

DISTRICT ATTORNEY SALES TAX, ST. TAMMANY PARISH, APRIL 30, 2022

IN BRIEF

The District Attorney for St. Tammany Parish is asking voters on April 30 to approve a new, parishwide sales tax to support the office's Criminal Division, which prosecutes all felony and misdemeanor cases, traffic citations and juvenile matters before the 22nd Judicial District Court. The District Attorney would levy the proposed 0.14% tax for 10 years, beginning July 1, 2022. The tax would generate an estimated \$7.9 million annually.

St. Tammany Parish Government (Parish) is responsible for providing financial and other support to the District Attorney's Criminal Division. In recent years, the Parish presented voters with several tax proposals to help fund its obligations to the Criminal Division and other local agencies, including the District Court judges and the St. Tammany Parish Sheriff for jail operations. The Parish's proposals included a comprehensive funding approach to satisfy these obligations, which BGR supported last fall. Voters, however, rejected each proposal. As a result, the Parish's funding obligations have fallen squarely on the General Fund, which represents less than 10% of the Parish's total operating budget. In 2022, recurring General Fund revenue (\$12.2 million) covered less than half of the agencies' budget requests, creating a significant shortfall for the District Attorney and other agencies. Given the Parish's current financial struggles, the District Attorney is now seeking a dedicated tax to fund criminal prosecutions.

About BGR's *On the Ballot* Series

This report is part of BGR's *On the Ballot* series, which provides voters with objective, nonpartisan analysis of significant ballot propositions in the New Orleans metropolitan area. In producing these reports, BGR recommends positions consistent with its mission of promoting informed public policy making and the effective use of public resources to improve local government. *On the Ballot* reports highlight the strengths and weaknesses of ballot propositions and assess the potential for government expenditures or actions to efficiently achieve beneficial outcomes for citizens.

REPORT HIGHLIGHTS

To analyze the proposition, BGR considered three questions related to the efficient and effective use of public resources: (1) Has the District Attorney carefully planned how the office will spend the tax revenue and provide financial stewardship and accountability for taxpayer dollars? (2) Is the tax an acceptable way to fund the purposes in light of alternative funding options? (3) Is there evidence indicating the tax would result in effective outcomes for the public? Based on this analysis, BGR found the following:

- The District Attorney plans to use nearly all tax revenue (\$7 million) to retain and hire staff to handle the office's full caseload of criminal work. The Criminal Division currently has more than 100 employees, consisting of assistant district attorneys, investigators, case managers and other administrative personnel. The remaining revenue (\$0.9 million) would cover the District Attorney's share of office space and technology services at the Justice Center. As tax revenue grows, the District Attorney plans to increase the office's financial reserve to a level that aligns with recommended practices for governmental agencies, and then reduce the tax rate to avoid excessive surpluses.
- The District Attorney has pursued operational improvements and the careful stewardship of public funds. For example, technology upgrades enabled the office to maintain full operations remotely during the pandemic. The office has also improved case processing times, which reduced average incarceration times for those awaiting trial at the parish jail and, ultimately, lowered taxpayer costs.

IN BRIEF CONTINUED ON NEXT PAGE

IN BRIEF

- The District Attorney would have sole control over the tax revenue, which raises concerns about financial oversight. To enhance public transparency and accountability, the District Attorney has committed to posting quarterly financial statements; submitting an annual budget to the Parish Administration and Council for review during a public meeting; and annually reviewing whether a reduction in the tax rate is needed to avoid excessive surpluses. While Louisiana law does not obligate these practices, voters could hold the District Attorney accountable in future elections for that office and through the tax's 10-year renewal process.
- While the District Attorney's proposed tax lacks the Parish's comprehensive funding approach from last fall, it would establish a stable source of recurring revenue for the Criminal Division. This would fully satisfy the Parish's funding obligations to the District Attorney and, with no other funding option on the horizon, deliver timely fiscal relief for the Parish.
- A sales tax would be paid by residents and visitors alike and revenue would be available as soon as September to meet the District Attorney's pressing needs. While a sales tax can place more of a financial hardship on lower-income residents, the District Attorney says that the tax's small 0.14% rate lessens this concern.
- If voters reject the proposition, the Criminal Division will remain underfunded and face greater difficulty carrying out its functions. This could have adverse impacts on criminal judicial processes and public safety throughout St. Tammany. In addition, the District Attorney says failure of the proposition would likely result in a lawsuit against the Parish to enforce payment of the office's budget. Such legal action could further strain Parish finances and weaken the Parish's credit and bond ratings.
- If voters support the proposition, the tax will prevent a fiscal crisis for the District Attorney's office. It would also enable the office to decrease its reliance on fines and fees imposed on criminal defendants, anticipating a statewide shift away from this method of funding the criminal justice system. The District Attorney plans to use fines and fee revenue, albeit at a decreased amount, to enhance existing programs, such as pretrial diversion, community outreach and education.
- Indirectly, the tax would relieve some, but not all, financial pressure on the Parish's General Fund, enabling it to reallocate the District Attorney's share to help meet funding obligations to the District Court judges, the Sheriff for jail operations and other agencies.

BGR POSITION

FOR. The proposed sales tax would provide the District Attorney with a stable, recurring revenue source to fund criminal prosecutions in St. Tammany Parish. It would enable the District Attorney to retain and hire staff to handle the office's full caseload of criminal work and support the judicial process and public safety. The 10-year term of the tax balances the office's need for revenue stability with voter accountability.

In addition, the proposed tax would relieve some financial pressure on St. Tammany Parish Government to fund its obligations to the District Attorney. It would enable the Parish to reallocate General Fund revenue historically given to the District Attorney to other justice system agencies, such as the 22nd Judicial District Court and the St. Tammany Parish Sheriff for jail operations. It would also avoid potential costly litigation between the District Attorney and the Parish. While BGR supported the Parish's comprehensive tax proposal last fall, voter rejection of that approach has prompted the District Attorney to seek a dedicated tax.

BGR has transparency and accountability concerns with the District Attorney's total control over the tax revenue. To his credit, the District Attorney has committed to several practices to improve public oversight, such as posting quarterly financial statements of tax revenue and expenditures, submitting an annual budget to the Parish Administration and Council for review during a public meeting, and conducting an annual review to determine whether a reduction in the tax rate is warranted to avoid excessive surpluses. However, these practices are not mandated by law. Accordingly, BGR strongly urges the current District Attorney and future officeholders to adhere to these commitments.

INTRODUCTION

The District Attorney for St. Tammany Parish is asking voters on April 30 to approve a new parishwide sales tax to fund criminal prosecutions. The District Attorney would levy the proposed 0.14% tax for 10 years, beginning July 1, 2022. The tax would generate an estimated \$7.9 million annually.

Under Louisiana law, funding the District Attorney’s Criminal Division is one of several responsibilities of St. Tammany Parish Government (Parish) to support the local justice system and other parish agencies. Those funding obligations have become more burdensome since 2018, when sales taxes for the jail and Justice Center Complex expired. Voters rejected the Par-

ish’s attempts to renew those taxes, as well as a sales tax proposition last fall to pay for the Parish’s full range of funding obligations. In response, the Parish has cut its budget for the justice system agencies, prompting the District Attorney to pursue this more limited tax proposition to fund criminal prosecutions.

BGR prepared this report to provide voters with an independent, nonpartisan analysis to help them make an informed decision on the proposition. This analysis is grounded in BGR’s mission of promoting the effective use of public resources. The report also provides background and current context for the proposition, as well as BGR’s position. For an overview of how the proposed tax would affect taxpayers, see the “Taxpayer’s Bottom Line” sidebar.

THE TAXPAYER’S BOTTOM LINE

The proposed 0.14% sales tax amounts to 14 cents per \$100 of taxable purchases. For example, a person buying a \$1,500 refrigerator would pay an additional \$2.10 in sales tax. The sales tax on a \$30,000 vehicle would increase by \$42.

State and local combined sales tax rates vary throughout St. Tammany, ranging from 8.7% to 9.2%.* Chart A below provides a breakdown of the 8.7% rate levied in the unincorporated area of the parish and includes the District Attorney’s proposed tax. If voters approve

the tax, the increased sales tax rates will range from 8.84% to 9.34% and remain roughly comparable to the general rates in Jefferson Parish (9.2%) and New Orleans (9.45%).

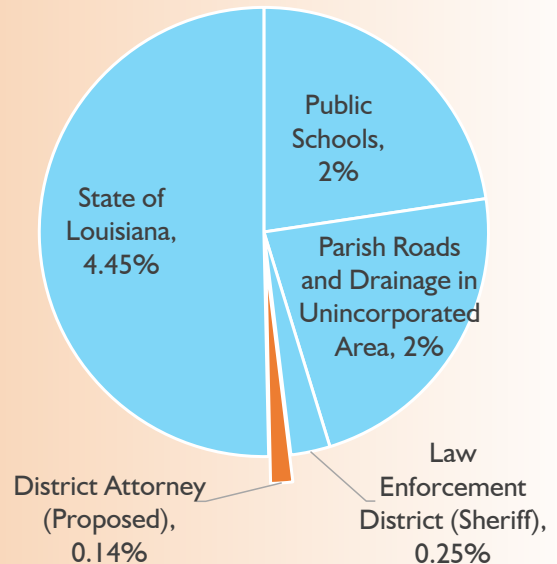
If voters reject the proposition, current sales tax rates will not change.

* These combined rates exclude additional sales taxes levied in economic development districts for certain commercial areas of the parish.

CHART A. BREAKDOWN OF STATE AND LOCAL SALES TAXES IN UNINCORPORATED ST. TAMMANY PARISH

Note: St. Tammany Parish Government levies a 2% sales tax dedicated to roads and drainage in the unincorporated areas of the parish. The municipalities in St. Tammany levy their own sales taxes for various purposes within their boundaries. Those municipal tax rates are 2% in Covington, Slidell, Madisonville and Abita Springs; 2.25% in Pearl River; and 2.5% in Mandeville, Folsom and Sun.

Source: Louisiana Association of Tax Administrators, St. Tammany Parish, effective July 1, 2018.



BACKGROUND

Overview of the District Attorney's Office

The District Attorney is an elected official who serves the 22nd Judicial District, which consists of St. Tammany and Washington parishes. The District Attorney prosecutes all felony and misdemeanor cases, traffic citations and juvenile matters before the 22nd Judicial District Court (District Court). Further, the District Attorney serves as the legal advisor to grand juries.¹ The office's Criminal Division manages this work, which includes screening arrests made by law enforcement agencies, conducting investigations and filing criminal charges.

Separately, through the civil division, the District Attorney provides legal representation to the Parish and its numerous boards and commissions.² The Parish pays for this cost, about \$1.7 million a year, through reimbursements from its departments and agencies. The civil division will not be funded or affected by the current tax proposition.

The District Attorney is an independent office created by the Louisiana constitution.³ Thus, the office exists separate from the District Court and its judges, as well as the parish governments in St. Tammany and Washington.

While the District Attorney serves both parishes, the office manages personnel, revenues and expenses separately for each parish. For example, funding provided by St. Tammany taxpayers supports the District Attorney's operations in St. Tammany only. Thus, this report focuses solely on the Criminal Division of the District Attorney's Office in St. Tammany Parish.

Origin of the District Attorney's Tax Proposal

Under Louisiana law, the Parish must pay for certain costs related to the Criminal Division, including administrative staff, special officers and investigators. The Parish must also contribute to the salaries of assistant district attorneys and pay for other expenses that support the operations of the Criminal Division.⁴ The Par-

ish is not only required to provide financial and other support to the District Attorney, but to varying degrees, it must also support other local governmental agencies, including the District Court judges, the St. Tammany Parish Sheriff for jail operations, the St. Tammany Public Defender's Office, the clerk of court, assessor and registrar of voters.⁵

While State law creates these funding obligations for the Parish, it does not establish a specific funding level. Louisiana courts have generally interpreted these financial obligations to mean the "quantifiable" and "reasonable" expenses of the agencies.⁶

Further, State law does not specify how the Parish should pay these costs. However, if the Parish refuses to pay or does not pay enough, the judges and officials can sue to enforce payment. In fact, a former District Attorney for the 22nd Judicial District successfully sued Washington Parish to enforce full payment of these costs.⁷

Historically, the Parish relied on its General Fund and a dedicated sales tax to support the District Attorney and other local governmental agencies housed in the Justice Center Complex.⁸ However, voters rejected three propositions to renew the tax, and it expired in 2018. BGR analyzed the third attempt and did not support the renewal of the tax. At that time, BGR found the tax, which generated \$12 million annually, had created a significant surplus and the Parish had not clearly demonstrated how much revenue it needed to meet the Justice Center's future operating and capital needs.⁹ Since 2018, the Parish has exhausted all available surplus funds to meet its funding obligations.

In 2021, the Parish tried a comprehensive approach by proposing a new, seven-year, parishwide 0.4% sales tax to fund its full range of responsibilities to local governmental agencies. Tax revenue would have been used only to pay for the Parish's funding obligations to the agencies, and the proposition would have given the Parish flexibility to allocate the revenue based on each agency's annual needs. The Parish accompanied the proposition with a clear spending plan and accountabil-

ity measures, overcoming concerns previously raised by BGR during the last Justice Center tax renewal attempt. While BGR supported the proposition, voters rejected it.¹⁰

The Parish now relies primarily on its General Fund to pay for its financial obligations to the District Attorney and other local governmental agencies. However, the General Fund represents less than 10% of the Parish’s total operating budget. This means at least 90% of Parish revenue generated by taxes and fees is dedicated to other purposes and therefore unavailable to meet the Parish’s obligations to the agencies. In 2022, the Parish needed \$26.6 million from its General Fund to fully meet the budget requests of the agencies.¹¹ But less than half of that was available in recurring General Fund revenue (\$12.2 million). The Parish also used \$1.6 million

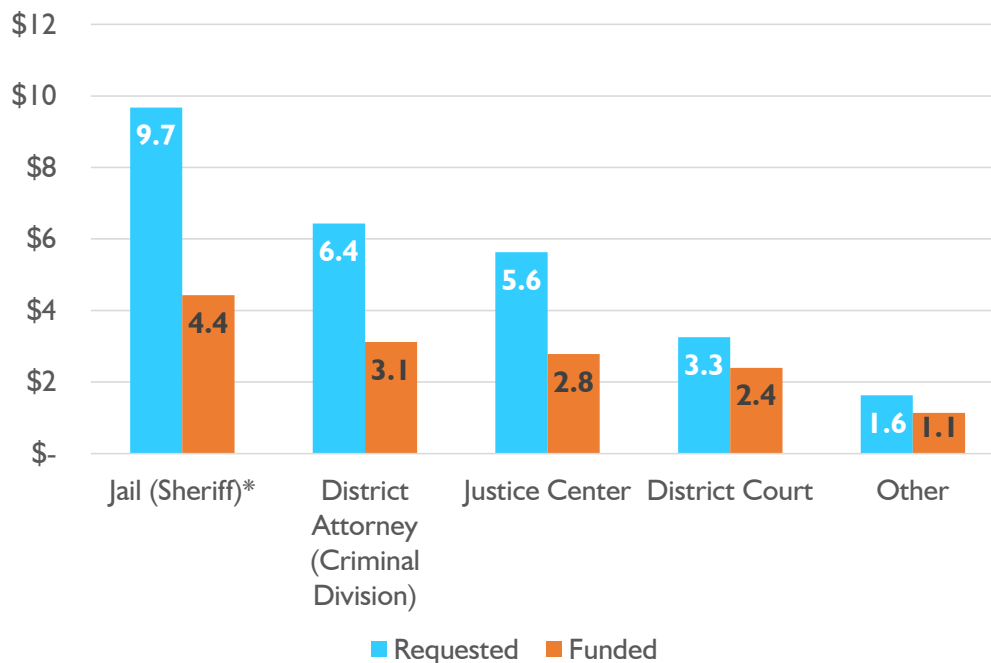
from the General Fund reserve, but as shown in Chart B, the Parish was still unable to meet the full budget requests of the agencies.

Given the Parish’s current financial struggles, the District Attorney is now seeking a dedicated tax. The proposed tax would fully cover the Parish’s funding obligations to the Criminal Division and meet other needs of that division.

A district attorney, acting through a Judicial Enforcement District, can levy taxes to provide “additional financing to the office.”¹² In this capacity, a district attorney can levy sales and property taxes, subject to voter approval.¹³ Louisiana law creates a Judicial Enforcement District within the boundaries of each judicial district. The district attorney is its sole governing author-

CHART B. ST. TAMMANY PARISH GOVERNMENT’S 2022 GENERAL FUND APPROPRIATIONS TO ITS STATE-MANDATED RESPONSIBILITIES

(\$ in millions)



* In 2022, the St. Tammany Parish Sheriff budgeted \$12.7 million for Parish-funded obligations. The Parish used \$3 million from its public health tax to fund jail medical costs, leaving \$9.7 million to be paid by the Parish General Fund.

Note: In 2022, the Parish budgeted \$13.8 million for its funding obligations to local governmental agencies, consisting of \$12.2 million in recurring General Fund revenue and \$1.6 million from the General Fund reserve.

Source: St. Tammany Parish 2022 Operating Budget

ity. The district attorney can also create subdistricts if a judicial district consists of multiple parishes.

The District Attorney has chosen this mechanism to secure additional funding for the Criminal Division. The District Attorney serves as the chief executive officer of the 22nd Judicial Enforcement District for St. Tammany and Washington parishes. In December 2021, the District Attorney held a public meeting to create a subdistrict that includes St. Tammany Parish only.¹⁴ In January 2022, the District Attorney, on behalf of the St. Tammany Judicial Enforcement Subdistrict, held a public meeting where he presented and adopted a resolution for the current proposition to be placed on the April 30 ballot.¹⁵

Current Financial Picture for the Criminal Division

Revenue Sources. The District Attorney budgeted \$8.4 million in revenue for the Criminal Division in 2022.¹⁶

- Criminal Justice System Fines, Fees and Grants. The District Attorney budgeted \$3.8 million in revenue from various fines and fees.¹⁷ This includes mandatory court costs imposed on certain criminal defendants, as well as fees collected for commercial bond forfeitures, criminal bonds, special asset forfeitures, suspended driver's licenses and the issuance of worthless checks. It also includes a portion of revenue from the Criminal Court Fund, a special fund managed by the Parish that consists mainly of fees imposed on traffic citations.¹⁸ In addition, the District Attorney receives revenue from the office's pretrial diversion program, which must be reinvested in the program, and grants to fund specific purposes.¹⁹
- St. Tammany Parish Government. In 2022, the Parish budgeted \$3.1 million for the Criminal Division. However, due to insufficient recurring revenue in the General Fund, the Parish's funding represents less than half of the District Attorney's \$6.4 million request.

“**The District Attorney's Office operates and functions much like a large law firm. It currently employs more than 100 staff, including assistant district attorneys, case managers, investigators and administrative personnel to support the Criminal Division. Most of the division's expenses are personnel costs.**”

- State Warrants. These are payments from the State of Louisiana to supplement the salaries of assistant district attorneys who work in the Criminal Division.²⁰ Currently, St. Tammany receives State warrants for 30 assistant district attorney positions. If the office employs more than 30 assistant district attorneys, those additional positions do not receive supplemental funding through State warrants. In 2021, the office employed 34 assistant district attorneys and received \$1.5 million in State warrants. Currently, the District Attorney receives \$50,000 per warrant.²¹ On average, a warrant covers 57% of an assistant district attorney's salary, with the balance paid by the Parish.²²

Expenditures. The District Attorney's Office operates and functions much like a large law firm. It currently employs more than 100 staff, including assistant district attorneys, case managers, investigators and administrative personnel to support the Criminal Division.

Most of the division's expenditures are for personnel costs. For 2022, the District Attorney budgeted \$8.4 million in expenditures, with \$7 million going toward salaries and benefits. Additional expenses include, among other things, office supplies and equipment, professional dues and subscriptions.

ANALYSIS

To analyze tax proposals, BGR applies three criteria related to the efficient and effective use of public resources. This framework derives from BGR's research on government finance and taxation, as well as consultation with government finance experts.

A government entity asking voters to approve a tax should demonstrate that:

- It has carefully planned how it will spend the tax revenue and provide financial stewardship and accountability for taxpayer dollars.
- The tax is an acceptable way to fund the purposes in light of alternative funding options.
- There is evidence indicating the tax would result in effective outcomes for the public.

Has the District Attorney carefully planned how the office will spend the tax revenue and provide financial stewardship and accountability for taxpayer dollars?

The District Attorney has aligned tax revenue with staffing needs for the Criminal Division. In addition, the proposed tax reflects steps the office has taken to improve operational effectiveness and efficiency. Tax revenue would replace the current level of funding from the Parish General Fund, as well as pay for Parish obligations that have been historically underfunded. While the District Attorney's sole control over the tax revenue raises accountability concerns, he has committed to practices that would improve public transparency in his stewardship of the tax dollars and ensure the tax does not generate excessive surpluses.

Spending Plan. Of the estimated \$7.9 million in initial tax revenue, the District Attorney would use \$7 million to retain and hire qualified staff to operate the Criminal Division. The remaining \$0.9 million would pay the Parish for the District Attorney's share of office space, facility maintenance and technology services at the Jus-

ANNUAL SPENDING PLAN HIGHLIGHTS

- \$7 million to retain and hire qualified staff
- \$0.9 million to pay the Parish for office space, facility maintenance and technology services at the Justice Center

stice Center.²³ This amount would be agreed upon by the District Attorney and the Parish each year. No tax revenue would be used to fund the civil division and the legal work done for the Parish or other local governmental boards and commissions.

Most tax revenue for the Criminal Division would pay for the salaries and benefits of assistant district attorneys, investigators, case managers and other support staff necessary to handle the full caseload of criminal work. The District Attorney files charges for nearly 90% of the arrests made by law enforcement agencies. In 2019, the last year before the pandemic delayed hearings and trials, the Criminal Division handled nearly 5,000 misdemeanor and felony cases. The office also handled more than 16,000 traffic charges and 1,100 juvenile matters before the District Court. BGR did not evaluate charging decisions and the caseload of the office, which are beyond the scope of this report.

The Criminal Division is led by 10 assistant district attorneys, one for each division of the District Court.²⁴ In recent months, however, four of these lead prosecutors have resigned, along with 13 employees in other, non-attorney positions. According to officials, the District Attorney's inability to pay competitive salaries and keep up with inflation is causing the office's attorneys and other staff to leave, mainly for jobs in the private sector. Based on information provided by the District Attorney, the average salary for an assistant district attorney in the St. Tammany Criminal Division is \$87,588. By contrast, the average salary of an assistant district attorney in the office's civil division is \$116,532, while the average salary of peers working at private firms in the region is \$123,070.²⁵ While officials say that some positions may need a pay increase, the District Attorney would not authorize any increases without conducting a comprehensive, independent study of salaries and benefits.

According to officials, the current costs to operate the Criminal Division along with paying for space and technology services provided by the Parish would likely consume all the revenue generated by the tax each year. If there is tax revenue remaining in any given year, they will use the additional funds to replenish the office's reserve, which currently totals approximately \$440,000. The Louisiana Legislative Auditor has advised the District Attorney to use the reserve to fund key items if tax revenue decreases. Thus, the District Attorney plans to increase the office's reserve to \$1.4 million to cover two months of salaries based on current staffing levels (\$1 million) and technology investments needed to operate the office's criminal prosecution software (\$0.4 million).²⁶ The District Attorney's reserve would be approximately 17% of the total annual revenue generated by the tax, which aligns with recommended financial practices for governmental agencies with few capital needs.²⁷

The proposed tax would replace annual allocations from the Parish General Fund. This would not relieve the Parish of its legal obligation to fund the District Attorney's Criminal Division. However, in practice, it would let the Parish reallocate \$3.1 million in recurring General Fund revenue each year to pay its mandated costs for other local governmental agencies, such as the District Court and jail operations run by the St. Tammany Parish Sheriff.

The proposed tax would generate \$600,000 in additional revenue for the Criminal Division above the District Attorney's 2022 budget request to the Parish. However, the District Attorney expects to reduce the office's reliance on fines and fees imposed on criminal defendants, which would offset some of the additional revenue. Indeed, a statewide commission recently recommended to the Legislature that justice system agencies shift

away from using fines and fees to fund criminal prosecutions.²⁸

Regardless of what changes the Legislature might make, the District Attorney intends to reallocate revenue generated by fines and fees, albeit at a reduced amount, to new or existing programs not directly related to criminal prosecutions. The District Attorney's plans include:

- Providing low- or no-cost participation in the office's pretrial diversion program, a voluntary program offered to eligible criminal defendants as an alternative to prosecution.
- Expanding the office's Fresh Start Program, which helps eligible individuals navigate the expungement process to get an older arrest or conviction record sealed from public view.
- Expanding the office's warrant clinics that allow individuals to pay old traffic citations, with some fees waived, in exchange for having an arrest warrant revoked.
- Creating community outreach programs that would educate the public and students on the criminal justice system, law enforcement and the role of the district attorney. A major component of these programs would be a "Citizens' Academy" that would offer classes on the functions and operations of the office.

If revenue from criminal justice system fines and fees exceeds the costs of these or similar programs, the District Attorney would use the remaining revenue to fund criminal prosecutions.

“The proposed tax would replace annual allocations from the Parish General Fund. This would not relieve the Parish of its legal obligation to fund the District Attorney's Criminal Division. However, in practice, it would let the Parish reallocate \$3.1 million in recurring General Fund revenue each year to pay its mandated costs for other local governmental agencies, such as the District Court and jail operations run by the St. Tammany Parish Sheriff.”

Financial Stewardship and Accountability. The District Attorney has taken steps to improve operational effectiveness and efficiency. The tax proposition and the requested revenue, officials say, reflect these operational improvements and the office's careful stewardship of public funds.

For example, the office has upgraded its technology, which enabled it to maintain full operations remotely during the pandemic. As a result, the office kept case screenings, investigations and the filing of criminal charges on track for completion within the timeframes required by Louisiana law. Case tracking technology has also helped the office advance cases, particularly older ones, on the District Court's docket. Before the pandemic, these technology improvements helped the District Attorney reduce the waiting period for a trial date by more than 70 days. These strides have been lost due to the prolonged closure of the District Court during the pandemic, but the office plans to restore that progress as normal court operations resume.

The District Attorney's focus on efficiency has also helped reduce average incarceration times for those awaiting trial at the parish jail and, ultimately, lowered taxpayer costs. A recent report found that every \$1 spent by the District Attorney to improve operational efficiencies that reduced case processing times saved \$2 in incarceration costs incurred by the Sheriff at the jail.²⁹ Again, many of these efficiencies have been lost, at least temporarily, because of the District Court's closure. While the District Attorney's Office continued to carry out its pretrial functions and resolved less complicated cases with plea bargains, the pause on holding in-person trials has caused a backlog for the office's more complex cases.

The proposition, however, raises transparency and accountability concerns. The District Attorney is the sole governing authority of the St. Tammany Judicial Enforcement Subdistrict and would have total control over the tax revenue. While State law requires the District Attorney to prepare public budgets and audits, the

subdistrict would not be accountable to a public board, the Parish Council or the Parish Government. Thus, common checks and balances on public funding are not built into the subdistrict's budget processes.

Recognizing these concerns, the current District Attorney has committed to:

- Posting quarterly statements to account for tax revenue received, expenditures incurred for criminal prosecutions and reserves accrued.
- Submitting an annual budget to the Parish Administration and Council for review during a public meeting because tax revenue would fund the Parish's obligations to the office.
- Establishing an annual review process to determine whether projected revenue at the current tax rate is sufficient to meet projected expenditures and the recommended amount for reserve funding or if these objectives could be accomplished with a reduced tax rate.

A study found that every \$1 spent by the District Attorney to reduce case processing times saved \$2 in incarceration costs at the jail.

If voters support the proposition, the District Attorney will adopt a resolution during a public meeting of the St. Tammany Judicial Enforcement Subdistrict to establish an initial sales tax rate of 0.14%. If, during a subsequent annual review, the District Attorney finds that the office can cover its costs with a lower tax rate, he would either amend the original resolution or repeal it and adopt a new one to reduce the rate. Any changes to the sales tax rate would take place during a public meeting, giving citizens an opportunity to attend and comment on the process and proposed change. The District Attorney would coordinate these changes with the Sheriff, who would amend the sales tax rolls and implement the lower rate.

While these proposed practices would enhance public transparency and accountability, they are not mandated by State law. Thus, the current District Attorney and any future officeholders could discontinue the practices.

Ultimately, voters could hold the District Attorney accountable in future elections for that office and through the tax's renewal process. In considering the duration of the proposed tax, the District Attorney determined that a 10-year term would balance the public's need for accountability with the office's need to secure a stable, recurring revenue source.

Is the proposed tax an acceptable way to fund the purposes in light of alternative funding options?

While the District Attorney's proposed tax lacks the Parish's comprehensive funding approach from last fall, it would establish a stable source of recurring revenue for the Criminal Division. This would fully satisfy the Parish's funding obligations to the District Attorney and, with no other funding option on the horizon, deliver timely fiscal relief for the Parish.

The Parish's sales tax proposal in fall 2021 had substantial merit as a holistic solution to fund the Parish's full range of obligations to the District Attorney and other local governmental agencies. In its absence, the Parish relies primarily on recurring General Fund revenue, which falls short of meeting its total funding obligations by \$14.4 million a year.³⁰

While the District Attorney's Office has its own revenue sources to draw from, these sources collectively do not generate enough revenue to pay for the Parish's obligations for the Criminal Division. Further, these revenue sources, which are largely supported by fines and fees imposed on criminal defendants, may decrease in the future if the Legislature adopts funding reforms for the criminal justice system.

It is unusual but not unprecedented for a district attorney, acting through a judicial enforcement district, to levy a tax. The district attorney for Sabine Parish, as the governing authority of the 11th Judicial Enforcement District, levies a 0.125% parishwide sales tax.³¹ Voters approved the tax in 2003 to renovate and maintain the Sabine Parish district attorney's office space, as well as

support operations.

In St. Tammany, the District Attorney chose a sales tax, instead of a property tax, for several reasons. First, the sales tax burden would be shared by both residents and visitors to St. Tammany, rather than just property owners. Second, sales tax revenue would be available in September to meet the District Attorney's pressing needs and relieve some financial pressure on the Parish General Fund. Property tax revenue, on the other hand, would not be available until January 2023.³² Third, public outreach conducted by the District Attorney's Office revealed that voters would more likely support a sales tax than a property tax, in light of current property tax rates.



Parish
General Fund
revenue falls short of
meeting its obligations
to the District Attorney
and other agencies
by \$14.4 million a
year.

A sales tax, however, has drawbacks. Inflation could boost sales tax revenue, imposing an unintended economic burden on consumers. This highlights the importance of the District Attorney's proposed commitment to monitor tax revenue and reduce the rate as needed to avoid creating excessive surpluses. In addition, sales taxes are generally regressive and can place more of a financial hardship on lower-income residents, although the District Attorney says that the small 0.14% rate of the tax lessens this concern.

Is there evidence indicating the tax would result in effective outcomes for the public?

If voters reject the proposition, the Criminal Division will remain underfunded. This could affect the Division's capacity to manage criminal prosecutions, which could have adverse impacts on public safety in St. Tammany. The District Attorney must screen cases and file criminal charges within the timeframes set by State law. A failure to meet these timeframes could result in the release of individuals who have been arrested on serious charges.

Further, if the proposition fails and the Parish remains unable to fully meet its mandated costs, the District Attorney has publicly stated that suing the Parish would be an option to enforce payment of the office's request-

ed budget.³³ The District Attorney “reasonably anticipates” to prevail in court given the State laws that mandate the Parish’s funding obligations to the office. Such legal action could further strain unrestricted Parish finances and weaken the Parish’s credit and bond ratings.

If voters support the proposition, the tax will prevent a fiscal crisis for the District Attorney’s office. The tax would enable the District Attorney to retain and hire staff who can handle the office’s full caseload of criminal work.

The tax would also enable the District Attorney to decrease the office’s reliance on fines and fees imposed on criminal defendants, anticipating a statewide shift away from this method of funding the criminal justice system. The District Attorney plans to use fine and fee revenue, albeit at a decreased amount, to support other programs such as pretrial diversion, community outreach and education.

Indirectly, the tax would benefit the Parish by freeing up \$3.1 million in recurring General Fund revenue each year that would otherwise support the District Attorney. According to Parish officials, they could reallocate that revenue to help meet the financial obligations to other justice system agencies, including the District Court judges and the St. Tammany Parish Sheriff for the jail.

While the proposed tax would give the Parish some fiscal relief, it would provide only a partial solution to a larger funding problem. Even if the Parish reallocates the District Attorney’s share of General Fund revenue to the other agencies, it will still need \$8 million a year to fully meet the agencies’ budget requests.³⁴ However, the immediate financial pressures on the District Attorney and the Parish leave little room for re-urging a holistic solution that voters rejected just six months ago.

BGR POSITION

FOR. The proposed sales tax would provide the District Attorney with a stable, recurring revenue source to fund criminal prosecutions in St. Tammany Parish. It would enable the District Attorney to retain and hire staff to handle the office’s full caseload of criminal work and support the judicial process and public safety. The 10-year term of the tax balances the office’s need for revenue stability with voter accountability.

In addition, the proposed tax would relieve some financial pressure on St. Tammany Parish Government to fund its obligations to the District Attorney. It would enable the Parish to reallocate General Fund revenue historically given to the District Attorney to other justice system agencies, such as the 22nd Judicial District Court and the St. Tammany Parish Sheriff for jail operations. It would also avoid potential costly litigation between the District Attorney and the Parish. While BGR supported the Parish’s comprehensive tax proposal last fall, voter rejection of that approach has prompted the District Attorney to seek a dedicated tax.

BGR has transparency and accountability concerns with the District Attorney’s total control over the tax revenue. To his credit, the District Attorney has committed to several practices to improve public oversight, such as posting quarterly financial statements of tax revenue and expenditures, submitting an annual budget to the Parish Administration and Council for review during a public meeting, and conducting an annual review to determine whether a reduction in the tax rate is warranted to avoid excessive surpluses. However, these practices are not mandated by law. Accordingly, BGR strongly urges the current District Attorney and future officeholders to adhere to these commitments.

ENDNOTES

- 1 La. R.S. 16:1, et seq.
- 2 St. Tammany Parish Home Rule Charter Sec. 4-03, amended November 21, 2015. See also *Montgomery v. St. Tammany Par. Gov't*, 319 So. 3d 209 (La. 06/27/18).
- 3 La. Const. Art. 5, Sec. 6.
- 4 La. R.S. 16:6, et seq.
- 5 La. R.S. 18:132 and 33:4713.
- 6 *Reed v. Washington Parish Police Jury*, 518 So.2d 1044 (La. 1988).
- 7 *Ibid.*
- 8 The Justice Center Complex is located in Covington and includes an annex office in Slidell.
- 9 BGR, [On the Ballot: St. Tammany Parish Sales Tax Renewals, March 24, 2018](#). That report also analyzed the proposed renewal of the jail tax. BGR recommended renewing the jail tax based on the significant revenue needed for the Parish's and Sheriff's obligations to support the jail. Voters, however, rejected that tax renewal. BGR did not issue reports on the previous renewal attempts.
- 10 BGR, [On the Ballot: St. Tammany Parish Sales Tax Renewals, November 21, 2021](#).
- 11 Combined, the local governmental agencies requested \$31.3 million from the Parish in 2022 to cover mandated expenses. The Parish paid its obligations for jail medical costs from a separate public health tax (\$3 million). It also budgeted reimbursements from its departments and agencies to cover the District Attorney's civil division (\$1.7 million). This left \$26.6 million in budget requests from the local governmental agencies to be paid by the Parish General Fund. St. Tammany Parish, Administrative Comment on General Fund in 2022 Proposed Operating Budget.
- 12 La. R.S. 16:60.
- 13 La. R.S. 16:62.
- 14 Resolution signed by Warren L. Montgomery, District Attorney of the 22nd Judicial District of the State of Louisiana and Chief Executive Officer of the 22nd Judicial Enforcement District, December 8, 2021.
- 15 Resolution signed by Warren L. Montgomery, District Attorney of the 22nd Judicial District of the State of Louisiana and Chief Executive Officer of the 22nd Judicial Enforcement District, January 10, 2022.
- 16 District Attorney's office presentation to BGR, February 16, 2022.
- 17 As of March 2022, the District Attorney's Office believes that only \$3.4 million will be available in revenue generated from criminal justice system fines and fees. However, in accordance with Louisiana's Local Government Budget Act, the District Attorney typically does not amend the office's budget until the end of the fiscal year.
- 18 The District Attorney has budgeted \$725,000 from this fund for 2022. As of March 2022, the District Attorney projects receiving only \$600,800 from this fund.
- 19 The District Attorney's Diversion Program allows eligible participants to have their criminal charges dismissed if they successfully complete the program, which is aimed at deterring future criminal behavior.
- 20 La. R.S. 16:10, et seq.
- 21 For the first half of 2021, the District Attorney received \$47,500 in State warrants for each of its 30 assistant district attorneys. Effective July 1, 2021, the amount for each warrant increased to \$50,000.
- 22 Based on information provided by the District Attorney, the average salary for an assistant district attorney in the St. Tammany Criminal Division is \$87,588.
- 23 The District Attorney's payments would be based on the Parish's cost allocation plan, which spreads the costs of operating and maintaining the Justice Center Complex among the offices housed in the Center. The Parish establishes the cost allocation plan annually based on generally accepted accounting principles. The District Attorney would budget its share for the Criminal Division, use tax revenue to pay the Parish and account for all spending of tax revenue with an audit.
- 24 While the 22nd Judicial District Court has 12 divisions, two divisions are dedicated solely to family court matters.
- 25 Information provided by the District Attorney based on U.S. Bureau of Labor Statistics mean wage data for attorneys in the New Orleans metropolitan area.
- 26 The District Attorney would set aside approximately \$400,000 in reserve funding to upgrade computers and other hardware used by attorneys and support staff. Another \$40,000 would be set aside to pay for criminal prosecution software upgrades.
- 27 Government Finance Officers Association, *Fund Balance Guidelines for the General Fund*, 2015.
- 28 Louisiana Commission on Justice System Funding Report, February 3, 2022.
- 29 Tamerica Management Company, *Final Report to D.A. War-*

ren Montgomery, Report of Findings Economic Reasonableness of St. Tammany Operations, October 18, 2019.

- 30 This figure does not include the Parish's obligation to pay for medical costs at the jail. The Parish typically uses \$3 million in public health tax revenue to cover these costs. Without the public health tax, the Parish General Fund could fall short of meeting the Parish's funding obligations to local governmental agencies by more than \$17 million.
- 31 Louisiana Association of Tax Administrators, [Sabine Parish sales tax rates](#), effective July 1, 2018.
- 32 According to the Parish, collections of a sales tax levied July 1 can start flowing by September, compared to a property tax that is not levied until December 2022.
- 33 Pagones, Sara, "Running out of money, north shore District Attorney Warren Montgomery seeks new sales tax," *The Times-Picayune | The New Orleans Advocate*, February 20, 2022.
- 34 If the tax offsets the Criminal Division's \$6.4 million budget request to the Parish, the Parish's General Fund obligations to local government agencies would decrease from \$26.6 million to \$20.2 million. The Parish would also no longer allocate \$3.1 million to the Criminal Division, allowing it to direct \$12.2 million General Fund revenue to the other agencies. The unfunded gap for the Parish's obligations would therefore become \$8 million.

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