



## **LBP's Guide to the 2018 Constitutional Amendments**

Louisiana voters will find six proposed changes to the state constitution on their Nov. 6 statewide ballot. A seventh ballot question is not a constitutional amendment, but asks voters whether fantasy sports contests should be legal in their parish.

While state constitutional amendments often deal with issues that seem minor and technical in nature, this year's slate presents a major exception to that rule: Amendment 2, which would require a unanimous jury to convict a person charged with a non-capital felony offense. Louisiana currently is one of only two states (Oregon is the other) that allows people to be convicted of serious crimes even if two jurors are not convinced of guilt.

Here is a brief rundown of this year's batch of constitutional amendments: For an in-depth look at each amendment, including arguments for and against each measure, the best resource comes from the [Public Affairs Research Council](#) (PAR). A shorter guide, with recommendations, is available from the [Council for a Better Louisiana](#) (CABL).

**Amendment 1:** Would require people convicted of felony crimes to wait at least five years after the end of their sentence before seeking or holding a public office.

**Background:** Louisiana's constitution once barred felons from seeking office for 15 years after their sentences ended. But that was thrown out in 2016 on a technicality, which prompted the Legislature to revisit the issue. This amendment would shorten the waiting period to five years, and would include appointed positions such as state boards and commissions. But it would not apply to people seeking government employment.

**LBP comment:** Public office is a position of public trust that is bestowed by voters, and voters should properly decide whether a felony conviction should keep someone from holding office. The same applies to board appointments.

**Amendment 2:** Raises the standard for a felony conviction by requiring unanimous jury verdicts instead of the current system, which allows a conviction if 10 of 12 jurors agree on a guilty verdict.

**Background:** [Extensive research by The Advocate](#) has shown that Louisiana's non-unanimous jury law is rooted in racism, has a disproportionate effect on people of color and is one of the reasons why Louisiana, until recently, had the highest incarceration rate in the world. The amendment has drawn support from an unlikely coalition of progressives and conservatives, and would correct an historical error that has led to black Louisianans being more likely to be convicted by a non-unanimous jury.

[The Advocate](#) summed up the support in a recent editorial:

*Liberals point out that the divided jury laws date back to the Jim Crow era and were designed to diminish the clout of black jurors, who are more skeptical of police and prosecutors. They're right. Louisiana's jails are two-thirds black — and split juries are part of the reason. Conservatives point out that divided juries enhance the power of government to take away someone's freedom. They're right too. Louisiana leads the nation in locking people up for life — our rate is twice that of Mississippi — and split juries are part of the reason.*

LBP comment: It is long past time to right this historic wrong, and put Louisiana in line with nearly every other state and the federal government. Simple fairness and common sense demand it. The current system increases the likelihood that innocent people are sent to prison, which hurts low-income communities particularly and decreases public confidence in the fairness of the judicial process.

**Amendment 3:** Allows loans or donations of public property, and other resources, between local government entities.

Background: The Louisiana constitution bars loans or donations from one government entity to another, except in cases of emergency or if there is an exchange of equal value. The only exception is if two entities sign a cooperative endeavor agreement. But [as CABL reports](#), the state Legislative Auditor in 2016 found that the town of Denham Springs may have run afoul of the law by letting other towns in Livingston Parish use its vacuum truck, and that similar resource-sharing is common in small towns and cities throughout the state.

LBP comment: While the state has an understandable interest in protecting taxpayers by making sure public resources aren't simply given away, it also makes sense to allow small government subdivisions - local police departments, or small towns - to share resources without excessive paperwork.

**Amendment 4:** Forbids money in the state Transportation Trust Fund from being used to fund traffic control operations by the State Police.

Background: Louisiana faces a massive backlog of road and bridge repairs - [about \\$14 billion](#) by last count. Money for transportation projects is supposed to come from the Transportation Trust Fund, which gets its revenue from gasoline and other fuel taxes. But the state gasoline tax has [not been raised since 1990](#), and has lost much of its purchasing power since then. Making matters worse, the Legislature has used money from the trust fund to subsidize State Police operations during lean budget years in an effort to spare them from cuts. That has reduced the money available for road projects, and helped erode public trust in the trust fund. Starting in 2015, the Legislature stopped the State Police subsidies, and voters in 2017 approved a constitutional amendment that bars any revenue from new fuel taxes to be used for that purpose. This measure builds on last year's amendment by preventing any money from the trust fund from funding State Police.

LBP comment: The State Police budget is not the cause of Louisiana’s transportation crisis. That fault lies with the Legislature’s continued refusal to create a gasoline tax that’s equal to the state’s transportation needs, and indexed to keep pace with the cost of living. While money in the trust fund should be used for transportation projects, there also are times of financial downturns when the Legislature needs flexibility in how to use state tax dollars. Critics of the state budget process often complain that there are too many restrictions on the way state dollars can be spent. This amendment, while well-intended, would add another restriction and make it more difficult to balance the budget in years when revenues are short.

**Amendment 5:** Creates a tax exemption for certain properties that are held in trust.

Background: The state constitution includes a generous homestead exemption for all Louisianans, which exempts the first \$75,000 of the value of a primary residence from local property taxes. But other groups get additional special exemptions. People over 65, disabled veterans and their spouses, and surviving spouses of military members or first responders who were killed in the line of duty. This amendment would extend those special protections to properties that are placed in trust, as long as the person who established the trust continues to live on the property.

LBP comment: Louisianans pay some of the lowest residential property taxes in the nation. Yet Louisiana voters have made it clear that they want certain groups to be spared from property taxes, and this amendment is a continuation of that trend. While this amendment would have a negligible effect on local tax revenues, each new exemption reduces the revenue needed to pay for schools, police officers and other vital services that all citizens depend on.

**Amendment 6:** Allows for property tax increases to be phased in under certain conditions.

Background: Residential property in Louisiana must be assessed at least once every four years. If a home’s value increases, it typically means that property taxes owed on that home increase as well. This has been a problem for some residents in New Orleans, where the popularity of short-term rental units has led to a sharp uptick in home values in certain neighborhoods. The amendment says that when a home’s value increases by more than 50 percent over the previous assessment, the increase in property taxes can be phased in over four years instead of all at once.

LBP comment: No homeowner welcomes a sudden increase in their property tax bill, so the motivation behind this amendment is understandable. But Louisiana’s tax base - at both the state and local level - has long been overly dependent on revenue from sales taxes, and one reason for that is the tax breaks granted to homeowners. This amendment is also unfair to homeowners whose assessments spike but fall under the 50 percent threshold. They could end up with higher tax increases than people whose home values grew even faster.

**Fantasy sports:** Legalizes online fantasy sports contests on a parish-by-parish basis

Background: This ballot measure is not aimed at traditional fantasy sports leagues, where groups of friends (or strangers) draft “teams” of players that score points based on their on-field performance. Rather, it

would legalize participation in online gambling sites such as DraftKings or FanDuel, where customers can wager on the performance of individual players. Such wagering is currently banned under Louisiana law. The ballot measure allows voters to decide if it should be legal in their parish.

LBP comment: As [PAR reports](#), the parish referendum is just one hurdle in making such gambling games legal, as the state would still have to pass separate legislation and decide how revenues from such games should be taxed. While critics see online fantasy sports as an expansion of gambling, with its associated social ills, this would simply allow Louisianans to partake in an activity that is already legal in most other places.

**-by Jan Moller**