

# CABL RECOMMENDATIONS ON 2018 CONSTITUTIONAL AMENDMENTS

This year there are six constitutional amendments on the November ballot:

- **Amendment # 1 Convicted Felons Running for Office**
- **Amendment # 2 Unanimous Juries**
- **Amendment # 3 Donating or Loaning Public Property**
- **Amendment #4 Use of Revenues in the Transportation Trust Fund**
- **Amendment # 5 Additional Property Tax Exemptions**
- **Amendment # 6 Phase In of Property Taxes When Assessments Spike**



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 23-30. Election Day is November 6.

**your VOTE  
is your VOICE**



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# CABL Recommendations on Constitutional Amendments

## Amendment # 1 Convicted Felons Running for Office

**This amendment would prohibit a person convicted of a felony from running for elective office or being appointed to certain public offices for a period of five years after completion of their sentence.**

**What It Would Do:** In 1998 voters overwhelmingly approved a constitutional amendment prohibiting a convicted felon from holding elected office until 15 years after the completion of their sentence. That law remained in effect until 2016 when the state Supreme Court overturned it on what was essentially a technicality having to do with the ballot language. In 2017 the House passed a bill reinstating a prohibition, this time for eight years, or generally two election cycles, but it failed to pass the Senate.

The current amendment on the November ballot would basically prohibit anyone from running or serving in public office in the state if, 1) they are incarcerated at the time for a felony, or 2) for five years after completion of their sentence. This would include time in which they may be out of prison but still on probation. The prohibition does not apply to someone who is pardoned, and it does not prohibit a convicted felon from working in state or local government after their release.

**Comment:** States across the country have varying laws regarding convicted felons holding elected office and it is not an uncommon practice to have some sort of prohibition. Many restrict their prohibitions to individuals convicted of election fraud or other election-related offenses. In contrast, there is nothing in federal law that precludes a convicted felon from running for federal office. Indeed, that issue came up in 2014 when former Governor Edwin Edwards ran for Congress while pointing out the irony that he was, at the time, prohibited from running for state office.

Still, serving in elected or other public office is an honor and a position of trust that demands integrity and a sense of service to citizens. It is not unreasonable to set a higher bar for public service and the five-year prohibition in this amendment seems more appropriate than the 15-year sanction voters originally approved. **CABL Recommendation: SUPPORT**



## Amendment # 2 Unanimous Juries

**This amendment would require a unanimous jury vote for a criminal conviction or acquittal.**

**What It Would Do:** Louisiana is the only state in the country except Oregon that does not require a unanimous jury vote to get a conviction in serious criminal cases. For 12-person juries, Louisiana requires only 10 votes to convict a defendant or determine an outright acquittal. This amendment would change that to require a unanimous verdict to convict or acquit in all criminal cases. It should be noted that Oregon does require a unanimous verdict in murder cases. In Louisiana, the unanimous verdict is required only in cases involving the death penalty.

**Comment:** Louisiana and Oregon stand out as aberrations when it comes to jury convictions in criminal cases. Every other state requires a unanimous verdict as do all cases in federal court. Supporters of split-decision verdicts say the current system is more efficient and saves money by reducing the number of hung juries which end in mistrials and force cases to be retried. They point out that just one person with a grudge against the government or law enforcement can force what can be costly and time-consuming retrials.

Opponents point to the fact that Louisiana required unanimous verdicts when it became a state in 1803. That wasn't changed until the adoption of the state's 1898 constitution at a convention where the framers declared that the intent of the new constitution was to "establish the supremacy of the white race." They also call to mind the words of John Adams, one of the founding fathers, who said "it is unanimity of the jury that preserves the rights of mankind."

In addition, recent media investigations have suggested that the non-unanimous juries are a major contributor to the fact that compared to its nearest rival, Mississippi, Louisiana has nearly twice as many people per capita serving life terms in prison, though it should be noted that Louisiana has the highest murder rate in the country.

Clearly, in this case Louisiana is out of step with other states and the federal government. The racist origins of our current law hurt Louisiana's image, even if those who support it don't harbor any of that racial intent. It is time for Louisiana to step into the mainstream on this issue and send a message that we are leaving behind a tarnished legacy we no longer embrace.

**CABL Recommendation: SUPPORT**

### **Amendment # 3 Donating or Loaning Public Property**

**This amendment would allow certain governmental entities to loan each other the use of equipment or personnel without compensation.**

**What It Would Do:** The constitution generally prohibits the state or local governments from loaning or donating the use of property or anything of value to another public or private entity without getting some sort of payment or equivalent value in return. This amendment essentially allows one governmental entity to loan another one the use of equipment or personnel without compensation if they have a written agreement to do so. This applies only to local governments such as parishes, municipalities, and various types of service districts and not the state.

**Comment:** This amendment stems from a legislative auditor's finding in 2016 that said the city of Denham Springs may have violated the constitution by allowing other towns and jurisdictions within Livingston Parish to use the city's vacuum truck and the services of the person who operated it without being compensated for it. It appears that this practice is somewhat routine especially with smaller towns where they share equipment and resources with each other on a regular basis without billing each other for the use. Many local government officials see sharing of equipment as a cost saving measure and a more efficient use of public funds. They believe that charging each other is an unnecessary process, especially if both sides agree to the use and say it could put some towns at a disadvantage in cases where there may be an urgent need, but not one that rises to the level of an emergency. There are instances where local governments are allowed to share resources, but passage of this



amendment would provide more clarity and flexibility to that process.

**CABL Recommendation: SUPPORT**

## Amendment #4 Use of Revenues in the Transportation Trust Fund

**This amendment would prohibit the State Police from receiving any revenues from gasoline or other fuel taxes for traffic control purposes.**

**What It Would Do:** Currently, gasoline and other types of fuel taxes are constitutionally dedicated and placed in the state's Transportation Trust Fund (TTF). The lion's share of those revenues goes to construction and maintenance of general transportation infrastructure such as roads and bridges. But the constitution also allows those dollars to be used for flood control, ports, airports, transit, the Parish Transportation Fund, and State Police for traffic control purposes. This amendment would prohibit the use of those funds for State Police.

**Comment:** This has been an issue for some time. In years past when the state budget was tight, the Legislature got into the habit of trying to protect State Police from budget cuts by using the gasoline taxes to supplant State General Fund dollars that had been used to support the agency. But with more focus being placed on the tens of billions of dollars of deferred maintenance and mega-project needs there has been a backlash against this process. In 2015 lawmakers passed legislation that ultimately limited any TTF revenues that could be used for State Police to \$10 million. Then, in 2017 voters approved another constitutional amendment which essentially prohibits any new gasoline or fuel taxes from being used for anything other than direct costs associated with transportation infrastructure projects. This was another example of the desire to maximize the use of fuel taxes on projects. In practice over the last couple of years, the Legislature has not been using fuel tax revenues to fund State Police, but there is nothing that prohibits them from doing so again in the future. The passage of this amendment would end that possibility and ensure that virtually all of the gasoline taxes we pay would be used to fund infrastructure projects.



**CABL Recommendation: SUPPORT**

## Amendment # 5 Additional Property Tax Exemptions

**This amendment would extend special property tax exemptions already given to certain groups of taxpayers if their property is placed in a trust.**

**What It Would Do:** In recent years voters have given various groups of taxpayers special or targeted exemptions to local property taxes. These include special assessments for many homeowners age 65 or older; military veterans with a 100% disability or their surviving spouses; and surviving spouses of members of the military, law enforcement, firefighters, and emergency medical responders who were killed in the line of duty. This amendment would extend those same special assessments to the eligible groups if their home is placed in a trust and they are still residing there.

**Comment:** There are many reasons why homeowners might place their property in a trust. Usually it's for succession purposes that make sense for themselves or their families. But under current law it appears that if a recipient of one of the various specified special tax exemptions has or places their property in trust, they lose that special tax break. CABL has traditionally been wary of the Legislature and voters continually adding new exemptions to local property taxes. Doing so either erodes the local tax base or increases the tax burden on others when the local governments themselves have no say in the matter. Nevertheless, voters have chosen to give special tax exemptions to various groups of homeowners that they believe are deserving. Whatever one thinks of the wisdom of that, there doesn't seem to be a policy reason to deny that benefit to otherwise eligible taxpayers simply because their property has been placed in a trust. **CABL Recommendation: SUPPORT**

## Amendment # 6 Phase In of Property Taxes When Assessments Spike

**This amendment says that if the assessed value of a homestead increases by more than 50%, the tax collector will phase in the collection of the additional tax liability over a four-year period.**

**What It Would Do:** There have been instances, particularly in New Orleans, where homeowners have seen significant spikes in the assessments on their property due to improvements in their neighborhood or the conversion of neighboring properties to rentals such as through Airbnb. As a result, they have seen major increases in their property taxes. If this amendment passes, it would cushion that blow. It provides that in a reassessment year, if the assessed value of a homestead increases by more than 50% from the prior assessment, the tax collector will phase in the collection of the additional tax liability over a four-year period. In other words, taxpayers would pay an additional 25% of the new liability each year for four years until the full amount is reached.

Under the amendment the local governing authorities would be required to absorb the cost of the lower tax revenues so that there would be no impact on other taxpayers. In addition, the phase-in does not apply if the increase in value is a result of new construction or improvements to the property or if the property is sold.

**Comment:** Interestingly, from a historical perspective, most of the taxpayers who have seen large spikes in their property tax assessments have done so because their property has been traditionally undervalued by the tax assessor. They should not be allowed a special break because of that, but unfortunately this amendment doesn't address that situation. It is hoped that with the attention that has been given to more accurate assessments those cases are fewer and farther between. If that's the case, this amendment would seem to apply to only a fairly limited number of taxpayers. A four-year phase-in to reach the full tax liability might be a reasonable way to assist taxpayers in these somewhat unusual circumstances.



### CABL Recommendation: SUPPORT

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