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RECOMMENDATIONS

**2025 CONSTITUTIONAL
AMENDMENTS**

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Constitutional Amendments

March 29, 2025 Ballot

Introduction

There are four constitutional amendments for voters to consider on the March 29 election ballot. That includes one major one, an entire rewrite of Article VII of the constitution dealing with state and local tax and fiscal policy. Voters have not seen an amendment of this size and scope since they were presented with what became the new Louisiana Constitution of 1974.



Amendment #2, the legislation rewriting that article, is more than 100 pages long. Amendments #1, #3, and #4 are more conventional amendments, similar to what voters typically see at the polls. Here is our analysis of those amendments.

Constitutional Amendment #1

Disciplinary Actions for Out-of-State Attorneys and Creation of Specialized Courts

POSITION: OPPOSE



What It Does: Broadly speaking, passage of this amendment would do two unrelated things with regard to the judiciary: 1) explicitly allow the Louisiana Supreme Court to discipline out of state attorneys and, 2) authorize the Legislature to create specialty courts at a regional or state level.

Background: The constitution gives the state Supreme Court the authority to discipline attorneys who are admitted to the bar in Louisiana for

unethical behavior, but it is silent about attorneys who are from out-of-state, but are participating in Louisiana cases. State law generally requires attorneys to pass the Louisiana bar to engage in litigation in Louisiana, but there are exceptions.

Typically, that involves an out-of-state firm partnering with a Louisiana-licensed attorney to work on a case. In the wake of recent hurricanes, there have been complaints that attorneys from other states have come to Louisiana and filed fraudulent claims, engaged in fee gouging, and misrepresented their qualifications to clients. Rules of the Supreme Court allow it to police attorneys from other states practicing law in Louisiana, but this amendment puts that authority in the constitution.

The other part of this amendment deals with the creation of new specialized courts. Most people are familiar with the broad judicial structure in Louisiana of state district courts, appellate courts, and the Supreme Court. But the Legislature has the authority to create other courts, too. Generally, they are courts of “limited” jurisdiction and courts of “specialized” jurisdiction.

Courts of limited jurisdiction include city courts, mayor’s courts, and justices of the peace. The courts of specialized jurisdiction in Louisiana tend to be juvenile, family, and drug courts. But the Legislature can only create these types of courts within the jurisdiction of a parish. This amendment deletes that restriction and would allow them to be created on a regional or statewide basis by a two-thirds vote of the Legislature.

Comment: In recent years there has been a degree of tension between the Legislature and the judicial branch of government. Much of that has been around funding, the number of judges across the state, and variations in caseloads caused by population shifts and the loss of residents in some areas. A Legislative Auditor’s report in 2023 found that Louisiana had a significantly higher number of judges per capita than it found in five other states of similar size. And a legislative resolution last year called for a new study of population, caseload, and demographic issues as they relate to the courts.

That is the backdrop for this amendment that seeks to expand the Legislature’s authority to create new specialty courts. Supporters of this amendment have suggested that one such specialty court to consider might be a business court. There are no business courts in Louisiana, but 27 other states have them including Texas which just started its business courts in 2024.

Basically, business courts are specialized courts where the judges would have additional expertise to resolve complex business disputes. Cases of this nature are currently handled in state district court. But the Legislature could also create other courts, such as drug courts, mental health courts, and veterans’ courts on a regional basis. The idea would be

that these courts could serve a beneficial service over a multi-parish area, making them more cost effective for smaller jurisdictions that would not be able to afford them otherwise.

But there were also concerns with this proposal. Primarily they focused on the potential cost and general uncertainty about what these courts would look like. While lawmakers expressed a general interest in the idea of regional drug courts, many were unfamiliar with business courts and questioned the need for such a specialized court in a small state like Louisiana. They suggested it would be better to study the need for more specialty courts before authorizing the Legislature to create them.

We tend to agree. To date there has been little to no discussion about whether there is a need to create a new business court or expand the jurisdiction of drug or other specialty courts. Nor has the Legislature addressed the significant problems that currently exist with the high number of judges Louisiana already has, the disparities in their caseloads, and the possibility of consolidating current judicial jurisdictions.

It would seem to make more sense to identify where and what new courts we might need, first, and then see if voters agree, rather than giving the Legislature blanket authority to create new regional or statewide courts without even knowing what they would do. It is unfortunate this amendment has two very different elements to it. Perhaps it is wise to give the Supreme Court more explicit authority to discipline out-of-state lawyers who are bad actors, but it is unclear whether that is needed when even district-level trial courts have some authority to impose fines and other sanctions now.

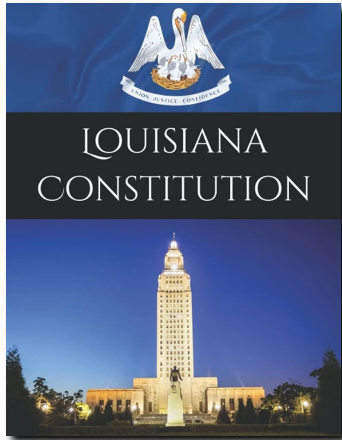
For these reasons, we believe this amendment can wait until we have a better understanding of what the ultimate goals really are and voters have the information they need to make a more informed decision.



Constitutional Amendment #2

Rewrite of Article VII of the Louisiana Constitution

POSITION: SUPPORT



Background: Louisiana voters have grown accustomed to voting on constitutional amendments, but none like Amendment #2 on the March 29 ballot. More than just an amendment to a small segment of the constitution, it is a complete rewrite of all of Article VII of the Louisiana Constitution of 1974 which deals with various aspects of state and local revenue and finance.

Article VII is the longest article in Louisiana’s constitution. It is the one that has been most often amended. And for many reasons it has been one of the primary targets for those who want to rewrite the entire state constitution.

This amendment is a product of the November 2024 special session on tax reform. During that session, lawmakers approved a number of major changes to the state’s tax code. Among other things they:

- Lowered the individual income tax to a 3% flat rate and expanded some existing deductions.
- Lowered the corporate income tax rate to a 5.5% flat rate and eliminated the corporate franchise tax.
- Eliminated or reduced several tax deductions, and created sunsets and caps on several income tax credits.
- Increased the state sales tax from 4.45% to 5%.

Those changes are already taking effect. And though this constitutional amendment was debated side-by-side with those tax adjustments, they are not tied together. Voting for or against this amendment will have no impact on any of those changes that were enacted. Passage of this amendment will not raise any taxes, though it would lower taxes for senior citizens.

Instead, this amendment primarily does five things:

- Creates some new constitutional protections, limitations, or requirements regarding taxes, expenditures, and revenues.
- Removes certain items from the constitution and places them instead in statute.
- Makes significant changes to existing trust funds or “savings accounts” in the constitution.

- Creates a one-time cash incentive for local governments to eliminate or phase out the local business inventory tax.
- Requires a large payment to the Unfunded Accrued Liability (UAL) in the Teachers' Retirement System of Louisiana as a way to make a year-to-year stipend permanent.

Of course, the 115-page amendment actually does much more than that. It is incredibly detailed, extremely complicated in some places, and deals with many issues that the average citizen would likely know little or nothing about.

But at the end of the day, it is also an attempt to simplify the workings of at least one key area of the constitution and give lawmakers more flexibility in dealing with the finances of the state. As you might expect with a reform this huge, there are some things we might have preferred to see done a little differently. But taken together, this rewrite of Article VII of Louisiana's constitution is well thought out and makes meaningful improvements to the state's foundational document. Leaders for a Better Louisiana believes it is worthy of the support of voters.

Listed below are highlights of the significant changes to Article VII which, in many cases, also reflect language that was passed in companion legislation in November.

Major Article VII Revisions

Power to Tax

- The amendment retains the constitutional prohibition of levying a state sales tax on food for home consumption, residential utilities and prescription drugs.
- It further prohibits the state or local governments from imposing a property tax on prescription drugs. This is not an issue now, but is apparently being done to remove possible barriers to the expansion of pharmaceutical manufacturing in the state.
- The constitution requires a two-thirds vote of the Legislature to levy a new tax, increase an existing tax, or repeal an existing tax exemption. This extends that two-thirds vote requirement to the creation of any new tax exemption, exclusion, deduction, credit, or rebate. This also applies to any increase in existing exemptions. That effectively means that just as it takes a two-thirds vote of the Legislature to take away a tax break, it also takes the same vote to create a new one or increase an existing one.
- Currently, Louisiana's sales tax landscape is confusing because both the state and the various local governing authorities provide different sets of tax exemptions. That



means some items may be exempt at the state level, but taxed at the local level depending on the jurisdiction. Most states have a uniform policy with regard to what is taxed and what isn't. This amendment would require all new sales tax breaks to be applicable at both the state and local level.

- This amendment states explicitly that in the future, if sales taxes are ever collected by the state on behalf of a local taxing authority, those revenues belong to that taxing authority. It further maintains the operations and funding of the Uniform Local Sales Tax Board and requires that any changes to its membership or reduction in its authority must be made by a two-thirds vote of the Legislature.

Income Tax

The image shows the Louisiana State Tax Form 485 (2024). It is a detailed form with multiple sections for reporting different types of income and deductions. Key sections include:

- Section 1:** Taxable Income, with sub-sections for Adjusted Gross Income, Exemptions, and Taxable Income.
- Section 2:** Tax Rates, showing a graduated rate structure from 3% to 7%.
- Section 3:** Tax Credits, including the Louisiana State Tax Credit and the Louisiana State Tax Exemption.
- Section 4:** Tax Payments, including the Louisiana State Tax Payment and the Louisiana State Tax Exemption.
- Section 5:** Total Tax, showing the total tax liability and the amount of tax paid.
- Section 6:** Refund, showing the amount of tax refund and the amount of tax paid.
- Section 7:** Other Information, including the taxpayer's name, address, and filing status.

- Recent tax reforms generally moved Louisiana from a graduated income tax based on income to a flat tax of 3%. However, the current constitution continues to allow a graduated tax with a maximum rate of 4.75%. This amendment lowers the maximum rate of taxation on income to 3.75%. Though the current rate is lower than that, this would give the Legislature the flexibility to increase the rate up to the cap if it chooses to.
- It also doubles the standard deduction for seniors 65 or older from \$12,500 to \$25,000. This is on top of the doubling of the tax deduction for retirement income from \$6,000 to \$12,000 which was passed during the November special session.

Severance Taxes

- Severance taxes are paid by companies based on the volume of natural resources they extract or remove from the soil or water. The current constitution requires certain amounts of severance tax revenue to be given to the parishes where the extraction or removal occurs, but the dollar amount is capped. This amendment removes that cap.
- It also gives the Legislature the authority to make adjustments by statute to the amounts of severance tax dollars they send to local governments, but it cannot be below the level that was paid on July 1, 2024.

State Expenditure Limit and Government Growth Limit

- This amendment retains the current language on the state's expenditure limit.
- It also creates a new "Government Growth Limit," based on a formula that considers certain inflationary factors and changes in population. It requires the Revenue

Estimating Conference to adopt a growth limit based on the formula during the first quarter of each calendar year.

- Lawmakers can spend money above the growth limit, but below the expenditure limit, only on non-recurring expenses. Spending above the expenditure limit would require a two-thirds vote of the Legislature.
- The Legislature can also change the growth limit in certain circumstances by a two-thirds vote.

Budget Stabilization Fund (“Rainy Day” Fund) & Revenue Stabilization Trust Fund



- The amendment largely keeps existing rules for utilizing revenues from the Budget Stabilization Fund, also known as the “Rainy Day” fund, in place. It does, however, make some significant changes in other areas.
- The “Rainy Day” Fund currently has a balance of just over \$1 billion.
- It is capped at 4% of total state revenue receipts from the previous year. Passage of this amendment would increase the cap to 7.5%, meaning much more money could be saved in the fund.
- The Revenue Stabilization Fund is a different fund that was created in 2016 to serve as another type of savings account for excess mineral and corporate tax revenues above certain thresholds. It currently has about \$2.7 billion in deposits.
- This amendment would basically merge the Revenue fund into the “Rainy Day” fund. In doing so, it would transfer about \$1.8 billion from the Revenue fund to the “Rainy Day” fund to bring it to its new cap of about \$2.8 billion.
- That would leave about \$1 billion in the Revenue fund which is contemplated for use to help reduce local business inventory taxes as explained later. In addition to transferring money, the Revenue fund would no longer exist in the constitution, but remain temporarily in statute.
- Any new dollars that would have flowed into the Revenue fund would instead be available to the State General Fund, though that amount is likely to be significantly reduced because of cuts to the corporate income tax and elimination of the corporate franchise tax which passed during the November special session.
- Any revenues left in the fund after it goes away could be spent by the Legislature on non-recurring expenses such as road construction, coastal projects, and debt.
- A dedication of certain mineral revenues collected over \$750 million to the “Rainy Day” fund would go away.

Special Trusts and Funds

Currently, the constitution contains a number of trust funds that are either trusts designed to live in perpetuity, or funds that receive revenues that are dedicated for a specific purpose. The obvious goal was to provide an added level of protection to these funds that



saved them from getting raided for other purposes. Some high-profile funds, like the “Rainy Day” Fund, the Coastal Protection and Restoration Fund, the Transportation Trust Fund and a few others will remain as constitutionally protected funds. With this amendment a number of other funds are generally moved to statute and placed in one of two new categories: permanent funds and program funds.

Permanent Funds

- The legislature can designate a fund as a permanent trust fund by a two-thirds vote.
- These are funds where the proceeds that are deposited represent the principal and cannot be removed except by passage of a constitutional amendment.
- The interest and investment earnings can be used and dedicated by the Legislature for specific purposes. Once dedicated the use of those funds cannot be changed except by a two-thirds vote of the Legislature.
- Despite the fact that these funds have constitutional language that prohibits expenditures from the principal, it appears that the permanent status of those funds can be changed by a two-thirds vote of the Legislature. That would represent a significant change since under current law these funds are constitutionally protected and would require a vote of the people to adjust.
- The amendment designates two existing funds as permanent trust funds: The Millennium Trust and the Louisiana Unclaimed Property Permanent Trust. The Legislature may create others.

Program Funds

- Under this amendment the Legislature by a two-thirds vote can also create program funds.
- As they exist now, these are not trust funds where the principal must be preserved, but funds that receive dedicated revenues which can only be used for the purposes that have been prescribed for those funds.

- Again, a significant change in this amendment would allow the Legislature, by a two-thirds vote, to alter these funds in most any way, without requiring a constitutional amendment.
- The amendment designates these existing funds as program funds: The Artificial Reef Development Fund, the Oil Spill Contingency Fund, the Oilfield Site Restoration Fund, the Louisiana Fund, and the Local Revenue Fund (a new fund established to help offset the loss of revenue to local governments who exempt business inventory from taxes).

Education Trust Funds

This amendment abolishes three large education trust funds that are currently protected in the constitution. The Louisiana Education Quality Trust Fund and the Louisiana Quality Education Support Fund receive constitutionally-dedicated revenues from offshore mineral production. Together they generate revenues from earnings that are equally split between K-12 education and postsecondary education in support of specific educational activities that are spelled out in the constitution.



The Education Excellence Fund is a part of the Millennium Trust funded by a legal settlement with major tobacco companies. It, too, uses investment earnings to support various education initiatives.

This amendment eliminates all three of those funds and takes the revenues in their accounts to pay down almost \$2 billion of debt in the Teachers' Retirement System of Louisiana. That is estimated to reduce the amount that public school systems and higher education are paying to eliminate that debt by about \$283 million per year.

It further mandates that the savings realized by the various public school systems be used to make a year-to-year stipend that school personnel have been receiving into a permanent part of their pay. For the last two years these stipends have totaled \$2,000 per year for educators and \$1,000 a year for school support workers.

In the case of higher education, colleges and universities are expected to save a total of about \$80 million per year in reduced retirement payments. The mineral revenues that are currently going into the abolished funds will be directed instead to the State General Fund.

Millennium Trust

As mentioned earlier, the Millennium Trust was created in 1999 as part of a settlement with major American tobacco companies. The original intent was to save 75% of the revenues coming into the fund in permanent trust, dedicated to public education, public health, and TOPS. Over the years that was changed so that all the revenues that were going into the Millennium Trust from the settlement now flow into the TOPS Fund to support TOPS scholarships. That remains unchanged. However, by eliminating the Education Excellence component of the trust fund with this amendment, the investment earnings from the Millennium Trust will be split two ways, between the TOPS Fund and the Health Fund, instead of three. In addition, the permanent nature of the trust is altered somewhat as the constitutional protection of the fund has been removed and changes could be made by a two-thirds vote of the Legislature.

The other 25% of the tobacco revenues are deposited into a related fund called the Louisiana Fund. That fund is not a trust fund meaning that expenditures from the fund are not limited to interest and earnings. The amendment designates the Louisiana Fund as a program fund in the constitution. All the constitutional language defining the fund is removed by this amendment, though it remains in statute.

Property Taxes



- This amendment would retain the Homestead Exemption in the constitution.
- It would also keep various special assessments that reduce property taxes for certain homeowners 65 years of age or older, certain veterans with a service-connected disability and their spouses, certain military personnel, and any person who is permanently and totally disabled.
- Property tax exemptions for houses of worship and various religious purposes remain.
- A lengthy list of other exemptions now in the constitution would be removed and placed instead in statute.
- The list is extensive and includes property tax exemptions or breaks for certain: nonprofits, labor organizations, lodges, fraternal organizations, Mardi Gras activities, ships and vessels, agricultural products, products passing through ports, raw materials, motor vehicles, and drilling rigs.
- It also removes from the constitution, but places in statute, property tax breaks for the spouses of various first responders who died while on duty.

- With this amendment, a constitutional amendment would no longer be needed to create a new property tax exemption. The Legislature would be authorized to do so by a three-fourths vote of the House and Senate. Changes could be made to existing tax exemptions that have been moved to statute, but only by a two-thirds vote.
- It also limits consideration of property tax exemptions to fiscal sessions of the Legislature held every other year.
- The transfer of so many exemptions to statute removes the constitutional protections they once enjoyed. In doing so, it gives the Legislature the flexibility to make changes to them in the future, though it does set a reasonably high bar.

Industrial Tax Exemption Program & Special Districts

- This amendment makes another significant change by moving the Industrial Tax Exemption Program (ITEP) out of the constitution and placing it in statute. This particular exemption has been under increased scrutiny in recent years and this would allow the Legislature to more easily modify its provisions.
- It does the same with the development of certain properties within a downtown, historic, or economic district and with distribution centers.

Business Inventory Tax

For some time, lawmakers have been interested in reducing or eliminating the local property tax on business inventory to make Louisiana more competitive with other states. Doing so has been difficult because a number of parishes with high concentrations of manufacturing rely heavily on that tax to maintain the functions of their local government. This amendment and companion legislation seek to address that in a voluntary way that might appeal to some jurisdictions.



- Dollars remaining in the state's Revenue Stabilization Trust Fund would be made available in a one-time payout to local governments who voluntarily choose to eliminate or phase out the inventory tax.
- The payout is based on how much inventory tax the parish collects. If the tax is eliminated immediately, the parish could receive at least \$1 million and up to a maximum of \$15 million in one-time funds. If it phases out the tax over a period of five years or less, it could receive at least \$500,000 or up to \$10 million.

- The amendment would also give parishes the authority to adjust the fair market value of property considered business inventory to attract or retain certain businesses if they choose to do so. In effect, this would allow them to provide a partial exemption on business inventory taxes, which they cannot do now.
- As a concession to local governments, lawmakers also added a provision which constitutionally prohibits the Legislature from passing any law mandating an exemption from business inventory taxes.
- The amendment removes language from the constitution that prescribes how local governments can make adjustments in property tax millages as property values change. Those same rules are retained in statute giving the Legislature more flexibility to change them if they choose.

Miscellaneous Changes the Amendment Would Make



- Repeals the cigarette tax from the constitution, though it remains in statute.
- Removes the motor vehicle license tax from the constitution. It also removes a current constitutional dedication of any new gasoline or motor fuels taxes to a more restrictive sub-fund of the Transportation Trust Fund.
- Leaves existing language around bonds and state debt.
- Retains current language with regard to the Revenue Estimating Conference, requiring a balanced budget and addressing deficits.
- Largely retains current requirements for revenues deposited into the Transportation Trust Fund.
- Keeps the Coastal Protection and Restoration Fund, which supports projects in the state's master plan for coastal protection. This amendment does, however, repeal a section requiring certain mineral-related revenues to be deposited into the fund and instead requires an annual contribution of \$25 million, which is about what is currently being allocated.
- Retains the Hospital Stabilization Formula, the Hospital Stabilization Fund, and the Louisiana Medical Assistance Trust Fund within the constitution and makes no changes to them.
- Removes several constitutional dedications of mineral revenue including a requirement that a portion of certain mineral revenues be deposited into the "Rainy Day" Fund.

- Retains provisions for the state to provide supplemental pay to law enforcement and fire personnel.
- Retains the Conservation Fund in the constitution which receives deposits from various fees, licenses, royalties, and other revenues for use by the Department of Wildlife and Fisheries.
- Retains most current language in the constitution dealing with budgets, reports, records, investment of state funds, donation of public things of value, prescriptive periods for taxes, and authority for the Legislature to enact laws to obtain federal aid.
- Retains a constitutional provision that allows the state to enact a statewide property tax for any purpose up to 5.75 mills on the dollar of assessed value. The state has never utilized this authority, leaving property taxation completely in the hands of local governments.
- Leaves most current language in the constitution dealing with the elected terms of tax assessors, sale of property where taxes are delinquent, revenue sharing with local governments, and rules dealing with unclaimed property.

Comments: The rewrite of Article VII of the Louisiana constitution is both significant and substantial. It is largely the result of a major review conducted by the Department of Revenue over several months. That process considered many of the comments and recommendations various groups have made over the years, including input from the leadership of Better Louisiana.



It is also the product of the political process which inevitably includes changes and compromises that are accepted to move the legislation forward. Though that can include provisions that may be less than ideal, we believe taken as a whole this amendment accomplishes many good things.

- It streamlines a major article of the constitution.
- It moves many provisions, including numerous tax exemptions, out of the constitution and into statute where they more appropriately belong.
- It gives the Legislature additional flexibility to deal with fiscal and budget issues.
- It increases the cap of the “Rainy Day” fund and fills it up.
- It adds common sense restraints for creating new tax exemptions.

- It attempts to address some of the issues surrounding Louisiana’s non-competitive local business inventory tax and inconsistent application of sales tax exemptions between the state and local government.

While much of this might seem somewhat arcane to the average citizen, a more tangible outcome is that these changes will likely move Louisiana up in national state tax competitiveness rankings. That is important.

And, it does one other thing that is hugely significant, though not something that was originally envisioned by most constitutional reformers. In dissolving three major education funds, it reduces the massive debt in the state’s teacher retirement system by almost \$2 billion, while providing a mechanism to make a temporary teacher pay increase permanent.

There are, however, some things that do concern us.

- Over the course of decades, the state has created funds that preserve in permanent trust, large amounts of revenues from various legal settlements dedicated to education and health. With these funds, the corpus could not be spent, only the investment earnings. The education funds largely go away because of the debt payment, but it appears that some of those that remain will lose their constitutionally protected status and could be raided or altered in almost anyway by the Legislature. This is a major departure from the original intent, and cause for concern that these protected funds can more easily be raided.
- Sometimes good ideas collide. It was a good idea to preserve billions of dollars of mineral and tobacco settlement revenues in permanent trust for education enhancements. It is also smart to pay off a large portion of Louisiana’s huge debt in the teachers’ retirement system. There are good reasons for both. If this amendment passes the revenue streams that once went into the education funds will now go to the State General Fund. That is worth noting as we hope both K-12 and higher education will continue to have the resources needed to cover some of the important initiatives these revenues helped support such as early childhood education and university research activities. That will be dependent on the Governor, Division of Administration, and Legislature maintaining these important priorities in the state’s annual budgetary expenditures.
- With the increase of the “Rainy Day” fund cap, Louisiana will have a substantial balance of revenues in its emergency fund. That is a huge positive. But the original legislation proposed by the administration included a provision that would have required a percentage of revenues from mineral and corporate taxes to be deposited in the fund if it falls below the cap. Since those are both volatile sources

of revenue, that was an approach that made sense to keep the budget stable and ensure adequate revenues in the event of budget downturns. That provision to capture a percentage of these revenues was removed from the final version of this amendment and, we believe, needs to be reintroduced in the future.

- This amendment creates a new Government Growth Limit within the constitution. While this may sound appealing, it is in addition to an existing Expenditure Limit also in the constitution. Our concern is that this added spending constraint will make it more difficult for the Legislature to make investments in priority areas such as early childhood education, higher education, and teacher salaries, even if revenues are available. Overall, this amendment gives the Legislature additional flexibility around spending, however this particular item seems to take some flexibility away.

All that said, we believe this amendment represents a positive step forward for Louisiana. There is always a give-and-take on anything that goes through a political process, and that is especially true of something this comprehensive. That process also allows for tweaking and it is our intent to monitor the implementation going forward and make recommendations as we feel are appropriate.

It should be noted, again, that the passage of this amendment has no impact on the major tax changes approved by the Legislature during the November special session. They are being implemented now and whatever happens with this amendment, that will not change. The most significant related effect is the money released from the Revenue Stabilization Trust Fund would help the state implement some additional tax policy proposals that it could not accomplish with the earlier statutory legislation.

It should also be said that the rewrite of this article was a major achievement by the Legislature. It addresses problems we have talked about for years and makes significant improvements in a huge section of our constitution. While not perfect, it is very good and we believe it will have a lasting and positive impact on our state.



Constitutional Amendment #3

Legislative Authority to Determine Crimes for Which Juveniles Can Be Tried as Adults

POSITION: OPPOSE

What It Does: This amendment would allow the Legislature to decide by statute the crimes for which a juvenile can be tried as an adult in lieu of the limited list of crimes that are enumerated in the constitution.

Background: Last year, the Legislature rolled back one of the key juvenile justice reforms it passed back in 2016 and joined four other states in requiring that 17-year-olds be tried as adults if they are accused of committing a felony. Basically, that means court proceedings are different, sentences can be longer, fewer rehabilitative services might be offered, and punishment may include time in adult prisons.

Youth, 16-years-old or younger, are still tried in the juvenile justice system, but there are exceptions. They can be tried as adults if they are accused of committing one of 16 crimes that are specifically named in the constitution.

Basically, these are serious or violent crimes such as murder, attempted murder, manslaughter, rape, armed robbery, aggravated burglary, and kidnapping. This amendment removes that limited list of eligible crimes from the constitution and, generally speaking, would allow juveniles age 14-16 to be tried as adults for other crimes the Legislature authorizes by a two-thirds vote.

The 16 crimes currently in the constitution are also named in statute, so that list will not go away. But passage of this amendment would allow the Legislature to add to the list on its own without the vote of the people that is now required.

Crimes Where the Constitution Allows Juveniles to Be Tried as Adults

- First-degree murder.
- Second-degree murder.
- Manslaughter.
- Aggravated rape.
- Armed robbery.
- Aggravated burglary.
- Aggravated kidnapping.
- Attempted first-degree murder.
- Attempted second-degree murder.
- Forcible rape.
- Simple rape.
- Second-degree kidnapping.
- A second or subsequent aggravated battery.
- A second or subsequent aggravated burglary.
- A second or subsequent offense of burglary of an inhabited dwelling.
- A second or subsequent felony-grade violation involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.

Comment: The justice system has long made distinctions on how juveniles and adults are tried and punished for criminal behavior. Much of that stems from the understanding that the human brain is not fully developed until a person’s mid-20s. In particular, the portion of the brain that controls impulse, decision making, and understanding of consequences is less developed in juveniles.

That is why the juvenile justice system places a much stronger emphasis on education, counseling, and probation in the belief that as young people mature there is a greater likelihood that they can be rehabilitated.

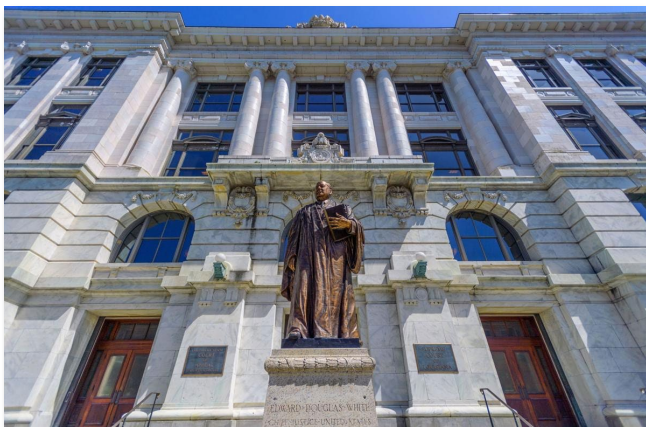
But the law also recognizes the need to ensure public safety and that in the case of serious offenses, young offenders should still face consequences and citizens must be protected. Louisiana’s current law acknowledges that. It includes an extensive list of crimes for which youth can be tried and sentenced as adults. They were placed in the constitution as a protection for children, but also to allow citizens to decide to what extent they believe young people should face the same punishment as adults.

We believe that makes sense. Some have argued that there are more crimes that young people are committing that need to be added to the list. That may be. But choosing to treat a child as an adult is a serious decision that the writers of our constitution did not want to take lightly. We think that ultimate decision should remain in the hands of the people, not just the Legislature.

Constitutional Amendment #4

Election Dates for Filling Judicial Vacancies

POSITION: SUPPORT



What It Does: This amendment requires that when there is a judicial vacancy, or a new judgeship is created, that the position be filled by calling a special election at the earliest election date available.

Background: In the event that there is a vacancy on a state court, the constitution requires that it be filled by a special election called by the governor

“within 12 months.” Over the years, that has worked fine. But last year the Legislature decided to move to a closed party primary system for the election of justices to the Louisiana Supreme Court beginning in 2026.

That creates a scenario where under our current election date cycle, it might be impossible, under certain circumstances, to have the vacancy for the judgeship filled within 12 months, as the constitution now requires.

Under our current open primary system, elections are decided through no more than two elections – a primary election followed by a general election. Under a closed party primary, it could take three elections. The first primary pits candidates from the same party in a race where, if no candidate receives a majority of votes, the top two vote getters proceed to a second primary runoff. The winner of that would then stand for election in the general election facing one or more candidates from an opposing party.

That added election creates the possibility that under our current cycle of election dates, the judgeship might not be able to be filled within the 12-month window required by the constitution. This amendment eliminates that 12-month window and simply requires that the position be filled using the earliest election dates available.

It also says that the special election should take place during the next gubernatorial or congressional election if one is scheduled within 12 months. Those are both statewide elections that will include closed party primaries for some races.

Comment: Elections can be expensive and the Legislature has tried over the years to keep the number of election dates to a minimum. Without this amendment it could be impossible to follow the mandate of the constitution to fill a Supreme Court vacancy in some instances, while also following our current election date cycle. It should be noted that the constitution allows the Supreme Court to appoint someone to fill a vacancy on a temporary basis until the election can be decided. It also prohibits that temporary appointee from running for that same seat. This amendment keeps that language.

It probably makes sense for the constitution to require a deadline for filling vacant judgeships so that it is clear that appointees cannot serve for long periods of time. But in some cases, the 12-month window currently required might no longer provide enough time to elect a new Supreme Court justice in the allotted timeframe. Admittedly, passage of this amendment could lead to situations where the window for candidates to mount campaigns could be somewhat short. But we believe it still represents a common sense solution to a very narrow constitutional problem.