

ADMIRALTY & MARITIME
ANTITRUST & TRADE REGULATION
AVIATION
APPELLATE LITIGATION
BANKRUPTCY, RESTRUCTURING &
CREDITORS-DEBTORS RIGHTS
BUSINESS & COMMERCIAL
LITIGATION
COMMERCIAL LENDING & FINANCE
CONSTRUCTION
CORPORATE & SECURITIES
EMPLOYEE BENEFITS, ERISA, &
EXECUTIVE COMPENSATION
ENERGY
ENVIRONMENTAL & TOXIC TORTS
ERISA, LIFE, HEALTH &
DISABILITY INSURANCE LITIGATION
GAMING
GOVERNMENT RELATIONS
HEALTH CARE LITIGATION,
TRANSACTIONS & REGULATION
INTELLECTUAL PROPERTY &
E-COMMERCE
INTERNATIONAL
LABOR RELATIONS &
EMPLOYMENT
MEDICAL PROFESSIONAL &
HOSPITAL LIABILITY
MERGERS & ACQUISITIONS
PRODUCTS LIABILITY
PROFESSIONAL LIABILITY
PROJECT DEVELOPMENT & FINANCE
PUBLIC FINANCE
REAL ESTATE: LAND USE,
DEVELOPMENT & FINANCE
TAX (INTERNATIONAL,
FEDERAL AND STATE)
TELECOMMUNICATIONS &
UTILITIES
TRUSTS, ESATES &
PERSONAL PLANNING
VENTURE CAPITAL &
EMERGING COMPANIES
WHITE COLLAR CRIME

Constitutional Amendments

November 5, 2002 Election

Six of the twelve constitutional amendments were approved by the voters. The vast majority of the state's population will be impacted to some degree by the passage of one or more of these six amendments.

Amendment No. 1

This amendment will switch the order of the legislative sessions. General sessions dealing with all matters except tax issues will be held in even-numbered years and fiscal sessions dealing with only tax matters will be held in odd-numbered years. The switch will result in a newly elected Legislature having a general session immediately following their election and will further result in their having a tax session just prior to their re-election campaigns.

Since their inception, the fiscal sessions have been a 30-day session within a 45-day period. This amendment expands them to a 45-day session within a 60-day period beginning on the last Monday in April. In addition to lengthening the sessions, the scope of the fiscal sessions has been expanded to encompass authorizing, levying, repealing, and changing fees and dedicating revenue to a specific purpose. The result of this expansion is that fees may now be considered every year in both the general and fiscal sessions.

Additionally in the expanded fiscal sessions, each legislator will be able to **pre-file** five bills on non-fiscal matters and may introduce unlimited local issue bills. The argument for expanding the scope of the fiscal sessions is to reduce the need for special sessions to deal with issues unrelated to taxes in those years.

The deadline for pre-filing bills has been 5 p.m. on Friday before a regular session convenes at noon on Monday. This has resulted in a large number of bills filed on the last day that legislative staff must process over the weekend. The pre-filing deadline will be changed to 5 p.m. on the tenth day prior to the beginning day of the Session. This change should allow the staff to process the bills and get them posted so that the public sees them before the first day of the session.

The transition switching the order of the sessions will occur in 2004 resulting in general sessions in 2003 and 2004. The next tax session will not be held until 2005. If any pressing tax issues must be addressed before 2005, special sessions will have to be called. The suspension of the statutory sales tax ex-

- ADMIRALTY & MARITIME
- ANTITRUST & TRADE REGULATION
- AVIATION
- APPELLATE LITIGATION
- BANKRUPTCY, RESTRUCTURING & CREDITORS-DEBTORS RIGHTS
- BUSINESS & COMMERCIAL LITIGATION
- COMMERCIAL LENDING & FINANCE
- CONSTRUCTION
- CORPORATE & SECURITIES
- EMPLOYEE BENEFITS, ERISA, & EXECUTIVE COMPENSATION
- ENERGY
- ENVIRONMENTAL & TOXIC TORTS
- ERISA, LIFE, HEALTH & DISABILITY INSURANCE LITIGATION
- GAMING
- GOVERNMENT RELATIONS
- HEALTH CARE LITIGATION, TRANSACTIONS & REGULATION
- INTELLECTUAL PROPERTY & E-COMMERCE
- INTERNATIONAL
- LABOR RELATIONS & EMPLOYMENT
- MEDICAL PROFESSIONAL & HOSPITAL LIABILITY
- MERGERS & ACQUISITIONS
- PRODUCTS LIABILITY
- PROFESSIONAL LIABILITY
- PROJECT DEVELOPMENT & FINANCE
- PUBLIC FINANCE
- REAL ESTATE: LAND USE, DEVELOPMENT & FINANCE
- TAX (INTERNATIONAL, FEDERAL AND STATE)
- TELECOMMUNICATIONS & UTILITIES
- TRUSTS, ESATES & PERSONAL PLANNING
- VENTURE CAPITAL & EMERGING COMPANIES
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emptions on all items except food for home consumption, utilities, and prescription drugs will expire July 1, 2004. If no special session is held to renew these taxes, they will expire in 2004.

Amendment No. 2

The second time around on this issue worked for Representative Vic Stelly from Lake Charles. It was amazing to watch this process unfold. After the overwhelming defeat of his tax reform plan by the voters in 2000, Rep. Stelly made a few changes and introduced his legislation in the 2002 fiscal session. No one (and I do mean no one) expected this bill to pass. The first hearing on the bill in the House Ways and Means Committee was filled with skepticism -- most of the committee members thought it was a waste of time to even hear the bill since the voters had rejected it so readily. Rep. Stelly asked the Committee to report the bill favorably to the House floor and allow him the courtesy of making his case to the entire House. They did. And, he did.

He very determinedly moved the bill on through the Senate to final passage and then traveled the state telling everyone who would listen that this is the first step toward reformation of Louisiana's antiquated tax system. He got some help from the Governor, CABL, and a few others.

And then, the voters very quietly approved it.

The amendment eliminates the state tax (currently 3.9%) on food for home consumption, utilities, and prescription drugs -- the local sales tax remains unchanged. Under the current sales tax law, a 4% sales tax is levied on all items with a list of items which are exempted which includes food for home consumption, utilities, and prescription drugs. In order to tax these items at the state level, the Legislature has "temporarily" (for the last 16 years) suspended the exemption on one or more of the "pennies" of sales tax thus leading to the biennial wars over continuing this practice in order to balance the budget. The Legislature is now constitutionally prohibited from levying a sales tax on these items.

To compensate for this decrease in revenue to the state, the personal income tax brackets and deductions will be revamped. Basically, the higher tax brackets kick in earlier and excess itemized deductions which are permitted on your federal return will not be allowed on your Louisiana tax return. The change in income taxes owed is easy to figure -- the amount saved in sales taxes is much more fluid and depends upon how much an individual spends

- ADMIRALTY & MARITIME
- ANTITRUST & TRADE REGULATION
- AVIATION
- APPELLATE LITIGATION
- BANKRUPTCY, RESTRUCTURING & CREDITORS-DEBTORS RIGHTS
- BUSINESS & COMMERCIAL LITIGATION
- COMMERCIAL LENDING & FINANCE
- CONSTRUCTION
- CORPORATE & SECURITIES
- EMPLOYEE BENEFITS, ERISA, & EXECUTIVE COMPENSATION
- ENERGY
- ENVIRONMENTAL & TOXIC TORTS
- ERISA, LIFE, HEALTH & DISABILITY INSURANCE LITIGATION
- GAMING
- GOVERNMENT RELATIONS
- HEALTH CARE LITIGATION, TRANSACTIONS & REGULATION
- INTELLECTUAL PROPERTY & E-COMMERCE
- INTERNATIONAL
- LABOR RELATIONS & EMPLOYMENT
- MEDICAL PROFESSIONAL & HOSPITAL LIABILITY
- MERGERS & ACQUISITIONS
- PRODUCTS LIABILITY
- PROFESSIONAL LIABILITY
- PROJECT DEVELOPMENT & FINANCE
- PUBLIC FINANCE
- REAL ESTATE: LAND USE, DEVELOPMENT & FINANCE
- TAX (INTERNATIONAL, FEDERAL AND STATE)
- TELECOMMUNICATIONS & UTILITIES
- TRUSTS, ESATES & PERSONAL PLANNING
- VENTURE CAPITAL & EMERGING COMPANIES
- WHITE COLLAR CRIME

on food at the grocery store, on utilities, and on prescription drugs. The state sales tax on these items will be reduced to 2% on January 1, 2003 and completely removed on July 1, 2003. The change in the income tax will be effective January 1, 2003.

Amendment No. 3

The "budget flexibility" amendment was approved by the voters by a fairly substantial margin. It was championed by various healthcare groups who are held hostage every year during the budget process. Because of the large number of dedications of state general fund monies to specific uses, two major budget items take the brunt of any revenue shortages -- higher education and healthcare (DHH). Governor Foster has been very effective in recent years in protecting higher education from devastating budget cuts resulting in the DHH budget taking the hit even more heavily. While there is certainly room in that agency for more efficient and less costly delivery of healthcare, the impact of budget cuts to healthcare programs is compounded by the loss of federal matching funds. For each dollar of state money taken from healthcare, the net result is a loss of \$4 -- cutting \$10 million in state dollars results in a loss of \$40 million to programs. It is argued that is not the most efficient place to make budget cuts.

This amendment will allow the Legislature to spread budget deficits across the board to all agencies. In order to trigger the across the board cuts, the reductions to allowable general fund appropriations must have reached 0.70% of the original appropriation for the fiscal year. Elementary and secondary **classroom instruction** is protected from any budget cuts. Non-instructional education can be cut only 1% of their total budget. All other protected agencies are limited to 5% reductions.

Across the board reductions may also be triggered to avoid budget deficits in the next fiscal year when the official revenue forecast is at least 1% less than the official forecast for the current fiscal year.

Amendment No. 4

This amendment mandates the Legislature to statutorily require the removal of any state or local public employee from employment for conviction of a felony. This requirement applies to both classified and unclassified employees and applies to convictions which occur while the individual is a public employee and allows for the appeals process to be completed.

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- APPELLATE LITIGATION
- BANKRUPTCY, RESTRUCTURING & CREDITORS-DEBTORS RIGHTS
- BUSINESS & COMMERCIAL LITIGATION
- COMMERCIAL LENDING & FINANCE
- CONSTRUCTION
- CORPORATE & SECURITIES
- EMPLOYEE BENEFITS, ERISA, & EXECUTIVE COMPENSATION
- ENERGY
- ENVIRONMENTAL & TOXIC TORTS
- ERISA, LIFE, HEALTH & DISABILITY INSURANCE LITIGATION
- GAMING
- GOVERNMENT RELATIONS
- HEALTH CARE LITIGATION, TRANSACTIONS & REGULATION
- INTELLECTUAL PROPERTY & E-COMMERCE
- INTERNATIONAL
- LABOR RELATIONS & EMPLOYMENT
- MEDICAL PROFESSIONAL & HOSPITAL LIABILITY
- MERGERS & ACQUISITIONS
- PRODUCTS LIABILITY
- PROFESSIONAL LIABILITY
- PROJECT DEVELOPMENT & FINANCE
- PUBLIC FINANCE
- REAL ESTATE: LAND USE, DEVELOPMENT & FINANCE
- TAX (INTERNATIONAL, FEDERAL AND STATE)
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Amendment No. 6

This amendment requires that effective July 1, 2002, the Governor include the supplemental pay for full-time local law enforcement and fire protection officers in his budget and further requires the Legislature to appropriate the funds. Funding shall be at the same level required on July 1, 2001. Any reduction of the amount appropriated requires 2/3 vote of each house of the Legislature.

This is another group that has grown weary of being held hostage every year during the budget process. Supplemental pay is one of the items left out of the budget during tax sessions until additional revenues are found either through new taxes or renewals of existing taxes. It is easier to get legislators to vote for taxes when supplemental pay for their local law enforcement officers is at stake. The voters agreed that this practice should end.

Amendment No. 7

The amendment requires that individuals who are 65 years or older who qualify for the special assessment level on their homestead exemption no longer have to reapply and be approved annually. The assessment is for all practical purposes frozen at the level assessed for the year the homeowner first applies and is approved.

Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:

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