



Here come another eight constitutional amendments

By John Hill
jhillbr@gannett.com
(225) 342-7333

BATON ROUGE -- Right on the heels of the 13 constitutional amendments approved by voters Sept. 30 come another eight propositions on the Nov. 7 statewide election ballot.

The 21 propositions on the Louisiana ballots this year set a new state record, exceeding the previous high of 20 on ballots in 1998, when three were rejected.

"It's the most amendments we have ever voted on since the constitution of 1974," said Jim Brandt, president of Louisiana Public Affairs Research Council, the private non-profit agency that analyses amendments for voters.

"It's also a national record: the next highest are the two states that have seven propositions, South Carolina and Colorado," Brandt said.

The Louisiana Constitution of 1921 had been amended 536 times before voters began rejecting all propositions, leading the Legislature to call a new constitutional convention that was approved in 1974. Since then, there have been 202 proposed amendments and votes have ratified 140.

"We lead the nation in this dubious distinction of the most amendments. We have also set the national record for the number of constitutions -- 11. The average among states is two," Brandt said.

So why is this?

"We don't trust our elected officials, and our elected officials don't trust other elected officials, so everyone wants their program protected in the constitution than in the more transitory statutory law," Brandt said.

"It becomes a vicious cycle: the more we load up the constitution, the more that we have to amend it. Of the 13 we just passed on Sept. 30, two were flawed and need to be amended," Brandt said.

LSU political scientist Wayne Parent said there is a danger voters once again will become fed up, just as they did in the late 1960s and early 1970s, and begin voting against amendments.

"Louisiana has a history of standing up and saying no," Parent said. "That's what precipitated the new constitution in 1974."

Parent opines that voters approved all 13 amendments on the Sept. 30 ballot, including the two that were widely publicized as having been flawed, out of some kind of post-Katrina, post-Rita fear.

But that won't last long, he predicts.

"It would not surprise me if Louisiana voters did not get fed up rather quickly," Parent said.

Barry Erwin, president of the Council for a Better Louisiana, a non-profit citizens' advocacy group for good government practices, says there are becoming way too many propositions.

"We are amending our constitution way too much," Erwin said. "We are making it so that when you want to change even one small aspect of public policy, we have to change the constitution, and it's a cumbersome, difficult process."

Ironically, the Legislature makes constitutional proposals, which are not subject to gubernatorial veto. So it is legislators who don't trust the Legislature.

"When we amend the constitution so much, it says we don't trust the Legislature too much, so we want to put things in the constitution to make it more difficult for the Legislature to change them," Erwin said.

Here's a look at the eight propositions on the Nov. 7 ballot, along with what PAR says about them and what CABL recommends for voters to do:

AMENDMENT NO. 1: PROPERTY TAX ASSESSMENT FREEZES FOR MILITARY AND DISABLED

Legal authority: Act 511 - SENATE BILL NO. 89, Regular Session, 2005; by Sen. Ben Nevers, D-Bogalusa; Amending Article VII, Section 18 (G).

Ballot Language: To extend the special assessment level to homesteads owned and occupied by any person with a service-connected disability rating of fifty percent or more and by certain members of the armed forces of the United States or members of the Louisiana National Guard killed or missing in action or who were prisoners of war, and to any person designated as permanently totally disabled, subject to other conditions and requirements provided under the present constitution, and to require annual certification of eligibility by persons under sixty-five years of age who have qualified and received the special assessment level. (Amends Article VII, Section 18(G)(1)(a)(i) and (iii) and (2)(a); adds Article VII, Section 18(G)(1)(a)(iv))

In English: Would freeze property tax assessments for military personnel with at least 50 percent disability, prisoners of war, those missing in action, spouses of military killed in action and any person which a state or federal agency has classified as permanently and totally disabled. The freeze would apply only to those with incomes of less than \$50,000 a year in 2000, adjusted annually for inflation. This year, the threshold would be \$58,531.

What PAR says: Proponents say this would protect certain homeowners from tax increases due to appreciating property values. Opponents argue that the policing of homestead exemption is already difficult enough for assessors and this creates an unfairness.

CABL recommendation: NO. Louisiana already provides homeowners with the nation's most generous property tax exemption, and we should not extend even more special benefits.

AMENDMENT NO. 2: PARISH SEVERANCE TAX ALLOCATION

Legal Authority: Act 864, House Bill No. 714, Regular Session, 2006; by Rep. Rick Gallot, D-Ruston; amending Article VII, Sections 4(D).

Ballot language: To increase the maximum amount of the severance tax imposed and collected by the state on natural resources, other than sulphur, lignite, and timber, which is remitted to the parish governing authority where the severance occurs from seven hundred fifty thousand dollars to eight hundred fifty thousand dollars effective July 1, 2007, and provides that this maximum amount be increased to reflect the increase in the Consumer Price Index beginning July 1, 2008. (Amends Article VII, Section 4(D))

In English: The state shares 20 percent of severance taxes on oil and gas with the parish of origin, to a cap of \$750,000. This change would raise that cap to \$850,000 in 2008, which would result in more money going to 31 parishes. The annual cap would be adjusted for inflation.

What PAR says: Thirty parishes would get the full extra \$100,000. The theory behind the revenue sharing is that there is additional wear and tear on local infrastructure. Critics say it's a small percentage of a parish's road budget and it's a bad idea to dedicate more revenue.

CABL Recommendation: YES. It will have a negligible impact on state government but would provide additional revenues to parishes.

AMENDMENT NO. 3: PROPERTY TAX EXEMPTION FOR LEASED MEDICAL EQUIPMENT

Legal authority: Act 510 -- Senate Bill No. 31, Regular Session, 2005; by Sen. Robert Adley, D-Bossier City; amending Article VII, Section 21(B).

Ballot language: To exempt from ad valorem property tax medical equipment leased for a term exceeding five years to a nonprofit corporation or association which owns or operates a small, rural hospital and if the equipment is used solely for health care purposes at the hospital; to provide that "small, rural hospital" shall mean a hospital which meets all of the following criteria:

1. It has less than fifty Medicare-licensed acute care beds.
2. It is located in a municipality with a population of less than ten thousand which has been classified as an area with a shortage of health manpower by the United States Health Service.

In English: Equipment owned by a nonprofit hospital is exempt from taxing, but those hospitals are taxed for similar property if lease. The amendment would extend the property tax exemption to leased equipment.

What PAR Says: Proponents say this would cut costs for rural hospitals. Opponents say the tight restrictions, including the population limit of 10,000, mean the tax break would apply to only three of 34 non-profit community hospitals.

CABL recommendation: YES. Would have a beneficial impact to rural health care.

AMENDMENT NO. 4: MUNICIPAL PROPERTY TAX EXEMPTION FOR MOTOR VEHICLES

Legal authority: Act 512 -- House Bill No. 187, Regular Session, 2005; by Rep. Jeff Arnold, D-New Orleans; amending Article VII, Section 21 (E).

Ballot language: Exempts motor vehicles from municipal ad valorem taxes and removes language that authorizes a municipal governing authority or a district thereof to impose ad valorem taxes on motor vehicles.

In English: Prohibits municipalities from levying property taxes on vehicles. Only New Orleans levies such a tax.

What PAR says: Proponents argue a motor vehicle tax is hard to apply uniformly. Opponents argue that New Orleans should not be hamstrung in raising money, particularly in the post-Katrina era.

CABL Recommendation: NO. Local governments are already too limited in their ability to raise money. The decision should be at the local level.

AMENDMENT NO. 5: PROPERTY TAX EXEMPTION FOR CONSIGNED ART

Legal Authority: Act 509, Senate Bill No. 200, Regular Session, 2006; by Sen. Diana Bajoie, D-New Orleans. Amends Article VII, Section 21©.

Ballot language: To exempt consigned art from ad valorem property tax; that is, all artworks such as sculptures, glass works, paintings, drawings, signed and numbered posters, photographs, mixed media, collages, or any other item which would be considered as the material result of a creative endeavor. (Effective January 1, 2007) (Adds Const. Art. VII, Sec. 21(C)(19))

In English: Art held on consignment by dealers is not exempt from property taxes. But only in New Orleans is the tax applied on consignment art in galleries. This amendment would exempt the art.

What PAR says: Proponents say the tax depresses sales tax by discouraging artists from placing their work on consignment. This amendment would provide a more artist-friendly business climate in Louisiana. Opponents said it would limit local governments from raising revenue.

CABL recommendation: YES. Louisiana is the only state that levies a property tax on unsold art. Even in New Orleans, it is not done uniformly.

AMENDMENT NO. 6: NEW FAMILY AND JUVENILE JUDGES

Legal authority: Act 862 -- House Bill 206, regular session, 2006, by Rep. Robbie Carter, D-Independence; Amends Article V, Section 15(A)

Ballot language: To authorize the legislature to enact laws establishing new judgeships of district courts as new divisions having limited or specialized jurisdiction within the territorial jurisdiction of the district court and subject matter jurisdiction over family or juvenile matters as provided by law. (Effective January 1, 2007)

In English: Gives the Legislature the definite power to create new juvenile and family court judgeships within a judicial district.

What PAR says: The Legislature has asked the Judicial Council to report early next year about the need for specialized family and juvenile courts. Proponents say the amendment is needed to give the Legislature the specific authority to create such specialized judgeships. Some critics don't think the authority goes far enough.

CABL recommendation: YES. Not only does it solve the legal authority for specialized courts, but provides for uniformity.

AMENDMENT NO. 7: CONSOLIDATION OF THE NEW ORLEANS ASSESSORS

Legal authority: Act 863 -- Senate Bill No. 141, Regular session, 2006, by Sen. Anne Duplessis, D-New Orleans; Amends Article VII, Section 24.

Ballot language: To provide for a single tax assessor in Orleans Parish to be elected at the same time as the municipal officers of New Orleans.

In English: Consolidates the seven separate Orleans assessors into one office, just like the other 63 parishes. Must pass both statewide and in Orleans Parish.

What PAR says: Proponents say this would make New Orleans assessments more uniform and would save money -- a minimum of \$574,000 just by eliminating salaries and expense accounts of six assessors. Opponents argue there wouldn't be such savings, as a single assessor would need more support staff.

CABL recommendation: YES. The seven assessors are a vestige of the 19th Century, when New Orleans was growing and annexing surrounding communities. But this arrangement makes no sense today.

AMENDMENT NO. 8: CENTRAL COMMUNITY SCHOOL SYSTEM

Legal authority: Act 861, House Bill No. 48, Regular Session, 2006; by Rep. Mike "Bodi" White, R-Denham Springs; Amends Article VII, Section 13(D)(1).

Ballot language: To grant the Central community school system in East Baton Rouge Parish the same authority granted parishes for purposes of Article VIII, Section 13 of the Constitution of Louisiana, including purposes related to the minimum foundation program, funding for certain school books and instructional materials, and the raising of certain local revenues for the support of elementary and secondary schools.

In English: Allows another suburban area of Baton Rouge to create a separate school district from the East Baton Rouge Parish system. Must pass in both East Baton Rouge and statewide and receive approval from the U. S. Justice Department.

What PAR says: The State Board of Elementary and Secondary Education adopted a resolution opposing the creation of this district. Opponents said creation of the district is racially motivated. Proponents say it would encourage more citizen support of neighborhood-based schools.

CABL recommends: NO. Passage of this amendment would make the fourth school system in East Baton Rouge (Zachary and Baker already have separate systems). Each time a school system is created, more bureaucracy is also added.