



ON THE BALLOT

A Report from the Bureau
of Governmental Research

TAX PHASE-IN CONSTITUTIONAL AMENDMENT, NOVEMBER 6, 2018

IN BRIEF

Voters statewide will decide whether to approve Constitutional Amendment No. 6 that would allow eligible homeowners to phase in an increase in property taxes resulting from a reappraisal. The four-year phase-in process would apply only to residential properties subject to the homestead exemption that increase in assessed value by more than 50% because of a reappraisal.

During the phase-in process, homeowners would pay taxes based on the assessed value prior to reappraisal, plus a portion of the increase in assessed value. That portion would begin at 25% in Year 1 and increase to 50% in Year 2, 75% in Year 3 and the full assessed value in Year 4.

The amendment prohibits the phase-in process from applying to an assessment increase attributable to construction or improvements. Also, if an owner sells or transfers an eligible property during the phase-in period, the phase-in process would terminate.

Key Background and Findings

- The proposed amendment emerged from a group of New Orleans neighborhood associations representing areas that have witnessed significant price appreciation. It is not based on an analysis of actual need or optimal solutions for property tax relief.
- BGR evaluated whether the constitutional amendment is necessary. The amendment seeks to help long-term residents avoid being priced out of their homes and neighborhoods due to an immediate, significant increase in property taxes they cannot afford. It would provide eligible homeowners with more time to make important decisions, and reduce an owner's risk of losing a property in a tax sale due to failure to pay taxes. However, some critics argue it will be more likely for properties to qualify for the phase-in because they were significantly underassessed prior to a reappraisal, than because a rising real estate market increased their property's value.
- BGR analyzed how the amendment would affect citizens. Supporters note that the amendment's eligibility requirements limit the potential number of property owners who could qualify for the phase-in. However, neither supporters of the amendment nor assessors contacted by BGR could estimate the number of properties that might qualify for the phase-in process. Critics say the arbitrary 50% eligibility threshold could result in different treatment for taxpayers facing similarly sized tax increases. For instance, a homeowner facing a 49% increase in assessed value would not benefit, while one with a 51% increase would.
- BGR also analyzed how the amendment would affect local government. While the amendment may not significantly affect local government revenue or assessment practices, it would place new administrative burdens on parish and municipal tax collectors without uniform guidance. Critics see potential for inconsistent and uneven administration, as well as an increased risk of mistakes and potential misuse of the mechanism. The amendment would also require increased communication and coordination between tax collectors and assessors as the eligibility requirements are based on areas of expertise that have fallen under the purview of an assessor.
- Finally, BGR analyzed whether the constitution is the proper vehicle for achieving the desired outcomes. A constitutional amendment is necessary to change the calculation of ad valorem taxes, but supporters and critics disagree on the level of detail that the proposed amendment contains. Supporters say the proposed amendment appropriately gives certainty to the phase-in process. Critics note that if any part of the amendment needs to be modified or eliminated in the future, voters statewide will need to approve another constitutional amendment.

BGR Position

AGAINST. The proposed amendment is well-intentioned with its purpose of addressing financial hardships resulting from escalating property taxes. However, supporters of the amendment could not quantify the extent of any existing problem or estimate how many homeowners the amendment might assist. The basic eligibility threshold of an assessment increase exceeding 50% appears arbitrary and not tailored to address the problem of financial hardship the amendment is trying to solve.

The amendment would also create a number of issues. It would create unfairness between eligible and ineligible homeowners, particularly for those homeowners whose assessment increases are near, but do not exceed, the amendment's threshold. Further, the amendment would place a significant administrative burden on parish and municipal tax collectors without providing uniform guidance. This creates a risk of inconsistent and uneven administration within a parish and throughout the state, or worse, a risk of misuse of the mechanism.

The extent of the impact of escalating property taxes on homeowners should be better defined and analyzed. Given the amendment's flaws, it should not make its way into the State constitution, where any modifications would require another constitutional amendment. Before pursuing other attempts at property tax relief, the Legislature should assess the extent of taxpayer need and match it to a precise solution that is fair and effective. Additionally, the Legislature should establish consistent standards for transparent implementation by parish assessors and local tax collectors.

INDEPTH: TAX PHASE-IN CONSTITUTIONAL AMENDMENT

INTRODUCTION

On November 6, 2018, voters statewide will decide on six proposed amendments to the Louisiana Constitution.¹ One constitutional amendment pertains to the assessment and collection of property taxes. It has particular relevance locally and relates to BGR's past research on approaches to taxation and assessments.² Constitutional Amendment No. 6 would provide for phasing in property tax increases on homestead-exempt residential properties that experience large increases – greater than 50% – in their assessed values.

The purpose of this report is to help voters make an informed decision when voting on the constitutional amendment. The report begins with an overview of the proposed amendment and then provides background and current context. It continues with an analysis of the proposition in furtherance of BGR's mission of promoting informed public policy making for the improvement of government in the greater New Orleans metropolitan area. The report concludes with BGR's position on the amendment.

OVERVIEW OF THE PROPOSITION

The Louisiana Constitution currently requires the reappraisal of all taxable property at “intervals of not more than four years.”³ The effect of any change in a property's value, no matter how large, appears in the property tax bill immediately following the reappraisal. A property owner must pay all taxes owed in a timely manner.⁴ An owner who fails to pay could lose the property in a tax sale.⁵

The amendment would allow eligible homeowners to phase in an increase in property taxes resulting from a reappraisal.⁶ The phase-in process, which would occur over four years, would apply only to residential properties subject to the homestead exemption that increase in assessed value by more than 50% because of a reappraisal.⁷

For eligible properties, taxes would be calculated and phased-in on the following basis:

- Year 1. An owner would pay property taxes on the property's assessed value from the previous year (referred to as the “base amount”), plus 25% of the property's total increase in assessed value resulting from the reappraisal.
- Year 2. Base amount, plus 50% of the property's total increase in assessed value resulting from the reappraisal.
- Year 3. Base amount, plus 75% of the property's total increase in assessed value resulting from the reappraisal.
- Year 4. Full assessed value.

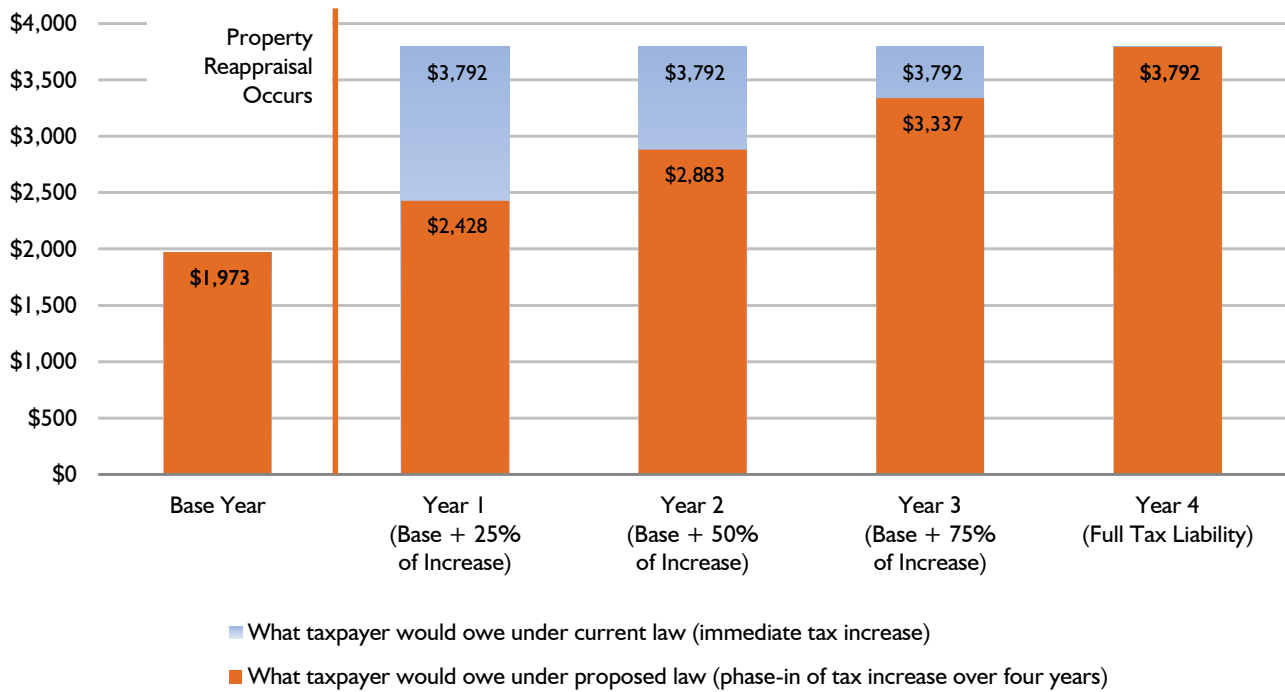
For example, assume a homestead-exempt property on the East Bank of Orleans Parish is valued at \$200,000. It would have an assessed value, or base amount, equal to 10% of that value, or \$20,000. If the assessor increases the property's value upon reappraisal by 60% to \$320,000, its total assessed value would increase by \$12,000 to \$32,000. Under the phase-in process, the homeowner would continue to pay taxes on the base amount of \$20,000 each year. The homeowner would also pay taxes on the increased assessed value, starting with \$3,000 in Year 1; \$6,000 in Year 2; \$9,000 in Year 3; and reaching \$12,000 in Year 4.

Chart 1 compares the property taxes owed for the above-referenced property under current law and the proposed amendment. It factors in the homestead exemption in both cases by deducting \$7,500 from the base assessed value. As shown in the chart, the proposed amendment would reduce the property's tax liability by more than \$2,700 during the phase-in process.

The amendment would apply only if the assessed value of a property increases more than 50% from the previous year. Thus, an increase in assessed value of 50% or less would not trigger the phase-in process.⁸

The phase-in, however, would not apply to all owners experiencing an increase in assessed value of more than 50%. It would not apply to the extent the increase was

CHART I. TAX BILLS UNDER CURRENT LAW AND THE PROPOSED AMENDMENT FOR A 60% INCREASE IN THE VALUE OF A \$200,000 HOMESTEAD-EXEMPT PROPERTY ON THE EAST BANK OF ORLEANS PARISH



BGR calculations assume a homestead exemption of \$7,500 in assessed value and a constant millage rate at the 2018 level.

attributable to construction on or improvements to the property.⁹ In addition, if an owner sells or transfers an eligible property during the phase-in period, the phase-in process would terminate. The new property owner would pay property taxes based on the property’s total assessed value.¹⁰

The amendment also places restrictions on assessors and taxing bodies. It expressly prohibits an assessor from reappraising an eligible property until after the four-year phase-in is complete. It prohibits local taxing authorities from increasing property taxes for other taxpayers because of any loss in tax revenue caused by the amendment.¹¹

The State constitution sets forth the process for assessing ad valorem property taxes.¹² Thus, voters statewide must approve a constitutional amendment to make any changes, including the creation of a phase-in process. Further, if voters approve the amendment, it would take effect statewide. Property owners throughout the state

could benefit from the phase-in process if they meet the amendment’s eligibility requirements.

BGR notes that the ballot language does not explain critical parts of the amendment, such as the annual percentage increase in assessed value during the four-year phase-in or the homestead exemption requirement. It also does not explain that an increase in assessed value attributable to construction on or improvements to a property would not qualify for the phase-in or that a sale or transfer of the property would terminate the phase-in. Rather, these details are included in legislation that would implement the constitutional changes.¹³

BACKGROUND AND CONTEXT

This section discusses the origin of the proposed amendment. It also provides broader context on property assessment and taxation in Louisiana and discusses the concept of property tax relief.

Origin of the Amendment

According to the primary author of the proposed amendment, the amendment emerged from a group of New Orleans neighborhood associations representing areas that have witnessed significant price appreciation in recent years, including the Bywater, Marigny and Upper Ninth Ward.

Combining an eligibility threshold based on a percentage of increased assessed value and a phase-in process appears to be an unusual approach in the context of property tax relief. The primary author of the amendment told BGR that he was not familiar with any other jurisdiction that uses this approach, and BGR's review of a national database of tax limits did not identify an identical approach adopted by another jurisdiction.¹⁴ In addition, while the amendment seeks to respond to citizen concerns, it is not based on an analysis of actual need or optimal solutions for property tax relief.

Property Assessment and Taxation in Louisiana

In Louisiana, the parish assessor appraises and determines the fair market value of all property subject to taxation.¹⁵ The assessor then determines a property's assessed value as a percentage of a property's market value, as directed by the constitution.¹⁶ For instance, assessors must assess residential properties at 10% of their market value.¹⁷

Assessors also prepare annual parishwide assessment rolls. The rolls, which must be certified each year by the Louisiana Tax Commission (Tax Commission), the oversight body for assessors, include a property's assessed value, the appropriate millage rates as set by local taxing authorities, and property tax computations.¹⁸

The State constitution requires assessors to reappraise and value all property subject to taxation "at intervals of not more than four years."¹⁹ Assessors generally reappraise all taxable properties once every four years and as of the same valuation date. According to the Tax Commission, reappraising properties at the same time every four years and subject to the same market condi-

MILLAGE RATE ADJUSTMENTS

In Louisiana, local taxing authorities must adjust their millage rates following a reappraisal so that tax collections remain revenue-neutral. Because reappraisals usually increase a parish's assessed value, property tax rates are typically "rolled back," or reduced, so the tax generates the same revenue on the larger assessment base.

Taxing authorities have the option of rolling their millage rates forward, or increasing them, to the pre-reappraisal level, but only after a public hearing and with a two-thirds vote of the taxing authority's governing board. However, they must exercise the roll-forward option before the next mandatory reappraisal period. The constitution's roll-forward provision creates a "use it or lose it" situation for taxing authorities. If a millage rate is not rolled forward before the next reappraisal, that millage rate becomes the new maximum millage rate for the taxing authority.

Sources: La. Const. Art. VII, Sec. 23. See also Bureau of Governmental Research, *Rolling Forward: The Complete Picture*, November 2010.

tions helps to maintain accuracy, uniformity and fairness in assessments, which are key principles in property taxation.²⁰

While assessors value property and prepare a parish's assessment rolls, local tax collectors prepare and administer property tax bills and collect property taxes. In most parishes, the sheriff serves as the property tax collector.²¹ For Orleans Parish, State law assigns this role to the City.²² In addition, municipalities throughout the state levy and collect their own property taxes. For more information on how local taxing authorities set millage rates, see the sidebar.

Property Tax Relief

Limiting or controlling a homeowner's tax liability is not a new concept. Almost every state imposes some sort of limitation on property tax levies, assessments or rates.²³ In addition, many states employ other forms of property tax relief, including homestead exemptions and income-based caps on property tax bills.²⁴

The proposed amendment seeks to provide eligible homeowners with some assistance to deal with a significant increase in property tax liability by establishing an assessment limit. An assessment limit restricts how much an individual homeowner's taxes can increase due to an increase in assessed value.²⁵ As stated previously, the eligible homeowner would pay taxes for three years at an effective tax rate below the general rate for the taxing area.

On its face, the concept of property tax relief appears contrary to an effective system of property taxation. Such a system values property accurately and consistently within a group (e.g., all residential homestead-exempt properties) and between groups (e.g., residential and commercial properties). It also consistently values properties of varying worth (e.g., low- and high-value homes).²⁶ Accurate and uniform assessments are fundamental to fair property taxation. To the extent that some taxpayers, such as homeowners, enjoy a lower assessment or tax liability, the system deviates from a uniform levy on fair market value.²⁷

Fair property assessments are critical given the role that property taxes play in funding essential services for local governments. When the local tax base is narrowed – whether from exemptions, special assessments or property tax limitations – local governments have less overall revenue available to pay for services. Further, other taxpayers may have to make up for, or subsidize, lost revenue. This shift in the tax burden can lead to unfairness among taxpayers.²⁸

However, properly administered tax relief can address an equity concern. Because the property tax is tied to asset value and not income, the tax may not align with a taxpayer's ability to pay. The equity principle of taxation states that those with the same ability to pay should contribute the same amount. And those with a greater ability to pay should progressively pay more. Generally, the property tax has elements of progressivity because ownership of capital assets, such as real estate, tends to rise with income levels.²⁹ However, the calculation of the tax does not take income into account, and times of market volatility can drive up housing prices and tax

bills. This can burden taxpayers of limited means.³⁰ A properly structured form of tax relief can lessen these impacts and increase equity for those individuals.³¹

Ultimately, voters must decide whether the proposed amendment will enhance the overall equity and fairness of the current property tax system. Homeowners generally favor property tax limitations because they offer some protection against rising property taxes. However, a property tax system must balance such limitations against maintaining fair and equitable assessments for all taxpayers. With this concern in mind, the following section will analyze the proposed amendment.

ANALYSIS

In this section, BGR analyzes the proposition, specifically focusing on the following issues:

- Is the constitutional amendment necessary?
- How will the amendment affect citizens?
- How will the amendment affect local government?
- Is the constitution the proper vehicle for achieving the desired outcomes?

Is the Constitutional Amendment Necessary?

Supporters say the proposed amendment is necessary to help long-term residents avoid being priced out of their homes and neighborhoods due to an immediate, substantial increase in property taxes they cannot afford to pay. The amendment would give eligible property owners more time to make important decisions, such as whether to remain in the property and make personal budget adjustments to pay for increased taxes, or move and sell the property.

The amendment's incremental phase-in would also reduce an owner's risk of losing a property in a tax sale due to failure to pay taxes. As illustrated in the New Orleans examples above, the owner of an eligible \$200,000 home who experiences a 60% increase in assessed value would save \$2,700 during the phase-in period, or 37% of the increase in taxes otherwise payable.³²

Real estate experts told BGR that some neighborhoods in New Orleans have experienced rapid increases in property values and assessments due to post-Katrina rebuilding efforts along with other market factors, such as short-term rentals, an influx of non-local buyers, and an increase in new and mixed-use development. Growth in assessments has raised concerns that some established homeowners cannot afford to continue living in those neighborhoods.

In addition, while homeowners in neighborhoods such as the Bywater, Marigny and Upper Ninth Ward first raised concerns about significant increases in property values and taxes, the Orleans Parish Assessor told BGR that other neighborhoods may also see property values rise based on the upcoming parishwide reappraisal for the 2020 assessment rolls. Although the data are preliminary, the assessor notes that homes located in Central City, Gentilly, Mid-City, Uptown and the French Quarter are experiencing rising values. Further, the assessor notes that, because of the Tax Commission rule that limits reappraisal of properties to once every four years, properties in high-demand neighborhoods tend to be more underassessed than in other areas.³³ As a result, they may see a greater increase in their values during the next reappraisal.

While critics understand the rationale behind the proposed amendment, they question whether most of the properties that will qualify for the phase-in process suffer from the effects of a rising real estate market. Rather, they say it will be more likely for properties to qualify for the phase-in process because they were significantly underassessed prior to a reappraisal. In this situation, an assessor would be adjusting relatively low property values to current market values. Such adjustments are a necessary step in improving the accuracy of assessments, and one that should not be forestalled.

In addition, with the exception of excluding properties that increase in assessed value due to construction or improvements, the proposed amendment does not distinguish between dramatic increases in assessed value due to rising property values or significant underassessment. As a result, a property that has been historically

underassessed could qualify for the phase-in process if it meets the amendment's eligibility requirements.

How Will the Amendment Affect Citizens?

According to supporters, the amendment's language attempts to ensure that only those property owners who are most in need of assistance will benefit from the phase-in. The eligibility requirements, including the homestead exemption and an increase in assessed value of more than 50%, significantly limit the potential number of property owners who could qualify for the phase-in process.

The original bill proposed a 35% threshold, but the Legislature subsequently increased it to 50%. Supporters say that increasing the eligibility threshold addressed concerns about creating a pool of eligible applicants that was too large and would have increased potential lost revenue for local taxing authorities. Further, supporters add that the amendment in its current form better targets property owners who have experienced the most significant increases in property taxes.

Supporters of the amendment also say that, because of its limited application, it will not shift the tax burden significantly for other taxpayers. Moreover, the amendment prohibits local governments from increasing millage rates to offset any loss of revenue due to properties with phase-ins.

However, some observers note that this provision would be difficult to enforce. Local governments could use other reasons, such as an overall decrease in tax revenue or a slowing economy, to justify increasing millage rates. As previously discussed, the governing body of a local taxing authority can approve rolling millage rates forward after a public hearing and with a two-thirds vote.

In addition, some observers say that the higher threshold could render the amendment essentially inapplicable because few areas of the state, even within New Orleans, are experiencing such dramatic real estate appreciation. According to the Tax Commission, it is not typical or widespread for the assessed value of a residential property to increase more than 35% during

“Neither supporters of the amendment nor assessors contacted by BGR could estimate the number of properties that might qualify for the phase-in process. Without those projections, BGR could not determine how many homeowners might benefit from the proposed amendment, the impact of the amendment on citizens, the outcome of its implementation or how it might ultimately increase taxpayer equity.”

a four-year period due to market conditions.³⁴ Thus, an eligibility threshold of greater than 50% would limit the effectiveness or reach of the amendment even more.

Neither supporters of the amendment nor assessors contacted by BGR could estimate the number of properties that might qualify for the phase-in process. Without those projections, BGR could not determine how many homeowners might benefit from the proposed amendment, the impact of the amendment on citizens, the outcome of its implementation or how it might ultimately increase taxpayer equity.

In the absence of any projections, BGR conducted its own limited review of published real estate data and analysis. Specifically, BGR reviewed the changes in the average price per square foot of single-family residential properties in Jefferson, Orleans and St. Tammany parishes from 2015 to 2018, as reported by local newspapers.³⁵ BGR found increases in average value in all surveyed zip codes in Jefferson and St. Tammany and most zip codes in Orleans during the four-year time-frame. The largest increase in the average price per square foot was found in Jefferson Parish (36.9% increase in 70121). The largest increase found in Orleans Parish was 24.5% in 70130. In St. Tammany Parish, the largest increase was 13.8% in 70431.³⁶

BGR’s limited review of reported real estate market trends did not reveal any neighborhoods that increased in assessed value to the level required by the proposed amendment. Thus, areas of fast-rising market values, to the extent they exist, do not appear widespread. Rather, the amendment appears more likely to affect individual property owners instead of entire neighborhoods.

Critics observe that, while the amendment would pro-

tect taxpayers at large against rising millage rates, the arbitrary 50% eligibility threshold could result in different treatment for individual taxpayers facing similarly sized tax increases. For instance, if the assessed value of a homestead-exempt property increases by 49% because of a reappraisal, the property owner would not be eligible for the phase-in process and would be responsible for paying taxes immediately based on the full increase. However, if the assessed value of a similar homestead-exempt property increases by a slightly higher amount of 51% because of a reappraisal, the property owner would be eligible for the phase-in process.

In essence, eligibility comes down to the assessor’s valuation decision rather than a clear indicator or demarcation of necessity. Critics also question whether the amendment could give rise to outcome-based assessment practices, which would consider the phase-in threshold when making final determinations about fair market value. However, according to the Orleans Parish Assessor, the compartmentalization of the assessment process and the tax collection process is a strong defense mechanism in preventing outcome-based assessment practices.

In a related scenario, some property owners could experience an increase in assessed value below the 50% threshold, but find themselves with an increase in property tax liability of more than 50%.³⁷ These property owners would not benefit from the phase-in process, despite a significant increase in tax liability. This issue would be more likely to occur with lower-value properties for which the homestead exemption shields a greater percentage of the assessed value from taxation.

Moreover, BGR notes that other types of properties, including apartments, multi-family units and commer-

cial properties, would not qualify for the phase-in even though they may be located in the same neighborhoods with rapidly increasing property values. Eligible homeowners, in contrast, would receive additional tax relief on top of their homestead exemption.

How Will the Amendment Affect Local Government?

In this section, BGR will discuss how the amendment would affect local government revenues, parish assessors and local tax collectors.

Local Revenues. According to supporters, the amendment's limited applicability means that its impact on local budgets, if any, would be minimal.

The amendment, however, would prohibit local governments from collecting the full amount of property taxes owed for eligible properties until the final year of the phase-in process, regardless of how nominal the amount. In addition, the amendment could have a negative impact on local tax recipient bodies because it prohibits subsequent reappraisals from an assessor.³⁸ As previously discussed, the proposed amendment expressly prohibits an assessor from reappraising an eligible property until after the four-year phase-in is complete. Without projections of how many taxpayers might qualify for the phase-in, BGR cannot determine the financial impact on local government revenues.

Parish Assessors. According to supporters, the amendment would have minimal impact on parish assessors. The amendment would not change an assessor's practices for determining a property's market or assessed value. In addition, the amendment would not restrict an assessor's ability to increase a property's market or

assessed value. Thus, supporters say that key principles aimed at achieving assessment accuracy and uniformity would remain in place under the amendment.

Further, supporters note that property owners who qualify for the phase-in process would retain the ability to appeal a property's valuation, starting with an informal appeal filed with an assessor's office.³⁹

The Orleans Parish Assessor, a supporter of the amendment, told BGR that the office has no concerns regarding its implementation because it is primarily a tax collection issue. In addition, the assessor does not expect the calculation and collection of phased-in property taxes to be a problem in New Orleans.

However, according to critics, the amendment could have unintended consequences for parish assessors. They say the amendment would effectively create two assessment rolls. Currently, assessors prepare an annual parishwide assessment roll, which is certified by the Tax Commission. Local tax collectors generally receive the certified assessment roll and prepare property tax bills based on its data. Under the amendment, tax collectors would need to modify the assessment roll by adjusting assessed values for eligible properties to properly calculate the phase-in of taxes. This would create a risk that local tax collectors might arbitrarily change assessed values and tax bill amounts, creating an opportunity for the potential misuse of the phase-in process.

In addition, multiple assessment rolls could create transparency and accountability issues. From a citizen's perspective, the source of information and authority on phase-in questions or problems may not be clear, causing confusion as to whether the assessor or the local tax col-

“Local tax collectors generally receive the certified assessment roll and prepare property tax bills based on its data. However, under the amendment, tax collectors would need to modify the assessment roll by adjusting assessed values for eligible properties to properly calculate the phase-in of taxes. This would create a risk that local tax collectors might arbitrarily change assessed values and tax bill amounts, creating an opportunity for the potential misuse of the phase-in process.”

lector should address questions arising from the phase-in process. Multiple assessment rolls could also increase the possibility for assessment or property tax bill mistakes.

Further, because the amendment would prohibit an assessor from reappraising an eligible property until the phase-in is complete, problems may arise if an assessor reappraises a property in an interim, non-reappraisal year. For instance, an assessor can correct a property valuation for an inaccuracy that occurred during the last parishwide reappraisal (e.g., inaccurate total square footage).⁴⁰ If the correction is large enough to trigger the phase-in process, the property owner could benefit from the phase-in beginning in an interim, non-reappraisal year. However, the amendment would prohibit the assessor from reappraising the property during the next parishwide reappraisal because this would occur before the end of the phase-in period. As a result, the phase-in property would retain a value in the parishwide appraisal that was set at a different time and under different market conditions than other properties, which goes against generally accepted property valuation practices.

It is also unclear whether an assessor, upon discovering that a phase-in recipient is improperly receiving a homestead exemption, could remove the exemption during the phase-in period. If not, an ineligible property would continue to benefit from lower taxes until the phase-in process is complete. While the Orleans Parish Assessor told BGR that his office would remove a homestead exemption from an ineligible property during the phase-in process, which would end the phase-in benefit, the proposed amendment does not specifically address this issue.

Local Tax Collectors. Administrative efficiency is a key principle of taxation. Taxes should be easy to administer to minimize collection costs, increase compliance, and maintain transparency and public confidence in the tax system.

Supporters of the proposed amendment recognize that the burden of implementing and administering the phase-in process will fall primarily on local tax collectors. However, supporters note that the amendment's formula and procedure for calculating property taxes

under the phase-in process is easy to understand. The primary author of the amendment told BGR that lawmakers have not drafted any companion legislation at this time to provide additional clarity or guidance. In addition, the Tax Commission told BGR that the language of the proposed amendment is straightforward, and it did not foresee the need to adopt a new rule or regulation to implement the amendment.

While the amendment explains how to calculate property taxes in a straightforward manner, critics say that it would place new administrative burdens on tax collectors. They would need to ensure that properties meet eligibility requirements on an annual basis. Because assessors can correct assessment rolls for errors or when new property information is discovered, these corrections could trigger or end the phase-in process in any given year. The new responsibilities placed on tax collectors to administer the phase-in process could also require them to make changes to their existing information technology systems and software, and might delay the preparation and mailing of annual tax notices.

Further, some critics note that the amendment's eligibility requirements – evaluating assessed values, knowing whether increases in assessed value were caused by a reappraisal, construction or improvements, and the applicability of the homestead exemption – are determinations made and maintained by an assessor, not a tax collector. Thus, the amendment would require tax collectors to administer a phase-in process based on areas of expertise that have fallen under the purview of an assessor. Proper implementation of the amendment would require increased communication and coordination between assessors and tax collectors.

The administrative burden of the amendment would extend beyond parish tax collectors. Municipalities levy and collect their own taxes. In Jefferson Parish, for example, the municipal tax collectors in Grand Isle, Gretna, Harahan, Kenner, Lafitte and Westwego would be required to administer and implement the proposed amendment. Thus, in Jefferson Parish alone, seven local tax collectors would be responsible for implementing the proposed amendment.

In addition, the amendment does not provide guidance on administrative matters. This creates the potential risk of inconsistent and uneven administration within a parish and throughout the state. If voters approve the amendment, the State Legislature should pass legislation to help address administrative problems for local tax collectors, at both the parish and municipal levels, in a consistent and uniform manner.

Is the Constitution the Proper Vehicle for Achieving the Desired Outcomes?

The proposed amendment authorizes the phase-in process. It also specifies details regarding eligibility, the calculation of property taxes over the four-year time-frame, and certain restrictions on parish assessors and local governments.

Supporters and critics agree that a constitutional amendment is required to make any changes to the calculation of ad valorem taxes. However, they disagree on the level of detail the proposed amendment contains.

Supporters say that including the details of the phase-in process in the amendment will allow them to become part of the State constitution and therefore certain. As a result, the details governing the phase-in process will not be subject to annual adjustment during legislative sessions.

However, critics express concern that the proposed amendment has too much detail. If any part of the proposed amendment needs to be modified or eliminated in the future, voters statewide will need to approve another constitutional amendment.

In the alternative, critics say the amendment could have authorized a phase-in process, but directed the Legislature to establish the details of the process in State law. Under this approach, the constitution would protect the basic phase-in process, while enabling the Legislature to make technical changes to guide implementation.

In sum, supporters say the proposed amendment would

“**If any part of the proposed amendment needs to be modified or eliminated in the future, voters statewide will need to approve another constitutional amendment.**”

help some established residents from being priced out of their homes and neighborhoods due to an immediate and substantial increase in property taxes. The amendment would provide eligible homeowners, particularly those with limited financial means, with some temporary tax relief. In addition, supporters note that the amendment would have minimal impact on local government revenues. It would also not alter the valuation and assessment practices of parish assessors, only the method of calculating the tax bill. Further, the details of the phase-in process are easy to understand.

Despite these potential advantages, critics say that the proposed amendment would create a number of problems in pursuit of a benefit that is currently unknown and unquantifiable. They say it would result in unfair property tax bills between eligible and ineligible taxpayers, particularly those who face similarly sized tax increases.

The amendment would also place significant new administrative burdens on local tax collectors. Without uniform guidance, tax collectors at both the parish and municipal levels risk administering the amendment inconsistently. In addition, the amendment would effectively create multiple assessment rolls, decreasing transparency and accountability for citizens while increasing the risk of assessment or property tax bill mistakes. Critics also see a risk that local tax collectors might misuse the mechanism by arbitrarily modifying a property's assessed value and tax bill amount. Finally, critics say that the self-contained nature of the proposed amendment means that any problems must be fixed by another constitutional amendment.

BGR POSITION

AGAINST. The proposed amendment is well-intentioned with its purpose of addressing financial hardships resulting from escalating property taxes. However, supporters of the amendment could not quantify the extent of any existing problem or estimate how many homeowners the amendment might assist. The basic eligibility threshold of an assessment increase exceeding 50% appears arbitrary and not tailored to address the problem of financial hardship the amendment is trying to solve.

The amendment would also create a number of issues. It would create unfairness between eligible and ineligible homeowners, particularly for those homeowners whose assessment increases are near, but do not exceed, the amendment's threshold. Further, the amendment would place a significant administrative burden on parish and municipal tax collectors without providing uniform guidance. This creates a risk of inconsistent and uneven administration within a parish and throughout the state, or worse, a risk of misuse of the mechanism.

The extent of the impact of escalating property taxes on homeowners should be better defined and analyzed. Given the amendment's flaws, it should not make its way into the State constitution, where any modifications would require another constitutional amendment. Before pursuing other attempts at property tax relief, the Legislature should assess the extent of taxpayer need and match it to a precise solution that is fair and effective. Additionally, the Legislature should establish consistent standards for transparent implementation by parish assessors and local tax collectors.

ENDNOTES

- 1 The November 6, 2018, ballot will include six constitutional amendments on a wide range of topics, including limitations for convicted felons to seek or hold public office, unanimous jury verdicts for noncapital felony cases, permitting donations from political subdivisions, the State’s Transportation Trust Fund and the extension of eligibility for property tax exemptions.
- 2 See Bureau of Governmental Research, *Property Tax Exemption and Assessment Administration in Orleans Parish*, December 1999; *Unfair Assessments, Excessive Exemptions: How New Orleans’ Property Tax System Hurts Government and Taxpayers*, May 2005; *In All Fairness: Building a Model Assessment System in New Orleans*, December 2009; BGR Presentation to the New Orleans Tax Fairness Commission, *Taxation in New Orleans*, February 2011; *The Nonprofit Margin: Addressing the Costs of the Nonprofit Exemption in New Orleans*, March 2011; *The \$1 Billion Question: Do the Tax Dedications in New Orleans Make Sense?*, November 2015. All of these reports are available at www.bgr.org.
- 3 La. Const. Art. VII, Sec. 18(F).
- 4 La. R.S. 47:2127.
- 5 La. Const. Art. VII, Sec. 25. See also La. R.S. 47:2151 et seq.
- 6 La. Acts 2018, Reg. Sess., No. 718 Sec. 1. A copy of Act 718 is available at <http://www.legis.la.gov/Legis/ViewDocument.aspx?d=1103805>.
- 7 The homestead exemption is authorized by La. Const. Art. VII, Sec. 20.
- 8 La. Acts 2018, Reg. Sess., No. 718 Sec. 1.
- 9 Ibid.
- 10 Ibid.
- 11 Ibid.
- 12 La. Const. Art. VII, Sec. 18.
- 13 La. Acts 2018, Reg. Sess. No. 718, Sec. 3. The proposition for the constitutional amendment will read as follows: “Do you support an amendment that will require that any reappraisal of the value of residential property by more than 50%, resulting in a corresponding increase in property taxes, be phased in over the course of four years during which time no additional reappraisal can occur and that the decrease in the total ad valorem tax collected as a result of the phase-in of assessed valuation be absorbed by the taxing authority and not allocated to the other taxpayers?”
- 14 See Lincoln Institute of Land Policy and George Washington Institute of Public Policy, *Significant Features of the Property Tax*. For more information, see https://datatoolkits.lincolninstitute.edu/subcenters/significant-features-property-tax/Report_Tax_Limits.aspx.
- 15 La. Const. Art. VII, Sec. 18(D). The Louisiana Tax Commission values public service properties.
- 16 La. Const. Art. VII, Sec. 18(B).
- 17 Ibid.
- 18 La. R.S. 47:1957 et seq.
- 19 La. Const. Art. VII, Sec. 18(F).
- 20 See International Association of Assessing Officers (IAAO), *Standard on Property Tax Policy*, January 2010, p. 6.
- 21 La. Const. Art. V, Sec. 27. This section does not apply to Orleans Parish.
- 22 La. R.S. 47:2051 et seq.
- 23 Walczak, Jared, *Property Tax Limitation Regimes: A Primer*, prepared for The Tax Foundation, Fiscal Fact No. 585, April 2018. Property tax limitations have been adopted in 46 states and the District of Columbia. In Louisiana, the constitution establishes a levy limit by requiring taxing authorities to adjust their millage rates after a reappraisal to maintain revenue-neutral tax collections. See La. Const. Art. VII, Sec. 23. In addition, the constitution establishes rate limits on certain millages that support municipalities, school boards, and fire and police protection. See La. Const. Art. VI, Secs. 26-27 and Art. VIII, Sec. 13(C).
- 24 Bowman, John H., et al., *Property Tax Circuit Breakers: Fair and Cost-Effective Relief for Taxpayers*, prepared for Lincoln Institute of Land Policy, Policy Focus Report, May 2009, p. 5.
- 25 Walczak, p. 1. See also Youngman, Joan, *A Good Tax: Legal and Policy Issues for the Property Tax in the United States* (Cambridge, Mass.: Lincoln Institute of Land Policy, 2016), pp. 193-213.
- 26 International Association of Assessing Officers (IAAO), *Standard on Mass Appraisal of Real Property*, April 2013, pp. 12-13.
- 27 Youngman, p. 4.
- 28 IAAO, *Standard on Property Tax Policy*, January 2010.
- 29 Ibid.
- 30 Ibid.
- 31 Bowman, pp. 4-5.
- 32 Without the phase-in, the example property would owe \$3,792 per year, an increase of \$1,819 over the pre-appraisal taxes. Over four years, without the phase-in, the owner would pay \$7,278 in additional taxes. The phase-in would save the owner \$2,728, or 37% of that increase.
- 33 For the Tax Commission’s rule, see La. Admin. Code, Title 61, Part V, Sec. 213(C), updated July 2018.

- 34 Legislative Fiscal Office, Fiscal Note for SB 164, April 25, 2018.
- 35 During the four-year period, both *The Advocate* and *NOLA.com / The Times-Picayune* published the results of a report prepared by Wade Ragas, Real Estate Property Associates, Inc. The reports analyzed the aggregated data utilized for statistical analysis provided by the New Orleans Metropolitan Association of Realtors and Gulf South Real Estate Information Network that is deemed reliable but not guaranteed by the Multiple Listing Service (MLS). In Jefferson and St. Tammany, the 2015 and 2018 data includes sales of properties in poor, fair, average or above average condition. In Orleans, the 2015 data includes sales of properties in average or above average condition, while the 2018 data includes sales of properties in poor, fair, average or above average condition. In all parishes, the real estate data excludes zip code geographies with three or fewer sales.
- 36 BGR calculations.
- 37 For example, a homestead-exempt property valued at \$125,000 is reappraised at \$175,000, representing a 40% increase in assessed value. After subtracting the \$75,000 homestead exemption, the assessed value subject to taxation increases from \$50,000 to \$100,000. Under this scenario, the homeowner's property taxes increase by 100%, or doubles. However, because the property's assessed value only increased by 40%, the homeowner would not be eligible for the phase-in process afforded by the proposed amendment. In another example, a homestead-exempt property valued at \$200,000 is reappraised at \$270,000, representing a 35% increase in assessed value. After subtracting \$75,000 for the homestead exemption, the assessed value subject to taxation increases from \$125,000 to \$195,000, representing a 56% increase in taxes. However, because the assessed value increased by just 35%, the property would not be eligible for a phase-in.
- 38 Legislative Fiscal Office, Fiscal Note for SB 164, April 25, 2018.
- 39 La. R.S. 47:1992.
- 40 IAAO, *Standard on Mass Appraisal of Real Property*, p. 5. According to the IAAO, "[u]niform and accurate valuation of property requires correct, complete, and up-to-date property data." The Tax Commission and several parish assessors have told BGR that assessors must correct errors in property data when discovered.

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