



ON THE BALLOT

A Report from the Bureau of
Governmental Research

Issues on the Ballot for November 7, 2006

Introduction

ON NOVEMBER 7, Louisiana voters will be asked to approve eight constitutional amendments. This report focuses on five amendments that address issues relevant to the New Orleans area. These amendments deal with property taxes, the juvenile court system, and assessors.

Amendment 1 would freeze the assessed value of homes owned by the permanently and totally disabled or by certain members of the military. Amendment 4 would remove the authority of municipalities to levy a property tax on motor vehicles. Amendment 5 would exempt consigned art from ad valorem taxes. Amendment 6 would give the Louisiana State Legislature authority to establish judgeships for new juvenile and family divisions within existing judicial districts. Amendment 7 would decrease the number of assessors in Orleans Parish to one, as in other parishes of Louisiana.

Constitutional Amendment No. 1: Assessment Freeze for Disabled and Military Personnel

What it would do

The proposed constitutional amendment would make certain members of the armed forces and disabled persons eligible for an assessment freeze.

- Homeowners with a United States Department of Veterans Affairs-determined disability rating of at least 50%. The disability must be service-connected.
- Homeowners in the United States military or Louisiana National Guard killed in action, missing in action, or held as a prisoner of war for over 90 days.
- Homeowners permanently and totally disabled as determined by a final non-appealable court decision

or by a state or federal administrative agency with authority to make determinations of disability.

To be eligible, a homeowner's income (and that of his spouse) must not exceed a specified level at the time he applies for the exemption and each year thereafter until he reaches the age of 65. That level, which is based on the prior year's adjusted gross income, is currently \$58,531. It is adjusted annually using the Consumer Price Index.

To receive the freeze, the owner, his spouse, or representative must file an application establishing eligibility. To qualify for the special assessment in a subsequent year, an owner under the age of 65 must certify that he has satisfied the income requirement. The annual certification of income eligibility does not apply to an owner age 65 or older. Nor does it apply to such owner's surviving spouse if the spouse is 55 or older or has minor children.

The special assessment level would extend to the surviving spouse of an eligible owner with a service-related disability, provided the spouse is 45 years of age or older or has minor children. It would also apply to the surviving spouse of a homeowner killed in action. The ownership interest of a surviving spouse can be a usufruct interest. The annual income and certification requirements apply.

A homeowner would lose the assessment freeze if improvements increased the value of the property by more than 25%. If an owner missing in action were found, or a prisoner of war were released, the special assessment would end in the following tax year.

Analysis and Impact

Currently, the Louisiana Constitution allows certain homeowners age 65 or older who own and occupy their homes to receive the benefit of an assessment freeze. The proposed amendment would add certain members of the armed forces and certain disabled persons to those eligible for a freeze. An

assessment freeze caps the assessed value of property at the level in effect at the time the property receives it. Incremental value goes untaxed, resulting in a tax saving as the value of property rises.

The assessment freeze is a way of recognizing the sacrifices made by those members of the armed forces who have been disabled in the military service, are prisoners of war, are missing in action, or were killed in action. The proposed amendment would make their, or their spouses', lives somewhat easier by providing some property tax relief.

The amendment would also extend such relief to civilian homeowners with total and permanent disabilities. The rationale is that such individuals face obstacles to self-sufficiency. As stated in the Americans with Disabilities Act of 1990, "individuals with disabilities continually encounter various forms of discrimination ... and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities."

The proposed amendment is an indirect way to provide a benefit without using or losing state revenue. The property tax to which the freeze applies is paid to local governments, school districts, and other local tax recipient bodies. It is they, rather than the state government, that would pay the benefit through foregone revenues.

The proposed amendment would not benefit all similarly situated military personnel or disabled people. Rather it would extend a tax benefit to a limited subset: those who own their homes. Those who rent would not benefit. In fact, the amendment may contribute to a rise in their rent through roll-forwards or other millage adjustments to offset lost tax revenue. Other forms of tax relief, such as expansion of the existing state income tax credit for the disabled, would benefit similarly situated military personnel and disabled people, regardless of their status as homeowners or renters.

BGR was unable to determine the number of homeowners who would benefit from the proposed freeze. At least 242,000 Louisiana residents under age 65 are considered disabled under Social Security Administration guidelines. In addition, 30,230 persons are disabled and receiving veteran's compensation from the VA. What proportion of the disabled own their own homes, have incomes of under \$58,531, and are totally and permanently disabled is unknown. It should be noted that the median income for homeowners in the New Orleans region is \$47,000.

It is impossible to estimate the impact of the proposed amendment on local governments. That would depend on the number of eligible homeowners, their residence, local millage rates, and future property values.

Determining eligibility in the case of permanently and totally disabled homeowners will present administrative challenges. Multiple government agencies make disability determinations. These include the Social Security Administration, the Louisiana Office of Workers Compensation, the Railroad Retirement Board, the federal Office of Personnel Management, and agencies administering the Americans with Disabilities Act.

The agencies make their determinations using different criteria and for various purposes. For example, the Social Security Administration certifies a person as disabled if a medical condition prevents him from returning to his former or a similar position for at least 12 months. Whether this and other determinations are equivalent to a finding of total and permanent disability would have to be addressed by the Louisiana Tax Commission or the Legislature.

BGR Position:

Against. BGR believes that members of the military who are disabled, captured, or killed while serving their country deserve assistance from their country and state. However, the State Legislature should extend benefits from state resources by, for example, expanding state income tax credits, rather than through measures that pass the cost of the benefit to local governments.

Constitutional Amendment No. 4: Motor Vehicle Exemption

What it would do

Currently, the Louisiana Constitution exempts motor vehicles from state, parish, and special ad valorem taxes, but allows municipalities to tax them. The proposed constitutional amendment would eliminate municipal governments' authority to levy a property tax on motor vehicles.

Analysis and Impact

Currently, New Orleans is the only municipality in

Louisiana that levies a motor vehicle property tax. For tax year 2006, it made a de facto decision not to tax vehicles when it failed to mail the motor vehicle tax bills. City officials cited the large number of flooded vehicles that would have to be identified and deleted from the taxable data base.

Supporters of the amendment believe that the tax is a nuisance tax, and that it does not generate enough income to offset the ill will it creates among taxpayers. Without Katrina, the 2006 tax revenue to the City would have been about \$5.2 million, approximately 1% of the general fund budget. The tax is relatively expensive to collect as tax bills must be mailed to every owner of a motor vehicle registered in Orleans Parish.

The proposed amendment has some troubling aspects. First, state law allows municipalities little discretion as to how they raise revenue, and passage of the proposed amendment would remove one of the limited fiscal options. It would do so at a time when the City desperately needs revenue. BGR has often criticized the state's foreclosure of revenue options and stressed the need for more local control in that area.

Second, it is troubling that the Legislature would attempt to override a local government's decision, validly exercised pursuant to a local option clause, by initiating a constitutional amendment to withdraw the power. While the decision will be made on a statewide basis, the impact of repeal would fall on one, and only one, municipality.

BGR Position:

Against. While the wisdom of the tax can be debated, it is a matter that should be addressed at the local level by the local governing authority. If the Legislature wants to eliminate an existing source, it should provide local governments with a new revenue option.

Constitutional Amendment No. 5: Consigned Art Exemption

What it would do

The Louisiana Constitution provides that all real and personal

property is subject to ad valorem taxation, unless it is specifically exempted in the Constitution. The proposed amendment would exempt from property tax all consigned artwork held by an art dealer. Artwork includes sculpture, glassworks, paintings, drawings, signed and numbered posters, photographs, mixed media, collages, and other creative items. The proposed amendment includes as eligible art any item that may be considered as the material result of a creative endeavor.

Analysis and Impact

Under Louisiana law, personal property consigned for sale is subject to taxation, with the owner of the consigned goods responsible for the tax. In the case of artwork, it appears that only two assessors, both in Orleans Parish, are taxing art held on consignment in galleries.* Their districts include the Warehouse District and the French Quarter. Artwork in an artist's possession and not priced for sale is not taxable.

Proponents of the proposed amendment are concerned that taxing artists on unsold works creates a hardship. They are also concerned that collecting the tax may cause artists to avoid the areas where they are taxed, leading to the demise of the burgeoning art scene in New Orleans.

The amount at stake is not large. In the two New Orleans assessment districts where art is taxed, artwork accounted for less than 1% of the value of all assessed personal property. At the current millage rate, artists showing in the two assessment districts would owe a total of approximately \$46,400 in the 2007 tax year. Artists showing in galleries located in the Warehouse District, which is part of the Downtown Development District, would pay more than their counterparts showing in the French Quarter.

Although the amount of revenue generated by the tax is small, the amendment would nonetheless remove another revenue source for local governments. It could set a precedent for exemption of other consigned goods.

No position.

* The Louisiana Tax Commission does not know of any other assessors in the state who assess art held on consignment.

Constitutional Amendment No. 6: Juvenile and Family Court Divisions

What it would do

The proposed amendment would give the Legislature authority to establish new judgeships and new divisions of district court specializing in family or juvenile matters.

Analysis and Impact

The Louisiana Constitution currently allows the Legislature to establish trial courts of limited jurisdiction with parishwide territorial jurisdiction. The subject matter jurisdiction of the courts must be uniform throughout the State. The Constitution also allows the Legislature, by a two-thirds majority, to change the number of judges in a judicial district.

The Legislature has established juvenile courts in several parishes, including Orleans, Jefferson, and East Baton Rouge parishes. East Baton Rouge has a separate family court. In several other judicial districts, the judges by court rules have designated one or more divisions (and thus the judge elected to the designated division) to handle juvenile or family matters. Others rotate juvenile or family matters on an agreed schedule among a set of divisions. Since the judicial district rules are determined by the judges, subject matter designation is essentially a voluntary arrangement among the division's judges. Without a rule to the contrary, juvenile and family cases are randomly assigned.

In the New Orleans area, there are a variety of approaches to juvenile justice matters. Orleans and Jefferson parishes have separate juvenile courts. The 22nd Judicial District Court, which includes St. Tammany and Washington parishes, and the Slidell City Court have juvenile divisions. In the 22nd District, the juvenile assignments are drawn by lot every three years. In St. Bernard Parish, all matters including juvenile and family matters are randomly assigned among the district court judges.

Although the Constitution allows the Legislature to establish courts of special jurisdiction within a parish, it is silent on the subject of specialized divisions within judicial districts. The proposed amendment is intended to clarify the Legislature's power to establish such judgeships and divi-

sions in the areas of family and juvenile law. If the amendment passes and the Legislature establishes such divisions, judges would be elected to those divisions for the specific purpose of dealing with juvenile or family matters.

Role of Juvenile and Family Courts. Juvenile court responsibilities are enumerated in the Louisiana Children's Code. Such courts have jurisdiction over most delinquency proceedings. They also have jurisdiction in proceedings involving neglect or abuse, juvenile traffic proceedings, voluntary or involuntary termination of parental rights, adoptions, mental health proceedings, and proceedings involving interstate compacts relating to juveniles. They also conduct an informal intervention program for families where the child is at risk.

As noted above, the family court in East Baton Rouge is the only family court in Louisiana. It has jurisdiction over divorces, annulments, establishment of paternity, spousal and child support, and custody and visitation of children.

Difference in Approach. More than 100 years ago, Illinois created a special court for neglected, dependent, or delinquent children under the age of 16. The act provided that the juvenile courts were to have informal procedures, confidential records, and a rehabilitative rather than a punitive purpose. The concept resonated with the rest of the country. By 1925, 46 states had created separate juvenile courts. Now every state has some kind of juvenile justice system, although each system has its own set of policies and delivers services to juveniles in its own way.

Advocates of the proposed amendment want matters involving families and children to be handled in non-adversarial proceedings by judges who are interested in, and committed to, the subject matter. Under the current system, juvenile and domestic relations cases are all too often assigned to judges with little interest in the subject matter. In addition, some judges, accustomed to adversarial proceedings, are ill-equipped or temperamentally unsuited to handle collaborative divorces or custody decisions. Some supporters see passage of the proposed amendment as a step toward a better legal system for family matters.

Juvenile advocates want the justice system to focus on rehabilitation and to place a high priority on prevention, early assistance services, and graduated sanctions. Juvenile justice advocates believe that dedicating courts or divisions to juve-

nile and family interests will foster a more consistent and helpful approach to family problems and delinquent behavior.

Cost-Effectiveness. Proponents of the legislation maintain that establishing divisions is more cost-effective than establishing new courts and that such divisions can be integrated into the existing court administration. They point to the recent legislation to consolidate courts in New Orleans as an indication of the advantages of sharing revenue and expenses among courts.

Need for Amendment. As noted above, some district courts have established divisions to handle juvenile or family matters. This raises a question as to whether the constitutional amendment to provide for the establishment of such divisions is necessary. Proponents maintain that it is for several reasons. First, the current constitutional language does not specifically authorize the Legislature to establish juvenile or family divisions, and its ability to do so is the subject of a lawsuit involving the family division in Calcasieu Parish.** Second, the current language in the Constitution restricts courts of limited jurisdiction to one parish, whereas a number of district courts have multi-parish jurisdiction. Proponents of the measure want to remove any uncertainty as to the legitimacy of specialized divisions that cover multiple parishes. They point out that there may be enough juvenile cases among two or three parishes to justify dedicating a judge to juvenile or family matters, but not enough to do so on single-parish basis. Third, they argue that the existence of such divisions depends on the will of the individual judges and should be institutionalized.

Expanding the Judiciary? Some have expressed concern that the proposed amendment would lead to the unnecessary proliferation of judgeships. The concern derives in part from ambiguous language providing that the Legislature may establish *new* judgeships and *new* divisions (emphasis added). It is unclear whether this requires an increase in the number of judgeships and divisions in a district court, or whether existing judgeships and divisions could be dedicated to family or juvenile matters. It is also unclear whether a division established by the Legislature could handle both juvenile and family matters, as many children's advocates suggest is desirable, or whether it would be necessary to establish separate divisions. The uncertainty arises from language authorizing divisions to specialize in family or

juvenile matters (emphasis added).

The Legislature has in place a process designed to act as a check on the proliferation of judgeships. Before acting on a bill, it receives from the Judicial Council information on the need for the new judgeship.

Pending Study. During the February 2006 special session, the State Legislature directed the Judicial Council of the Supreme Court to prepare by March 2007 information and recommendations on the appropriate number of judgeships within each judicial district. The recommendations may include the possibility of revisions to the Constitution or state law. It might be argued that statutory changes should wait until the recommendations are released to the Legislature next March. There would be sufficient time before the next judicial election cycle to make changes.

BGR Position:

For. The amendment would allow the judiciary to respond more effectively to the problems of juveniles and families, without incurring the expense of setting up separate courts. It would promote the election of judges devoted to these matters.

Constitutional Amendment No. 7: Consolidating Assessors in New Orleans

What it would do

The proposition would reduce the number of assessors in Orleans Parish from seven to one and eliminate the Board of Assessors. If approved, it would not go into effect until the municipal elections in 2010.

Analysis and Impact

New Orleans is the only parish in the state with multiple assessors and a board of assessors comprised of them. The proposed amendment would put New Orleans on the same footing as other parishes.

Before 2006, the Board of Assessors funded its budget primarily through an ad valorem tax of 1.19 mills and a docu-

** By statute, two divisions of the 14th Judicial District are assigned to Family and Juvenile Court.

Table 1: Assessment Costs, Orleans Versus Comparable Parishes

Jurisdiction	Budget	Parcels	Budget	
			Per Parcel	Personnel*
Orleans Parish Board of Assessors	\$6.3 million	165,079	\$38.31	41
East Baton Rouge Parish Assessor	\$3.4 million	182,541	\$18.40	62
Caddo Parish Assessor	\$2.9 million	135,543	\$21.69	47
Jefferson Parish Assessor	\$2.8 million	177,551	\$16.04	42

*Full-time personnel as of August 31, 2006

Sources: Louisiana Assessors Retirement Fund, assessors' offices, and BGR calculations.

mentary transaction tax. In 2005, the Board's revenue totaled approximately \$3.3 million. Effective this year, a change in state law replaced the Board of Assessors' funding streams with a 2% cut of the ad valorem taxes levied in Orleans. It provided the Board of Assessors with a guaranteed minimum equal to the 2005 revenues.

Prior to Hurricane Katrina, the Board of Assessors forecast approximately \$6.8 million in revenue under the new funding mechanism. Based on the 2006 tax rolls, the assessors now expect revenues totaling \$6.3 million. That amount is almost twice the budget of any other assessor's office in the state.

Taxpayers support the assessors with other resources that do not show up in their budget. State law requires the tax collector in each parish to deduct 1/4 of 1% of taxes shown to be collectible on the tax rolls (including taxes on the home-stead-exempt portion) and remit it to the assessors' retirement fund. According to the Louisiana Legislative Auditor, the deduction in New Orleans totaled \$957,000 in 2006. In addition, the City is required by state law to pay certain operating expenditures for the assessors' offices, including office space, utilities, and telephones. No estimate is available of the value of this contribution.

Redeploying Resources. Opponents of the amendment argue that consolidation would fail to save taxpayers any money. Proponents maintain that consolidation would put an end to duplicative expenses and allow for a more effective deployment of resources.

BGR's analysis supports the latter proposition. New Orleanians pay for seven chief executive officers when one would do. Together, their salaries and expense accounts cost

taxpayers \$676,000 per year. By contrast, the one assessor in Jefferson Parish – who assesses a number of parcels roughly equivalent to the number in Orleans – costs taxpayers \$114,000 in salary and expenses. BGR calculates that consolidating the seven assessors could yield

approximately \$560,000 in savings, based on 2006 compensation figures. That money could be used to fund a more efficient, professionally staffed, and properly equipped operation.

Although New Orleans' assessors have a larger budget than any other parish assessor, they employ fewer people, even when the seven assessors are included in the total. (See Table 1.) The compensation savings alone could fund a net increase in personnel from 41 to 49, assuming an average employee cost of \$40,000 per year. Alternatively, the money could be spent on improved technology. In either case, the money would be spent on improving the accuracy of assessments, rather than supporting the current top-heavy system.

The total number of parcels handled by Orleans' seven assessors is less than the number handled by one in Jefferson Parish and one in East Baton Rouge Parish. In addition, the per parcel cost is higher.

Results. The irony is that, although Orleans taxpayers put more money into their assessment system than do taxpayers in other major parishes, the return on their investment is a shoddy system. Much of the assessment is done through sales chasing. Sales chasing is the practice of adjusting an individual property's appraised value when it sells, without adjusting other properties in the relevant market. This practice was highlighted in pre-Katrina analyses of Orleans Parish assessments which demonstrated that some owners of recently acquired properties had seen astronomical increases in their tax bills, while other property owners continued to pay on assessments that belong to a bygone era. The end result is that those who pay taxes on the fair market value of

their home are paying at a higher effective rate that those whose homes are under-assessed. In addition, uneven assessments cheat citizens out of government-funded services.

Transparency. This system of seven assessors and a Board of Assessors also makes for transparency problems. The fiscal years vary from district to district, as does accounting. For example, the First District Assessor (FY ending 12/31/04) provided a measure of detail on expense, down to categories such as “assessor’s expense allowance” (\$8,774), “automobile lease” (\$4,777), and “automobile expense” (\$2,635). Meanwhile, for that same year, the Third District Assessor reported half the number of expense categories, including an expense mega-category entitled “operating expenses” (\$168,678). Some assessors provided “travel” categories, with varying results. The Seventh District Assessor (FY ending 9/30/04) reported \$13,405 in “travel and automotive.” The Fifth District Assessor (FY ending 4/30/04) reported \$29,365 in “travel and other charges” and \$25,177 in “miscellaneous charges.”

A Vestige of the Past. The seven-assessor system is rooted in the now-forgotten three-municipality structure and the 19th century growth of the city to include old municipalities such as the cities of Lafayette and Carrollton. There is no rhyme or reason to it in modern times. The districts and workloads vary wildly in size, from 6,710 taxpayers in the Fourth District to 71,812 in the Third District.

Discrepancies Among Districts. The seven-assessor system creates inequity from district to district. In the post-Katrina reassessment, the assessor for the Sixth District, which includes much of Uptown, gave across-the-board assessment cuts as high as 50% on improvements in unflooded areas. The assessor for the Seventh District gave 25% cuts. The assessor for the Third District gave 15% cuts. Assessors in the four other districts did not give across-the-board cuts for improvements in the unflooded areas along the river.

Personal Relationships. Opponents of the amendment argue that consolidation would create greater distance between assessors and their constituents. They say a person-

**Table 2:
The Municipal Districts
(Property Taxpayers, 2005)**

1 st	8,273
2 nd	15,684
3 rd	71,812
4 th	6,710
5 th	19,041
6 th	16,643
7 th	11,582

Source: Louisiana Tax Commission

al touch, in which property owners can meet one-on-one with their elected assessor to discuss an assessment, is a positive attribute of the seven-assessor system. But the vaunted personal touch is less a benefit than an undermining influence. It subverts objectivity and is a nexus that must be broken to create a fair and equitable system.

Tax Increases. Opponents of the amendment argue that consolidation would result in higher tax bills. For those paying on or near an accurate assessment, this is simply false. For others, the impact would depend on a number of variables, including the degree to which the property is under-assessed and how well the single assessor

performs his job. Consolidation would have no effect whatsoever on the homestead exemption or assessment freezes.

Concentrating Power. Some fear that consolidating assessors would place too much power in the hands of one person. The underlying assumption is that the old system, based on personal relationships, would continue.

There is always a risk that an office holder will abuse his office. There are, however, a number of factors that will work to offset that risk. First, the on-line posting of assessments makes inequities and abuses visible. Second, having one assessor rather than seven in the city makes it more difficult to maintain the personal relationships.

Consolidating assessors alone will not lead to fair and equitable assessment practices. It is clearly, however, a first and necessary step for reform of the system. It is essential that citizens replace the seven assessors with one committed to reform and that the money saved from consolidation be redeployed to fund the technological advancements and hire the professional staff needed to carry out best practices in assessing property.

BGR Position:

For. Since the 1930s, BGR has called for reform of New Orleans’ seven-assessor system. Consolidation would allow for more efficient allocation of resources, focus the public eye on one executive, and open the way for fair and equitable assessment practices.



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