



ON THE BALLOT

A Report from the Bureau
of Governmental Research

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INTRODUCTION

On October 24, voters in the French Quarter will decide whether to impose a quarter-cent sales tax in the neighborhood to pay for public safety services. In addition, voters statewide will decide on four amendments to the Louisiana Constitution. This report addresses the proposed tax and, because of its possible impact on the New Orleans area, one proposed constitutional amendment, which concerns investments in a state infrastructure bank.

BGR will cover items on the November ballot in a subsequent report.

FRENCH QUARTER: SALES TAX FOR PUBLIC SAFETY

What It Would Do

Voters in the French Quarter will decide whether to approve a five-year, 0.2495% sales tax to support supplemental public safety services for the neighborhood. The sales tax would be imposed beginning in 2016 and would expire at the end of 2020.¹

Background and Analysis

Background. The French Quarter is unlike any other neighborhood in New Orleans. Not only is it home to approximately 3,800 residents,² it is the centerpiece of the city's tourist economy. In 2014, an estimated 9 million tourists visited the Quarter.³

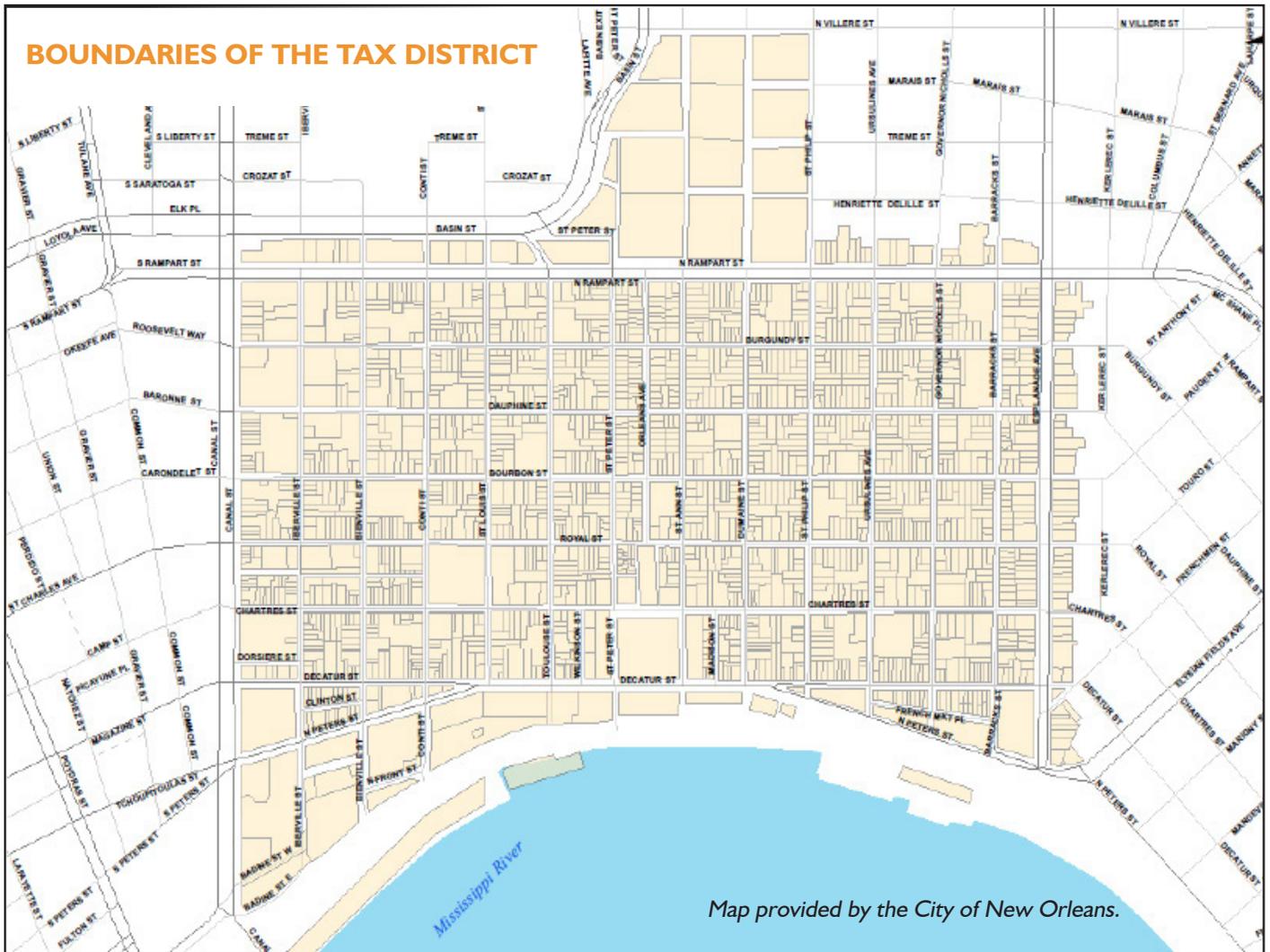
Unfortunately, between 2010 and 2014, the Vieux Carré⁴ experienced a 27% increase in crimes against persons

and a 63% increase in crimes against property.⁵ This translates into a 55% increase in overall crime.⁶ During that time, the number of New Orleans Police Department (NOPD) officers available to patrol the French Quarter fell, according to the city administration. Manpower statistics show a 35% decline in the number of officers assigned to the 8th District, which includes the French Quarter, between December 2010 and December 2014.⁷ The city does not maintain such data for the French Quarter alone, but the city administration reported to BGR that 10 to 15 on-duty officers per eight-hour shift are currently assigned to patrol the Quarter.⁸

To supplement the reduced police force and combat rising crime, the New Orleans Convention & Visitors Bureau (the Convention & Visitors Bureau) and the Ernest N. Morial New Orleans Exhibition Hall Authority (the Convention Center) together committed \$2.5 million to pay for Louisiana State Police (State Police) patrols in the 8th District from April 2015 to year-end. Under that arrangement, state troopers patrol the French Quarter, portions of the Faubourg Marigny and the area surrounding the Convention Center.

In addition to the on-duty NOPD officers and State Police patrols, a special NOPD detail and a civilian group patrol the French Quarter. The French Quarter Task Force police detail (also known as the Polaris Patrol) provides up to three off-duty NOPD officers per shift, according to the city. There are also four or five officers per shift from the NOLA Patrol, an unarmed civilian force focused primarily on quality of life issues. The city pays for these two additional patrols from the proceeds of an existing hotel assessment dedicated to the French Quarter.⁹

The current State Police patrol arrangement was envi-



sioned as a temporary measure. To enable the creation of a longer-term Louisiana State Police presence in the French Quarter only, the City Council established the French Quarter Economic Development District (the Tax District).¹⁰ The district is bounded by the Mississippi River, the center line of Canal Street, properties fronting on the lake side of North Rampart Street and properties fronting on the downriver side of Esplanade Avenue.¹¹ It includes the entirety of Armstrong Park.

The Tax District, which is governed by the City Council, has proposed levying a five-year, 0.2495% sales tax starting in 2016.¹² The tax would apply only in the Tax District and is subject to a public vote only in the Tax District. The city administration estimates that the pro-

posed tax would generate \$2 million annually.¹³

The tax proposition states broadly that proceeds from the tax are to be used to pay for enhanced and supplemental public safety services within the district. The specific uses are set forth in a cooperative endeavor agreement between the city, the Tax District and the State Police (the Tax District Agreement). It would direct all revenue generated by the proposed sales tax specifically to State Police patrols in the Tax District.¹⁴ It states that the State Police must supplement, rather than replace, existing NOPD patrols of the Quarter, but does not specify any baseline NOPD number.¹⁵ The city told BGR that the current 10 to 15 on-duty NOPD officers assigned to each shift would serve as the baseline.

A related cooperative endeavor agreement among the city, the Convention & Visitors Bureau, the Convention Center and the State Police (the Hospitality Entity Agreement) would require the tourism entities and the city to contribute additional funding for State Police patrols if the tax passes.¹⁶ Under the agreement, the Convention Center and the Convention & Visitors Bureau would each provide \$1 million a year, and the city would allocate \$500,000 a year.¹⁷ At the time this publication was released, one party – the Convention Center – had not yet signed the agreement. Convention Center President Melvin Rodrigue told BGR that he expects the Convention Center board to approve the agreement at its next meeting. Therefore, for the purposes of this analysis, BGR assumes that the Convention Center board will do so.

The Convention & Visitors Bureau has indicated that it intends to continue funding State Police patrols at some level even if the proposition fails. Without the proposed sales tax revenue, however, the patrols would focus on areas within the French Quarter where tourists congregate and exclude residential areas. The Convention & Visitors Bureau also would have the option of withdrawing its funding, eliminating the patrols altogether.

Analysis. The proposed sales tax would raise the overall sales tax rate in the French Quarter to 9.25% and the total sales tax rate for restaurants in the Quarter to just below 10%.¹⁸ It would add an additional 25 cents to every \$100 purchase made in the district. According to the city, the tax would not apply to the rental of hotel rooms.¹⁹

The tax and hospitality entity contributions together would generate an estimated \$4.5 million. The city and the Convention & Visitors Bureau say that this would be sufficient to pay for no fewer than 30 state troopers.²⁰ The city also believes that using the Louisiana State Police is the best option to satisfy the need for additional policing in the French Quarter because state troopers have a history of working in the neighborhood alongside the NOPD.

The Hospitality Entity Agreement would require no fewer than 30 full-time state troopers in the Tax Dis-

trict. These state troopers would be assigned across various shifts, meaning that the number of officers on patrol for any particular shift could vary significantly.

The State Police patrols made possible by the tax would provide significant longer-term support to the NOPD in the French Quarter and help to protect residents, local workers and the local tourism economy. According to the city, the State Police patrols would allow the NOPD to maintain at least the current levels of policing both inside and outside the Quarter. The city also says it would allow the NOPD to deploy new officers to other areas if the department is able to rebuild its ranks.

If the tax proposition fails, the city says the NOPD would need to redeploy officers to the Quarter from other areas to make up for a decrease in the State Police presence. Other components of the overall policing plan, including the French Quarter Task Force and NOLA Patrol, could also be at risk.

In light of the NOPD's recent struggles to rebuild its ranks, a five-year tax to cover State Police patrols makes sense as a stop-gap measure. The short term of the tax allows the public and policymakers to reconsider it in 2020.

Using a dedicated sales tax to fund a neighborhood security district is a novel approach. Local security districts typically pay for patrols through parcel fees or ad valorem taxes approved by a vote of the citizens in the neighborhood. This is appropriate in most cases, since the property owners are usually the primary beneficiaries.

But the French Quarter is not an ordinary New Orleans neighborhood. It is the heart of the city's tourism industry and serves about 9 million visitors a year. French Quarter resident groups contend that the majority of the burden of paying for additional security should fall on tourists. Funding security in the Quarter through the proposed sales tax would ensure that visitors who benefit from enhanced security help to pay for it.

As noted earlier, the proposition directs the tax pro-

ceeds to public safety services broadly, rather than to a State Police presence specifically. The arrangement with regard to the funding of the State Police presence is set forth in the cooperative endeavor agreements.

Changes to the broader language pertaining to the use of the tax proceeds would require a public vote, but changes to the cooperative endeavor agreements would require only the consent of the parties and City Council approval. Furthermore, under the Tax District agreement, the Tax District, the city and the State Police each have the option of terminating the agreement at any time, with 30 days' notice.²¹ As a result, how the tax proceeds are spent to further public safety services in the French Quarter – including whether they would fund State Police patrols – could change without a vote of the public during the life of the tax.²²

BGR Position

FOR. The French Quarter is the heart of the city's tourist economy. Creating a sales tax to fund additional security in the Quarter will improve safety for residents and tourists alike, while appropriately allocating the cost burden.

CONSTITUTIONAL AMENDMENT: INVESTING IN AN INFRASTRUCTURE BANK

What It Would Do

During its 2015 session, the Louisiana Legislature created an infrastructure bank. The proposed constitutional amendment would eliminate a potential constitutional obstacle to state investments in the bank.

Background and Analysis

Across the U.S., 34 states have established infrastructure banks as a means to help fund transportation projects.²³ During its 2015 session, the Legislature took a step in that direction by creating the Louisiana Transportation Infrastructure Bank (the Infrastructure Bank) within the State Treasury.

The purpose of the Infrastructure Bank is to make loans and provide other financial assistance²⁴ to local government entities for transportation improvements at favorable interest rates. Eligible entities include parishes and municipalities, as well as public ports, harbors, terminal districts, airports, ferries and transit systems.²⁵

The Legislature, in the act creating the Infrastructure Bank, also created the Louisiana State Infrastructure Fund (the Infrastructure Fund) to serve as the repository for any bank funds.²⁶ The Infrastructure Fund may be funded through investments by the State Treasurer, grants, gifts, donations, local or federal revenue, or any state revenue or appropriation.²⁷

Under the statute, the fund is eligible to receive up to \$2.1 million in state funds, but only after the state has received at least \$947.9 million of mineral revenues.²⁸ At this time, there are no other dedicated sources of funding.

While the statute contemplates funding from the state, the Louisiana Constitution contains broad prohibitions against using state or local funds to make loans or purchase stock.²⁹ The proposed amendment would create an exception to this rule, allowing the State Treasurer to invest state funds in the Infrastructure Bank.³⁰

For the Infrastructure Bank to function as intended, the Infrastructure Fund would have to be funded at a level appropriate for costly infrastructure projects. The sponsor of the bill creating Louisiana's bank said the South Carolina State Infrastructure Bank, which is among the most active state infrastructure banks in the U.S., served as a model. South Carolina capitalized its bank with \$95 million from the state and received a \$2 million federal grant near the end of its first year of operation.³¹ The South Carolina bank receives recurring annual revenues from sources that generated \$214 million in 2014.³² As of the end of fiscal 2014, the bank had committed \$1.57 billion to 18 projects.³³

As things stand, the prospects for Louisiana's bank achieving a significant funding level in the near term are uncertain. The only dedicated funding source – up

to \$2.1 million if mineral revenues increase significantly – would be inadequate. Even that amount is unlikely to materialize in the foreseeable future, based on projections for mineral revenues from the Legislative Fiscal Office.³⁴ Significant infusions of funding through an appropriation to kick-start the bank also would be difficult to obtain in the near future. For fiscal 2017, the Legislative Fiscal Office projects a \$509 million shortfall.³⁵ In short, while a properly funded state infrastructure bank could help finance local transportation projects, the lack of funding raises questions as to whether it is premature for the Legislature to seek a constitutional amendment to invest in the bank.

However, a properly funded infrastructure bank could facilitate local transportation projects by providing loans to government entities at a lower interest rate than might otherwise be available. Passage of the amendment would remove the potential constitutional barrier to state investments in the bank and encourage the Legislature to actively explore potential revenue sources.

BGR Position

FOR. While the present prospects for funding the Infrastructure Bank are uncertain, passage of the amendment would allow the state to invest in the bank. The amendment would open the possibility of a new source of financial support for local transportation projects.

ENDNOTES

1 French Quarter Economic Development District, Res. No. R-15-3, adopted June 18, 2015.

2 The Data Center, “French Quarter Statistical Area,” www.datacenterresearch.org/data-resources/neighborhood-data/district-1/french-quarter/.

3 BGR calculation based on data from the University of New Orleans Hospitality Research Center’s *2014 New Orleans Area Visitor Profile*, March 2015, pp. 7, 9. The report says that 95% of the city’s 9.5 million visitors in 2014 went to the French Quarter.

4 The Vieux Carré does not include the area bounded by N. Rampart, Iberville, Canal Street and the Mississippi River. The Tax District does include this area, in addition to the Vieux Carré.

5 BGR calculation based on Uniform Crime Reporting data for the Vieux Carré provided by the City of New Orleans.

6 The Office of Inspector General issued two reports that call the accuracy of these statistics into question, indicating that robberies citywide were underreported and misclassified during the period before July 2013. See Office of Inspector General, City of New Orleans, *Report of Inquiry into Improper Classification of Crime Reporting by the New Orleans Police Department 8th District*, October 30, 2013, and *A Performance Audit of the New Orleans Police Department’s Uniform Crime Reporting of Robbery*, August 27, 2014. The 8th District responded to the Inspector General’s report by changing its reporting practices. Consequently, the increase in crime is at least partly accounted for by improvements in the 8th District’s reporting practices, rather than an increase in underlying criminal activity. See Letter from Ed Quatrevaux, Inspector General, City of New Orleans to Michael S. Harrison, Superintendent, New Orleans Police Department, Re: 8th District Theft Statistics, dated August 11, 2015.

7 BGR calculations based on 8th District manpower statistics for each December for the years 2010 through 2014, provided by the City of New Orleans. The 8th District contains the CBD, the French Quarter and the Faubourg Marigny.

8 The city told BGR that, from December 2014 to September 2015, 10 to 12 on-duty NOPD officers were assigned to day shifts and 12 to 15 officers were assigned to night shifts during regular patrols in the French Quarter. These numbers include three or four mounted officers and five or six officers patrolling the Bourbon promenade per shift at night. It is important to note that these numbers reflect the number of on-duty NOPD officers assigned to patrol the French Quarter. BGR was unable to get data reflecting the number of officers actually reporting for duty in the neighborhood.

9 In 2013, the state Legislature authorized a 1.75% hotel assessment approved and paid by guests at Convention & Visitors

Bureau member hotels. The assessment is divided as follows: 0.75% for the Convention & Visitors Bureau, 0.75% for the New Orleans Tourism Marketing Corp. and 0.25% for the City of New Orleans to spend on public safety and improvements in the French Quarter. BGR estimates that the city’s share will raise a total of \$2.2 million in 2015. BGR opposed the assessment when it came up for consideration in the Legislature, pointing out that it would consume local tax capacity without consideration of other pressing needs and without approval from local voters or the City Council. See BGR, *The Hotel Assessment: A Question of Priorities, A Question of Propriety*, May 24, 2013.

10 New Orleans City Council, Ord. Cal. No. 30,672, adopted April 23, 2015.

11 Ibid.

12 French Quarter Economic Development District, Res. No. R-15-3, adopted June 18, 2015.

13 Ibid. The sales tax revenues would be subject to the city’s 1.6% collection fee on sales taxes. In other words, if the sales tax yields \$2 million, the district will actually receive \$1,968,000. According to the city, the estimate is conservative, and is based on gross taxable sales in the French Quarter, excluding hotel room rentals.

14 The total proceeds of the sales tax, net of collection fees and the cost of audits, would be directed to the Louisiana State Police. Cooperative Endeavor Agreement by and among the City of New Orleans, French Quarter Development District, and State of Louisiana and Louisiana State Police, dated September 17, 2015.

15 Ibid.

16 Cooperative Endeavor Agreement between the City of New Orleans, the New Orleans Convention and Visitors Bureau, the Ernest N. Morial New Orleans Exhibition Hall Authority, and the Louisiana State Police, dated September 4, 2015.

17 Ibid. The contributions from both the Convention & Visitors Bureau and the city would come from the 1.75% hotel assessment discussed in footnote 9.

18 Food and beverages purchased at restaurants in New Orleans are generally subject to an additional 0.75% sales tax dedicated to the Convention Center.

19 The ballot proposition states that the proposed tax would be “collected on the sale at retail, the use, the lease or rental, the consumption and storage for use or the consumption of tangible personal property and sales of services” within the boundaries of the district. Under state and city law, hotel room rentals are taxable sales of services. La. R.S. 47:301(14) defines “sales of services” to include “the furnishing of sleeping rooms, cottages or cabins by hotels.” The same definition appears in City Code Sec. 150-441. In correspondence with BGR, the city pointed out that economic development districts, by statute, may levy

“up to two percent of sales taxes, or up to two percent of hotel occupancy taxes.” (La. R.S. 33:9038.39.) It indicated that, because the language implies a choice between two options, the sales tax should not apply to hotel occupancy.

20 According to the State Police, the annual per-trooper cost would be \$150,000. The city notes that, because its estimate of the anticipated revenue from the sales tax is conservative, it expects the total funding to cover the cost of no fewer than 30 state troopers. The State Police reached a per-trooper cost of \$150,000 by averaging salaries of troopers across all years of service (\$70,679) and adding related benefits (totaling \$56,250, with \$43,000 for retirement, \$1,000 for Medicare, \$9,850 for group insurance and \$2,400 for fringe benefits), as well as expenses such as travel, auto maintenance, supplies, fuel, investigative expenses and telephones (totaling \$23,071).

21 Cooperative Endeavor Agreement by and among the City of New Orleans, French Quarter Development District, and State of Louisiana and Louisiana State Police, Sec. 9.15.

22 The Convention & Visitors Bureau has stated that it intends only to fund Louisiana State Police patrols.

23 American Association of State Highway and Transportation Officials, “State Infrastructure Banks,” www.transportation-finance.org/funding_financing/financing/credit_assistance/state_infrastructure_banks.aspx/.

24 In addition to loaning money to fund transportation projects, the bank is also permitted to engage in any “lawful forms of financing and methods of leveraging funds that are approved by the board.” La. Acts 2015, No. 431.

25 Ibid. The Infrastructure Bank will be controlled by a seven-member board, with the State Treasurer serving as board chairman. Four members will serve on the board ex-officio: the State Treasurer, the Secretary of the Department of Transportation and Development, and the chairmen of the House and Senate Committees on Transportation, Highways and Public Works. The remaining three board members are required to have at least five years’ relevant experience. One member must have five years’ experience in commercial lending or investment banking, another in professional accounting and auditing, and a third in transportation program planning.

26 The bank’s board will operate and control the Infrastructure Fund. Ibid.

27 Ibid.

28 La. Acts 2015, Nos. 431, 257 and 275.

29 La. Const. Art. VII, Sec. 14(A).

30 La. Acts 2015, No. 471.

31 South Carolina Transportation Infrastructure Bank, Financial Statements for the Year Ended June 30, 1998, p. 5.

32 South Carolina Transportation Infrastructure Bank, Financial Statements for the Year Ended June 30, 2014, p. 7.

33 Ibid., p. 38.

34 The Legislative Fiscal Office projected mineral revenues through 2019. It anticipates that revenues from that source will not exceed \$860 million during those years. See fiscal notes on La. Acts 2015, Nos. 257, 275 and 473.

35 Louisiana Legislative Fiscal Office, *Analysis of HBI Reengrossed with Senate Amendments 2015 RS*, June 9, 2015, House Rule 7.19 Report.

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