

Constitutional Amendments for consideration in 2010

Prepared by House Legislative Services



October 2, 2010

CONSTITUTIONAL AMENDMENT NO. 1

CA NO. 1- Annual Legislative Regular Sessions

[ACT NO. 537 - Senate Bill No. 5, Regular Session, 2009](#)



To move the convening of the legislature in annual regular session in even-numbered years to the second Monday in March and in odd-numbered years to the second Monday in April and to change the effective date of legislation enacted at such sessions to August first. (Amends Article III, Sections 2(A)(3)(a) and (4)(a) and 19)

The present constitution provides that regular legislative sessions in even-numbered years convene at noon on the last Monday in March, and in odd-numbered years at noon on the last Monday in April. The proposed constitutional amendment would move the convening of the sessions to the second Monday in March and the second Monday in April, respectively.

The present constitution also provides that all laws enacted during a regular session of the legislature take effect on August 15th of the calendar year in which the regular session is held unless an earlier or later effective date is specified in the bill. The proposed constitutional amendment would move the default effective date for laws from August 15th to August 1st.

CONSTITUTIONAL AMENDMENT NO. 2

CA No. 2- Employees of Office of Homeland Security

[ACT NO. 538 - Senate Bill No. 209, Regular Session, 2009](#)



To provide that the director, deputy director and all employees of the Governor's Office of Homeland Security and Emergency Preparedness shall be in the unclassified service of the state civil service. (Amends Article X, Sections 2(B)(11) and (12); adds Article X, Section 2 (B)(13))

The present constitution provides that certain specified state and city officers and employees are in the unclassified service. The proposed constitutional amendment would specifically include in the unclassified service the director, deputy director and all employees of the Governor's Office of Homeland Security and Emergency Preparedness.

November 2, 2010

CONSTITUTIONAL AMENDMENT NO. 1

CA No. 1- Salary Increases for Elected Officials

[ACT NO. 539 - Senate Bill No. 67, Regular Session, 2009](#)



To provide that any salary increase enacted by law for certain state elected officials, including statewide elected officials, members of the Public Service Commission, and members of the legislature, not be implemented until a subsequent term of office. (Amends Article IV, Section 4; Adds Article III, Section 4(G) and Article IV, Section 21(F))

The present constitution provides that the salary of each statewide elected official shall be provided by law, and the legislature has enacted salaries for statewide elected officials. The legislature has also enacted salaries for members of the legislature and members of the public service commission.

The proposed constitutional amendment would provide that an increase in the salary of one of these officials would not become effective until the commencement of the subsequent term following the adoption or enactment of the increase.

CONSTITUTIONAL AMENDMENT NO. 2

CA No. 2 - Allocation of state severance taxes

[ACT NO. 541 – House Bill No. 765, Regular Session, 2009](#)



To decrease the amount of taxes retained by the state on the severance of natural resources, other than sulphur, lignite, and timber, and to increase the maximum amount of such revenues which are remitted to the parish governing authority from where the severance occurs, to be implemented in the event that the official forecast of severance tax revenues for any fiscal year includes an estimate for severance tax collections which will exceed that actually collected by the state in Fiscal Year 2008-2009; to change the annual maximum amount to be remitted to a parish governing authority from eight hundred fifty thousand dollars to one million eight hundred fifty thousand dollars for the first fiscal year of implementation, which amount would increase to two million eight hundred fifty thousand dollars for the following and subsequent fiscal years; to provide for annual adjustment of the maximum amounts in accordance with the consumer price index; to require that of the revenues received by a parish governing authority under these provisions, that portion which is in excess of the amount of such revenues received in Fiscal Year 2011-2012 be used within the parish for the same purposes as monies received from the Parish Transportation Fund; to require that of the severance taxes and royalty revenues retained by the state from activity on state lands within the Atchafalaya Basin, up to ten million dollars per year be deposited into a special fund created in the state treasury to be known as the Atchafalaya Basin Conservation Fund; to provide that monies in this fund be used exclusively for conservation, improvement, and management of the Atchafalaya Basin in

accordance with formal state and federal plans; to require legislative approval for and specific limitations on the use of monies appropriated from the fund. (Effective April 1, 2012.) (Adds Article VII, Section 4(D)(4))

The present constitution requires one-fifth of the state severance tax on all natural resources other than sulphur, lignite, or timber be remitted back to the parish in which severance or production occurred, subject to a maximum annual payment of \$850,000 per parish. This constitutional amendment proposes to change the allocation and use of certain state revenues from severance taxes and royalties. The amount remitted to the parish in which the severance or production occurred would be increased, and a portion of the state severance tax revenues and royalties collected on state lands within the Atchafalaya Basin would be deposited into the newly created Atchafalaya Basin Conservation Fund.

These provisions would only become effective under the following condition. The last official forecast adopted by the Revenue Estimating Conference for a fiscal year before the beginning of that fiscal year would contain an estimate of severance tax revenues on natural resources, other than sulphur, lignite, and timber, in an amount which exceeds the actual amount of such revenues collected in Fiscal Year 2008-2009. In this event, the following provisions regarding changes to the allocations to parishes, and deposits into the Atchafalaya Basin Conservation Fund would be implemented.

For the first year of implementation (the fiscal year for which the aforementioned official forecast was adopted), the annual maximum amount to be remitted to a parish would increase from \$850,000 to \$1,850,000. In the following year, and for all subsequent years, the annual maximum would increase to \$2,850,000. This annual maximum remittance amount would be adjusted annually in the accordance with the consumer price index. With respect to the monies received by a parish under these new provisions, that portion of such revenues which is in excess of that received by the parish in Fiscal Year 2011-2012, would be considered "excess severance tax". The parish would be required to spend 50% of its excess severance tax revenues for the same purposes as those received by the parish from the parish transportation fund.

For the first year of implementation and all years thereafter, of the state severance tax revenues and royalties collected each year on state lands within the Atchafalaya Basin, an amount equal to fifty percent, up to ten million dollars per year, would be deposited into the newly created Atchafalaya Basin Conservation Fund. Monies appropriated from this fund would be used exclusively for conservation, improvement, and management of the Atchafalaya Basin in accordance with formal state and federal plans. Each year's plan for the expenditure of monies appropriated from the fund shall be subject to the approval of the appropriate subject matter committees of the legislature.

CONSTITUTIONAL AMENDMENT NO. 3

CA No. 3 - Ad Valorem Tax Exemption for Veterans

[ACT NO. 1049 – House Bill No. 246, Regular Session, 2010](#)



To exempt from ad valorem tax, in addition to the homestead exemption, the next seventy-five thousand dollars of value of property which is owned and occupied by a veteran with a service-connected disability rating of one hundred percent; to authorize the exemption to apply to the surviving spouse of a deceased veteran if the exemption was in effect on the property prior to the death of the veteran and the surviving spouse remains the owner of the property; to require the taxing authority to absorb any decrease in the total amount of ad valorem taxes collected as a result of this exemption; to prohibit the exemption from creating any additional tax liability for other property taxpayers; to prohibit implementation of the exemption from triggering reappraisal of property or adjustment of millages; provides that the exemption shall only extend and apply if established through an election called by the local governing authority and approved by a majority of the registered voters in an election held for that purpose. (Effective January 1, 2011)(Adds Article VII, Section 21(K))

The present constitution requires that property subject to ad valorem property taxes be classified for purposes of determining its assessed value. Bona fide homesteads owned and occupied by any person shall be exempt from state, parish, and special ad valorem taxes to the extent of \$7,500 of the assessed value.

If this constitutional amendment is approved, in addition to the homestead exemption which applies to the first \$7,500 of the assessed valuation of property, the next \$7,500 of the assessed valuation of property receiving the homestead exemption which is owned and occupied by a veteran with a service-connected disability rating of 100% by the U. S. Dept. of Veterans Affairs will be exempt from ad valorem tax. This exemption would also apply to the surviving spouse of such veteran who is deceased as long as the exemption was in effect on the property prior to the death of the veteran and the surviving spouse remains the owner of the property.

The property for which this exemption has been claimed shall not be treated as taxable property for purposes of any subsequent reappraisals and valuation for millage adjustment purposes under the present constitution. The decrease in the total amount of ad valorem tax collected by a taxing authority as a result of the new exemption has to be absorbed by the taxing authority and not create any additional tax liability for other taxpayers in the taxing district. Implementation of the exemption can neither trigger nor be cause for a reappraisal of property, or an adjustment of millages pursuant to the provisions of the present constitution.

This exemption can only extend and apply in a parish if it is established through a local election, and then would become effective only after the question of its adoption has been approved by a majority of the registered voters of the parish voting in an election held for that purpose.

CONSTITUTIONAL AMENDMENT NO. 4

CA No. 4 - Limitations upon certain Taxing Authorities

[ACT NO. 542 – House Bill No. 903, Regular Session, 2009](#)



To provide that the power of a taxing authority with a governing authority which is not elected to increase millage rates without voter approval after reappraisal, which is presently limited by the prior year's maximum millage rate, be further limited to annual increases which do not exceed two and one-half percent of the property tax collections for the immediately preceding calendar year; to exclude from such restriction taxing authorities which are special fire protection or fire department districts or ports, port harbor, and terminal districts, and millages levied by certain levee districts under authority granted by the Constitution of Louisiana. (Amends Art. VII, Section 23(C))

The constitution provides for the levy of ad valorem taxes by political subdivisions (“taxing authorities”). Stability in the amount of revenue collected by a taxing authority is maintained by provisions which prohibit the total amount of ad valorem taxes collected by any taxing authority in the year of a statewide reappraisal, or due to a change in the homestead exemption, from being increased or decreased because of the reappraisal or change in the homestead exemption, above or below the amount collected in the preceding year. The constitution requires a "roll forward" or "roll back" of millage rates to accomplish this purpose. Taxing authorities are authorized, subject to a 2/3 vote of their governing authority, to levy an increase in the millage rate in excess of the rates established as provided above, but not in excess of the prior year's maximum authorized millage rate, without further voter approval.

This constitutional amendment would further limit the power of unelected taxing authorities to increase millage rates, without voter approval, to annual increases which do not exceed 2.5% of the ad valorem tax collections for the immediately preceding calendar year. Special fire protection or fire department districts, ports, port harbor, and terminal districts, and millages levied by certain levee districts under constitutional authority are excluded from this limitation.

CONSTITUTIONAL AMENDMENT NO. 5

CA No. 5 - Disaster Related Extension for Eligibility for Homestead Exemption

[ACT NO. 1050 – Senate Bill No. 21, Regular Session, 2010](#)



To authorize continuation of the homestead exemption and the special assessment level for a homestead that has been destroyed or is uninhabitable due to a disaster for two years if the homeowner's claim for damages is pending in a formal appeal process with a governmental agency or program offering assistance for repairing or rebuilding homes damaged by the disaster or if a homeowner has a damage claim filed and pending against the insurer of the property; to authorize an assessor to grant up to three additional one-year extensions of the continuation of the homestead exemption and the special assessment level as prescribed by law. (Amends Article VII, Sections 18(G)(5) and

The present constitution authorizes homesteads whose owners are unable to occupy them on or before December 31st of a calendar year due to damage or destruction during a disaster or emergency to retain the homestead exemption by filing, with the assessor, an annual affidavit of intent to return and reoccupy the homestead within five years from December 31st of the year following the disaster. The constitution also authorizes owners entitled to the "special assessment level" who are unable to occupy their homesteads on or before December 31st of a future calendar year due to damage or destruction of the homestead caused by a disaster or emergency to retain the homestead's "special assessment level" existing prior to its damage or destruction on the repaired or rebuilt homestead, provided the repaired or rebuilt homestead is reoccupied by the owner within five years from December 31st of the year following the disaster.

If approved, this constitutional amendment would authorize an extension of the homestead exemption and the special assessment level for up to two years for owners who are unable to reoccupy their homesteads within the five-year period if the homeowner's damage claim is filed and pending in a formal appeal process, or if the homeowner has a damage claim filed and pending against the insurer of the property. Further provides that after expiration of the two-year extension, an assessor may grant up to three additional one-year extensions of the homestead exemption or the special assessment level as prescribed by law.

CONSTITUTIONAL AMENDMENT NO. 6

CA No. 6 - Public Retirement System Benefits

[ACT NO. 1048 – House Bill No. 229, Regular Session, 2010](#)



To require a two-thirds vote of the elected members of each house of the legislature to enact any benefit provision for members of a Louisiana public retirement system if the provision has an actuarial cost. (Amends Article X, Section 29(E)(5); Adds Article X, Section 29(F))

The present constitution requires that benefit provisions for members of state and statewide retirement systems can only be altered by legislative act.

The proposed constitutional amendment would expand this requirement by making it applicable to certain local retirement systems and would also require a 2/3 vote of the members of the legislature for any such act that would have an actuarial cost.

CONSTITUTIONAL AMENDMENT NO. 7

CA No. 7 - Bidding Down of Interest Rates at Tax Sales

[ACT NO. 540 – House Bill No. 509, Regular Session, 2009](#)



To provide relative to the bidding process for ad valorem property tax sales by authorizing a bidder at a tax sale to bid down the existing five percent penalty in increments of one-tenth of one percent; to require the payment of penalties by a bidder at ad valorem property tax sales; to require the payment of interest, penalties, and costs by a taxpayer who is delinquent on the payment of taxes on movables. (Amends Article VII, Section 25(A)(1) and (E))

The constitution presently requires, relative to ad valorem property tax sales, that on the day of sale, the collector sell the portion of the property which the debtor points out, and that if the debtor does not point out sufficient property, the collector must immediately sell the least quantity of property which any bidder will buy for the amount of the taxes, interest, and costs.

If approved, this constitutional amendment would remove the requirement that the collector sell the least quantity of the tax debtor's property, and would require the tax debtor to pay penalties in addition to the taxes, interest, and costs. Additionally, this constitutional amendment would provide that if authorized by the state or local tax collector, any bidder may elect to bid down in increments of .01%, the 5% penalty provided in La. Const. Art. VII, §25(B)(1).

As for movable property, if approved, this constitutional amendment requires the sale price to include interest, penalties, and costs for the tax sale of movable property regardless of whether the property seized is the property on which taxes are owed.

CONSTITUTIONAL AMENDMENT NO. 8

CA No. 8 - Blighted, Expropriated Property

[ACT NO. 1052 – House Bill No. 276, Regular Session, 2010](#)



Provides that property expropriated for the public purpose of removing a threat to public health or safety caused by the existing use or disuse of the property shall not be subject to the requirement of offering the property back to the original owner who allowed the property to become a threat to public health or safety or to the requirement of public sale. (Amends Article I, Section 4(H)(1))

The constitution presently authorizes the expropriation of property for the public purpose of removing a threat to public health or safety caused by the existing use or disuse of the property, and requires that property expropriated for such a purpose be offered back to the original owner who allowed the property to become a threat to public health or safety. If the original owner does not repurchase the property, the property is then required to be offered at public sale.

If approved, this constitutional amendment would remove the requirement that the property be offered back to the original owner who allowed the property to become a threat to public health or safety and would remove the requirement of public sale.

CONSTITUTIONAL AMENDMENT NO. 9

CA No. 9 - Workers' Compensation Appeals

[ACT NO. 1051 – Senate Bill No. 42, Regular Session, 2010](#)



To provide that, in civil matters only, when a court of appeal is to modify or reverse an administrative agency determination in a workers' compensation claim and one judge dissents, the case shall be reargued before a panel of at least five judges prior to rendition of judgment, and a majority shall concur to render judgment. (Amends Article V, Section 8(B))

The constitution presently requires that a majority of the judges of an appeal court must concur to render a judgment, but in civil matters, when a judgment of a district court is to be modified or reversed and one judge dissents, the case has to be reargued before a panel of at least five judges prior to rendition of judgment, and a majority of the appellate court judges must concur to render judgment.

If approved, this constitutional amendment would additionally provide that when an administrative agency determination in a worker's compensation claim is to be modified or reversed and one judge dissents, the case must be reargued before a panel of at least five judges prior to rendition of judgment, and a majority of the appellate court judges shall concur to render judgment.

CONSTITUTIONAL AMENDMENT NO. 10

CA No. 10 - Waiver of Criminal Jury Trial

[ACT NO. 1053 – House Bill No. 940, Regular Session, 2010](#)



To permit criminal defendants, except in capital cases, to waive their right to a trial by jury no later than forty-five days prior to the trial date. (Amends Article I, Section 17(A))

The constitution presently permits a criminal defendant, except in capital cases, to knowingly and intelligently waive his right to a trial by jury.

If approved, this constitutional amendment would still permit a criminal defendant, except in capital cases, to knowingly and intelligently waive his right to a trial by jury, but will require the defendant to waive this right no later than forty-five days prior to the trial date and provides that the waiver shall be irrevocable.