

## STATEMENT OF PROPOSED CONSTITUTIONAL AMENDMENTS November 2, 2010

In compliance with R.S. 18:431, R.S. 18:552, R.S. 18:553 and R.S. 18:1306, a statement of the Proposed Constitutional Amendments in the order in which they will appear on the ballot for the November 2, 2010 election is provided as follows:

1. [Act 539](#) (2009 Regular Session) amends Article IV, Section 4 and adds Article III, Section 4(G) and Article IV, Section 21(F).

**Present Constitution** provides that the compensation of each statewide elected official shall be provided by law.

**Proposed Constitutional Amendment** retains present law and provides that an increase in the salary of a statewide elected official shall not become effective until the commencement of the subsequent term for that office following the adoption or enactment of the increase.

**Proposed Constitutional Amendment** provides that any increase in the salary of any member of the legislature shall not become effective until the commencement of the subsequent term for that office following the adoption or enactment of the increase.

**Proposed Constitutional Amendment** provides that any increase in salary provided by law for the Public Service Commission shall not become effective for a member of the commission until the commencement of the term of office for the member of the commission following the enactment of the increase.

2. [Act 541](#) (2009 Regular Session) adds Article VII, Section 4(D)(4).

**Present Constitution** provides that effective July 1, 2007, one-fifth of the severance tax on all natural resources other than sulphur, lignite or timber shall be remitted to the governing authority of the parish in which severance or production occurs and the initial maximum amount remitted shall not exceed \$850,000.

**Proposed Constitutional Amendment** provides that effective April 1, 2012, the provisions of this proposed constitutional amendment shall be implemented if and when the last official forecast of revenues adopted for a fiscal year before the start of that fiscal year contains an estimate of severance tax revenues from natural resources other than sulphur, lignite, or timber that exceeds the actual severance tax revenues collected in Fiscal Year 2008-2009. In such event, the following distributions and allocations of severance tax revenues and other revenues shall be effective and implemented for the fiscal year for which the official forecast was adopted and each subsequent year:

a) Remittance to parishes.

i) In the first fiscal year of implementation, increases the maximum amount of severance tax remitted to the parish in which severance or production occurs to \$1,850,000. In subsequent fiscal years, provides that the maximum amount remitted to the parish shall not exceed \$2,850,000.

ii) Provides that on July 1st of each year, the maximum amount remitted to the parish in which severance or production occurs shall be increased by an amount equal to the average annual increase in the Consumer Price Index for all urban consumers for the previous calendar year, as published by the United States Department of Labor, which amount shall be calculated and adopted by the Revenue Estimating Conference.

iii) Provides that "excess severance tax" is the amount of severance tax revenues in excess of the amount of such tax revenues remitted to a parish in Fiscal Year 2011-2012 and provides that at least fifty percent of the excess severance tax received by a parish in a fiscal year shall be expended within the parish in the same manner and for the same purposes as money received by the parish from the Parish Transportation Fund.

b) Deposit into the Atchafalaya Basin Conservation Fund.

i) Provides that after allocation of money to the Bond Security and Redemption Fund, allocations to the parishes, payment of royalties to the parishes, payment into the Louisiana Wildlife and Fisheries Conservation Fund and payment into the Coastal Protection and Restoration Fund, fifty percent of the revenues received from severance taxes and royalties on state lands in the Atchafalaya Basin, not to exceed \$10,000,000 each fiscal year, shall be deposited into the Atchafalaya Basin Conservation Fund. The money in the fund shall be used exclusively for projects contained in the state or federal Basin master plans or an annual Basin plan developed and approved by the advisory or approval board created for that purpose or to provide match for the Atchafalaya Basin Floodway System, Louisiana Project. Also provides that each year's plan for expenditure of money appropriated from the fund shall be subject to the approval of the appropriate subject matter committees of the legislature.

ii) Provides that eighty-five percent of the money appropriated in any fiscal year shall be used for water management, water quality, or access projects and fifteen percent may be used to complete ongoing projects and for projects that are in accordance with the mission statement of the state master plan. Further provides that a maximum of five percent of the money appropriated in any fiscal year may be used for the operational costs of the program or the Department of Natural Resources.

3. [Act 1049](#) (2010 Regular Session) adds Article VII, Section 21 (K).

**Proposed Constitutional Amendment** provides that in addition to the homestead exemption authorized by this constitution which applies to the first \$7,500 of the assessed valuation of property, the next \$7,500 of the assessed valuation of property which is owned and occupied by a veteran with a service-connected disability rating of one hundred percent by the United States Department of Veterans Affairs, shall be exempt from ad valorem taxation. Also provides that the surviving spouse of a deceased veteran with a service-connected disability rating of one hundred percent shall be eligible for this exemption, 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.

**Proposed Constitutional Amendment** further provides that if the property eligible for this exemption has an assessed value in excess of \$15,000, ad valorem property taxes shall apply to the assessment in excess of \$15,000.

**Proposed Constitutional Amendment** provides that notwithstanding any other provision of this constitution, the property assessment of a property for which this exemption has been claimed, up to \$7,500, shall not be treated as taxable property for purposes of any subsequent reappraisals and valuation for millage adjustment purposes under Article VII, Section 23(B) of this constitution. Also provides that the decrease in the total amount of ad valorem tax collected by a taxing authority as a result of this exemption shall be absorbed by the taxing authority and shall not create any additional tax liability for other taxpayers in the taxing district as a result of any subsequent reappraisal and valuation or millage adjustment.

**Proposed Constitutional Amendment** further provides that implementation of this exemption shall neither trigger nor be cause for a reappraisal of property or an adjustment of millages pursuant to Article VII, Section 23(B) of this constitution.

**Proposed Constitutional Amendment** provides that this exemption shall only extend and apply in a parish if it is established through an election called by either an ordinance or resolution from the parish governing authority. Also provides that the proposition submitted to the voters shall state that the exemption shall extend and apply in the parish and 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.

4. [Act 542](#) (2009 Regular Session) amends Article VII, Section 23(C).

**Present Constitution** authorizes a taxing authority, with a two-thirds vote of the total membership of the taxing authority and without further voter approval, to levy an increase in the millage rate in excess of the rates established as provided in Article VII, Section 23(B) of this constitution, but not in excess of the prior year's maximum authorized millage rate.

**Proposed Constitutional Amendment** authorizes a taxing authority with a governing authority membership which is not composed entirely of elected persons, with a two-thirds vote of the total membership of the taxing authority and without further voter approval, to levy an increase in a millage rate in excess of the rates established as provided in Article VII, Section 23(B) of this constitution, but not to exceed two and one-half percent of such collections for the immediately preceding calendar year. Further provides that this provision shall not apply to taxing authorities which are special fire protection or fire department districts or ports, port harbor and terminal districts or affect the millages of levee districts authorized by Article VI, Section 39(A) of this constitution.

5. [Act 1050](#) (2010 Regular Session) amends Article VII, Sections 18(G)(5) and 20(A)(10).

**Present Constitution** authorizes an owner to keep a special assessment level of the homestead prior to its damage or destruction on the repaired or rebuilt homestead if the owner is unable to occupy the homestead on or before December 31st of a future calendar year due to damage or destruction of the homestead caused by a disaster or emergency declared by the governor, if the repaired or rebuilt homestead is reoccupied by the owner within five years from December 31st of the year following the disaster. Further provides that the assessed value of the land and buildings on which the homestead was located prior to its damage shall not be increased above its assessed value immediately prior to the damage or destruction.

**Present Constitution** prohibits a property owner from keeping the special assessment level on the damaged or destroyed property if the property owner receives a homestead exemption on another homestead during the same five-year period, and requires the land and buildings to be assessed in that year at the percentage of fair market value set forth in this constitution. Further provides that the owner must maintain the homestead exemption set forth in Article VII, Section 20(A)(10) to qualify for the special assessment level.

**Proposed Constitutional Amendment** retains present law and provides that the owner shall maintain the homestead exemption set forth in Article VII, Section 20(A)(10) to qualify for the special assessment level.

**Proposed Constitutional Amendment** authorizes an extension of the special assessment level for up to two years for an owner who is unable to reoccupy his homestead within five years from December 31st of the year following the disaster, only 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.

**Proposed Constitutional Amendment** requires the homeowner to apply for the extension of the special assessment level with the assessor of the parish in which the homestead is located and also provides that the assessor shall require the homeowner to provide official documentation from the government agency or program evidencing the homeowner's participation in the formal appeal process or official documentation evidencing that the homeowner's damage claim has been filed and is pending against the insurer of the damaged property.

**Proposed Constitutional Amendment** authorizes the assessor, on a case-by-case basis, to grant up to three additional one-year extensions of the special assessment level after expiration of the extension authorized by this proposed constitutional amendment.

**Present Constitution** provides that any homestead receiving the homestead exemption that is damaged or destroyed during a disaster or emergency declared by the governor whose owner is unable to occupy the homestead on or before December 31st of a calendar year due to such damage or destruction shall be entitled to claim and keep the exemption by filing with the assessor within the parish where such homestead is situated, prior to December 31st of the year in which the exemption is claimed, an annual affidavit of intent to return and reoccupy the homestead within five years from December 31st of the year following the disaster. Further provides that only one homestead exemption shall extend or apply to any person in this state.

**Proposed Constitutional Amendment** provides that after the expiration of the five-year period, the owner of a homestead shall be entitled to claim and keep the exemption on the homestead for up to two years by filing an annual affidavit of intent to return and reoccupy the homestead with the assessor of the parish where the homestead is located prior to December 31st of the year in which the exemption is claimed. Also provides that a homeowner shall be eligible for the extension only if the homeowner's damage claim to repair or rebuild the damaged or destroyed homestead 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.

**Proposed Constitutional Amendment** provides that the assessor shall require the homeowner to provide official documentation from the government agency or program evidencing the homeowner's participation in the formal appeal process or official documentation evidencing that the homeowner's damage claim has been filed and is pending against the insurer of the property.

**Proposed Constitutional Amendment** authorizes the assessor, on a case-by-case basis, to grant up to three additional one-year extensions of the homestead exemption after expiration of the extension authorized by this proposed constitutional amendment.

6. [Act 1048](#) (2010 Regular Session) amends Article X, Section 29(E)(5) and adds Article X, Section 29(F).

**Present Constitution** provides that future benefit provisions for members of the state and statewide public retirement systems shall be altered only by legislative enactment.

**Proposed Constitutional Amendment** provides that benefit provisions for members of any public retirement system, plan, or fund that is subject to legislative authority shall be altered only by legislative enactment.

**Proposed Constitutional Amendment** requires approval of two-thirds of the elected members of each house of the legislature to enact benefit provisions having an actuarial cost for members of any public retirement system, plan, or fund that is subject to legislative authority.

7. [Act 540](#) (2009 Regular Session) amends Article VII, Section 25(A)(1) and (E).

**Present Constitution** provides that the tax collector, on the day of the tax sale, shall sell the portion of the property which the debtor points out. If the debtor does not point out sufficient property, the collector shall sell immediately the least quantity of property which any bidder will buy for the amount of the taxes, interest, penalties and costs.

**Proposed Constitutional Amendment** removes the authority of the collector to sell the least quantity of the debtor's property when the debtor does not point out sufficient property and authorizes the collector to sell the property which any bidder will buy for the amount of the taxes, interest, penalties and costs.

**Proposed Constitutional Amendment** provides that any bidder may elect to bid down the five percent penalty as provided by this section in the constitution in increments of one-tenth of one percent if authorized by the state or local tax collector.

**Present Constitution** provides that when taxes on movables are delinquent, the tax collector shall seize and sell sufficient movable property of the delinquent taxpayer to pay the tax, whether or not the property seized is the property which was assessed.

**Proposed Constitutional Amendment** retains present law and provides that when taxes on movables are delinquent, the tax collector shall seize and sell sufficient movable property of the delinquent taxpayer to pay the tax, interest, penalties, and costs.

8. [Act 1052](#) (2010 Regular Session) amends Article I, Section 4(H)(1).

**Present Constitution** prohibits the state or its political subdivisions from selling or leasing property which has been expropriated and held for not more than thirty years without first offering the property to the original owner, his heir or successor in title to the owner at the time of expropriation at the current fair market value and after which the property can only be transferred by competitive bid open to the general public, except for leases or operation agreements for port facilities, highways, qualified transportation facilities or airports.

**Proposed Constitutional Amendment** deletes the requirement for the state or its political subdivisions to offer property that has been expropriated and held for not more than thirty years to the original owner, his heir or successor in title to the owner at the time of expropriation at the current fair market value on property that was expropriated for the removal of a threat to public health or safety caused by the existing use or disuse of the property.

9. [Act 1051](#) (2010 Regular Session) amends Article V, Section 8(B).

**Present Constitution** provides that a majority of the judges of the court of appeal sitting in a case must concur to render judgment. In civil matters only, when a judgment of a district court is to be modified or reversed and one judge dissents, the case is required to be reargued before a panel of at least five judges prior to rendition of judgment and a majority must concur to render judgment.

**Proposed Constitutional Amendment** retains present law and provides that in civil matters only, when a judgment of a district court or an administrative agency determination in a workers' compensation claim is to be modified or reversed and one judge dissents, the case is required to be reargued before a panel of at least five judges prior to rendition of judgment and a majority shall concur to render judgment.

10. [Act 1053](#) (2010 Regular Session) amends Article I, Section 17(A).

**Present Constitution** provides that a defendant may knowingly and intelligently waive his right to a trial by jury, except in capital cases.

**Proposed Constitutional Amendment** retains present law and requires a defendant who knowingly and intelligently waives his right to a trial by jury to do so no later than forty-five days prior to the trial date and provides that the waiver shall be irrevocable.