



2023 CABL Recommendations for November Ballot

CONSTITUTIONAL AMENDMENTS

Amendment #1 Deadlines and Changes for Legislative Veto Sessions

Amendment #2 Repeals Various Constitutional Funds

Amendment #3 Property Tax Break for First Responders

Amendment #4 Makes Changes to the Revenue Stabilization Fund

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 November 3-11 Election Day is November 18.



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COUNCIL FOR A BETTER LOUISIANA

Constitutional Amendments: November 18 Ballot

Amendment # 1 Deadlines and Changes for Legislative Veto Sessions

What it Does: Clarifies some deadlines in the timeframe the governor has to veto a bill and allows lawmakers to consider overriding a bill if they are already in a legislative session without having to call for a special veto session.

Background: This all stems from some unusual events that happened in 2022. In February the Legislature met in special session to consider a host of bills to redraw various political maps to make them conform to changes in population that were revealed by the 2020 census. Perhaps the largest controversy of the session was around the new map for the state's congressional seats. African-American and Democratic lawmakers were seeking an additional congressional seat that would be favorable for electing a minority candidate, arguing that the new census data dictated that was in order. Republicans resisted and passed maps that maintained generally the same population mix in each district, with the same likelihood that Louisiana would be represented by five white members of Congress and one African American.



As expected, the governor vetoed two identical congressional maps passed by the Republicans, and as expected there was a special veto session to seek an override of the governor's veto.

Veto sessions are unusual. They are not called by the governor or the Legislature. They are actually mandated by the constitution to be held on the 40th day after final adjournment of the session – unless legislators specifically vote by mail ballot not to have the veto session. Until recently, they always said no. Since the current constitution went into effect in 1974, it's happened only once before, when lawmakers came back for a veto session in 2021, but could not muster the votes to override any of the governor's vetoes. That veto session was certainly unusual, but so was the next one.

In 2022, the 40th day after adjournment of the special session, when a veto session must take place, occurred while the Legislature was meeting in regular session. The constitution did not seem to foresee a situation like that. Because of the timelines, a veto session was specifically required to override the veto. But the Legislature cannot meet in two sessions at once. So, there were questions about what to do.

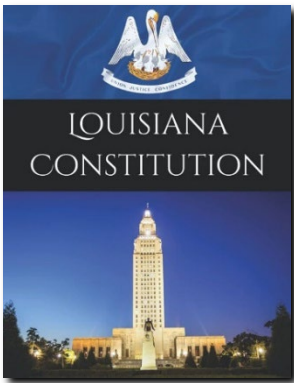
In the end they adjourned the regular session, held the veto session for a few hours and overrode the governor's veto. Then they came back and reconvened the regular session. It worked, though serious legal questions remain. This constitutional amendment addresses that unusual circumstance by clarifying that if the same situation arises and the timing of the veto session occurs during a time when the Legislature is already in a different session, they can consider veto overrides during that session.

Comment: This solution is pretty simple. Common sense alone would tell you that it would be appropriate for lawmakers to be able to consider veto overrides from a prior session without a special veto session if they were already in the midst of another session. But this issue speaks to the unforgiving specificity that can often be found in the language of our constitution. It is easy to see how the framers missed the possibility of overlapping sessions. It is also easy to see how it could occur again.

This amendment also provides more clarifying language around timelines surrounding when a governor must act on legislation which has been approved by the Legislature and when veto messages must be delivered. Given the Legislature's recent penchant to consider convening veto sessions, it makes sense to add clarity in this area.

Position: SUPPORT

Amendment #2 Repeals Various Constitutional Funds



What it Does: Removes six specific financial funds from the Louisiana Constitution.

Background: The Louisiana constitution is loaded with funds. Funds, in this case, are simply buckets set up within the constitution for holding money. They generally act as repositories for dollars that have been constitutionally dedicated for a specific purpose. Some, like the "Rainy Day" Fund or the Transportation Trust Fund are well-known. But many are obscure and were set up to protect dollars from being spent for general purposes by the Legislature.

The six funds that would be repealed by this amendment fall into the obscure category. They are:

- Atchafalaya Basin Conservation Fund
- Higher Education Louisiana Partnership Fund
- Millennium Leverage Fund
- Agricultural and Seafood Products Support Fund
- First Use Tax Trust Fund
- Louisiana Investment Fund for Enhancement

What makes them ripe for repeal, besides their obscurity, is the fact that all but one of them contain no money. The Louisiana Fund for Enhancement has a current balance of \$604, which would be transferred to the State General Fund if this amendment passes.

Comment: All of these funds were established for purposes that were no doubt well-intentioned. Certainly, funding conservation of the Atchafalaya Basin, supporting Louisiana seafood, and targeting money to higher education are laudable efforts. But the fact that all of these funds have basically been inactive for some time is a sign that they are no longer needed.

Eliminating them won't fundamentally change anything, but it would take some unnecessary items out of the constitution, which is something we rarely do. It may also serve as a reminder that there are other things that don't belong in the constitution, and it might not hurt to take a few more of them out.

Position: SUPPORT

Amendment # 3 Property Tax Break for First Responders

What it Does: Provides an additional exemption on property taxes of up to \$25,000 for first responders who meet certain criteria.

Background: If something about this amendment seems familiar to those who pay attention to constitutional amendments, you would be right. In recent years, lawmakers and voters have been creating more and more new property tax exemptions for various groups of taxpayers. They range from senior citizens at certain income levels to military veterans with service-related disabilities, and surviving spouses of military personnel or first responders killed in the line of duty.



This amendment takes some of those recent approaches and expands them further. The constitution currently grants homeowners a Homestead Exemption, exempting the first \$75,000 of a home's value from property taxes. This amendment would provide various first responders an additional exemption of \$25,000.

There are some caveats. The first responder must live in the parish where he or she is employed, and the local parish governing authority would have to "opt in" and approve offering the exemption at any level up to the \$25,000.

The amendment defines a first responder as:

- A full-time public employee whose duties include "responding rapidly" to an emergency.
- A deputized peace officer.
- Fire protection personnel, including certain volunteer firefighters.
- Certified emergency medical service personnel.
- Emergency services operators or emergency dispatcher personnel.

If the exemption is offered to first responders in a given parish, the local governments would have to absorb the reduction in revenue and no added costs would be passed on to other taxpayers.

Comment: Louisiana has tens of thousands of first responders across the state, making this potentially much broader and more costly to local governments if it were granted. The fiscal note accompanying the amendment also points out an apparent issue for State Police. It notes that troopers live in many different parishes and are dispatched around the state, but their employer is headquartered in Baton Rouge. That raises some question about whether they would all be eligible since the amendment says it would only apply to someone "who resides in the same parish in which their employer is located."

One of the goals of this amendment is clearly to help recruit and retain more first responders who are sorely needed in many areas, but as with other such amendments it provides no incentives for those who rent and do not own their own homes. Rental costs in many areas are rising as much or more as the cost of owning a home.

Historically, we have often opposed state efforts to pass amendments that have the potential of eroding the local tax base. We remain wary of this continuing trend, no matter how well intended. Given the

large numbers of first responders in our state, passage of this amendment could prove more costly than similar proposals targeting different groups.

On the positive side, this amendment leaves the decision of whether to offer this exemption in the hands of local government – where it should be – but it does allow the parish governing authority to lower property taxes going to other governmental entities within the parish that also have property tax millages. We greatly value the service of all of our first responders who often put their lives at risk to protect others and believe this is an issue best left to voters to decide.

NO POSITION

Amendment #4 Makes changes to the Revenue Stabilization Fund



What it Does: Changes and tightens the rules for how the state’s Revenue Stabilization Fund can be used.

Background: This is one amendment that voters will find extremely complicated and the ballot language describing it almost inscrutable.

Louisiana basically has two major savings accounts, the Budget Stabilization Fund, better known as the “Rainy Day” Fund, and the Revenue Stabilization Fund. People are pretty familiar with the Rainy Day Fund. It can be used in certain circumstances to help deal with current or projected budget deficits and the financial impacts of a federally declared disaster. It can only be accessed by a two-thirds vote of the Legislature and no more than one-third of the revenues in the fund can be used at any one time.

The Revenue Stabilization Fund is a relatively new fund. It was created in 2016 as a way to bring some added stability to the budget process. Historically, the state has had two major revenue sources that have been volatile to extreme ups and downs – corporate taxes and mineral revenues. On occasion they have created budget problems when we spent money on recurring expenses when these revenues spiked and then had to deal with budget cuts when collections faltered. This fund was designed to mitigate that.

Currently, the Revenue Stabilization Fund works like this:

- The constitution requires that when corporate taxes exceed \$600 million in a year and mineral revenues total more than \$660 million, any dollars above those thresholds are placed into the fund.
- Once the fund reaches \$5 billion, the Legislature may spend up to 10% of the money in the fund on capital outlay and transportation projects. However, with a two-thirds vote, the Legislature can raise or lower both that \$5 billion threshold and the percentage of the funds that can be spent.
- It also allows, by a two-thirds vote, the Legislature to appropriate any amount for any purpose from the fund in the event of an “emergency,” though that term is not defined.

This amendment would make several changes to the current Revenue Stabilization Fund:

- It removes the language about “emergency” uses and says the fund can only be used to deal with current or projected budget deficits, again by a two-thirds vote.
- These funds would only be available if there was a budget gap, after lawmakers had already tapped the maximum amount allowable from the Rainy Day Fund.
- It also limits the amount that could be taken from the Revenue Stabilization Fund to \$250 million at any one time.

This amendment leaves the provisions about using revenues for capital outlay and transportation projects intact and it would still allow the Legislature to raise or lower the 10% limit on spending or reduce that \$5 billion threshold. Thanks primarily to recent years of strong corporate tax collections, this fund now has a balance of more than \$2 billion. The Rainy Day Fund has close to \$1 billion.

Comment: This amendment in many respects turns the Revenue Stabilization Fund into a second Rainy Day Fund. It could only be used to cover budget deficits until the total balance reaches \$5 billion, when some revenues could then be used for construction projects. While the current language in the constitution does not define what an “emergency” use is, it does foresee that there could be times when it would be good for the Legislature to have the flexibility to tap a second savings account in the event the state is hit with large, unforeseen expenses that had nothing to do with budget deficits.

The depletion of the state’s Unemployment Trust Fund after COVID and the multi-billion-dollar bills the state has received from the federal government from past hurricanes come to mind as recent examples.

The Revenue Stabilization Fund as currently set up does have some deficiencies, though. Besides not defining what constitutes an emergency, it has no cap on how much could be taken out of the fund if the Legislature determined something was an emergency expense. That leaves the fund open to potential raiding by future Legislatures, which was probably not the intent of its supporters. That may have been less of a worry when this fund was created, and it appeared unlikely there would actually be much money to spend. But now that it has more than \$2 billion it becomes a more immediate concern.

From CABL’s perspective, this amendment seems to need a bit more work. It sailed easily through the Legislature receiving no opposition in either the House or Senate. But for an issue as significant and complex as this, it did not receive a lot of close scrutiny. We also question whether the state needs two Rainy Day Funds, which this amendment would essentially create.

If the goal of this fund, besides stabilizing the budget, was to specifically create a new source of future funding for transportation and construction projects, the language should be adjusted to better reflect that specific intent. If another goal was to have a second savings account with more flexibility to respond to large and unexpected expenses, there should be a cap on how much money can be taken out and some additional guardrails to protect the fund from abuse.

We believe this amendment was well-intended, and it does clear up some issues with the Revenue Stabilization Fund that we had concerns about. However, we would like to see the Legislature take another bite at this apple and more clearly define the fund’s intent while adding the safeguards needed to ensure that it is not squandered by an unscrupulous Legislature in the future.

Position: OPPOSE