.

Comment: Clearly, the idea behind this is a good one because the legislative rules that require it for the general appropriations bill have been in place for almost 30 years. Spending bills are important. They go through weeks of public hearings and citizens and legislators have multiple opportunities for input.

But the final versions of these bills are crafted not in public but through private negotiations among a limited group of lawmakers. Sometimes these last minute changes are controversial or could have a significant impact on agencies, programs, or communities. A shred of transparency as the process ends is the least we should expect.

But as we talk about shrinking our constitution and taking out things that sound like statutes rather than the general principles of governing, this amendment seems like a step in the old direction. It doesn't appear to fit with the constitutional language it would join and, yes, it sounds more like a legislative rule than something that should be in the constitution.

An alternative might be to pass this same rule as a statute and require a two-thirds vote – or more – of the Legislature to waive it. Or, lawmakers could simply choose not to vote for the budget until they've had a chance to digest it, which would be a more viable option if Amendment #3 passes.

Rather than use the nuclear approach of a constitutional amendment to address this problem, CABL believes it would be wiser to try something in-between, like putting this rule into law with a higher vote threshold for waiving it.

To be clear, passing this amendment would not be a bad thing. But the statutory approach would maintain some semblance of the legislative flexibility lawmakers seem to want, and perhaps make unforeseen consequences less likely.

And while it might not guarantee that something like last year's session couldn't happen again, at least it would make it more difficult. **Recommendation: OPPOSE**

Amendment # 3: Lengthen Legislative Session If Needed to Pass Spending Bills

What it Does: Allows the Legislature to extend the length of a legislative session in two-day increments up to a total of six days if needed to pass a bill spending money.

Background: This is not directly tied to Amendment #2, but it is an outgrowth of the same legislative budget mess that inspired it. As things stand now, if the Legislature fails to pass a budget or any of the other necessary spending bills by the end of the legislative session, the Governor or Legislature would have to call a special session to deal with it.

That hasn't happened a lot, but it did happen back in 2017 when House and Senate leaders couldn't agree on the level of cuts to make in the budget. As a result, the governor turned around and called a 12-day special session to pass four spending bills.

Lawmakers completed the process in 9 days, but they had to go through the normal process of introducing each bill and allow it to work through more-or-less the normal legislative process.

If this amendment passes, faced with the same situation, the Legislature with a two-thirds vote could extend the current session up to three times in two-day increments for a maximum of six days total. They could only deal with spending bills, not any other pieces of legislation that did not pass. And they would be able to pick up where they left off with the existing bills, and not have to start over from scratch as they would if a special session had to be called.

Comment: This is not among the most pressing needs that the state is facing and the Legislature has failed to pass a budget on only a few occasions in somewhat modern times. But as we have seen it can happen and the only current remedy is a special session. This alternative to that makes more sense. The maximum six-day extension is shorter than the nine days legislators were in session last time, and the process of continuing what they had already started is more efficient and cost effective. In this case, there is no way to make this change or anything like it since the constitution clearly prescribes the meeting times and lengths of regular legislative sessions.

CABL does not believe this is the type of change that further clutters the constitution, and though we do think it should be incumbent on lawmakers to do their job in the allotted time frame, this amendment could be helpful. **Recommendation: SUPPORT**



Amendment # 4: Tax Sales of Property

What it Does: Removes language in the constitution related to the sale of property where taxes are delinquent and instead allows the Legislature to establish policies for the administration of tax sales within certain parameters.



Background: The laws governing the sale of property to pay off delinquent tax obligations are extremely complicated, and many of the rules regarding tax sales are spelled out in the constitution. Generally, if a property owner fails to pay their property taxes there is a mechanism that allows the local taxing authority to recover those unpaid taxes through a tax sale of the property.

In Louisiana this is done through an auction where the person buying the property agrees to pay the taxes, interest due, and other costs to the local government in exchange for acquiring all or a portion of the property. Usually, the sale goes to the person willing to acquire the smallest portion of the property to cover the obligations as a way to protect the interests of the original landowner.

But recent U.S. Supreme Court cases have thrown this process into question, saying that such property sales could be unconstitutional and voided unless every person or entity with a partial ownership or financial interest in the property is notified in advance of the sale. Louisiana has a problem doing this.

As Hurricane Katrina made clear almost 20 years ago, there are thousands of properties in Louisiana where no clear title to ownership has been established. These properties may have been in a family for generations and the person living on the property may actually share the ownership with dozens of relatives known and unknown because the legal work was never taken care of. There could also be other entities with a legal or financial claim to the property, all of whom would have to be notified of an impending tax sale. The courts have ruled that failure to notify them all in the relatively short window prior to a tax sale could be a violation of their right to due process and thus nullify the sale if it was challenged.

The passage of this amendment, which is tied to companion legislation that has already been approved, would dramatically change this system. In simplest terms, it would do away with the actual sale of a portion of the property to an investor and instead give that investor a lien on the property. That means anyone with the lien has a legal claim to recover

any debt or other obligations that are owed, but they would not actually own any of the property, at least not initially. Even without the partial ownership, the lien holder would still be able to earn income off the property in the form of interest payments and penalties paid by the property owner.

This amendment would also give the Legislature the authority to allow local tax collectors to waive certain penalties for good cause and clarifies when the requirement to pay property taxes could be postponed, primarily in the case of declared emergencies or disasters.

Comment: As mentioned earlier, the entire tax sale process is extremely complicated and the one currently used in Louisiana is at least somewhat unique. There is little question that the passage of this amendment would result in a dramatic shift from what Louisiana does now, but it would be similar to the systems used in a number of other states.

There is also general agreement that Louisiana needs a constitutional change to remedy the predicament the current system faces because of the court rulings. An earlier attempt to address the problem is widely viewed to have been inadequate because it involved only statutory changes, not a constitutional fix.

That said, there are those involved in tax sales who have raised multiple concerns about going to this new system. Since those who operate in this arena are primarily investors looking for a monetary return, they say the new system would provide fewer incentives for them to participate in tax sales, which, in turn, might make it more difficult for local taxing authorities to recover the taxes they are owed. They also say that while the amendment does remove troublesome language from the constitution as needed, it does not go far enough and retains unnecessary detail.

Others counter that while this new system might change the type of investor looking to pay the tax debt on these properties, others will step in and the financial impact on local governments would be neutral. They also say it provides additional protections to the original property owner.

The issues around tax sales in Louisiana have been brewing for years. Solutions have been hard to come by, but it is clear the constitution must be changed in some way to address the problems that most seem to agree are real. Perhaps this amendment could have been more streamlined, but it does accomplish the goal of removing some significant provisions from the constitution and allowing the Legislature to develop a new approach to tax sales.

Lawmakers have done that with the companion legislation that will take effect if this amendment passes. If that approach does not work, they can change it statutorily without the need to bring another amendment to voters. **Recommendation: SUPPORT**