

Louisiana amendments make tobacco tax permanent, shift funding for TOPS

BATON ROUGE -- Louisiana voters should be prepared for deciding the fate of five constitutional amendments on Saturday's ballot, three of which will shape how the state finances programs in the future.

Topping the list is an amendment to shift some of the tobacco revenues from going into the Millennium Trust Fund to being used to fund the Taylor Opportunity Program for Students merit-based scholarship program, the TOPS program.

Another part of the same amendment would make 4 cents of the state's tobacco tax permanent, instead of expiring next year.

Legislators voted to renew the tax, but Gov. Bobby Jindal vetoed the bill, calling it an increase in taxes. In a bit of maneuvering, the tax renewal was inserted into the constitutional amendment and was declared legitimate since both parts of the amendment deal with tobacco revenues.

James Caillier of the Taylor Foundation encourages voters to approve Amendment No. 1.

"It redirects 40 percent of tobacco sales revenue -- \$47 million -- to the TOPS program," he said, "which makes \$47 million available for education and health care" or other programs that need funding. "It doubles your money."

Currently, the TOPS program costs the state about \$150 million, so the amendment would not cover all the costs. But as Caillier points out, it frees up \$47 million in state general fund money that normally would go to TOPS.

The cigarette tax generates about \$12 million that, if the amendment is approved by voters, would go into the Health Excellence Fund within the Millennium Trust Fund.

The Council for a Better Louisiana also supports the amendment.

Barry Erwin, president of CABL, says in an analysis of the amendments, "It is rather unorthodox to place a tax like this in the state constitution, and typically CABL would

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be opposed to such a move."

But given the circumstances, he said, CABL supports it.

Amendment No. 2 puts into the constitution a requirement that beginning in fiscal year 2014, the Legislature commit at least 5 percent of nonrecurring revenues toward reducing state retirement systems' debt. The percentage would jump to at least 10 percent after the first two years.

The Revenue Estimating Conference decides whether dollars flowing into the state are one-time revenues.

Erwin said CABL also supports this amendment, even though the Legislature could commit the funds on its own. It's had several chances to dedicate significant one-time revenues to paying down the \$18 billion debt but hasn't done it.

The amendment is "nipping at the heels of that huge animal," but it's a start, he said.

Amendment No. 3 prohibits the Legislature from dipping into the Patients Compensation Fund to pump more money into the state budget.

In the past several years, lawmakers have balanced the budget by "sweeping" money out of special funds created in the state treasury. So far, the PCF, created by health-care providers as a hedge against malpractice judgments, has not been touched by the Legislature.

Erwin said the amendment is proposed because of concerns that the funds might be swept in tough budget times.

Amendment No. 4 addresses an issue that arose between the House and Senate over when money taken out of the Budget Stabilization Fund, commonly referred to as the "Rainy Day Fund," has to be paid back.

House members said the constitution required immediate payback, but senators said that would be like having to pay back a loan before leaving the bank.

A lawsuit is pending that would require immediate payback, as currently indicated in the constitution.

The amendment says no payback is due during the first two years of borrowing, but it must be paid back within the following three years.

"Amendment No. 4 is a prudent solution that strikes a balance between fiscal flexibility and fiscal responsibility," said

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Edward Ashworth, director of the Louisiana Budget Project. "This amendment will make it easier for the Legislature to use the Rainy Day Fund for its intended purpose to prevent cuts to critical services such as education and health care."

Erwin agrees with allowing up to five years for restoring the fund because "economic downturns take years to get out of. It doesn't open the door for it to be grabbed year after year."

Amendment No. 5 takes care of a problem that possibly shouldn't have been in the constitution in the first place, Erwin said.

Numerous exceptions to laws and special provisions were inserted into the constitution and state laws dealing with municipalities -- primarily New Orleans -- but instead of stating the name, lawmakers used population at the time. With the decreased population in New Orleans, many provisions made for the city are no longer applicable.

The amendment would allow New Orleans to retain a provision that if no one meets the minimum bid when foreclosed or abandoned property is sold for back taxes, city officials can accept the highest bid. It became a serious issue after Hurricane Katrina.

"Passage of this amendment would clean up that language in the constitution and basically keep things in the posture that they have been for years in New Orleans," Erwin said. But whether the city should

have the exemption and whether it should be in the constitution is something to consider.

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