

2023 Regular Session

HOUSE BILL NO. 278

BY REPRESENTATIVE MCFARLAND

TAX/SEVERANCE TAX: (Constitutional Amendment) Increases amounts of severance tax revenues remitted to parishes and requires that portions of these amounts be spent on parish transportation projects

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A JOINT RESOLUTION

Proposing to amend Article VII, Section 4(D) of the Constitution of Louisiana, relative to allocation of state severance tax revenues to parishes; to provide for amounts of severance tax revenues to be remitted to parishes; to require that a certain portion of such revenues remitted to parishes be expended for transportation-related purposes; to implement provisions pertaining to deposit of certain revenues into the Atchafalaya Basin Conservation Fund; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Section 4(D) of the Constitution of Louisiana, to read as follows:

§4. Income Tax; Severance Tax; Political Subdivisions

Section 4.

* * *

(D)(1) Severance Tax Allocation. ~~One-third of the sulphur severance tax, but not to exceed one hundred thousand dollars; one-third of the lignite severance tax, but not to exceed one hundred thousand dollars; one-fifth of the severance tax on all natural resources, other than sulphur, lignite, or timber, but not to exceed five~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~hundred thousand dollars, and three-fourths of the timber severance tax shall be~~
2 ~~remitted to the governing authority of the parish in which severance or production~~
3 ~~occurs.~~

4 (2) Effective July 1, 1999, one-third of the sulphur severance tax, but not to
5 exceed one hundred thousand dollars; one-third of the lignite severance tax, but not
6 to exceed one hundred thousand dollars; ~~one-fifth of the severance tax on all natural~~
7 ~~resources, other than sulphur, lignite, or timber, but not to exceed seven hundred fifty~~
8 ~~thousand dollars; and three-fourths of the timber severance tax shall be remitted to~~
9 ~~the governing authority of the parish in which severance or production occurs.~~

10 (3) (2) Effective July 1, 2007, one-fifth of the severance tax on all natural
11 resources other than sulphur, lignite, or timber shall be remitted to the governing
12 authority of the parish in which severance or production occurs. The initial
13 maximum amount remitted to the parish in which severance or production occurs
14 shall not exceed eight hundred fifty thousand dollars. The maximum amount
15 remitted shall be increased each July first, beginning in 2008, by an amount equal to
16 the average annual increase in the Consumer Price Index for all urban consumers, as
17 published by the United States Department of Labor, for the previous calendar year,
18 as calculated and adopted by the Revenue Estimating Conference.

19 (4) ~~Effective April 1, 2012, the provisions of this Subparagraph shall be~~
20 ~~implemented if and when the last official forecast of revenues adopted for a fiscal~~
21 ~~year before the start of that fiscal year contains an estimate of severance tax revenues~~
22 ~~derived from natural resources other than sulphur, lignite, or timber in an amount~~
23 ~~which exceeds the actual severance tax revenues from such natural resources~~
24 ~~collected in Fiscal Year 2008-2009. Upon the adoption of such official forecast, the~~
25 ~~Revenue Estimating Conference shall certify that the requirements for the~~
26 ~~implementation of the provisions contained in this Subparagraph have been met. In~~
27 ~~such event, the following distributions and allocations of severance tax revenues and~~
28 ~~other revenues provided in this Subparagraph shall be effective and implemented for~~
29 ~~the fiscal year for which the official forecast was adopted, and each year thereafter.~~

1 The legislature shall provide by law for the administrative procedures necessary to
2 change the severance tax allocation to parishes from a calendar year basis to a fiscal
3 year basis.

4 ~~(a)~~ (3) Remittance to parishes of severance tax on all natural resources other
5 than sulphur, lignite, or timber.

6 ~~(i)~~ In the first fiscal year of implementation of this Subparagraph,

7 (a) Beginning July 1, 2024, the maximum amount of severance tax on all
8 natural resources other than sulphur, lignite, or timber which is remitted to the parish
9 in which severance or production occurs shall ~~not exceed one million eight hundred~~
10 ~~fifty thousand dollars.~~ For all subsequent fiscal years, the maximum amount
11 remitted to a parish shall not exceed be the lesser of two million eight hundred fifty
12 thousand dollars or the total severance tax on all natural resources other than sulphur,
13 lignite, or timber attributable to severance or production within that parish. The
14 treasurer shall implement any procedures necessary to change the severance tax
15 allocation to parishes from a calendar year basis to a fiscal year basis.

16 ~~(ii)~~ On July first of each year

17 (b) On July 1, 2025, and each July first thereafter, the maximum amount
18 remitted to the parish in which severance or production occurs, as provided in ~~Item~~
19 ~~(i)~~ of this Subsubparagraph (a) of this Subparagraph, shall be increased by an amount
20 equal to the average annual increase in the Consumer Price Index for all urban
21 consumers for the previous calendar year, as published by the United States
22 Department of Labor, which amount shall be as calculated and adopted by the
23 Revenue Estimating Conference.

24 ~~(iii)~~ (c) Of the total amount of severance tax revenues remitted in a fiscal
25 year to a parish governing authority pursuant to the provisions of this Subparagraph,
26 any portion which is in excess of the amount of such tax revenues remitted to that
27 parish in Fiscal Year ~~2011-2012~~ 2022-2023 shall be known as "excess severance
28 tax". ~~At least fifty percent of the~~ The excess severance tax received by a parish
29 governing authority in a any fiscal year shall be expended within the parish in the

1 same manner and for the same purposes as monies received by the parish from the
2 Parish Transportation Fund.

3 (b) (4) Deposit into the Atchafalaya Basin Conservation Fund.

4 (i) (a) Notwithstanding any other provision of this constitution to the
5 contrary, after allocation of money to the Bond Security and Redemption Fund as
6 provided in Article VII, Section 9(B) of this constitution, and after satisfying the
7 required allocations in ~~Subsubparagraph (a) of this Subparagraph~~ Subsubparagraph
8 (3)(a) of this Paragraph, Paragraph (E) of this Section, and Article VII, Sections
9 10-A and 10.2 of this constitution, an amount equal to fifty percent of the revenues
10 received from severance taxes and royalties on state lands in the Atchafalaya Basin,
11 but not to exceed ten million dollars each fiscal year, shall be deposited by the
12 treasurer into the Atchafalaya Basin Conservation Fund, hereinafter referred to as the
13 "fund", which is hereby created as a special fund in the state treasury. The monies
14 in the fund shall be invested by the treasurer in the manner provided by law, and
15 interest earned on the investment of these monies shall be deposited in and credited
16 to the fund. All unexpended or unencumbered monies remaining in the fund at the
17 end of the fiscal year shall remain in the fund.

18 (ii) (b) The monies in the fund shall be used exclusively for projects
19 contained in the state or federal Basin master plans or an annual Basin plan
20 developed and approved by the advisory or approval board created by law
21 specifically for that purpose, or to provide match for the Atchafalaya Basin
22 Floodway System, Louisiana Project. Each year's plan for the expenditure of monies
23 appropriated from the fund shall be subject to the approval of the appropriate subject
24 matter committees of the legislature.

25 (iii) (c) Of the monies appropriated in any fiscal year, eighty-five percent
26 shall be used for water management, water quality, or access projects, and the
27 remaining fifteen percent may be used to complete ongoing projects and for projects
28 that are in accordance with the mission statement of the state master plan. However,

1 no more than five percent of the monies appropriated in any fiscal year may be used
2 for the operational costs of the program or the department.

3 * * *

4 Section 2. Be it further resolved that this proposed amendment shall be submitted
5 to the electors of the state of Louisiana at the statewide election to be held on October 14,
6 2023.

7 Section 3. Be it further resolved that on the official ballot to be used at the election,
8 there shall be printed a proposition, upon which the electors of the state shall be permitted
9 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
10 follows:

11 Do you support an amendment to increase the amount of state severance tax
12 revenue remitted to parish governments, to require parish governments to
13 spend certain portions of that revenue on transportation projects, and to
14 implement provisions of the current constitution for the use of certain
15 severance tax revenues for Atchafalaya Basin conservation projects?
16 (Amends Article VII, Section 4(D))

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 278 Engrossed 2023 Regular Session McFarland

Abstract: Increases amounts of state severance tax revenues remitted to parishes, repeals a previously adopted trigger for increasing these amounts which has never been implemented, requires that parishes expend portions of these amounts in a manner consistent with expenditure of monies they receive from the Parish Transportation Fund, and implements provisions of the current constitution for the use of certain severance tax revenues for Atchafalaya Basin conservation projects.

Present constitution provides that, effective July 1, 2007, 20% of the severance tax on all natural resources other than sulphur, lignite, or timber shall be remitted to the governing authority of the parish in which severance or production occurs. Provides that the initial maximum amount remitted to a parish shall not exceed \$850,000; provides that, beginning in 2008, this figure shall be adjusted annually for inflation, on July 1 of each year, according to the average annual increase in the Consumer Price Index (CPI). The inflation-adjusted maximum amount to be remitted to parishes is \$1,146,603 in Fiscal Year (FY) 2022-2023.

Present constitution would further increase the maximum amount to be remitted to parishes if the last official forecast of revenues adopted for a fiscal year before the start of that fiscal

year contains an estimate of severance tax revenues derived from natural resources other than sulphur, lignite, or timber in an amount which exceeds the actual severance tax revenues from those resources collected in FY 2008-2009. Provides that such increases in the maximum amount to be remitted to parishes, if triggered, would be as follows:

- (1) From the inflation-adjusted \$850,000 figure (\$1,146,603 currently) to \$1,850,000 in the first fiscal year after collections exceed the FY 2008-2009 level.
- (2) To \$2,850,000 in all subsequent fiscal years.

Present constitution provides that the term "excess severance tax", for purposes of present constitution, shall mean the amount of severance tax revenue remitted to a parish in excess of the amount remitted in FY 2011-2012. Requires that at least 50% of the excess severance tax remitted to a parish in a fiscal year be used within the parish in the same manner, and for the same purposes, as monies that the parish receives from the Parish Transportation Fund.

Proposed constitutional amendment repeals the trigger for increasing the maximum amount of severance tax revenue to be remitted to parishes based on a current-year estimate of severance tax collections exceeding FY 2008-2009 collections.

Proposed constitutional amendment provides that, effective July 1, 2024, the amount of severance tax revenue from all natural resources other than sulphur, lignite, or timber to be remitted to the respective parishes where the severance or production occurs shall be the lesser of the following:

- (1) The total severance tax on all natural resources other than sulphur, lignite, or timber attributable to severance or production within the parish.
- (2) \$2,850,000.

Proposed constitutional amendment provides that on July 1, 2025, and each July 1 thereafter, the \$2,850,000 limit on severance tax revenues to be remitted to parishes shall be adjusted annually for inflation according to the average annual increase in the CPI.

Proposed constitutional amendment amends present constitution to provide that the term "excess severance tax", for purposes of present constitution and proposed constitutional amendment, shall mean the amount of severance tax revenue remitted to a parish in excess of the amount remitted in FY 2022-2023. Proposed constitutional amendment amends present constitution to require that 100% of the excess severance tax remitted to a parish in a fiscal year be used within the parish in the same manner, and for the same purposes, as monies that the parish receives from the Parish Transportation Fund.

Present constitution creates the Atchafalaya Basin Conservation Fund and authorizes specific uses of monies in the fund. Provides, however, that implementation of the fund is tied to the trigger for increasing the maximum amount of severance tax revenue to be remitted to parishes which proposed constitutional amendment repeals. Present constitution provides that after the allocation of severance tax revenues required by present constitution, as amended by proposed constitutional amendment, 50% of the revenues received from severance taxes and royalties on state lands in the Atchafalaya Basin, not to exceed \$10,000,000 each fiscal year, shall be deposited into the fund. Proposed constitutional amendment retains present constitution.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Oct. 14, 2023.

(Amends Const. Art. VII, §4(D))