



ON THE BALLOT

A Report from the Bureau
of Governmental Research

Local and State Propositions, October and November 2011

INTRODUCTION

This fall, on October 22 and November 19, voters will decide the fate of several local ballot propositions as well as six amendments to the state constitution.

On October 22, voters in Jefferson Parish will consider a charter amendment creating an Office of Inspector General and an Ethics and Compliance Commission. Voters in the unincorporated areas of the parish will also consider a half-mill property tax to fund the two new entities. Voters in New Orleans will decide whether to renew a 20-mill property tax in the New Orleans Regional Business Park. Voters in Plaquemines, St. Bernard and St. Tammany parishes will consider whether to double the homestead exemption for 100 percent disabled veterans and their surviving spouses.

Also in October, voters statewide will consider five constitutional amendments. The amendments would:

- Dedicate tobacco settlement money to the TOPS tuition assistance program for Louisiana students and continue a four-cent cigarette tax.
- Apply nonrecurring revenue to payment of the unfunded accrued liability of two state retirement systems.
- Explicitly prohibit the Legislature from making withdrawals from a private medical malpractice fund.
- Change the rules for replenishing withdrawals from the state's rainy day fund.
- Ensure that a provision relating to tax sales in New Orleans would continue to apply, regardless of population changes.

On November 19, voters in New Orleans will consider an amendment to the Home Rule Charter that would modify the composition of the Public Belt Railroad Commission. Voters in Jefferson Parish will consider whether to double the homestead exemption for 100 percent disabled veterans and their surviving spouses. Voters statewide will consider a constitutional amendment to prohibit the state or local governments from instituting a new tax on the sale or transfer of immovable property.

In this report, BGR examines the propositions and amendments on both the October and November ballots, providing analysis and taking a position on each item.

OCTOBER 22 BALLOT

JEFFERSON PARISH: OFFICE OF INSPECTOR GENERAL

What it Would Do

The proposed amendment to the Jefferson Parish Charter would establish an Office of Inspector General (OIG) and an Ethics and Compliance Commission (Ethics Commission). The OIG would provide a full-time program of investigation, audit, inspection and performance review for parish government. The amendment also contains provisions to protect the integrity and independence of the office.

The five-member Ethics Commission would be an administrative, advisory and quasi-judicial entity that renders opinions on and enforces the parish's ethics laws. It would also appoint the Inspector General. The amendment establishes an appointment process for the

Ethics Commission, and calls for the OIG to provide funding for the commission's operations.

The proposed charter amendment would also extend the Parish Council's investigatory power, which currently covers departments, agencies and special districts, to cover their employees as well. The amendment would allow the council to take disciplinary action in some cases.

Background and Analysis

Office of Inspector General. The proposed amendment sketches out the broad parameters of the OIG. In addition to calling for a full-time program of investigation, audit, inspection and performance review for parish government, the amendment would:

- Allow removal of the Inspector General only by the Ethics Commission, only for cause and only after a public hearing.
- Allow the OIG to retain its own legal counsel.
- Make the Inspector General and his deputies unclassified members of the civil service.
- Require that any unused funds dedicated to the OIG be forwarded to the parish general fund.
- Allow the Parish Council to abolish the OIG by a two-thirds vote, but only if voters fail to approve a special funding source for the office.

The Parish Council adopted an ordinance in May that fleshes out the office in more detail.¹ It would go into effect upon approval of the amendment. The ordinance spells out required qualifications for the Inspector General and sets his initial term at five years.² Subsequent four-year terms may be renewed at the discretion of the Ethics Commission. The Inspector General would not be subject to term limits. He would be subject to annual review by a parish quality review committee and subject to a peer review by the Association of Inspectors General every three years.³

The ordinance also outlines the OIG's powers. The office would have access to all records and buildings of the parish, the power to subpoena witnesses and re-

ords, and other powers necessary to execute its duties. The office would be notified of and allowed to attend and record any meeting relating to the procurement of goods and services by the parish.

The ordinance requires the OIG to report recommendations and the results of its findings to the Ethics Commission. The OIG's records would be exempt from public disclosure.

Ethics and Compliance Commission. Under the amendment, the Ethics Commission would consist of five members appointed by the parish president from lists of nominees provided by the presidents of Delgado Community College, Loyola University, Tulane University, the University of New Orleans and Xavier University. The nominees must be confirmed by the Parish Council.⁴ The Ethics Commission would be authorized to hold adjudicative hearings on potential violations; subpoena witnesses; administer oaths; require the production of books, papers and other evidence; and impose fines and penalties. The Ethics Commission would be funded by an allocation from the OIG. The amendment does not specify an amount, but states that it must be sufficient for the Ethics Commission to perform its functions efficiently and effectively.

Jurisdiction of the OIG and Ethics Commission. The jurisdictional authority of the OIG and the commission would be limited to the employees, departments, agencies and special districts of parish government, as well as any entity receiving funds through the parish government. Its jurisdiction over other units of government, such as municipalities, the assessor, school board, district attorney, coroner, clerk of court or sheriff, would be subject to constitutional and statutory limitations. According to a recent attorney general's opinion, the constitution limits the OIG's authority over these entities to investigating whether any funds and property provided by the parish were used for their authorized purposes.⁵

The OIG concept. The concept of creating an independent office dedicated to maximizing efficiency and effectiveness, as well as detecting and deterring fraud,

waste and abuse, is not new to government. At the federal level, roughly 70 inspectors general keep watch over the various departments, agencies and programs of the U.S. government. Inspectors general are also used at the state level. Florida has an inspector general for each state agency. California and Texas have individual inspectors general for some, but not all, of their agencies.⁶ Other states, including Louisiana, Massachusetts and Pennsylvania, have a single inspector general who oversees the entirety of state government.

The inspector general concept has begun to spread to the local level, too. A number of larger city and county governments around the country have inspectors general. They include Baltimore, Chicago, Cook County, Ill., Jacksonville, Fla., Miami-Dade County, Fla., Montgomery County, Md., New Orleans, Philadelphia and Washington, D.C.

While Jefferson Parish's government is much smaller than those in Chicago and Miami-Dade, it is still a sizable organization. In 2011, Jefferson Parish government will spend nearly \$550 million and employ 3,157 individuals.⁷ For an organization of this size, creating an independent watchdog is a prudent move even under normal circumstances. The resignations last year of the parish president, the chief administrative officer and the parish attorney amid allegations of wrongdoing give additional impetus to establishing an OIG in Jefferson. Federal investigations into the allegations are ongoing.

In response to the scandal, the parish revived its Department of Internal Audit and created a new Department of Governmental Ethics and Compliance. The audit department performs financial and operational audits of parish departments, and reviews the parish's financial controls and contract monitoring procedures. The ethics department is tasked with developing an ethics and compliance program; monitoring whether ethics and compliance issues are being appropriately evaluated, investigated and resolved; reporting potential violations to authorized enforcement agencies; and providing parish leaders with an assessment of the state of the parish's compliance and ethics issues. The parish also created an advisory committee to study the creation of

an OIG. (BGR's President & CEO served as a member of that advisory committee.)

The responsibilities of the OIG and the Ethics Commission would overlap to some extent with those of the audit and ethics departments. There are three compelling reasons, however, for the parish to take the extra step of creating an OIG and Ethics Commission.

To start, the department directors are appointed by and serve at the will of elected public officials.⁸ The Inspector General, on the other hand, would be appointed by the Ethics Commission, whose members would be appointed by the parish president from among the nominees of local university and college presidents. These nominating and appointment processes provide a necessary buffer between the OIG and Ethics Commission and the elected officials they are tasked with monitoring.

Not only do the directors of the audit and ethics departments depend on elected officials for their jobs, they also depend on them for financial resources. Neither department has a dedicated revenue source. As normal departments within the executive branch, their budgets are subject to the annual budgeting process. The OIG and Ethics Commission, on the other hand, would have a dedicated source of revenue from a property tax, provided voters approve it in a separate measure that is also on the Oct. 22 ballot.

Finally, the OIG and Ethics Commission would have investigatory powers unavailable to those departments, including the power to subpoena witnesses and documents outside of parish government. In addition, the Ethics Commission would have the power to impose fines and other penalties. The audit and ethics departments do not possess these powers.

What Jefferson Parish residents should expect from the OIG. The charter amendment calls for the OIG to conduct a full-time program of investigation, audit, inspection and performance review. What can the public expect from it? The following are some examples of recent work from other local government inspectors general.

- An investigation initiated by the Miami-Dade Office of Inspector General uncovered the embezzlement of \$1 million by two employees of the county's Water & Sewer Department. The investigation was turned over to prosecutors and resulted in a combined 13 years of jail time for the two employees and restitution of the embezzled funds.⁹
- Last year, in advance of the city budget process, the Chicago Office of Inspector General released a detailed report on 24 options for cutting spending and raising revenue. Each option included an estimate of its fiscal impact. Examples of the options included charging a fee for recycling services, eliminating subsidized water and sewer charges for nonprofit organizations, eliminating a technology job training program and reducing the staffing on fire and garbage trucks.¹⁰
- The New Orleans Office of Inspector General used citizen volunteers to survey a sample of properties on a master list of properties supposedly eligible for city trash pickup. The property count on the list determined the cost of the city's three trash hauling contracts. The report found that improved scrutiny of the property count by the city could save between \$600,000 and \$3.6 million annually.¹¹ As part of a separate project, the New Orleans OIG audited a sample of hotels and motels in the city and found that an alarming number collected the hotel/motel tax but did not remit it to the city (13 percent) or underreported their gross rentals/occupancy (29 percent).¹²
- An investigation by the Philadelphia Office of Inspector General documented fraudulent overtime claims at the city's Water Revenue Bureau. A report summarizing the findings of the investigation included recommendations for improving the bureau's method of authorizing and documenting overtime.¹³

ment. (For a discussion of the financial benefits of an inspector general, see the analysis of the related property tax below.)

Powers of the Parish Council. In addition to creating the OIG and Ethics Commission, the proposed charter amendment would allow the Parish Council to investigate and in some cases discipline employees of the parish. Currently, the charter gives the council investigatory power over parish departments, agencies, offices and special districts. It is not clear on the council's authority to investigate individuals in service of the parish. The amendment states that this expanded power would not infringe on protections for civil service employees.

The grounds for investigation include lack of qualifications, incompetence, neglect of duty, failure to comply with a lawful directive of the council or gross misconduct. Some of these also appear to fall within the purview of the proposed Ethics Commission.

BGR Position

FOR: Given the size of parish government, recent allegations of wrongdoing in the parish and the impressive work of other local government offices of inspector general, it would be wise to create an independent watchdog within parish government. The Ethics Commission would establish an ethics enforcement entity for the parish and provide independent oversight of the OIG.

JEFFERSON PARISH: DEDICATED TAX FOR OFFICE OF INSPECTOR GENERAL

What it Would Do

The measure would authorize the Parish Council to levy for 10 years a property tax not to exceed a half mill in the newly created Jefferson Parish Inspector General Special Services Funding District. The district encompasses the unincorporated portions of Jefferson Parish. Residents of Kenner, Gretna, Harahan, Westwego, Jean Lafitte and Grand Isle would not be subject to the tax.

As the examples above suggest, an effective inspector general can be a smart investment for local govern-

The millage is expected to generate \$1.26 million. The revenue would be dedicated to the Office of Inspector General (OIG) and the Ethics and Compliance Commission (Ethics Commission), should voters authorize their creation in a separate measure on the October 22 ballot.

Background and Analysis

Independence is critical to the proper functioning of an office of inspector general. To ensure that independence, the office must have sufficient funding from a source that cannot be reduced or withheld by the individuals and entities that the inspector general oversees. For that reason, discretionary appropriations from the government's general fund are not considered a good funding mechanism.

Jefferson Parish is proposing to fund the OIG and Ethics Commission through a dedicated property tax. BGR normally opposes dedicated taxes because they limit a local government's ability to respond to changing conditions. However, in the case of an office of inspector general, a dedicated revenue stream of some type is essential.

This does not mean, however, that the proposed tax would be completely immune to political influence. As the governing and taxing authority of the special funding district, the Parish Council would decide whether the millage should be rolled forward. Without periodic increases, a tax can lose its value due to inflation.

In addition, the council could levy something less than the full half mill authorized by voters, and possibly go so far as to levy no tax at all. This would appear to be inconsistent with the intent of the charter amendment creating the OIG, which states: "In order to assure the independent operation of the office of inspector general, the office ... shall receive the proceeds of any special tax levied and approved by the electorate [and dedicated to that office]" However, as a technical matter, it is the council, not the electorate, that actually levies the tax.

Another serious shortcoming of the proposed tax is that

not all property owners who stand to benefit from an OIG and Ethics Commission would pay for it. Residents of Kenner, Gretna, Harahan, Westwego, Jean Lafitte and Grand Isle would be exempt. While the municipal governments provide the bulk of services in these areas, the parish provides services there too. For example, the parish provides key water and drainage services in many parts of the incorporated areas. The OIG would be monitoring all activities of parish government, not just those activities that take place in the unincorporated areas, although funding would come only from unincorporated areas. This is simply not fair.

The fairness problem could have been avoided by levying the tax parishwide. Alternatively, the mismatch between costs and benefits could have been solved by turning to another funding mechanism: a charter amendment dedicating a certain percentage of the general fund to the OIG. The Association of Inspectors General recommends this approach,¹⁴ and it is the method employed in New Orleans, where the charter sets aside three quarters of one percent of the city's general fund for its inspector general and Ethics Review Board.¹⁵ This option would provide strong protection against political influence, since any change to the formula would require a voter-approved charter amendment. Unfortunately, this approach would further constrain the parish's relatively small general fund.

Approval of the proposed tax would not result in a net tax increase for property owners. The Parish Council recently voted to reduce the tax collected by the Jefferson Parish Consolidated Road Lighting District by a corresponding amount, from 2.89 to 2.39 mills.¹⁶ The parish has concluded that levying the half mill is no longer necessary. Therefore, if voters approve the OIG millage and the council levies it at the full half mill, the overall tax rate would remain the same. If voters reject the measure, property taxes would fall by a half mill.

The total millage rate for property owners in Jefferson Parish varies depending on the property's location. The current millage rate for unincorporated Metairie is 102.7 mills,¹⁷ meaning the tax would account for less than one half of one percent of property owners' tax

Table 1. Impact of Proposed OIG Tax on Property Owners

Property Type	Market Value	OIG Tax Burden
Owner-Occupied Residential	\$200,000	\$6
	\$400,000	\$16
Other Residential	\$200,000	\$10
	\$400,000	\$20
Commercial	\$500,000	\$35
	\$1,000,000	\$70

Note: For commercial properties, the calculations assume that improvements account for 80 percent of value and land for 20 percent.

Source: BGR calculations.

bills. Table 1 illustrates the cost associated with the proposed tax to various property owners. Viewed another way, the table shows the savings various property owners would receive if voters reject the proposal.

Establishing an office of inspector general would require a financial commitment on the part of property owners. But an effective inspector general can be a smart investment. The Philadelphia and New Orleans inspectors general provide good examples. In 2010, the Philadelphia inspector general saved or recovered \$9.1 million for the city government, while operating on just \$1.3 million.¹⁸ The New Orleans inspector general last year identified \$9.4 million in avoidable costs with a budget of approximately \$3 million.¹⁹ While some of these costs, such as those relating to one-time procurements, cannot be recovered, others represent potential savings that could continue well into the future. For example, the New Orleans inspector general found that the city could save

between \$600,000 and \$3.6 million annually through better administration of its master list of properties eligible for trash pickup.²⁰

A special commission created by the Parish Council to study the need for an inspector general in Jefferson Parish concluded that the OIG would require a budget of \$1.5 million to \$2 million.²¹ (BGR's President & CEO served as a member of the commission.) This estimate included the required contribution of a reasonable level of resources to the Ethics Commission for its operations. The \$1.26 million anticipated from the millage falls short of that recommendation, but, as Table 2 illustrates, it is within the range of budgets for similar offices elsewhere. Based on information from other cities with comparable inspector general budgets, the office would have funding to support a small but not insignificant staff.

Table 2. Other Local OIG Budgets and Staff Size

OIG	Budget (in millions)	Staff Size	Year
Washington, D.C.	\$17.6	118	2010
Chicago	\$6.0	54	2011
Miami-Dade County, Fla.	\$5.6	38	2011
New Orleans	\$3.6*	25	2011
Cook County, Ill.	\$1.6	18	2011
Philadelphia	\$1.3	20	2011
Jefferson Parish (proposed)	\$1.3**	N/A	2012
Jacksonville, Fla.	\$1.0	9	2011
Montgomery County, Md.	\$0.6	4	2010
Baltimore	\$0.4	4	2011

* The New Orleans inspector general shares approximately \$575,000 of this budget with the Independent Police Monitor and the Ethics Review Board.

** The Jefferson Parish OIG would be required to share an unspecified portion of this budget with the proposed Ethics Commission.

Source: Inspector general annual reports and phone calls to administrators.

Voters could adopt the charter amendment creating the OIG, but reject the proposed tax. Rejecting the tax would not prevent the creation of the OIG, but it would deal it a serious blow. In such a scenario, the OIG would be inoperable unless parish leaders found another source of revenue. In addition, rejection of the tax would open the way for a two-thirds vote by the Parish Council to abolish the office.

Voters could also reject the charter amendment but for some reason adopt the tax. In this case, the tax would not be levied.²²

BGR Position

FOR: The proposed tax dedication is neither the fairest approach for taxpayers nor the ideal funding mechanism for protecting the OIG's independence. However, it would establish a significant, dedicated funding stream and get a much-needed office up and running.

NEW ORLEANS REGIONAL BUSINESS PARK TAX RENEWAL

What it Would Do

Approval of the proposition would authorize the New Orleans Regional Business Park (the Business Park) to continue to levy a property tax of up to 20 mills within its boundaries. The tax would be levied for up to 20 years. Residential and personal property within the district would be exempt. Although the tax would be levied only within the district, it is subject to a citywide vote.

Background and Analysis

The Louisiana Legislature created the Business Park in 1979 as a special taxing district for the purpose of stimulating industrial and commercial development in the vast, 7,000-acre area in eastern New Orleans bounded by the CSX Railroad tracks, the Industrial Canal, the Intracoastal Waterway and the Maxent Canal.²³ Specifically, the Business Park's mission is to advocate for and

facilitate the acquisition, development and maintenance of the infrastructure and resources necessary to support existing businesses and develop new businesses in the area.²⁴

The Business Park has collected a real property tax of approximately 20 mills from businesses in the district since 1982. It collected 20.85 mills in 2011. (The base property tax rate in Orleans Parish for 2011 was 147.6 mills.) There are nearly 2,000 taxpayers in the district, but the vast majority – roughly 1,700 – are owners of small plots of vacant land who pay very little in taxes. According to the Business Park, approximately 85 businesses operate within the district. The millage revenue is derived mainly from a small crop of those businesses. In 2011, the two largest taxpayers in the district, Folgers Coffee Company and Entergy, paid 28 percent of the taxes. The top 15 taxpayers in the district paid 60 percent of the taxes.²⁵

The Business Park is governed by a 12-member board of commissioners. Appointments to the board are divided among the mayor, the councilmember and state legislators representing eastern New Orleans, the New Orleans Chamber of Commerce, the secretary of the Louisiana Department of Economic Development, and the Port of New Orleans.²⁶ The board is authorized to hire an executive director and other staff members to carry out the day-to-day operations of the organization.

The district presents a unique economic development opportunity for the city. There are large tracts of undeveloped land within the district, and it has easy access to six railroad lines, the Industrial Canal, the Intracoastal Waterway, U.S. Highway 90, Interstate 510 and Interstate 10.

However, the district faces some built-in drawbacks. To start, portions of the district are plagued by soft soil conditions, which make development more expensive. In addition, although land is plentiful in the district, some of it is subdivided into hundreds of small lots located on "paper streets" – residential subdivisions planned decades ago but never developed. Development on these sites would require locating and resolv-

ing title issues with hundreds of property owners. For years the area has been a hotspot for illegal dumping, making it less than inviting for site selection. The area also suffers from poor infrastructure and has been a low priority for city services.

If voters renew the millage, it is expected to generate approximately \$220,000 per year. Those funds, combined with roughly \$300,000 in rental income, form the bulk of the Business Park's budget. The Business Park has not adopted a budget for 2012, but if its recent budgets are any indication, it would cover the salary and benefits of an executive director, executive assistant and building manager; insurance on and maintenance of the Business Park's building and warehouse; a range of office and administrative expenses; contracts for legal and accounting services; and marketing. This year, the Business Park is paying a political consultant \$55,000, one quarter of the millage revenue, to run a marketing campaign touting renewal of the tax.

Once the Business Park is staffed (its executive director and executive assistant positions are vacant) its board plans to focus on reviving the park's defunct business incubator, marketing existing businesses in the district and promoting the park as a good place to do business.

If voters reject the millage, the Business Park's budget would take a significant hit. It is not clear what cuts the board would make to compensate for the lost revenue. The Business Park has roughly \$445,000, the equivalent of two years' worth of tax collections, in a reserve fund.

Proponents of the millage say that the tax is necessary to employ a staff, which would carry out programs and act as a resource for existing businesses, and to maintain the Business Park's building and warehouse. They argue that the tax does not impose an undue burden on businesses in the district and that voter rejection of it would be a setback for an area in need of positive momentum.

There are several arguments against renewing the proposed property tax. First, the Business Park has a weak

track record, with few significant economic development accomplishments and recent financial management problems. Despite the park's seemingly strategic location, the Business Park has struggled throughout its 30-year history to bring new development projects to the district. It has floated a host of development ideas – including a motor speedway, a youth sports complex and a modern office park – but none was realized.

Its business retention and expansion efforts have produced mixed results. Before Hurricane Katrina, the Business Park donated land and secured funds to help Folgers build a new electrical substation. The substation played a role in the company's decision to consolidate its roasting operations in New Orleans. The Folgers project was perhaps the Business Park's most notable accomplishment. But the fact that the Business Park can point to so few other stories like it illustrates its lackluster performance in the areas of business retention and expansion.

The Business Park's most recent audit, from 2009, revealed an agency with poor financial management practices.²⁷ For example, the Business Park failed to document how it spent over \$150,000 in grant funds, and it entered into a contract for services with a consulting company owned by its executive director. There was no supporting documentation showing what services the company provided to the Business Park.

The second argument against the tax is that it does not address the fundamental infrastructure and service needs of the district. Rather, throughout its history, the Business Park has devoted the bulk of its resources to employing a modest staff focused on recruiting businesses. The staff ran an incubator program, which for many years provided affordable office space and communal office equipment to start-up businesses, and it assisted businesses in navigating issues with key city departments.

Business recruitment and business assistance are important, but they are functions best suited for the NOLA Business Alliance, the city's new public-private partnership for economic development. The Business Alli-

ance was created to provide a single, unified entity for economic development initiatives in the city and to put an end to the scattershot efforts of the past. Having another entity recruiting and assisting businesses in the district runs counter to that goal.

BGR contacted several businesses within the district for their perspectives on the tax. None could identify any benefits they derived from it. They said that the Business Park's operations in the district have been so limited that they would not notice a difference if the entity were eliminated altogether. Some had owned or managed businesses in the district for more than a decade.

The businesses' complaints are not limited to the Business Park's operations. They complain of similar neglect from the general city government, citing the absence of basic services within the district. Roads are in poor condition; street lights don't work; drains are clogged; lots are overgrown and full of debris; public transportation is lacking; and there is little police presence.

One business owner described working within the district as working on a remote island. Another described a section of a key four-lane road that has been narrowed to between one and two lanes because of overgrowth and trash blocking the right of way. Another business owner said the district does not feel safe at night. Another described it as the graveyard for junked cars in New Orleans.

The business owners argue that tax revenues collected in the district should be used to address these problems. They believe that any effort to recruit businesses to the area is a waste of time until the city and the Business Park provide a foundation of functioning infrastructure and reliable city services.

As matters stand, businesses in the past have paid a significantly higher millage rate than others in the city at large, only to receive a poor level of infrastructure and services. They are located in a business park that lacks the basics needed to attract businesses.

Another argument against the tax is that it generates too

little revenue to address these fundamental problems. Given the scale of the infrastructure and service delivery problems reported by businesses in the district, it is doubtful that even a reformed and re-energized management entity could fix the problems. In 2011, the Business Park projected its total revenue from the tax, rent and other sources to be \$613,000.²⁸ Even if it devoted its entire budget to infrastructure and services, rather than staffing and business recruitment, the Business Park could make only very minor improvements in the district.

A comparison with the Downtown Development District (DDD), another special taxing district designed to spur economic development, highlights the point. In 2011, the DDD, which covers a much smaller land area, levied a tax of 14.8 mills, seven mills less than the Business Park's 2011 tax. Yet the DDD's millage generated nearly 20 times more revenue than the Business Park's.²⁹ The DDD uses a sizable portion of those funds – \$3.5 million of the \$4.5 million collected – to provide public safety and beautification services in the district.

Because the Business Park's administrative costs consume so much of its budget, and the millage generates insufficient funds for significant service upgrades or infrastructure improvements, the taxing district fails to promote economic development. On the contrary, the taxing district is actually a disincentive to economic development in the area. In 2011, the tax amounted to a 14 percent surcharge on the real property tax bills of businesses in the district.

BGR Position

AGAINST: The New Orleans Regional Business Park has accomplished little. Those who pay the tax have not benefited from it, in the form of either infrastructure or services. In addition, the tax is inadequate to address the problems in the district. If anything, it acts as a disincentive to development.

PLAQUEMINES, ST. BERNARD AND ST. TAMMANY PARISHES: PROPERTY TAX EXEMPTION FOR DISABLED VETERANS

What It Would Do

Currently, owner-occupied properties benefit from a homestead exemption that shields the first \$7,500 of assessed value (\$75,000 of market value) from property taxes. On October 22, voters in Plaquemines, St. Bernard and St. Tammany parishes will decide whether to exempt an additional \$7,500 of assessed value for properties owned and occupied by a veteran with a service-related disability rating of 100 percent, or his surviving spouse. Together, the exemptions for qualifying homeowners would total \$15,000 of assessed value (\$150,000 of market value).

Background and Analysis

Last year, Louisiana voters amended the state constitution to give parishes the option to double the homestead exemption for veterans with a service-related disability rating of 100 percent and their surviving spouses. The constitution requires parishwide voter approval for the increase and prohibits roll-forwards to make up any revenue loss.

Disabled veterans, like other homeowners, benefit from the homestead exemption. In addition, veterans with a service-connected disability rating of 50 percent, their surviving spouses and spouses of servicemen killed in action are eligible for an assessment freeze if their income falls below a certain threshold.³⁰ The proposed amendment would expand on these existing benefits by exempting an additional \$7,500 of assessed value for veterans with disability ratings of 100 percent and their surviving spouses. Income would not be a factor.

Proponents of the measure argue that the benefit is a way of recognizing the sacrifices made by members of the armed forces who have been totally disabled in military service.

However, the measure would not benefit all veterans with disability ratings of 100 percent. Rather, it would

apply to a limited subset: those who own their own homes. Disabled veterans and their surviving spouses who rent would not benefit. Nor would spouses of service members killed in action.

The financial impact on local governments would be small. The St. Tammany Parish assessor's office estimates that the added exemption would cost tax-recipient bodies no more than \$30,000 per year. The Plaquemines Parish assessor's office estimates that just six property owners would be eligible for the benefit, at a cost of \$1,900 per year to tax-recipient bodies. The St. Bernard Parish assessor was unable to estimate the number of beneficiaries and the cost to taxpayers.

BGR Position

AGAINST. BGR believes that members of the military who are severely disabled while serving their country deserve government assistance. Nevertheless, BGR opposed the constitutional amendment considered last fall, and it opposes its implementation in Plaquemines, St. Bernard and St. Tammany parishes. The reasons are threefold. First, BGR has historically opposed any expansion of the homestead exemption. Second, assistance for disabled veterans should come from the federal government, rather than the state or local governments. Third, the benefit would be available to only a subset of 100 percent disabled veterans: those who own their homes. The amendment would provide no benefit to similarly disabled veterans who rent, or even to spouses of service members killed in action.

STATE CONSTITUTIONAL AMENDMENT 1: MILLENNIUM TRUST FUND

What it Would Do

Currently, payments from the state's 1998 settlement agreement with tobacco companies are deposited into the Millennium Trust Fund (the Millennium Trust). The earnings from the trust's corpus are distributed equally among three funds: the Taylor Opportunity Program for Students (TOPS) Fund, the Health Excellence Fund

(Health Fund) and the Education Excellence Fund (Education Fund). The amendment would cap the Millennium Trust's corpus at \$1.38 billion, its level at the start of fiscal 2011, and direct future payments exclusively to the TOPS Fund. It would make the future payments available for immediate spending.

The amendment would also continue a four-cent cigarette tax scheduled to expire at the end of the 2012 fiscal year and dedicate all revenue from it to the Health Excellence Fund. Currently, the revenue from that tax goes to the state general fund.

Background and Analysis

TOPS. In 1998, the nation's major tobacco companies reached a master settlement agreement with 46 states. The agreement required the companies to make annual payments to the states to compensate them for health care costs related to tobacco use. In 2001, Louisiana securitized 60 percent of its revenue stream for more than \$1 billion. It deposited the majority of this money into the newly created Millennium Trust.

Louisiana will continue to receive annual payments from the settlement until at least 2051. Sixty percent is committed to paying off the bonds issued in the 2001 securitization. Of the monies remaining after debt service, 25% is dedicated to the Louisiana Fund, which supports Medicaid and various health care initiatives. The remaining 75%, currently around \$40 million a year, is deposited into the Millennium Trust, where it is split evenly between the trust's three funds. The corpus cannot be spent. Earnings are split three ways and can be spent.³¹

The proposed amendment would change the distribution of future annual tobacco settlement payments to the Millennium Trust. The annual payments would go entirely to the TOPS Fund. The Legislature could immediately appropriate the payments to support the TOPS program.

All three of the Millennium Trust's funds would continue to receive investment earnings on the trust's existing corpus. However, the earnings would not increase at the

same rate as they would have had the Millennium Trust's corpus continued to receive tobacco settlement payments.

To offset the revenue loss to the Health Excellence Fund, the amendment would renew and dedicate to that fund a four-cent per pack cigarette tax. There is no offsetting revenue source for the Education Excellence Fund. It would simply receive less money than it otherwise would have.

TOPS is a merit-based tuition assistance program for Louisiana students attending the state's public and private higher education institutions.³² The intent of the program is to keep Louisiana's highest performing students in the state for college and beyond, foster and reward academic achievement, promote higher education opportunities, and promote a rigorous high school academic curriculum.

At a minimum, TOPS covers full tuition at Louisiana public higher education institutions and provides an amount equivalent to the public tuition toward private school tuition within Louisiana. To qualify for TOPS, Louisiana high school students must meet certain academic standards, including a minimum 2.5 GPA and baseline ACT scores, and must complete a core curriculum of courses. To keep the benefit during college, TOPS recipients must maintain a cumulative GPA of at least 2.5 and remain enrolled full-time.³³ High-achieving students may receive a stipend in addition to tuition assistance, but must maintain a higher GPA.

The vast majority of TOPS' annual funding comes from discretionary appropriations from the Legislature. In 2011, the Legislature appropriated \$154.4 million for TOPS. Only 10 percent came from the TOPS Fund; \$138.5 million came from the state general fund and other state resources.³⁴

The number of TOPS recipients has hovered around 43,000 the last five years, and the Louisiana Office of Student Financial Assistance expects the number of recipients to remain relatively constant over the next five years. However, the program's costs are expected to rise dramatically by 2014 due to escalating tuition costs. In 2011, TOPS had total costs of \$144 million.³⁵ Costs are projected to reach \$188 million by 2014.³⁶

The Legislature has always fully funded TOPS, although it is not required to do so. Throughout the 14-year history of the program, every qualified student has received full benefits. However, the amendment's supporters put forward the measure because the state's bleak budget picture, coupled with TOPS' rising costs, could lead the Legislature to scale back the program. The additional funding that the amendment would provide the TOPS program would reduce the amount of discretionary funding needed to fund the program in its current form.

If the amendment passes, the Health Fund and the Education Fund would receive earnings only from the Millennium Trust's existing corpus, and not from future tobacco settlement proceeds. Each fund would receive \$1 million less than anticipated in 2013. The cumulative revenue loss from the foregone earnings to each fund is estimated at \$6.5 million by 2016.

The Health Fund provides funding for child health care services and other public health programs.³⁷ The state currently directs all appropriations from the fund, which totaled \$15 million in 2011, to the Louisiana Children's Health Insurance Program.³⁸ The program is part of Medicaid and provides health care to uninsured children.

As noted previously, the amendment would provide an offsetting revenue source for the Health Fund by dedicating the revenue from a cigarette tax. The tax generated \$12.1 million in fiscal 2011 and is expected to generate \$12 million annually through 2016.³⁹ It would more than cover the Health Fund's lost investment earnings for at least the next 10 years.⁴⁰

The amendment would not provide an offsetting revenue source for the Education Fund. That fund supports an array of educational services across the state.⁴¹ The vast majority of the fund's income is distributed to public school systems and charter schools across the state.⁴² Schools that receive the funding must spend it on pre-kindergarten through 12th grade instructional programs. In 2011, the fund provided more than \$15 million to schools.⁴³ If the amendment passes, annual appropriations are expected to remain relatively constant at \$15 million, rather than increasing as they would have otherwise.

The Education Fund provides only a small fraction of state primary and secondary education funding. The \$3.32 billion provided by the Minimum Foundation Program supplied the bulk of state funding for elementary and secondary education in fiscal 2011.⁴⁴

Supporters of the amendment say that TOPS is critical to retaining the state's brightest young minds. Doing so, they say, improves the state's economic and business environments in the long-run. However, the state does not collect data that would indicate whether TOPS recipients remain in Louisiana following graduation.

Supporters also argue that TOPS is a valuable program because it is merit-based, and thereby promotes and rewards academic excellence. A student must obtain a 2.5 GPA, a C+ average, to qualify for full tuition assistance.

Supporters point to research from the state's Board of Regents that shows TOPS recipients are more likely to stay enrolled in college and graduate sooner than non-TOPS recipients. The research shows that 57 percent of TOPS recipients graduate within six years, compared to 20 percent of students who do not receive TOPS.⁴⁵ It is not clear, however, that the higher rate is the result of the TOPS program. The TOPS graduation rate is slightly above the U.S. average of 55 percent for all students.⁴⁶

TOPS has no income restrictions. It provides tuition assistance to students from families that could afford to pay for college without the scholarship. In 2009, 36 percent of TOPS recipients came from families with annual incomes of \$100,000 or more; 16 percent came from families with incomes above \$150,000.⁴⁷ Even students from families with multimillion-dollar incomes can qualify for the program.

Proponents are seeking the amendment to help the Legislature cope with the rising cost of the program. This raises the question of whether the program should be adjusted to make it more affordable for the state. Options for reducing the cost include raising eligibility standards, imposing income limits, paying less than full tuition and restricting the scholarship to public universities.

The proposed amendment is troubling for a number of reasons. First, the proceeds of the tobacco settlement constitute an extraordinary revenue source. At the time of the tobacco settlement, the state wisely decided to set aside the proceeds and conserve them in a trust on a permanent basis. The proposed amendment would eliminate this restriction and allow the state to expend future proceeds as they are received. In effect, it would treat this extraordinary revenue as regular income and allow the Legislature to use it to meet a recurring expense.

Second, it combines two matters – the imposition of a cigarette tax and a rededication of funds to TOPS – in one measure. Voters should have been given the opportunity to vote on each separately.

Cigarette Tax. In 2011, the Legislature voted to renew a four-cent cigarette tax scheduled to expire in June 2012, but the governor vetoed the measure. The proposed amendment would in essence renew that tax and dedicate it to the Health Fund. Supporters of the tax point out that it will provide more to the Health Fund than it would otherwise receive. This will enable the state to leverage more federal dollars to fund Medicaid programs for children.

BGR notes that the same result could be achieved without a constitutional amendment, since a cigarette tax can be imposed by legislation.

Cigarette taxes in Louisiana total only 36 cents.⁴⁸ The state has the third lowest cigarette taxes in the U.S.⁴⁹

BGR Position

AGAINST. The proceeds of the tobacco settlement constitute an extraordinary revenue source that should not be consumed to meet ordinary recurring expenses such as TOPS. The proceeds of the settlement should be conserved in the Millennium Trust Fund and expenditures from that fund restricted to earnings only.

BGR's opposition to this amendment relates to the funding source and should not be interpreted as a statement of opposition to the TOPS program itself.

STATE CONSTITUTIONAL AMENDMENT 2: STATE RETIREMENT SYSTEMS' UNFUNDED LIABILITY

What it Would Do

The amendment would require the state to use a portion of nonrecurring revenue to pay down the initial unfunded accrued liability of two state retirement systems: the Louisiana State Employees' Retirement System (LASERS) and the Teachers' Retirement System of Louisiana (TRSL). At least 5 percent of any nonrecurring revenue would have to be applied to that purpose in fiscal years 2014 and 2015. In 2016, the amount would rise to 10 percent.

Background and Analysis

Unfunded accrued liability is a measure of the solvency of a pension fund. It essentially shows how much more money the system needs to pay for all of the benefits it has promised to date.

In 1987, voters amended the constitution to address the unfunded accrued liabilities of the four state retirement systems.⁵⁰ The amendment required the Legislature to pay off the unfunded accrued liability that existed as of June 30, 1988, by 2029.⁵¹ That liability is referred to as the IUAL.⁵²

In 1988, the Legislature created a 40-year payment schedule to address the obligation.⁵³ That schedule was back-loaded, with major payments pushed into the future. For around the first 15 years, the payments were less than what was needed to keep up with the escalating obligations.⁵⁴ Consequently, the total IUAL of two systems, LASERS and TRSL, rose from \$5.8 billion in 1988 to \$9.8 billion in 2010; \$7 billion of that amount is for TRSL.⁵⁵

Currently, only LASERS and TRSL have an IUAL. The state owes increasingly steep payments to them from now through 2029. The state is scheduled to pay \$719 million for the systems' IUAL in 2011 and \$1.29 billion by 2028.⁵⁶

The IUAL is only a portion of the pension systems' unfunded accrued liabilities. For a variety of reasons, including cost-of-living adjustments and investment losses, TRSL and LASERS both have significant post-1988 unfunded accrued liabilities. As of fiscal 2010, TRSL's total unfunded accrued liability was \$10.8 billion and its funded ratio was 54.4 percent.⁵⁷ LASERS had a total unfunded accrued liability of \$6.3 billion and a funded ratio of 57.7 percent.⁵⁸

The amendment is an attempt to deal with part of the pension systems' problems, and the state's growing obligation, by forcing the Legislature to apply a portion of non-recurring revenue to the systems. State budget surpluses are the most regular type of nonrecurring revenue.⁵⁹

Currently, the constitution allows the Legislature to use nonrecurring revenue for six purposes, including payments against the unfunded accrued liability of the state's public retirement systems. Other eligible uses include payments of state bonds; funding for capital outlay projects; deposits into the Budget Stabilization Fund; deposits into the Coastal Protection and Restoration Fund; and payments for new highway construction that can be used as matching funds for federal aid.⁶⁰ The Budget Stabilization Fund is entitled to 25 percent of nonrecurring revenue.⁶¹ The Legislature decides the allocation of the balance among the remaining five uses.

Whether the amendment would have a significant impact on the systems' IUAL is unclear. According to the state treasury, no revenue surpluses are estimated during the next five years. However, the state's Legislative Fiscal Office expects the systems to receive some revenue from the amendment. The state has run surpluses in 16 of the last 24 years.⁶² The amount of those surpluses has varied widely during the past 10 years, from a low of \$18 million in 2002 to a high of \$1.1 billion in 2007.⁶³

Supporters of the amendment cite the need to address the state's unfunded liabilities sooner rather than later. They point out that if the state makes higher upfront payments on the IUAL, it will pay less in interest over the long-term.

Supporters also argue that unless the constitution forces legislators to use budget surpluses to pay down the systems' IUAL, spending on more popular items will take precedence.

Opponents recognize the importance of paying down the IUAL of the state's retirement systems. However, they do not support adding another revenue dedication. They cite excessive dedications as a problem that already handicaps the Legislature's ability to meet fiscal demands as they arise. They also do not believe that the retirement systems should take precedence over coastal restoration, one of the other possible uses for nonrecurring revenue. They point out that concerted coastal restoration efforts are vital to ensuring the state's long-term viability.

Even if the amendment passes, there is nothing to keep legislators from appropriating up to 70 percent of state surpluses to coastal restoration in the next two years and 65 percent in any year thereafter.

BGR Position

FOR. The amendment could help to alleviate the state's significant long-term pension obligations.

STATE CONSTITUTIONAL AMENDMENT 3: PATIENT'S COMPENSATION FUND

What it Would Do

Currently state law establishes the Patient's Compensation Fund (the Compensation Fund) and explicitly states that the monies in it are self-generated, private funds – not state monies. The proposed amendment would make that point in greater detail in the Louisiana constitution and specify in no uncertain terms that the Legislature cannot appropriate funds from it.

The amendment would allow the Legislature to appropriate money to the fund, while making clear that the state is not responsible for any of its legal obligations.

The amendment also states that the Compensation Fund is ineligible to participate in any type of guaranty fund or insolvency fund.

Background and Analysis

The Compensation Fund was created by state statute in 1975 as part of a legislative package designed to rein in medical malpractice insurance rates, attract high-quality health care providers to the state and help lower costs for patients.⁶⁴ It is held in trust for the benefit of medical malpractice claimants and participating private health care providers.

The Compensation Fund receives its funding from annual fees paid by participating health care providers in the state.⁶⁵ Those who participate have their total liability (exclusive of future medical care, related costs and interest resulting from delayed payments) in malpractice cases capped at \$500,000.⁶⁶ In addition, they or their insurers pay only the first \$100,000 of a judgment or settlement.⁶⁷ The Compensation Fund pays the balance.⁶⁸

Health care providers who do not contribute to the Compensation Fund receive no such protections. Their liability in malpractice cases is not capped and they are responsible for the full amount of the judgment or settlement.⁶⁹ The Compensation Fund currently covers approximately 17,000 providers in the state.⁷⁰

The proposed amendment is intended, among other things, to protect the integrity of the fund from the perceived risk of appropriation by the Legislature. In recent years, the Legislature has appropriated for the State's general fund excess revenue dedicated by state law to certain purposes. The Louisiana Public Service Commission brought a suit challenging the practice, but the suit was dismissed.⁷¹ The court held that the plaintiffs had failed to identify a constitutional or statutory limitation on the Legislature's exclusive authority to appropriate public funds.

The amendment's supporters are concerned that the

case implies that the Legislature can make appropriations from the Compensation Fund as well, and that the fund's autonomy needs to be established in the constitution to protect it.

Whether those concerns are justified and, if so, whether they warrant a constitutional amendment, is another issue. Current law governing the Compensation Fund specifically recognizes that the fund money is private, rather than public, and can be used solely for medical malpractice claims.⁷² It states: "Neither the fund nor the board shall be a budget unit of the state. The state recognizes and acknowledges that the fund and any income from it are not public monies, but rather are private monies ... for the use, benefit and protection of medical malpractice claimants, and the fund's private health care provider members"

The proposed amendment would allow the Legislature to appropriate state funds to the Compensation Fund. Proponents have indicated that they are seeking to provide a safety net in case of any future funding crisis, the result of which could lead to higher rates and fewer health care options statewide. Proponents view such appropriations as unlikely to occur.

Under current state law, if at any time the fund would be depleted by full payments to all victims, the payments would be prorated to ensure the solvency of the fund.⁷³ The amendment would essentially give the Legislature the option of bailing out the Compensation Fund during such a crisis.

BGR Position

FOR. BGR supports the amendment because it would provide an additional layer of protection for the Compensation Fund. To avoid a multitude of similar amendments in the future, the Legislature's ability to appropriate money collected for specific purposes should be addressed in a comprehensive manner.

STATE CONSTITUTIONAL AMENDMENT 4: BUDGET STABILIZATION FUND

What it Would Do

Currently, the constitution requires the state to deposit all mineral revenues in excess of a base amount (Excess Revenues) into the Budget Stabilization Fund (Stabilization Fund) each year until the fund reaches its cap.

Under the proposed amendment, if the Legislature were to make a withdrawal from the Stabilization Fund, deposits of Excess Revenues would be halted for the year of the withdrawal and the following year. Thereafter, deposits would resume. However, for the next three years, the amount of the deposit would be limited to one-third of the amount of the last withdrawal until the entire amount is repaid or the constitutional cap on the size of the fund is reached.

The repayments would occur on that schedule even if a subsequent withdrawal from the Stabilization Fund occurred during the repayment period. Those withdrawals would be subject to the repayment process as well.

Background and Analysis

The Legislature created the Stabilization Fund, also known as the state's rainy day fund, in 1990.⁷⁴ The fund provides legislators and the governor with a means of addressing budget shortfalls. Forty-five states have such funds, which they stock during times of revenue surpluses to address budget deficits in lean times.⁷⁵

Louisiana's Stabilization Fund receives revenue from four sources: forecast revenue in excess of the state's expenditure limit; Excess Revenues;⁷⁶ 25 percent of any nonrecurring or one-time revenues; and voluntary legislative appropriations.⁷⁷

The constitution caps the total amount in the Stabilization Fund at 4 percent of total state revenue from the previous year (the Cap).⁷⁸ When the fund reaches that level, revenues that would otherwise flow to it are available for general purposes. The Cap for fiscal 2011 was

\$801 million.⁷⁹ The current balance of the Stabilization Fund is \$646 million.⁸⁰

The Legislature can tap the Stabilization Fund in two instances: when the state's official forecast of recurring revenue for the next fiscal year is lower than the forecast for the current year;⁸¹ or when a revenue shortfall arises in the current year due to a decrease in the state's revenue forecast.⁸²

In both cases, two-thirds of the Legislature must approve the withdrawal from the Stabilization Fund. A maximum of one-third of the total amount in the Stabilization Fund can be used over the course of two consecutive fiscal years.⁸³ Once the Legislature withdraws money, the state must replenish the fund with Excess Revenues and other eligible funding sources as they become available.

In the 21 years since the Stabilization Fund was created, the Legislature has tapped it three times: In fiscal 2003, it withdrew \$86 million; in 2006, \$154 million; and in 2010, \$285 million.⁸⁴

The proposed amendment would slow down the replenishment of the fund. It comes in response to a situation that arose late in fiscal 2010, when the state's revenue forecast experienced a sudden, unanticipated drop, leaving the state with a deficit that it had to address before the end of the year. To balance the budget, the Legislature approved a withdrawal of nearly \$200 million from the Stabilization Fund. The withdrawal triggered an obligation to replenish the fund. At the time, there were Excess Revenues, but legislators, not anticipating a budget deficit, had already appropriated them for general fund use.

In response to this situation, the Legislature ignored the constitutional requirements and instead followed a 2009 statute that prohibits deposits into the Stabilization Fund in the same year that the Legislature makes a withdrawal. The statute also prohibits deposits until state revenue forecasts exceed actual general fund collections for fiscal 2008.⁸⁵ In 2008, revenue was at a historic high of more than \$10 billion.⁸⁶

The Legislature's action led to an as-yet unresolved lawsuit seeking a declaratory judgment and permanent injunction against the application of the 2009 statute on the grounds that it is unconstitutional. The lawsuit also alleges that close to \$200 million is owed to the Stabilization Fund.⁸⁷

The amendment would address the problem that the Legislature encountered in fiscal 2010. It would also eliminate the possibility that the state would be required to deposit Excess Revenues into the rainy day fund even as it withdraws from it, partially or completely negating the budgetary impact of the withdrawal. In 2010, the amount of the Excess Revenues was greater than the withdrawal from the Stabilization Fund, meaning the fund should have been repaid in full once the state drew down on it.⁸⁸

Supporters assert that the amendment will allow the Stabilization Fund to be used for its intended purposes; namely, stabilizing the budget. They suggest that the constitution currently prevents legislators from using all available resources to balance the budget in times of fiscal distress. This goes against the rationale of the Stabilization Fund.

This is a valid argument for the year in which the fund is tapped and possibly the year thereafter. However, reducing required payments to the fund over a five-year period is harder to justify.

BGR notes that there is a more direct and comprehensive way to address the structural flaw that created the problem in 2010: eliminating or raising the Cap on the Stabilization Fund. Without the Cap, Excess Revenues would flow into the fund without ever entering the annual budgetary picture.

Forty-five states have rainy day funds. Five of them do not have caps. Caps in other states range from 4 percent to 20 percent, with an average of 8.7 percent.⁸⁹ Louisiana's cap, at 4 percent of total revenue, is at the bottom and may be inadequate to help the state weather prolonged downturns.

BGR Position

AGAINST. While the amendment would eliminate an anomaly that can neutralize the benefits of tapping into the Stabilization Fund, the obligation to replenish the fund should not be delayed for more than a year.

STATE CONSTITUTIONAL AMENDMENT 5: TAX SALES

What it Would Do

The constitutional provision governing tax sales currently contains a section on re-sales that applies only to municipalities with a population of more than 450,000. The amendment would replace this population-based reference, which was intended to apply only to the City of New Orleans, with a direct reference to the City of New Orleans.

Background and Analysis

If a property owner does not pay his taxes by year end, the tax collector can include the tax-delinquent property in a tax sale. At such sales, the tax collector determines the amount of taxes, interests and costs owed on the property. He then sells the smallest interest in the property that a bidder is willing to accept in exchange for a payment equal to that amount.⁹⁰

If no bidder is willing to offer the minimum price for a property, it is adjudicated to the municipality or parish to which the taxes are owed. The tax collector can then re-offer the property at a subsequent sale. In the case of a municipality with a population of more than 450,000, the sale can proceed without a minimum bid.⁹¹ In the case of other jurisdictions, the minimum bid must equal at least two-thirds of the property's appraised value. If the property fails to sell again, the minimum bid is reduced to one-third of the appraised value.⁹²

The resale provision for municipalities with populations of more than 450,000 was intended to apply to New Orleans, the only city that met that threshold when

it was enacted in 1997.⁹³ As a result of the devastation wrought by Hurricane Katrina and the levee breaks, the city's population has fallen below the threshold, making it ineligible to hold tax sales without setting a minimum bid. The proposed amendment would correct this and bring the language in the constitution into alignment with current realities.

The amendment would not change any aspect of the tax sale or adjudication process.

Not making the change, on the other hand, could impede the city's ability to address blight by slowing down the disposition process and increasing costs. It could also impede the city's ability to collect at least some revenue from tax-delinquent properties in instances when the obligation owed to the city exceeds the value of the property.

A majority of voters both statewide and in the City of New Orleans would need to approve the amendment for it to become law.⁹⁴

BGR Position

FOR. The amendment maintains current law facilitating the tax sale process in New Orleans.

NOVEMBER 19 BALLOT

ORLEANS PARISH CHARTER AMENDMENT: PUBLIC BELT RAILROAD COMMISSION

What it Would Do

The Public Belt Railroad Commission (the Commission) that governs and oversees the Public Belt Railroad is currently composed of the mayor and 16 appointed members who serve 16-year terms.⁹⁵ All of the Commission members must reside in and be taxpayers of the city.⁹⁶ The mayor is the president of the Commission.

The proposed amendment to the Home Rule Charter of the City of New Orleans would reduce the number of members on the Commission from 17 to 10. It would remove the current requirement that Commission members reside in and pay taxes in New Orleans. The criteria for member appointments would be set forth by ordinance.

Background and Analysis

The Public Belt Railroad is one of the city's nine unattached boards and commissions.⁹⁷ It owns and maintains approximately 123 miles of track in and around New Orleans, as well as the Huey P. Long Bridge. The city created the Public Belt to ensure that no single private rail company could control the railroad lines connecting the Port of New Orleans to freight lines across the U.S., leaving access open to multiple lines. It connects freight railroad lines with the port. Currently, the Public Belt links all six of the large, Class 1 railroad companies with the port.⁹⁸

The Public Belt does not generate direct revenue for the city, and the city does not provide it with funding. In 2010, the Public Belt's income totaled \$3.2 million. However, without revenue from one-time grants and investments, the Public Belt would have operated at a loss.⁹⁹

The proposed charter amendment would significantly shrink the size of the Commission, to nine appointed commissioners plus the mayor. It would remove the

residency requirement for members. The members would be appointed based on a process set forth in a city ordinance.

The charter amendment is part of an effort by the mayor to reform the Public Belt in the wake of recent scandals at the organization. A 2010 audit by the Louisiana Legislative Auditor found that Public Belt management, as well as some Commission members, used Public Belt assets and financial resources in violation of state law.¹⁰⁰ These violations included regular misuse of the Public Belt's business rail cars, credit cards and vehicles.¹⁰¹ In September 2010, following the release of the audit, the general manager of the Public Belt resigned. Mayor Landrieu, with approval from the City Council, then completely remade the Commission by appointing 16 new members. The mayor tasked the new members with creating a plan to reform the Commission and provide the Public Belt with better oversight and management.

In May 2011, the Commission recommended reorganizing its governance by reducing its size to 10 members, shortening the length of terms from 16 years to four years and revising the appointment process.¹⁰²

Implementing the charter amendment would require modifications to both state and local law. During the 2011 Regular Session, the Louisiana Legislature amended state law to reduce the number of appointed Commission members from 16 to nine, shorten their terms to four years and allow non-New Orleans residents to serve on the Commission. Terms would be staggered.¹⁰³

The act would go into effect once New Orleans voters approve the charter amendment. City Council would have to amend the city code to mirror the changes in state law and to change the appointment process. Currently, the city code directs the mayor, with approval of the City Council, to appoint 10 of the 16 appointed Commission members based on recommendations from business organizations in the city. The Commission itself appoints six members.¹⁰⁴

At this time, there is no draft ordinance detailing how

the appointment process would change. If the City Council followed the recommendations of the Commission, the mayor, with City Council approval, would directly appoint three citizen members. To appoint the other six members, six groups would each put forward three nominations, from which the mayor would choose one member. The six nominating groups would be the New Orleans Chamber of Commerce; the New Orleans Black Chamber of Commerce; the New Orleans Board of Trade; the Business Council of New Orleans and the River Region; the Dock Board; and, collectively, the presidents of Dillard, Loyola, Tulane and Xavier universities.

Supporters of the proposition assert that reducing the size of the Commission will help to create a more engaged board. They say former Commission members were disengaged, resulting in a lack of oversight and financial problems. They argue that the size of the board and lengthy terms meant that individual members felt detached from and eventually lost interest in their work on the Commission.

Supporters assert that the 10-member board is a more appropriate size, comparing it to other transportation boards on both the local and national levels. They cite as an example the New Orleans Aviation Board. It has nine members who serve five-year terms.¹⁰⁵ They also cite the Board of Commissioners of the Port of New Orleans, which has seven members who serve five-year terms.¹⁰⁶ A report by the Transportation Research Board found that most transportation-oriented boards are composed of nine members who serve terms of no more than five years.¹⁰⁷

Supporters also tout the removal of the residency requirement, saying it will allow the mayor to select from a broader range of qualified nominees. Members from neighboring parishes could also provide the Commission with a more appropriately regional perspective. This is especially pertinent for Jefferson Parish, which contains significant portions of the Public Belt's tracks.

Critics of the amendment argue that the newly con-

stituted Commission would be too small to form adequately sized oversight committees. They believe individual members would be forced to serve on multiple committees, spreading them too thin and resulting in weaker oversight. Proponents believe that the smaller Commission will have enough members to form an adequate number of committees with at least three members each.

Opponents' main concerns relate to the companion legislation and the appointment process, rather than the proposed amendment. They state that the new nominating structure proposed by the Commission would grant the mayor too much power over it. With his vote and the likely support of the three appointments over which he has total discretion, the mayor would need only one more vote to block any action. They believe the mayor has too much sway over the Commission under the current structure and that the reforms should reduce, not increase, his influence over the board.

It is worth noting that the amendment would shift the board from an odd number of members to an even number. Boards and commissions are usually composed of an odd number of members, because an even number increases the chance of deadlock.

BGR Position

FOR. The amendment is a good step toward creating a more engaged Commission.

JEFFERSON PARISH: PROPERTY TAX EXEMPTION FOR DISABLED VETERANS

What it Would Do

Currently, owner-occupied properties benefit from a homestead exemption that shields the first \$7,500 of assessed value (\$75,000 of market value) from property taxes. Voters in Jefferson Parish will decide whether to exempt an additional \$7,500 of assessed value for properties owned and occupied by a veteran with a service-related disability rating of 100 percent, or his

surviving spouse. Together, the exemptions for qualifying homeowners would total \$15,000 of assessed value (\$150,000 of market value).

Background and Analysis

Last year, Louisiana voters amended the state constitution to give parishes the option to double the homestead exemption for veterans with a service-related disability rating of 100 percent and their surviving spouses. The constitution requires parishwide voter approval for the increase and prohibits roll-forwards to make up any revenue loss.

Disabled veterans, like other homeowners, benefit from the homestead exemption. In addition, veterans with a service-connected VA disability rating of 50 percent, their surviving spouses and spouses of servicemen killed in action are eligible for an assessment freeze if their income falls below a certain threshold.¹⁰⁸ The proposed amendment would expand on these existing benefits by exempting an additional \$7,500 of assessed value for veterans with disability ratings of 100 percent and their surviving spouses. Income would not be a factor.

Proponents of the measure argue that the benefit is a way of recognizing the sacrifices made by members of the armed forces who have been totally disabled in military service.

However, the measure would not benefit all veterans with disability ratings of 100 percent. Rather, it would apply to a limited subset: those who own their own homes. Similarly disabled veterans and their surviving spouses who rent would not benefit. Nor would spouses of service members killed in action.

The Jefferson Parish assessor's office could not provide a precise estimate of how many property owners would be eligible for the benefit. However, it reported that this year 93 property owners qualified for the assessment freeze for veterans with at least a 50 percent disability rating. According to the assessor's office, if all of those property owners were 100 percent disabled, approval of the measure would cost tax-recipient bod-

ies in the parish approximately \$41,000 in revenue.

BGR Position

AGAINST. BGR believes that members of the military who are severely disabled while serving their country deserve government assistance. Nevertheless, BGR opposed the constitutional amendment considered last fall, and it opposes its implementation in Jefferson Parish. The reasons are threefold. First, BGR has historically opposed any expansion of the homestead exemption. Second, assistance for disabled veterans should come from the federal government, rather than the state or local government. Third, the benefit would be available to only a subset of 100 percent disabled veterans: those who own their homes. The amendment would provide no benefit to similarly disabled veterans who rent, or even to spouses of service members killed in action.

STATE CONSTITUTIONAL AMENDMENT: TRANSFER AND SALES TAXES ON IMMOVABLE PROPERTY

What it Would Do

The amendment would prohibit the state or any local government in Louisiana from levying any new tax or fee upon the sale or transfer of immovable property. The prohibition would not apply to fees charged to cover the cost of recording, filing, or maintaining property documents or records, nor would it apply to parcel fees or ad valorem property taxes. Existing real estate sales or transfer taxes could remain in place.

Background and Analysis

Nationwide, 37 states impose some form of real estate transfer tax.¹⁰⁹ These taxes are generally a percentage of the total sale price of a property and are paid at the time of sale by either the seller or the buyer. Taxes in most states are less than 1 percent of the sale or transfer price.

Louisiana does not levy any transfer or sales taxes on

real estate, and the City of New Orleans is the only local government in the state that does so. New Orleans charges a flat documentary transaction tax of \$325 on all property transfers.¹¹⁰ The tax generated \$4 million for the city in 2010 and is expected to generate \$4.4 million in 2011.¹¹¹

New Orleans' current tax would not be affected by the amendment. However, it is unclear whether the amendment would prevent the city from increasing the amount of the tax.

The amendment's supporters argue that the amendment is needed because transfer taxes could make the state's real estate market less competitive, especially since neither Texas nor Mississippi imposes such a tax.

Supporters of the amendment argue that, since most homeowners pay property taxes, transfer and sales taxes constitute double taxation on the value of the property. They also argue that transfer taxes are unfair because they are levied only on the small number of people who sell or transfer property in a given year.

Amendment proponents further contend that new transfer taxes could reduce the affordability of property and keep many potential homebuyers out of the market. The taxes are typically included in the closing costs of a property sale and must be paid immediately. A study commissioned by the Louisiana Realtors Association claims that a statewide 1 percent transfer tax would have resulted in 5,556 fewer Louisiana home purchases, based on 2008 housing figures.¹¹²

Other studies have also found a negative correlation between transfer taxes, on the one hand, and home prices and sales on the other. A study evaluating the effect of a 1.1 percent transfer tax in Toronto found that the imposition of the tax caused a 16 percent decline in single-family home sales and a 1.5 percent decrease in home values.¹¹³ The study also concluded that the tax significantly reduced the ability of many low- and middle-income families to move from houses they would otherwise sell.

None of the studies that BGR reviewed address the impact of a smaller tax. As noted previously, the transfer taxes in most states are below 1 percent. The city's current tax is .17 percent of the median price of a home sold on the East Bank of New Orleans in the first seven months of 2011.¹¹⁴

BGR's own review of census data indicated that there was less than a 2 percent difference in the average rate of homeownership for states with statewide transfer taxes and those without. It should be noted, however, that numerous other factors affect the rate of homeownership.

The proposed amendment appears to be another unnecessary change to the state constitution. It arises from a concern that the state or local governments might be tempted to impose new property transfer fees or taxes, thus depressing real estate sales. Even in the midst of its budget issues this year, the Legislature did not propose levying a statewide tax of that type. Proponents were unable to identify any current efforts, much less a trend, to impose transfer taxes at the local level. In addition, levying a transfer tax would require a two-third vote of the Legislature in most, if not all, cases.¹¹⁵

BGR has consistently opposed efforts to reduce the ability of local taxing authorities to raise revenue. In order to develop a stable, fair revenue base, local governments need access to a variety of revenue options. Judgments as to the impact of a revenue-raising measure on the local populace and markets are most appropriately made at that level.

BGR Position

AGAINST. The imposition of a real estate transfer tax may or may not be appropriate, depending on the size of the tax and other factors. Regardless, it is not necessary for the state to prevent itself – and local governments – from making this choice.

END NOTES

- 1 Jefferson Parish Council, Ordinance No. 24,011, adopted May 11, 2011. The ordinance also creates the Ethics and Compliance Commission, but it does not significantly expand upon the powers that would be granted it in the charter amendment. In addition, the ordinance amends the parish's ethics laws to account for the creation of the new Ethics Commission.
- 2 The ordinance states that the Inspector General should have, at minimum, a degree from a four-year institution of higher learning and five years of combined experience as an inspector general, a federal law enforcement officer, a federal or state court judge, a licensed attorney with relevant expertise, a senior level auditor or comptroller, or a supervisor in an office of inspector general or some similar organization. Highly qualified candidates would have managed complex investigations and would hold an advanced degree in a relevant field. The chosen candidate must hold at appointment professional certification as a certified inspector general, and he may not have held elective office in or been an employee of the parish or state during the preceding five years. Jefferson Parish Code of Ordinances, Sec. 2-155.10(3).
- 3 The committee would be made up of appointees of the Parish President, the Parish Council, the Louisiana Supreme Court, the Association of Inspectors General and the Ethics Commission. The Supreme Court and the Association of Inspectors General refused to make appointments for a similar committee in New Orleans.
- 4 The commission members would initially be appointed to staggered one-, two-, three-, four- and five-year terms. Thereafter, all appointments would be for five years. Nominees would be required to be knowledgeable in governmental ethics, legal or forensic investigations, or finances and audits.
- 5 Louisiana Attorney General, Opinion 10-0165, March 2, 2011.
- 6 For example, the Texas Department of Health and Human Services and Department of Corrections have their own inspectors general: oig.hhsc.state.tx.us/ and www.tdcj.state.tx.us/inspector.general/inspector.gnl-home.htm. In California, the state correctional system is overseen by an inspector general. www.oig.ca.gov/.
- 7 Jefferson Parish, *2011 Annual Budget*, pp. 14-15. Of that, \$57.4 million is dedicated to debt service and \$54.6 million is allocated to capital projects. The remaining dollars are used for operations.
- 8 The internal auditor is appointed by a committee composed of three councilmembers, the parish president and the chief operating officer. Jefferson Parish Code of Ordinances, Sec. 2-162.1 and 2-527. The ethics and compliance officer is appointed by the parish president and approved by the Parish Council. Jefferson Parish Code of Ordinances, Sec. 2-155.1.
- 9 Miami-Dade County, Inspector General, *Memorandum from Inspector General Christopher Mazzella to Mayor Carlos Alvarez*, June 10, 2009.
- 10 City of Chicago, Office of Inspector General, *Budget Options for the City of Chicago*, October 2010.
- 11 City of New Orleans, Office of Inspector General, *Citizen Verification Project: Sanitation Property Survey*, October 28, 2010.
- 12 City of New Orleans, Office of Inspector General, *A City of New Orleans Hotel/Motel Tax Review: A Sampling of 24 Active Hotels/Motels*, February 24, 2011.
- 13 City of Philadelphia, Office of Inspector General, *Policy Recommendation: Water Revenue Overtime Policies and Procedures*, August 31, 2010.
- 14 Association of Inspectors General, *Model Legislation for the Establishment of Offices of Inspector General*, Sec. 7, August 22, 2002.
- 15 Home Rule Charter of the City of New Orleans, Sec. 9-401(3).
- 16 Originally, the ordinance calling for the half-mill reduction in the street light tax was contingent on voter approval of the OIG tax. Jefferson Parish Council, Ordinance No. 24,010, passed May 11, 2011. Later, however, the council passed a resolution vowing to stop collecting the half mill even if the OIG tax is defeated. Jefferson Parish Council, Resolution No. 117,092, adopted June 29, 2011. The road lighting district is nearly coterminous with the inspector general funding district. The only difference is that the road lighting district includes Jean Lafitte; the inspector general funding district does not.
- 17 *Jefferson Parish Property Tax Data, 2006-2010*, prepared by Finance Department Director Gwen Bolotte, CPA.
- 18 City of Philadelphia, Office of Inspector General, *Annual Report 2010*, pp. 1 and 5.
- 19 The inspector general received \$3.4 million from the city in 2010, but returned roughly \$400,000 in unused funds. City of New Orleans, Office of Inspector General, *2010 Annual Report*, pp. 1-2.
- 20 City of New Orleans, Office of Inspector General, *Citizen Verification Project: Sanitation Property Survey*, October 28, 2010.
- 21 *Report of the Advisory Committee for the Establishment of an Office of Inspector General to the Jefferson Parish Council*, presented to the Jefferson Parish Council on September 22, 2010, p. 15.
- 22 Jefferson Parish Council, Resolution No. 116808, adopted May 11, 2011.
- 23 The district was previously known as the New Orleans Business and Industrial District, or NOBID, and before that, the Almonaster Michoud Industrial District, or AMID.
- 24 New Orleans Regional Business Park, www.norbp.com.
- 25 List of 2011 taxpayers in the Business Park, provided to BGR by the City of New Orleans, July 26, 2011.
- 26 The mayor makes three appointments, and the state senator representing the area makes two appointments. All other elected officials and appointing bodies make one appointment.
- 27 New Orleans Regional Business Park, *Financial and Compliance Audit Together With Independent Auditors' Report for the Year Ended December 31, 2009*, pp. 19-25. The Business Park received an extension on its 2010 audit. It must be filed with the state by September 30, 2011.
- 28 New Orleans Regional Business Park, *Operating Budget for the Twelve Months Ended December 31, 2011*.
- 29 Downtown Development District of the City of New Orleans, *Financial Statements, December 31, 2010*, p. 3.
- 30 For 2011, the income threshold is approximately \$66,000. La. Admin. Code, Title 61, Part V, Sec. 101(G)(2).

- 31 La. Const. Art. VII, Sec. 10.8(A)(1)(c), (A)(2), (3), and (4). The constitution defines earnings as the annual “interest, dividends, and realized capital gains on investment of the [Millennium] trust.” The amount of earnings in excess of an inflation factor determined by the Revenue Estimating Conference is available for appropriation each year by the Legislature.
- 32 Students attending private universities receive an amount equal to the weighted average award for students attending public institutions. For the 2012 academic year, the maximum TOPS award for students attending private institutions was \$3,242.
- 33 Louisiana Office of Student Financial Assistance, *2010-2011 TOPS Questions and Answers for High School Students and Counselors*, September 2010; Louisiana Office of Student Financial Assistance, “Your Rights and Responsibilities, Taylor Opportunity Program for Students (TOPS),” May 2011.
- 34 Information provided by Legislative Fiscal Office.
- 35 Data provided by the Louisiana Office of Student Financial Assistance. In 2011, the average TOPS recipient received \$3,320 in tuition assistance.
- 36 Data provided by the Louisiana Office of Student Financial Assistance.
- 37 La. Const. Art. VII, Sec. 10.8(C)(2).
- 38 Data provided by the Legislative Fiscal Office.
- 39 Data provided by the Legislative Fiscal Office and the Louisiana Department of the Treasury.
- 40 Information provided by Legislative Fiscal Office.
- 41 La. Const. Art. VII, Sec. 10.8(C)(3)(a).
- 42 The schools and school systems receive funding based on the ratio of their student population to that of the total state student population. The constitution also requires additional appropriations to various special education schools. These schools include Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the Louisiana Special Education Center in Alexandria, the Louisiana School for Math, Science and the Arts, the New Orleans Center for Creative Arts, and the Louis Armstrong High School for the Arts. La. Const. Art. VII, Sec. 10.8(C)(3)(b).
- 43 Data provided by the Legislative Fiscal Office.
- 44 Information provided by Louisiana Department of Education.
- 45 Board of Regents, *TOPS Report*, May 2009, p. 7.
- 46 The National Center for Higher Education Management Systems, *Graduation Rate Data for 2009*, www.higheredinfo.org.
- 47 Data provided by the Louisiana Office of Student Financial Assistance.
- 48 The five taxes are enumerated in La. R.S. 47:841(B).
- 49 National Conference of State Legislatures, “State Cigarette Excise Taxes: 2010,” available at www.ncsl.org.
- 50 The four state systems are LASERS, TRSL, the Louisiana State Police Retirement System and the Louisiana School Employees’ Retirement System.
- 51 La. Const. Art. X, Sec. 29(E)(2). The amendment also required the state to pay the full annual contribution necessary to fund future benefits.
- 52 Louisiana Legislative Auditor, *Overview of Louisiana’s Unfunded Accrued Liability*, May 20, 2011, p. 10.
- 53 La. R.S. 11:42.
- 54 Louisiana Legislative Auditor, p. 6.
- 55 SJ Actuarial Associates, *2010 Actuarial Valuation Report for the Teachers’ Retirement System of Louisiana*, October 4, 2010, p. 56.
- 56 Data provided by LASERS; BGR Calculations based on information provided by TRSL.
- 57 Teachers’ Retirement System of Louisiana, *2010 Summary Annual Report*, p. 5.
- 58 Information provided by LASERS.
- 59 Legislative Fiscal Office, Fiscal Note HB 384 Enrolled, June 28, 2011.
- 60 La. Const. Art. VII, Sec. 10(D)(2).
- 61 La. Const. Art. VII, Sec. 10.3(A)(3).
- 62 Information provided by Legislative Fiscal Office.
- 63 Ibid.
- 64 1975 Act No. 817.
- 65 La. R.S. 40:1299.44(A)(2)(a).
- 66 La. R.S. 40:1299.47; La. R.S. 40:1299.42(B)(1).
- 67 La. R.S. 40:1299.42(B)(2); La. R.S. 40:1299.42(E)(1). Providers who are self-insured must deposit \$125,000 into the fund in order to qualify.
- 68 La. R.S. 40:1299.42(B)(3)(a).
- 69 La. R.S. 40:1299.41(D).
- 70 Legislative Fiscal Office, Fiscal Note to HB 341, Enrolled, June 2011.
- 71 Reasons for Judgment on Peremptory Exception of No Right of Action, *Louisiana Public Service Com’n v. Louisiana State Legislature*, No. 592,231, 19th Judicial District Court (East Baton Rouge Parish, 02/02/11).
- 72 La. R.S. 40:1299.44 (A)(1)(a).
- 73 La. R.S. 40:1299.44(A)(7).
- 74 1990 Act No. 1096.
- 75 McNichol, Elizabeth and Kwame Boadi, *Why and How States Should Strengthen Their Rainy Day Funds*, Center on Budget and Policy Priorities, February 3, 2011, p. 1.
- 76 The constitution states that mineral revenue in excess of \$750 million will be deposited into the fund. However, it also allows the Legislature to increase this base every ten years, beginning in 2000. The Legislature raised the base to \$850 million in 2004. See La. R.S. 39:94(A)(2)(a) and 2004 Act No. 11 of the 1st Ex. Sess.
- 77 La. Const. Art. 7, Sec. 10.3(A).
- 78 La. Const. Art. 7, Sec. 10.3(C)(4). Disaster assistance is not factored into the revenue cap.
- 79 Data provided by the Louisiana Department of the Treasury.
- 80 Ibid.
- 81 La. Const. Art. 7, Sec. 10.3(C)(1).
- 82 La. Const. Art. 7, Sec. 10.3(C)(2).
- 83 La. Const. Art. 7, Sec. 10.3(C)(3).
- 84 Data provided by the Louisiana Department of the Treasury.
- 85 2009 Act No. 226. In addition, see La. R.S. 39:94(C)(4)(b).
- 86 The Louisiana Department of Revenue, *Tax Collection Report FY 2007-2008*.
- 87 Petition for Declaratory Judgment and Permanent Injunction,

Ronald Gomez and Robert Reid v. State of Louisiana and John Neely Kennedy, In His Capacity as Treasurer of The State of Louisiana, Through James D. Caldwell, Attorney General of the State of Louisiana, No. 595,371, 19th Judicial District Court (East Baton Rouge Parish, 10/4/10).

88 Legislative Fiscal Office, Fiscal Note 2011 SB 147 Enrolled, June 28, 2011.

89 McNichol, Elizabeth and Kwame Boadi, p. 6.

90 La. Const. Art. VII, Sec. 25(A).

91 La. Const. Art. VII, Sec. 25(B).

92 La. R.S. 47:2202(A).

93 1997 Act 1495.

94 La. Const. Art. XIII, Sec. 1(C).

95 Code of Ordinances of the City of New Orleans, Sec. 2-291(b).

96 Code of Ordinances of the City of New Orleans, Sec. 2-291(a).

97 Home Rule Charter of the City of New Orleans, Sec. 5-201. See also La. R.S. 33:4530.

98 New Orleans Public Belt, "Customer Tools," www.nopb.com.

99 *Public Belt Railroad Commission for the City of New Orleans, Independent Auditors' Report for the Year Ended December 31, 2010*, June 16, 2011, pp. 4-15.

100 Louisiana Legislative Auditor, *Public Belt Railroad Commission for the City of New Orleans, Compliance Audit*, September 22, 2010, p. 3.

101 Ibid.

102 Wildes, Kevin Wm., S.J., Ph.D., Chair Governance Committee, New Orleans Public Belt Railroad Commission, letter to the Honorable Mitchell J. Landrieu, Mayor, City of New Orleans, May 27, 2011.

103 Act No. 279, Louisiana Legislature Regular Session, 2011.

104 See Code of Ordinances of the City of New Orleans, Sec. 2-291(a). Under the ordinance, the mayor originally appointed 14 members: three from the Board of Trade, two from the Louisiana Sugar Exchange, two from the Mechanics, Dealers and Lumberman's Exchange, two from the Chamber of Commerce of the New Orleans Area and five citizens of the city at large. However, the Sugar and Mechanics, Dealers and Lumberman's Exchanges are no longer in existence. Under the ordinance, the Commission makes appointments itself when a nominating organization ceases to exist.

105 Home Rule Charter of the City of New Orleans, Sec. 5-601.

106 La. R.S. 34:1(A)(1) and 34:1(K).

107 Transportation Research Board of the National Academies, *Public Transit Board Governance Guidebook*, Transit Cooperative Research Program Report 85, 2002, p. 6.

108 For 2011, the income threshold is approximately \$66,000. La. Admin. Code, Title 61, Part V, Sec. 101(G)(2).

109 National Conference of State Legislatures, "Real Estate Transfer Taxes," September 2010, available at www.ncsl.org.

110 Code of Ordinances of the City of New Orleans, Sec. 150-391(2).

111 City of New Orleans, *2011 Annual Operating Budget*, p. 49.

112 Friedman, Jack and Jack C. Harris, *Analysis of a Proposed Real Estate Transfer Tax for the State of Louisiana*, Prepared for

the Louisiana Realtors Association, February 2010, p. 12.

113 Drachis, Benjamin, Gilles Duranton, and Matthew A. Turner, *Sand in the Gears: Evaluating the Effects of Toronto's Land Transfer Tax*, C.D. Howe Institute, December 2008.

114 BGR calculations based on data from the New Orleans Metropolitan Association of Realtors.

115 See, for example: La. Const., Art. VII, Sec. 1; La Const., Art. VII, Sec. 2; La. Const. Art. VI, Sec. 30; Louisiana Attorney General's Opinion No. 04-381, February 9, 2005; Louisiana Attorney General's Opinion No. 98-447, November 30, 1998.

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OCTOBER 22 BALLOT

JEFFERSON PARISH: OFFICE OF INSPECTOR GENERAL – **FOR**.

JEFFERSON PARISH: DEDICATED TAX FOR OFFICE OF INSPECTOR GENERAL – **FOR**.

NEW ORLEANS REGIONAL BUSINESS PARK TAX RENEWAL – **AGAINST**.

PLAQUEMINES, ST. BERNARD AND ST. TAMMANY PARISHES: PROPERTY TAX EXEMPTION FOR DISABLED VETERANS – **AGAINST**.

STATE CONSTITUTIONAL AMENDMENT 1: MILLENNIUM TRUST FUND – **AGAINST**.

STATE CONSTITUTIONAL AMENDMENT 2: STATE RETIREMENT SYSTEMS' UNFUNDED LIABILITY – **FOR**.

STATE CONSTITUTIONAL AMENDMENT 3: PATIENT'S COMPENSATION FUND – **FOR**.

STATE CONSTITUTIONAL AMENDMENT 4: BUDGET STABILIZATION FUND – **AGAINST**.

STATE CONSTITUTIONAL AMENDMENT 5: TAX SALES – **FOR**.

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ORLEANS PARISH CHARTER AMENDMENT: PUBLIC BELT RAILROAD COMMISSION – **FOR**.

JEFFERSON PARISH: PROPERTY TAX EXEMPTION FOR DISABLED VETERANS – **AGAINST**.

STATE CONSTITUTIONAL AMENDMENT: TRANSFER AND SALES TAXES ON IMMOVABLE PROPERTY – **AGAINST**.