



CABL RECOMMENDATIONS ON 2021 CONSTITUTIONAL AMENDMENTS

Amendment #1 Centralized Sales Tax Collection

Amendment #2 Individual and Corporate Income Tax Rates

Amendment #3 Property Tax Assessments for Levee Districts

Amendment #4 Avoiding State Budget Deficits

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 30-November 6. Election Day is November 13.



COUNCIL FOR A BETTER LOUISIANA WWW.CABL.ORG

Amendment # 1 Centralized Sales Tax Collection

Creates a commission to develop a streamlined electronic filing, remittance, and tax collection system for state and local sales taxes and provides tax policy advice and guidance on audit practices.

By almost any measure, Louisiana's sales tax structure is a mess. The nonpartisan Tax Foundation ranks our sales tax structure 49th in the country and finds our combined state and local sales tax rate to be the highest at just over 9.5%. Add that to a sales tax administration system whose complexity is second to none and you have some real problems that once again set us apart.

Getting into all the issues that make Louisiana's sales tax landscape so difficult to navigate can take a long time. Suffice it to say that unlike in most states, state and local governments in Louisiana tax different items at different rates, there can be multiple local sales tax rates within a single parish, and where most states have a single tax authority to receive all the sales taxes that businesses collect on behalf of the government, Louisiana has more than 50.

Constitutional Amendment #1 is intended to deal with that last point.

What It Does

This amendment creates the State and Local Streamlined Sales and Use Tax Commission as a political subdivision of the state. It has eight members, half of which represent local entities, including school boards, municipalities, police juries, and sheriffs. The other half consists of statewide representatives, including the secretary of the Department of Revenue and appointees of the Governor, Speaker of the House, and President of the Senate.

Its purpose is to provide a streamlined, centralized mechanism for businesses to electronically remit all the sales taxes they collect to a single entity, which is then charged with promptly distributing those payments to the governing authorities that levy the taxes. The goal is to spare local businesses from the problem many face in dealing with so many tax collectors across the state.

Importantly, the commission is also tasked with providing policy advice and developing rules, regulations, and guidance to centralize and streamline business audits. As noted, Louisiana's sales tax laws are extremely complex, and as businesses collect sales taxes on behalf of state and local governments there are often disputes over what should be taxed, where, and by how much. That leads to sometimes never-ending audits which have become a huge headache for companies that do business regionally or across the state.

It is hoped that this new commission will be able to address those and other issues, but doing so will not be easy. Almost any action the commission takes will require a two-thirds vote in support. On top of that, the statutory framework that will be required to get the commission up and running must still pass the Legislature and it, too, will need a two-thirds vote. These are unusual hurdles, but they were put in place mostly at the insistence of local governments who fear a new statewide commission collecting tax revenues on their behalf could lead to delays or other disruptions that they do not want to risk.

Comments

The idea of centralized sales tax collections, like almost every other state has, is one local governments have been resisting for years. The constitution currently guarantees them the authority to collect local sales taxes at the local level, and they have been reluctant to give up that right. At the same time, everyone recognizes that online retailing has changed the sales tax landscape across the country, but especially in Louisiana. A U.S. Supreme Court ruling held that states could require online retailers to collect and remit sales taxes to state and local governments, but the states had to have a centralized system that allowed them to comply without an undue burden.

Louisiana has tried to remedy that with a special collection system for out-of-state online retailers, but it is different than what in-state businesses deal with and there are serious concerns about what would happen if the system was challenged in court. And while there have been efforts to streamline the remittance process for in-state companies, that has had its issues, too.

In that sense, Constitutional Amendment #1 takes a much more comprehensive approach than anything attempted thus far. It does not address many of the state's thorny sales tax problems. For instance, rates will stay the same and the lack of uniformity within local jurisdictions and with the state will remain.

But if voters approve this amendment, it will begin a process that, if successful, can make it much easier for local businesses to comply with sales tax collections and remove Louisiana from a legal cloud that could be extremely disruptive to the collection of local sales taxes. It could also help improve our rankings as a state with a more business-friendly sales tax structure.

Finally, it should be noted that after many years of resistance, local governments have worked in good faith with business groups and others to come up with a solution that could help solve a problem that everyone knows needs to be addressed, while ensuring local governments have the revenues they need in a timely fashion to protect the vital services they provide.

CABL believes Amendment #1 represents a big and important step forward and one Louisiana should not delay in taking.

CABL POSITION: SUPPORT

Amendment #2 Individual and Corporate Income Tax Rates

Lowers individual and corporate income tax rates by eliminating or adjusting current tax deductions in a way that is generally revenue neutral to the state and taxpayers.

It is somewhat ironic that Louisiana has one of the lowest individual income tax burdens in the country, particularly of the 42 states that levy an income tax. But if you look at data from the Tax Foundation, Louisiana's top income tax rate of 6% is the highest in the region by far. Mississippi, Alabama, Arkansas, Georgia, and Oklahoma all have top rates that are lower than ours. But their individual income tax burdens are higher.

Why is that? Because Louisiana’s income tax structure is more complicated. We have deductions most other states don’t have and they are hidden from easy view. So those who are looking at Louisiana as a place to invest or relocate see a high tax rate and equate that with a high tax burden. That is misleading and hurts our ability to compete for jobs.

The same is largely true for corporate income taxes. Our top rates are higher than almost anywhere in the country, but our corporate tax burden is significantly lower.

Amendment #2 seeks to remedy that in a way that is generally revenue neutral for the state and for the vast majority of taxpayers.

What It Does

This amendment is relatively simple and basically does two things:

- Louisiana has three individual income tax rates in the constitution of 2%, 4%, and 6% based on income. This amendment removes that rate structure and says instead individual income tax rates may not exceed 4.75%.
- It removes the requirement that federal income taxes shall be a deductible item and says instead that the deduction may be allowed.

While that is technically all the amendment does, it is tied to a much broader statutory framework that will go into effect if this amendment passes. That framework provides for the most comprehensive attempt at meaningful tax reform Louisiana has seen in decades and is best considered together with the amendment.

As mentioned, Louisiana’s top income tax rates are high, but our income tax burden is significantly lower. That’s primarily because we have two tax deductions that most states do not. Those deductions lower the actual income taxes we pay, but they keep our tax rates artificially high.

The impact of this amendment on individual income taxes is twofold: 1) it removes the constitutionally mandated federal income tax deduction and limits excess federal itemized deductions to include only medical expenses, and 2) lowers income tax rates across the board.

Current Rates	Proposed Rates
2% above \$0	1.85% above \$0
4% above \$12,500	3.5% above \$12,500
6% above \$50,000	4.25% above \$50,000

Stated in simple terms, the amendment swaps out or changes income tax deductions we currently have in exchange for lower income tax rates for everyone. As part of that, there are two things to keep in mind:

- The impact is basically revenue neutral for the state which means it is neither a tax cut nor a tax increase in terms of state revenues.
- The vast majority of taxpayers will see a small tax cut or virtually no change at all.

There are also provisions that would further reduce tax rates if state revenues grow beyond a certain amount and if the state's Rainy Day Fund has a healthy balance.

The impact is similar for corporate income taxes. In exchange for removing the deduction of federal income taxes, the five rates that currently exist would be collapsed into three rates, reducing the top corporate rate from 8% to 7.5%. It would also eliminate the corporate franchise tax for small businesses which make up more than 80% of the tax base, and reduce the rate for others.

Comments

More than anything else, the impact of this amendment should be seen as one to simplify Louisiana income taxes and paint a clearer picture of what we actually pay. Our income tax burden is relatively low, but that fact is hidden within a complex tax structure that suggests otherwise. This fixes that.

It also solves another problem. The ability to deduct federal taxes from state taxes creates a perverse situation that other states figured out long ago. Adjustments in tax policy at the federal level can automatically impact revenues and the taxes we pay at the state level, leading to budget shortfalls or tax changes we have no control over. This constitutionally-mandated deduction unintentionally cedes control of some of the state's fiscal matters to policies enacted in Washington. That is not good tax policy for Louisiana.

When all of these changes are considered together, this is an effort to improve our tax structure and make it less complicated than it needs to be. Lawmakers took great pains to ensure that the changes being proposed will have little to no impact on most taxpayers or state revenues. The benefit in return is that we are likely to move out of the bottom ten states in the Tax Foundation's business tax climate rankings and send a message that Louisiana is moving forward in ways that will make us a more attractive place for people to live and companies to invest.

These are common sense improvements that CABL, PAR, and other nonpartisan policy groups have advocated for years. Passing Amendment #2 is an opportunity to uncomplicate our tax structure, put the state in charge of its own fiscal house, and enhance Louisiana's competitiveness for the jobs of the future.

CABL POSITION: SUPPORT

Amendment #3 Property Tax Assessments for Certain Levee Districts

Provides local levee districts created after 2006 the authority given to districts created prior to that of levying a property tax of up to 5 mills to fund operations and maintenance.

Since the early creation of levee districts in Louisiana in the late 1800's to early 1900's, Louisiana law and the state constitution have allowed existing levee districts the authority to levy a property tax of no more than 5 mills by a vote of its board. Approval of voters for anything up to those 5 mills was not required. The Orleans Levee District was allowed to levy only up to 2.5 mills because of other circumstances.

But generally, levee districts created after January 1, 2006 do not have similar taxing authority. This amendment would extend that right to those other districts.

What It Does

Typically, major hurricane and flood protection projects are developed and constructed by the state or federal government. But when those projects are completed, they are turned over to local levee districts who are responsible for operating and maintaining the levee system and undertaking smaller local projects within their bounds. The 5-mill taxing authority was enacted near the turn of the 20th Century when the state first created levee districts to provide base funding to complete those tasks.

There are eight levee districts that were created after 2006. Three of them have this taxing authority because they were carved out of existing districts where it had already been granted or they have voter approval to assess up to 5 mills. But five of them do not have that authority:

- Chenier Plain Coastal Restoration and Protection Authority in southwest Louisiana
- St. Tammany Levee, Drainage, and Conservation District
- Iberia Parish Levee, Hurricane, and Conservation District
- Squirrel Run Levee and Drainage District in Iberia Parish
- Tangipahoa Levee District

This amendment would give these levee boards the authority to levy up to 5 mills of property tax to fund their operations, if the amendment passes statewide and within the particular levee district seeking the authority to enact the tax.

Comments

Some of the levee districts created since 2006 are effectively not even functional because they have no funding for operations and not even the financial wherewithal to put a tax initiative on the ballot. As we have seen again with Hurricane Ida, that is not good for individuals and businesses that reside in areas that need protection.

Typically, one would hesitate to grant direct taxing authority to a levee board or some other governmental body under the notion that if voters want a particular service, they will agree to pay for it. But this amendment essentially takes care of that by requiring that it pass statewide, as well as within the levee district. Passage locally would signal voter approval for the general authority to levy the tax. Citizens would have additional protections knowing that the levee boards would have to pass the tax in a public meeting where taxpayers can express their views directly to members of the boards.

Any millage increases above 5 mills would have to be approved by a vote of the people and this taxing authority does not extend to any new levee boards that might be created in the future. The earlier arrangement with levee districts dating back more than 100 years has worked well and it makes sense to allow it to be used by others.

CABL POSITION: SUPPORT

Amendment #4 Avoiding State Budget Deficits

Increases the amount that can be cut from dedicated funds from 5% to 10% to avoid a budget deficit.

From the great recession to oil price collapses, to COVID-19, and hurricanes, external forces of all kinds can prompt shortfalls in the budget that can sometimes necessitate major budget cuts. Over the years, various statutory and constitutional dedications have protected large portions of the budget from all but minor cuts. When the potential deficit is large, this can severely reduce the flexibility of the governor and Legislature to respond and possibly lead to larger-than-necessary cuts to important priorities like higher education and health care. This amendment seeks to provide additional options for avoiding large state deficits.

What It Does

When the Legislature is not in session, current law and the constitution generally give the governor the authority to cut State General Funds from executive branch agency budgets by up to 3% to avoid a budget deficit. If a prescribed level of cuts is made and it still does not solve the budget problem, the constitution gives the governor additional authority, with the approval of the Joint Legislative Committee on the Budget, to make further cuts. This authority includes:

- Additional cuts to the State General Fund of up to 5%.
- Reductions in both statutory and some constitutional dedications of up to 5%.
- Reductions in the Minimum Foundation Program which funds public schools of up to 1%, excluding expenditures for instructional activities.

This amendment gives the governor, with JLCB approval, the authority to cut State General Fund Expenditures and dedications by up to 10%.

Comments

The deficit avoidance authority the governor currently has is not commonly used, but it has been utilized on occasions when extraordinary events occur, and a large deficit is looming. This amendment would enhance the authority of the governor and the Legislature to make needed cuts in these unusual circumstances. This amendment does not require that cuts be made to dedicated funds, nor does it prevent state leaders from prioritizing or protecting certain funds beyond those that remain protected by this amendment. But it does provide them with additional options.

CABL and other public policy groups have long been concerned about the billions of dollars that have already been tied up in statutory and constitutional dedications. A lot of those revenues are protected for good reason and this amendment continues to keep some critically important funds off limits. One of the primary reasons many have advocated for a constitutional convention was to look specifically at dedications and consider making some of those funds available for general appropriation.

This amendment does none of that, but it is consistent with the same principle. Times when potentially huge shortfalls come are not that often. But when they do, the governor and the Legislature should have the authority to protect priorities they deem critical through temporary reductions in dedicated funds.

CABL POSITION: SUPPORT