

# Constitutional Amendments

## of the 2012 Regular Session of the Louisiana Legislature

### for consideration November 6, 2012

Prepared by House Legislative Services  
Louisiana House of Representatives



### CONSTITUTIONAL AMENDMENT NO. 1

#### CA No. 1 - Medicaid Trust Fund

Act No. 873, Senate Bill No. 82, (Const. Art. VII, Sec. 10(F)(4)(g))



Do you support an amendment to prohibit monies in the Medicaid Trust Fund for the Elderly from being used or appropriated for other purposes when adjustments are made to eliminate a state deficit?

This proposed constitutional amendment, if adopted, will exempt monies in the Medicaid Trust Fund for the Elderly from being used for purposes other than what is allowed in law to cover projected deficits in state finances.

The Medicaid Trust Fund for the Elderly is a statutorily dedicated fund established in law (R.S. 46:2691) to provide for Medicaid funding to nursing homes and costs associated with the Medicaid intergovernmental transfer program.

Unless a fund is specifically protected, a portion of monies in a fund is available for redirection when there is a budget deficit. The present constitution protects the following funds from being redirected in times of budgetary shortages:

- (1) The Bond Security and Redemption Fund;
- (2) The severance tax and royalty allocations to parishes;
- (3) State retirement contributions;
- (4) The Louisiana Education Quality Trust Fund;
- (5) The Millennium Trust; and
- (6) Any monies that are not required by the present constitution to be deposited in the state treasury.

The proposed constitutional amendment adds the Medicaid Trust Fund for the Elderly to the list of protected funds that are exempt from adjustment if a deficit in the official forecast is projected.

## CONSTITUTIONAL AMENDMENT NO. 2

### CA No. 2 - Guns

Act No. 874, Senate Bill No. 303, (Const. Art. I, Sec. 11)



Do you support an amendment to the constitution of the State of Louisiana to provide that the right to keep and bear arms is a fundamental right and any restriction of that right requires the highest standard of review by a court?

The present constitution provides that the right of each citizen to keep and bear arms shall not be abridged, but this existing provision specifically does not prevent the passage of laws to prohibit the carrying of weapons concealed on the person.

This proposed constitutional amendment, if adopted, will rewrite the existing provision and, instead, provide that the right to keep and bear arms is a fundamental right which shall not be infringed. It will also provide that any restriction on this right shall be subject to "strict scrutiny", which is the highest standard of review by a court. The "strict scrutiny" test requires that a state have a compelling governmental interest necessitating the infringement and that there is no less restrictive method of accomplishing the compelling state interest.

## CONSTITUTIONAL AMENDMENT NO. 3

### CA No. 3 - Prefiling and Notice of Retirement Bills

Act No. 872, Senate Bill No. 21, (Const. Art. III, Sec. 2(A)(2), Art. X, Sec. 29(C), and Art. XIII, Sec. 1(A))



Do you support an amendment to require legislation effecting any change to laws concerning retirement systems for public employees that is to be prefiled to be filed no later than forty-five days before the start of a regular legislative session and to require the completion of public notice requirements regarding legislation effecting such a change no later than sixty days before introduction of the bill?

The present constitution, relative to prefiling instruments for a regular legislative session, requires that any bill to be introduced in the legislature be prefiled no later than 5:00 pm 10 days prior to the beginning of a regular session, except that each legislator may subsequently introduce a limited number of bills that were not prefiled. The constitution also requires that all joint resolutions, which propose amendments to the state constitution, be prefiled at least 10 days prior to the beginning of the session.

This constitutional amendment, if adopted, will require that any bill to change laws relating to a retirement system for public employees that is to be prefiled and any joint resolution to change constitutional provisions relating to such a retirement system must be prefiled no later than 5:00 pm 45 days prior to the beginning of the regular session.

The constitution requires that a notice of intent to introduce legislation to change laws or constitutional provisions relating to a retirement system for public employees be published in the official state journal on two separate days, and the second publication must be at least 30 days before introduction of the legislation. The proposed constitutional amendment provides instead that the last day for publication is 60 days before introduction of the legislation.

## CONSTITUTIONAL AMENDMENT NO. 4

### CA No. 4 - Property Taxes for Spouses

Act No. 875, Senate Bill No. 337, (Const. Art. VII, Sec. 21(K)(1))



Do you support an amendment to exempt from ad valorem taxation, in addition to the homestead exemption, the next seventy-five thousand dollars of value of property owned and occupied by the spouse of a deceased veteran with a service-connected disability rating of one hundred percent who passed away prior to the enactment of the exemption?

The present constitution provides, in addition to the homestead exemption which applies to the first \$7,500 of the assessed valuation of property, that 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 is exempt from property tax. This additional exemption only applies to the surviving spouse of a deceased veteran with a disability rating of 100% 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.

This proposed constitutional amendment, if adopted, changes the surviving spouse limitation so that the exemption for disabled veterans would apply to the surviving spouse if the surviving spouse occupies and remains the owner of the property regardless of whether the exemption was in effect on the property prior to the death of the veteran.

The present constitution additionally provides that the exemption for disabled veterans only extends and applies in a parish if it is established through an election called by either an ordinance or a resolution from the parish governing authority. There is no proposed change to this provision.

## CONSTITUTIONAL AMENDMENT NO. 5

### CA No. 5 - Forfeiture of Retirement Benefits

Act No. 868 – House Bill No. 9, (Const. Art. X, Sec. 29(G))



Do you support an amendment to provide for the forfeiture of public retirement benefits by any public servant who is convicted of a felony associated with and committed during his public service?

The present constitution prohibits any action by the legislature that would have a negative effect on the accrued retirement benefits of a public official or employee. This proposed constitutional amendment, if adopted, creates an exception to this prohibition by authorizing the legislature to enact laws requiring the forfeiture of public retirement benefits by any person convicted of a felony related to his public office or employment. The forfeiture provisions would only apply to persons hired or elected on or after Jan. 1, 2013.

The proposed constitutional amendment further authorizes the legislature to apply forfeited benefits toward the unfunded accrued liability of the individual's retirement system.

## CONSTITUTIONAL AMENDMENT NO. 6

### CA No. 6 - Property Tax in New Iberia

Act No. 869, House Bill No. 497, (Const. Art. VII, Sec. 21(L))



Do you support an amendment to authorize the granting of ad valorem tax exemption contracts by the city of New Iberia for property annexed by the city after January 1, 2013?

The present constitution authorizes various local governments to levy property (ad valorem) taxes. For purposes of such taxation, properties are appraised at fair market value and the assessed value is then determined as a percentage of the fair market value. The present constitution also specifies certain property that is exempt from property taxes.

This proposed constitutional amendment, if adopted, authorizes the city of New Iberia to enter into contracts to grant exemptions from taxes for property annexed by the city after Jan. 1, 2013. Typically as municipalities outgrow their boundaries, they annex adjacent properties into their municipal limits and, generally, the annexed property becomes subject to property taxes levied by the municipality.

This proposed constitutional amendment will also provide that no contract granting a property tax exemption will become effective unless approved by a two-thirds vote of the membership of the city's governing authority. The contract would grant to the owner of the annexed property a tax exemption for a period of up to five calendar years and could be renewed for an additional five years if the renewal is approved by a two-thirds vote of the membership of the city's governing authority.

## CONSTITUTIONAL AMENDMENT NO. 7

### CA No. 7 - Boards and Commissions with Membership Tied to Congressional Districts

Act No. 870, House Bill No. 524, (Const. Art. VIII, Secs. 5(B)(1), 6(B)(1), 7(B)(1), and 8(D) and Art. X, Secs. 3(A) and 43(A))



Do you support an amendment, relative to the membership of constitutional boards and commissions that have members who are selected from congressional districts, to retain the existing number of members and to provide for implementation of membership from reapportioned congressional districts by filling vacancies first from under-represented districts and then from the state at large?

The present constitution provides for the membership of various boards, including the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, and Board of Supervisors of Southern University and Agricultural and Mechanical College. The present constitution provides that each of these boards is composed of two members from each congressional district and one from the state at large, all appointed by the governor with consent of the Senate. (Beginning with the elections this year, Louisiana will elect six, instead of seven, members of congress due to federal reapportionment after the 2010 U.S. Census.)

This proposed constitutional amendment, if adopted, provides for a set number of members (15) on each of these educational management boards and provides that two members are to be appointed from each congressional district and the remaining member or members from the state at large. It also requires that every 10 years following congressional reapportionment that vacancies be filled first from congressional districts from which there are fewer than two members and then from the state at large.

The present constitution provides for the membership of the State Civil Service Commission and the State Police Civil Service Commission. It provides that each commission is composed of seven appointed members and that no more than one appointed member may come from each congressional district. This proposed constitutional amendment, if adopted, provides that at least one member of each of these commissions must be appointed from each congressional district instead of "no more than one" member. It also requires that every 10 years following congressional reapportionment that vacancies be filled first from congressional districts from which there are no commission members and then from the state at large.

## CONSTITUTIONAL AMENDMENT NO. 8

### CA No. 8 - Property Taxes for Businesses

Act No. 871 – House Bill No. 674, (Const. Art. VII, Sec. 21(L))



Do you support an amendment to authorize the granting of ad valorem tax exemption contracts by the Board of Commerce and Industry for businesses located in parishes which have chosen to participate in a program established for the granting of such contracts?

This proposed constitutional amendment, if adopted, will authorize the granting of ad valorem tax exemptions to eligible businesses undertaking a facility expansion or creation. The tax exemption may only be granted in a parish in which the local taxing authorities have previously agreed to participate in a state program established for this very purpose. The tax exemption would be effectuated through a contract between the eligible business and the State Board of Commerce and Industry.

This proposed constitutional amendment further provides the following requirements for a tax exemption contract. No contract would apply to the first \$10 million or 10% of fair market value of the property, whichever is greater. A contract may only be offered to a business which has at least 50% of its annual sales derived from out of state customers or from the federal government. A business eligible for the industrial tax exemption provided in the *present constitution* would be ineligible for the tax exemption provided in the *proposed constitutional amendment*.

Act No. 871 of the 2012 Regular Session establishes a state program for the granting of the tax exemption authorized by the proposed constitutional amendment, and its effectiveness is contingent upon the adoption of the proposed constitutional amendment. Along with the general provisions for the state program, Act No. 871 provides specific criteria for the types of businesses which are eligible to receive a tax exemption contract. Further, eligibility is limited to those business projects for a new or expanded facility which involve a capital expenditure in excess of \$25 million and are expected to create at least fifty new jobs.

## CONSTITUTIONAL AMENDMENT NO. 9

### CA No. 9 - Crime Prevention Districts

Act No. 876, Senate Bill No. 410, (Const. Art. III, Sec. 13)



Do you support an amendment to provide that no law relative to the creation of a special district, the primary purpose of which includes aiding in crime prevention and security by providing for an increased presence of law enforcement personnel in the district or otherwise promoting and encouraging security in the district, shall be enacted unless three separate notices of the proposed law are published at least thirty days prior to introduction of the bill, which notice shall set forth the substance of the proposed law and whether the governing authority of the special district would be authorized to impose and collect a parcel fee within the district, whether the parcel fee will be imposed or may be increased without an election, and the maximum amount of such fee?

The present constitution requires publication, in a local newspaper, of a notice of intent to introduce a bill that affects only the local area. A special district is a local governmental entity with a specific function, so bills dealing with special districts are generally subject to this local notice requirement.

This proposed constitutional amendment, if adopted, will increase from two to three the number of times that the notice of intent to introduce a bill creating a special district to aid in crime prevention and security must be published. It also requires that the notice further disclose: (1) whether the district would be authorized to impose a parcel fee; (2) whether the parcel fee may be imposed or increased without an election; and (3) the maximum amount of such fee.