

By Paul Braun and Jan Moller

Louisiana voters will find four proposed constitutional amendments on their Nov. 18 runoff ballot. The first two will have no practical significance for anyone in Louisiana, as they clarify the rules and timing for overriding a gubernatorial veto and eliminate six funds in the state constitution that are not in use. The third amendment would authorize local authorities to create a new tax break for police and other first responders, while the final proposal is designed to make it harder for the Legislature to tap a new state savings account.

AMENDMENT 1: GUBERNATORIAL VETOES

“Do you support an amendment to clarify that the timing of gubernatorial action on a bill and his return of a vetoed bill to the legislature is based upon the legislative session in which the bill passed and to authorize the legislature, if it is in session, to reconsider vetoed bills without convening a separate veto session? (Effective January 8, 2024) (Amends Article III, Section 18)”

What it does: The current constitution dictates different deadlines for the governor to veto a bill, depending on whether or not the Legislature is in session, and sets a rigid schedule for when lawmakers could attempt an override of that veto. The governor currently has 10 days to veto legislation after receiving it, unless the 10th day falls after the Legislature has adjourned. In that case, the veto deadline bill is 20 days after a bill reaches the governor’s desk.

The current constitution also says lawmakers may only override gubernatorial vetoes during a special veto session, which is automatically scheduled for noon on the 40th day after the end of the most recent legislative session, unless a majority of lawmakers submit a written ballot calling it off.

This amendment would tweak the constitution to specify that the deadline for a gubernatorial veto would be extended to 20 days after receipt, if the 10th day falls after the legislature adjourns the session in which the bill was passed. That’s an important clarification in Louisiana, where in recent years lawmakers have become increasingly reliant on special sessions to conduct the state’s business.

If the constitutionally-prescribed override session should happen to fall during an ongoing legislative session, this amendment would allow lawmakers to hold the override votes without having to adjourn and then reconvene for a special veto session.

Analysis: Unless you are a member of the Louisiana Legislature, this amendment is almost certain to have no effect on your life. But because of the detailed veto timeline outlined in the current constitution, the amendment is needed to clear up a problem that surfaced in 2022.

That year, the Legislature met for a special redistricting session in February to redraw political boundaries for Congress, the Legislature and other offices. Gov. John Bel Edwards then vetoed some of the bills, and the scheduled veto override session fell during the regular legislative session. To comply with the constitution, the Legislature adjourned the regular session to hold a one-day veto override session, before reconvening the regular session.

If this amendment passes, the Legislature could simply hold override votes during its ongoing session.

AMENDMENT 2: ELIMINATE SPECIAL FUNDS

“Do you support an amendment to remove provisions of the Constitution of Louisiana which created the following inactive special funds within the state treasury: Atchafalaya Basin Conservation Fund, Higher Education Louisiana Partnership Fund, Millennium Leverage Fund, Agricultural and Seafood Products Support Fund, First Use Tax Trust Fund, Louisiana Investment Fund for Enhancement and to provide for the transfer of any remaining monies in such funds to the state general fund? (Repeals Article VII, Sections 4(D)(4)(b), 10.4, 10.10, and 10.12(B) and (C) and Article IX, Sections 9 and 10)”

What it does: This amendment would remove six inactive funds from the constitution. All but one of the funds are completely empty and have no account activity.

Analysis: It's rare that Louisiana voters are given an opportunity to shrink the state's bloated constitution, but that is what Amendment No. 2 offers.

The Public Affairs Research Council reports that Louisiana's constitution includes more than two dozen protected funds - up from just two when the charter was originally adopted in 1974. This amendment would get rid of six funds that are inactive.

Five of the funds have no money in them: The Atchafalaya Basin Conservation Fund, the Higher Education Louisiana Partnership (HELP) Fund; the Agricultural and Seafood Products Fund, the Millennium Leverage Fund and the First Use Tax Trust Fund are all inactive and serve no purpose.

A sixth fund, the Louisiana Investment Fund for Enhancement (LIFE) was established in 1991 to invest private donations, grants, gifts and other money appropriated by the Legislature in higher education. It currently contains \$603.95, which would be swept into the state general fund if the amendment passes.

In nearly all of these cases, there was little reason for the state to establish these underutilized funds in statute, let alone the constitution. We will be better off without them.

AMENDMENT 3: PROPERTY TAX EXEMPTION FOR FIRST RESPONDERS

“Do you support an amendment to authorize the local governing authority of a parish to provide an ad valorem tax exemption for qualified first responders? (Adds Article VII, Section 21(O))”

What it does: This amendment would give parish governments the authority to offer property tax exemption of up to \$2,500 to first responders. Parishes that approve such tax breaks would have to determine exactly who is eligible, and verify their employment status each year. Local governments would be barred from making up the lost revenue by imposing additional taxes, adjusting millages, or reappraising property.

Analysis: This amendment is a well-intentioned but misguided effort by New Orleans legislators to address the crippling staff shortage in the city's police department. Home prices in the Crescent City have risen far faster than incomes in recent years, as has the cost of property insurance, which has made it harder for middle-income workers such as police and firefighters to afford a home in the city.

The state constitution already places heavy constraints on local governments' taxing authority. The popular homestead exemption exempts the first \$75,000 of the value of a primary residence from property taxes, while additional property tax breaks benefit those who meet other criteria because of age, income, disability, veteran status or other factors.

The constitution also guarantees monthly \$500 state stipends to police and other first responders in every parish.

Although property values and tax rates vary from parish to parish, Louisianans overall pay some of the lowest residential property taxes in the country. To compensate for low property tax revenues, parishes and municipalities rely heavily on regressive sales taxes - which fall hardest on low-income residents - to finance essential public services.

If this amendment passes, parishes and municipalities that choose to offer exemptions for first responders would have less revenue available to pay for things like parks, libraries, schools, police protection and other services. The authority to approve these tax breaks would lie with the parish taxing authorities, such as a parish council or police jury. School boards and city governments, which also would lose tax revenue, wouldn't have a say.

Supporters say the change would not only attract new hires, but help retain existing employees by offering the same incentive to everyone – a distinct advantage over signing bonuses. But the structure of these proposed tax credits raises questions about fairness and effectiveness: What if a first responder resides outside of the parish where they work? What if a first responder works in a parish that approved the tax credit but lives in a parish that did not? What if the first responder rents their home?

Several lawmakers expressed concern that this amendment could create a tax break “arms race” of sorts, in which neighboring parishes would feel compelled to enact similar tax credits.

Moreover, parish authorities already have a proven policy tool they can use to attract more first responders into their ranks: Raise enough revenue to provide them with adequate pay and benefits

AMENDMENT 4: ACCESSING RAINY DAY FUNDS

“Do you support an amendment authorizing the legislature, after securing a two-thirds vote of each house, to use up to two hundred fifty million dollars from the Revenue Stabilization Trust Fund to alleviate a budget deficit subject to conditions set forth by law and allowing the legislature to modify such conditions for accessing the monies in the fund, subject to two-thirds vote? (Amends Article VII, Section 10.15(E)(1) and (F); Adds Article VII, Section 10.15(G))”

What it does: In 2016 the Legislature created the Revenue Stabilization Trust Fund. This new “rainy day” fund captures revenue from oil and gas drilling and corporate income tax collections above certain levels. It is designed to make the state general fund, which supports the ongoing daily operations of state government, less reliant on revenue sources that tend to be volatile and often fluctuate wildly from year to year.

Voters approved the new fund, which currently contains more than \$2.2 billion. Once the balance hits \$5 billion, the Legislature can spend up to 10% of the money on transportation projects and other construction needs. But the state constitution also allows lawmakers, with a two-thirds vote, to use any amount of the fund “for appropriation in an emergency.” The term “emergency” is not defined.

This amendment would remove that broad language and add specific budget deficit benchmarks that must be met to access the fund. It would also require that lawmakers tap the Budget Stabilization Fund - the original “rainy day” fund - before they start using money from the new fund. Withdrawals would be capped at \$250 million and would require a two-thirds vote. If the deficit carries over into the next budget year, lawmakers could access the fund once more, taking out up to \$250 million more to fill the budget gap.

If approved, this amendment would also insert language into the constitution allowing lawmakers to tap into the fund with a two-thirds vote in any given year to fund transportation and other construction projects.

Analysis: The state is required to maintain a balanced budget every year. Thus it's good policy for the state to set aside money in savings accounts in prosperous years - when the state collects more money than it spends - to have available in lean times. In recent years Louisiana has done an excellent job of building its reserves, which today are more than 10 times what they were in 2016-2017.

This cumbersome amendment would make it harder for legislators to access these reserves, and in turn make it more difficult to cope with the financially lean times that loom ahead for state government. In Spring 2025, the Legislature is expected to face a budget shortfall, thanks largely to tax policies enacted years ago that will drain more than \$600 million in revenue. Lawmakers need more flexibility, not less, to cope with these changes and avoid cuts to education, health care and other important programs.

The Legislature - and voters - were wise to create a new savings account that has left Louisiana better prepared for a rainy day and less vulnerable to the boom-and-bust cycles of an extraction economy. Lawmakers built reasonable restraints into the law when it was originally passed, and it is working as intended.