

Tax changes on the ballot

The fall of 2021 is the quadrennial “off year” for Louisiana elections, when no statewide or federal offices are on the ballot. But voters still have very important decisions to make on Nov. 13, when they will consider four proposed constitutional amendments, in addition to municipal races in New Orleans and special elections for the Legislature.

The first two constitutional amendments propose far-reaching changes to the state tax structure, with important implications for Louisiana households, businesses and government services. Another amendment would allow some levee districts to raise operational funds, while the fourth measure would give the governor and Legislature more flexibility to deal with budget shortfalls.

Amendment 1: Sets up a new framework for the collection and distribution of state and local sales taxes.

What it says: *“Do you support an amendment to authorize the legislature to provide for the streamlined electronic filing, electronic remittance, and the collection of sales and use taxes levied within the state by the State and Local Streamlined Sales and Use Tax Commission and to provide for the funding, duties, and responsibilities of the commission?”*

Explanation: Louisiana is one of only three states with a “decentralized” system for collecting sales taxes: The state Department of Revenue collects the 4.45% state sales tax, while a relatively new state entity - the Remote Sellers Commission - collects and distributes sales taxes owed by online retailers that are based outside Louisiana. Local sales taxes, which help pay for public schools, police protection, parks, libraries and other services, are collected by a single tax collector in each parish. Critics, especially businesses, have said this system is inefficient and possibly unconstitutional.

The amendment proposes to replace this system with a new commission that would be responsible for the electronic collection and distribution of all sales and use taxes - state, local and remote - from every business that’s required to pay. The new State and Local Streamlined Sales and Use Tax Commission would have eight members - four representing local governments, two representing the executive branch and one each from the state Senate and House of Representatives. The new system could not take effect until the Legislature spells out the details in future legislation, which would require two-thirds majority support in the House and Senate.

Analysis: Louisianans currently pay the third-highest combined (state and local) sales tax rate in the country, which is a major reason why low-income families in our state pay a higher share of their income in state and local taxes than wealthy families. There also is a broad consensus that Louisiana’s current sales-tax system is more cumbersome than it needs to be, as businesses that operate in multiple parishes have to deal with different tax collectors and procedures.

This amendment wouldn’t reduce sales taxes, but it would likely make life easier for some businesses

by reducing their paperwork and compliance burdens. This convenience comes at a potential price for local governments: it shifts their power to collect sales taxes to a new, unelected commission. Some local governments worry that this change could delay the time between when merchants collect sales taxes and when those taxes get remitted to local governments. It also comes with unanswered questions, as the Legislature would still need to pass a law to implement the new system if this amendment were to pass.

Amendment 2: A “tax swap” plan that cuts income tax and franchise tax rates for corporations, cuts personal income tax rates, eliminates a tax deduction, caps the personal income tax rate in the state constitution and allows for automatic future tax cuts if certain economic conditions are met.

What it says: *“Do you support an amendment to lower the maximum allowable rate of individual income tax and to authorize the legislature to provide by law for a deduction for federal income taxes paid?”*

Explanation: Louisiana is one of only two states that allow corporate and individual taxpayers to deduct the federal income taxes they pay from their state taxable income. The amendment would eliminate this deduction from the state constitution (though the Legislature could still mandate it by law), and would cap the personal income tax rate at 4.75%.

The amendment is part of a complicated package of four bills that swaps out the federal income-tax deduction for an across-the-board cut in corporate and individual income tax rates, along with a cut in the corporate franchise tax. The top personal income tax rate would drop from 6% to 4.25%. If the state collects more tax revenue than expected, and certain other conditions are met, it would trigger additional across-the-board income-tax cuts, which would reduce the amount of money available to the state to pay for roads, schools, hospitals and other pressing needs.

Most taxpayers would not see a major change in their tax liabilities. In general, people who itemize deductions on their state returns would likely see their taxes go up, while those who take the standard deduction would see a modest decrease.

The tax swap plan was billed as “revenue neutral,” meaning overall tax collections would not change. In fact, it would reduce tax revenue by \$27 million a year, which means the state would have less money available to pay its teachers, train workers for new jobs or maintain public safety.

Analysis: Louisiana’s tax structure fails its citizens in two basic ways: First, it does not raise enough revenue to support the good schools, safe streets, reliable infrastructure and other services that families need in order to thrive. Second, it is regressive - meaning low-income households pay taxes at higher rates than those at the very top. This is because Louisiana has very high sales taxes—which eat up a disproportionate share of household income for low-income people, who must spend more of their take home pay on immediate needs than their wealthier neighbors—and comparatively low income taxes—where the highest rate applies to higher income-earners.

This amendment would not address either of these problems. In fact, it would help cement the status

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quo. By capping the top income-tax rate in the state constitution, Amendment 2 would make it harder in future years to make the kind of fundamental changes that could truly move Louisiana forward. And by adding a “trigger” for automatic future tax cuts, the amendment makes it less likely that Louisiana’s teachers will ever again be paid at the Southern average, or that our colleges and universities will be funded at the same level as their peer institutions in other states.

The amendment’s supporters claim that lowering the top tax rate will usher in new jobs and economic growth. But real-world experience teaches a different lesson. In fact, six of eight states (including the District of Columbia) that enacted new, higher income-tax brackets for millionaires since 2000 saw private-sector economic growth that met or exceeded their neighboring states. Most mainstream economists have found that state tax rates have minimal effects on state economic growth.

The amendment isn’t all bad. The federal income-tax deduction is a terrible policy that makes Louisiana’s budget vulnerable to changes in federal tax policy. Getting rid of this deduction would make Louisiana’s tax structure more stable and predictable. But even here the amendment falls short, as it only eliminates the federal deduction from the state constitution but doesn’t prohibit it altogether. If this amendment were to pass, there is nothing stopping future legislators from re-establishing this costly tax break in state law.

Amendment 3: Allows some local levee districts to establish a 5-mill property tax without voter approval.

What it says: *“Do you support an amendment to allow levee districts created after January 1, 2006, and before October 9, 2021, whose electors approve the amendment to levy an annual tax not to exceed five mills for the purpose of constructing and maintaining levees, levee drainage, flood protection, and hurricane flood protection?”*

Explanation: The state Constitution allows the Legislature to establish local levee districts, which are responsible for building and maintaining levees and other flood-protection projects. Levee districts created before 2006 can levy up to a 5-mill property tax with a majority vote of the levee districts’ board. But districts that were created after that date also need a majority vote of the people before the tax can take effect.

The Public Affairs Research Council of Louisiana reports that eight new levee districts have been created since 2006, but only five of those would be affected by this amendment as they have not yet raised a millage. The amendment will only take effect in those five districts if a majority of the people vote in favor of it. In other words, the amendment would have to get a majority of the statewide vote - plus a majority vote in the affected levee district - before a millage could be put into effect.

Analysis: This is the type of amendment that gives fodder to critics who say Louisiana has too many

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ballot measures and that the entire constitution should be rewritten. The vast majority of state voters won't be affected by this measure. Those who live in the affected levee districts - Cameron, Calcasieu, Vermillion, Iberia, St. Tammany and Tangipahoa parishes - have a simple choice: Are they willing to pay a small added property tax to pay for flood protection? At a time when climate change is making hurricanes and other severe weather events more frequent and destructive, this seems like an easy question to answer.

Amendment 4: Allows the governor and Legislature to cut up to 10% from protected funds when the state is facing a mid-year budget shortfall.

What it says: *“Do you support an amendment to increase the amount of allowable deficit reductions to statutory dedications and constitutionally protected funds from five percent to ten percent?”*

Explanation: Like almost all states, Louisiana is required to pass a balanced budget each year, meaning that the state can't spend more on services than it collects through various taxes and fees. In some years, tax collections come in lower than expected or spending on services is higher than earlier estimates. When the economy goes into recession, for example, tax collections usually wane while the demand for public services goes up. This creates mid-year shortfalls, which in turn require the governor and Legislature to re-balance the budget - typically by making cuts to state agencies.

But not all parts of the state budget are equal when it comes to making mid-year cuts. Large sections of the budget are protected from cuts, either by the state constitution or by statute. For example, money that flows to nursing homes and hospitals is protected, as are the dollars that go to local school districts.

Current law allows governors and the Legislature to cut up to 5% from certain protected funds (but not all). This amendment would allow those protected funds to be reduced by up to 10% with the approval of the governor and the Joint Legislative Committee on the Budget.

Analysis: Protected funds in the state budget are protected for a reason. At some point, the Legislature collectively decided that a specific program or priority was important enough that its funding should be insulated from budget cuts. But all of these dedications means that the unprotected parts of the budget bear the brunt of budget cuts when the state has a midyear shortfall. We saw this happen during the previous administration, when funding for Medicaid services, public colleges and universities and social services were often on the chopping block.

Mid-year budget cuts are an occasional fact of life in state government. When they occur, elected officials should have as much flexibility as possible to decide where and how to re-balance the budget.

-By Jan Moller