Louisiana Budget Project

PROVIDING INDEPENDENT, NONPARTISAN research and analysis of Louisiana fiscal issues and their impact on low and moderate income residents.

STAFF

Jan Moller
Director
janmoller@lano.org

Tim Mathis
Analyst
timmathis@lano.org

Steve Spires
Analyst
stevespires@lano.org

Karen Miller
Communications
karenmiller@lano.org

CONSTITUTIONAL AMENDMENT NO. 1 WOULD MAKE IT HARDER TO PROVIDE ESSENTIAL PUBLIC SERVICES

By: Tim Mathis

A proposed constitutional amendment on Louisiana's November 19 statewide ballot to prohibit taxes on the sale of homes or businesses would damage the ability of state and local governments to provide revenue needed to support health care, education, and other essential services.[1]

Real estate transfer taxes (RETTs) are charged on the sale of immovable property, such as homes or businesses, and are generally paid by buyers. Louisiana is among 37 states and Washington, D.C. with some form of real estate transfer tax, either at the state or local level.[2] In most states that have such taxes they are no more than one-half of one percent of the selling price. The only RETT now on the books in Louisiana is in Orleans Parish, where the flat $325 levy is the equivalent of 0.15 percent of an average home purchase, effectively one of the lowest rates in the country.[3]

Should Amendment 1 pass, Louisiana would join three other states—Arizona, Missouri, and Montana – that have constitutional prohibitions against such taxes.

The amendment would not apply to fees that cover the cost of paperwork and filing expenses that ordinarily accompany real estate transactions, nor would it force repeal of the Orleans Parish RETT.

The RETT in Orleans Parish, called the Documentary Transaction Tax, has been in place for decades and is expected to generate $4.4 million this year for the parish general fund. Revenue from the tax peaked in 2003 at $8.2 million, and it is projected to raise $3.5 million per year in 2012 through 2016.[4]

While there is currently no movement to establish RETTs outside Orleans Parish, a Constitutional prohibition against all such taxes would unnecessarily tie the hands of future policymakers at the state and local level as they grapple with budget challenges.

Though the need for public services is rising, state and local governments in Louisiana – as across the nation – have seen sharp declines in receipts from income and sales taxes. As policymakers search for the right mix of cuts and revenue measures to solve those shortfalls, they should have the option of using RETTs to diversify their tax base. This is especially true at the parish level, where most services are financed through property and sales taxes. Rather than relying on these taxes alone, some municipalities may want to use RETTs to enhance and diversify revenue streams along with other mechanisms such as parking taxes, hotel taxes, or slot machine taxes.

8281 Goodwood Blvd, Ste A
Baton Rouge, LA 70806

PO Box 66558
Baton Rouge, LA 70896

225-929-5266
225-925-2711 [fax]

In Partnership with LANO

Louisiana already imposes a high burden before any new tax can be enacted. A state RETT would require a two-thirds majority vote in the House and Senate, a virtual impossibility given the anti-tax stance of Gov. Bobby Jindal and a majority of legislators. A majority in both houses of the Legislature would also need to sign off before a local government could enact such a tax.

The prime support to ban the taxes comes from the Louisiana Realtors Association, which claims that transfer taxes are an onerous, regressive burden that have the potential to depress home sales. But a Constitutional amendment is a "one-size-fits-all" remedy that would deny local leaders the flexibility needed to cope with new budget challenges.

This is especially true in parishes such as Ascension and Livingston, where leaders often struggle to provide adequate schools, roads and other public infrastructure needed to keep pace with rapid growth.[5]

In 2004, for example, Livingston Parish passed a RETT of $300 per sale, but revoked it one year later after questions arose on whether or not the parish could implement such a tax without permission from the Legislature. Still, support for RETTs in parishes as different as Livingston and Orleans show why the option should remain on the table. As state government continues to retrench, it has been asking parishes and municipalities to shoulder an ever-increasing share of the cost for public education, transportation and other critical services. Parishes need more flexibility, not less, as they cope with these challenges. Amendment 1 is a step in the wrong direction.

The Baton Rouge-based Louisiana Budget Project provides independent research and analysis of Louisiana fiscal issues and their impact on low- and moderate-income residents. For more information, visit www.labudget.org.

End Notes:

[1] House Bill 135, 2011 Regular Session (Act 425).

[2] "Real Estate Transfer Taxes." *National Conference of State Legislatures*. Sept. 2010. http://www.ncsl.org/default.aspx?tabid=12661

[3] "Comprehensive Housing Analysis: New Orleans, Louisiana." *U.S. Department of Housing and Urban Development*. Apr. 2011. http://www.huduser.org/publications/PDF/NewOrleans_Comp.pdf

[4] Figures provided by the Louisiana Legislative Fiscal Office and the City of New Orleans.

[5] Sanoski, Steve. "Growing, growing, gone." *The Greater Baton Rouge Business Report*. 20 Sept. 2011: 48-49.