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BUREAU OF GOVERNMENTAL RESEARCH

938 Lafayette St., Suite 200
New Orleans, LA 70113
Phone 504-525-4152
Fax 504-525-4153
www.bgr.org

BGR Media Release

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Contact: Janet R. Howard, *President*
(504) 525-4152, ext. 107

BGR Reviews Proposed Orleans Schools Tax, Jefferson Charter Amendments

The Bureau of Governmental Research today releases *On the Ballot: December 6, 2014*. The report explains, analyzes and takes positions on a proposed tax for the upkeep of public schools in New Orleans and 11 propositions to amend the Jefferson Parish charter. Find the report at www.bgr.org.

ORLEANS PARISH

School Facilities Tax

Currently, the Orleans Parish School Board levies a 4.97-mill property tax dedicated to servicing general obligation bonds. The millage, which is set each year at a rate necessary to cover principal and interest payments, is projected to decline in the coming years as the bonds are retired and expire in 2021.

The School Board is proposing a new, 10-year tax that would essentially capture for the “preservation, improvement and capital repairs of all existing public school facilities” the portion of the millage that the district would no longer need for debt service. The new tax would be levied at 4.97 mills minus the rate of the debt service tax. As a result, the proposed new tax would increase at the same rate the old tax decreases, keeping the total millage levied by the district at the current 4.97 mills.

Legislation passed in the last session (Act 543 of 2014) would govern the spending of the new tax revenue on school facilities.

BGR Position

FOR. With new and renovated schools coming on line, the need for regular repair and replacement of New Orleans’ school facilities is growing once again. The tax proposition would go a long way toward avoiding past practices of neglect and ensuring that school buildings are preserved for generations of students to come.

JEFFERSON PARISH CHARTER AMENDMENTS

Proposition 1: Parish Council Investigations

The charter currently grants the Jefferson Parish Council authority to investigate any department, office, agency or special district of the parish, or any person in service of the parish. It may subpoena witnesses, administer oaths and gather evidence. It can punish any person who fails or refuses to obey “any lawful order of the Council.” In addition, the charter gives the council authority to investigate “any person in service of the parish for lack of qualifications, incompetence, neglect of duty, failure to comply with a lawful directive of the Council or gross misconduct in reference to that person’s duties.”

Proposition 1 would modify these investigatory powers in two ways. First, it would limit the “lawful orders” of the council to orders pertaining to an investigation. Second, the proposition would remove “incompetence” as a basis for an investigation of a parish employee. The Charter Advisory Board recommended these changes to remove ambiguity and the potential for subjective interpretation.

Finally, the proposition would broaden the description of evidence that the council may gather from “books and papers” to “books, papers and other evidence.”

BGR Position

FOR. Proposition 1 would remove unnecessary subjectivity from the council’s investigatory powers under the charter.

Proposition 2: Parish President

Proposition 2 would specify that the parish president is a full-time parish official, prevent him from having outside employment and restrict his allowable outside income to portfolio income, such as capital gains or dividends, and passive income as defined by the IRS. Proposition 2 would also prohibit the president or the council from receiving sick leave or annual leave benefits.

BGR Position

FOR. The full-time work requirement and the constraints on outside employment and compensation are appropriate given the scale of Jefferson Parish government.

Proposition 3: Layovers of Council Ordinances

Currently, the charter requires that the Parish Council publish a summary and notice of a proposed ordinance in the official journal at least one week prior to the hearing. The amendment would drop the requirement that the publication occur one week prior to the hearing. It would add a requirement that ordinances lay over a minimum of six calendar days beginning the day

after their introduction. It would enshrine in the charter the current practice of allowing amendments without a layover.

In addition, it would allow for publication of notices in electronic form if state law ultimately permits this.

BGR Position

AGAINST. Proposition 3 would eliminate a charter safeguard that ensures that the public receives adequate notice of proposed ordinances in the newspaper. While citizens can currently access summaries and notice on the council's website, the practice of posting them is subject to change.

Proposition 4: Law Enforcement District

The charter specifically excludes the Jefferson Parish School Board and the 24th Judicial District Court from parish finance director's purview. The charter is silent, however, on the Law Enforcement District. Proposition 4 would explicitly state in the charter that the Law Enforcement District is excluded from the finance director's purview.

BGR Position

NO POSITION. The amendment would remove any ambiguity in the charter relative to the exclusion of the Law Enforcement District from the parish finance director's purview. However, the amendment is unnecessary because the district is not part of parish government.

Proposition 5: Parish Personnel Administration

The charter currently establishes a civil service system that covers all employees of parish government except those specifically exempted in the charter or by the state constitution. It also establishes the Personnel Department to administer the system. The department is led by the Personnel Director, who is appointed by the Personnel Board.

Proposition 5 would make dozens of changes to the personnel administration section of the charter. In summary, it would:

- Explicitly limit the scope of the civil service system to the classified service.
- Restrict the investigatory authority of the Personnel Board.
- Make the position of Personnel Director permanently classified.
- Change the governance of the Personnel Board by modifying provisions related to board size, nominating process, appointment process and members' terms.
- Update and expand the list of unclassified positions to include, among others, the remaining classified positions in the parish attorney's office.
- Exempt certain individuals, including those in the Office of Inspector General, from any parish personnel administration, whether classified or unclassified.
- Set forth an approval process for the unclassified pay plan.

BGR Position

NO POSITION. Proposition 5 is a mixed bag. On the plus side, the proposition would more clearly define the scope of the civil service system in parish government. It would expand the system's governing board, potentially broadening its viewpoints. It would also give the inspector general independent control over his staff. However, the proposition also takes the undesirable steps of enshrining the Personnel Director's classified status in the charter and imposing an overly restrictive one-term limit on board members. In addition, it would declassify the remaining classified positions in the parish attorney's office without a clear reason for doing so.

Proposition 6: Parish Attorney and Special Counsel

Proposition 6 would extensively rewrite the legal services section of the charter. It would:

- Change the employment requirements for employees in the legal department. Specifically, it would:
 - Change terminology to be consistent with Proposition 5's provision making all employees in service of the parish attorney at will.
 - Direct the Parish Council to establish minimum qualifications for those employees by ordinance.
 - Eliminate part-time employment for assistant parish attorneys, as well as the requirement that they be registered voters in Jefferson Parish.
- Redefine the scope of the parish attorney's legal duties by incorporating current practices into the charter.
- Specify that the council can retain or employ special legal counsel to represent it or any of the districts it governs.

BGR Position

NO POSITION. This proposition presents a mixed bag for voters. On the one hand, it would give the parish attorney greater flexibility in hiring and firing staff, subject to the check and balance of minimum qualifications set by the council. It would also bolster the parish attorney's authority to protect the parish's interests in legal matters. On the other hand, the proposition would enshrine in the charter the council's unfettered discretion to hire special legal counsel. Allowing such hiring without a demonstrated need increases the risk of patronage and unnecessary expense for the parish.

Proposition 7: Planning and Zoning Boards

Currently, the charter directs the Parish Council to create by ordinance a Planning Advisory Board and a Board of Zoning Adjustments and, among other things, prescribe their "advisory or quasi-judicial duties." Proposition 7 would allow the council to give the Planning Advisory Board and the Board of Zoning Adjustments policy-making duties.

In addition, the charter currently authorizes the council to create by ordinance any other “advisory boards” it deems necessary. It does not specify the types of duties the council may prescribe for these boards. Proposition 7 would formally allow the council to give them “advisory, policy-making or quasi-judicial duties.”

To avoid any confusion between the roles of the council and the boards it creates, the proposition further states that the council shall be the “sole legislative authority of the parish.” It would prohibit the delegation of legislative authority to, or the exercise of such authority by, any board or commission.

BGR Position

FOR. Proposition 7 would allow for the possible expansion of the parish planning board’s duties, although no specific expansion proposal is on the table. The proposition would also expand the possible range of duties of boards and commissions created by the council.

Proposition 8: Inspector General

Currently, the charter directs to the Office of Inspector General (OIG) and the Ethics and Compliance Commission the proceeds of any special tax dedicated to their operations and approved by voters. It further requires those offices to forward any unused funds to the parish’s general fund at the end of each fiscal year.

Proposition 8 would allow them to retain unused funds from year to year. The reserve would be capped at an amount equal to a year’s worth of tax revenue.

Proposition 8 would also allow the inspector general to issue a cease-and-desist order if he determines that another parish investigation is interfering with his, and the investigating party does not voluntarily agree to suspend such investigation.

BGR Position

FOR. Proposition 8 would increase the independence and the fiscal stability of the OIG and head off possible conflicts between that office and other parish entities over investigations.

Proposition 9: University Name Corrections

The Ethics and Compliance Commission consists of five members appointed by the parish president from lists of three nominees submitted by the presidents or chancellors of five colleges and universities, acting individually. The names of three universities (Loyola, Xavier and UNO) as stated in the charter are outdated. Proposition 9 would correct them.

BGR Position

FOR. Making a technical amendment to correctly reflect names is appropriate.

Proposition 10: Parish Hospitals and JEDCO

Proposition 10 would establish a special fund to hold the proceeds from future leases or sales of hospital district assets, and restrict expenditures from the fund to 80% of its earnings. It would also formally protect the present autonomy of the hospital districts and JEDCO relative to the parish administration. It would incorporate into the charter the current organization and structure of the districts.

In addition, the proposition would recognize the council's existing authority to retain or employ, or authorize the employment of, special legal counsel for the districts.

BGR Position

AGAINST. While taking measures to preserve the capital from the sale or lease of hospital assets is a good idea, the proposition is unnecessarily restrictive. In addition, the proposition would insulate the hospital districts' current structure and organization from change and consolidate the Parish Council's current control over the districts. Given the serious problems manifested in the recent attempts to lease the parish's hospitals, protecting the status quo is unwise.

Proposition 11: Charter Advisory Committee Records

The charter currently does not address the retention of records of the parish's charter advisory committees. The parish is subject only to state law governing the retention of public records. This proposition would require the council to establish a repository for all committee records by ordinance.

BGR Position

FOR. Safekeeping of historical records of charter reviews is desirable.

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BGR is a private, nonprofit, independent research organization. Since its founding in 1932, it has been dedicated to informed public policy-making and the effective use of public resources in the Greater New Orleans area. For more information call 504-525-4152 or visit BGR's website, www.bgr.org.