
DIGEST

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HB 382 Original

2016 Regular Session

Havard

Abstract: Calls a limited constitutional convention to convene on Jan. 9, 2017, to be composed of 123 delegates, 105 elected from representative districts and 18 appointed. Requires convention to complete a new constitution by May 30, 2018. Limits convention to changes relative to state and local finance, raising revenue, and allocation and expenditure of funds.

Proposed law states legislative findings that there is a need to address a number of key policy areas that require constitutional change, that the constitution restricts the legislature in effectively addressing state and constituent needs, and that a serious analysis and revision of the state constitution is needed to conduct an examination of the state's critical needs, to consider reform proposals, and to craft provisions that allow legislative solutions.

Constitutional Convention

Proposed law provides for a constitutional convention as follows:

- (1) Calls the convention to convene at noon on Jan. 9, 2017, to frame a new constitution for the state, subject to the terms, conditions, and provisions of the Act.
- (2) Provides for 123 delegates as follows:
 - (a) 105 delegates to be elected from House of Representatives 2011 election districts.
 - (b) Eighteen delegates appointed not later than Dec. 15, 2016, as follows:
 - (i) Two members of the House of Representatives appointed by the speaker.
 - (ii) Two members of the Senate appointed by the Senate president.
 - (iii) Two members appointed by the governor.
 - (iv) One member appointed by the chief justice of the La. Supreme Court.
 - (v) A representative of the La. State Law Institute appointed by the La. State Law Institute.
 - (vi) A representative of the LSU Paul M. Hebert Law Center or the LSU E.J. Ourso College of Business appointed jointly by the law center chancellor and the business college dean.
 - (vii) A representative of the Southern University Law Center or the Southern University College of Business appointed jointly by the law center chancellor and the business college dean.

- (viii) A representative of the Tulane University Law School or the Tulane University A.B. Freeman School of Business appointed jointly by the law school dean and the business school dean.
 - (ix) A representative of the Loyola University New Orleans College of Law and the Loyola University New Orleans Joseph A. Butt, S.J., College of Business appointed jointly by the law school dean and the business college dean.
 - (x) A representative of the Public Affairs Research Council of La. appointed by the council.
 - (xi) A representative of the La. Assoc. of Business and Industry appointed by the association.
 - (xii) A representative of the La. AFL-CIO appointed by the La. AFL-CIO.
 - (xiii) A representative of the League of Women Voters of La. appointed by the league.
 - (xiv) A member of any La. chapter of the National Assoc. for the Advancement of Colored People appointed by the chairman of the national board of directors of the association.
 - (xv) A representative of the La. Municipal Assoc. or the Police Jury Assoc. of La. appointed jointly by the associations.
- (3) Requires that delegates be qualified electors of the state and that elected delegates be residents of the district from which elected. Excepts selection and service of delegates and staff of the convention from dual employment/dual officeholding laws. Delegates and staff are subject to the code of ethics, public bribery laws, and, in the case of elected delegates and candidates for delegate, the campaign finance laws. Attorney delegates are entitled to continuance of cases in which they are counsel of record while attending sessions and convention work.
- (4) Provides that the election for delegates shall be held at the primary election on Nov. 8, 2016, and if a general election is necessary, on Dec. 10, 2016. Candidates qualify without regard to party affiliation. Election is to be in accordance with provisions for election of candidates for public office in the La. Election Code.
- (5) Provides for conduct of the elections in accordance with the election code, except for any conflicts with the Act. Voters vote without regard to party affiliation. Provides for application of state law to tabulation of votes in delegates' election. Provides for election costs to be paid as provided by the La. Election Code as in the case of elections for the state legislature.
- (6) Provides for filling of vacancies in elected delegates' offices by joint appointment by the governor, the speaker of the House, and the president of the Senate of a qualified person from the same district. Provides for filling other vacancies in the same manner as the original selection within 30 days of vacancy.

Proposed law grants to the convention the authority to frame a new state constitution, including such alternative provisions as it deems appropriate. However, provides that the convention may propose

substantive changes only with respect to matters of state and local government finance and the raising of revenue and the allocation and expenditure of funds therefor, including review, limitation, or control of the expenditure of funds. Specifies that the convention may propose such substantive changes, including alternative provisions, with respect to matters contained in the following provisions of the Constitution of La. of 1974, as amended, and no other:

- (1) Article VI (Local Government) but only Part II (Finance) and Part III (Levee Districts and Regional Flood Protection Authorities).
- (2) Article VII (Revenue and Finance), excluding funding of state salary supplements for full-time law enforcement and fire protection officers of the state.

Prohibits the convention from proposing substantive changes to any provisions of the constitution not listed above. Further prohibits any changes that will:

- (1) Change or affect Article I (Declaration of Rights) in any way.
- (2) Cause indebtedness of the state or of any parish, municipality, district, or other political subdivision or authority to be impaired.
- (3) Cause the term of office of state or local elected or appointed officials to be reduced prior to the expiration of the term held at the time of the adoption of the new constitution, or cause the salary of any such official to be reduced prior to the expiration of such term.
- (4) Remove or permit the removal of the state capital from Baton Rouge.
- (5) Affect the funding of state salary supplements for full-time law enforcement and fire protection officers of the state.

Further permits the convention, solely for the purposes of orderly arrangement, style and conformity, to incorporate nonsubstantive changes in other provisions of the constitution but only to the extent that they are: (1) germane to the specified matters and (2) essential in order to conform to the substantive changes being proposed. Also permits the convention, for the same purposes, to: (1) renumber or rearrange provisions, (2) transfer or divide provisions, (3) change reference designations to conform to redesignated provisions, and (4) make any other purely formal or clerical changes in keeping with the purpose of the revision.

Provides that any action by the convention in contravention of the provisions relative to substantive restrictions shall be null and void and of no effect.

Provides the procedure for judicial determination of the scope of the authority of the convention, questions relating to the construction and validity of the Act, or conformity of any action of the convention with the provisions of the Act and also provides for expedited hearings and decisions.

Proposed law provides for convention organization:

- (1) Includes provisions for oath for delegates; adoption of rules; election of chairman, vice chairman, chief clerical officer, and other officers deemed necessary by the convention; and election of an executive committee which shall include all of the elected officers of the convention; and other actions necessary to organize.
- (2) Provides for House and Senate staff designated by the presiding officers of the legislature, prior to the convention, to prepare rules of procedure for adoption by the convention, based on the 1973 convention rules, such rules to be subject to change and adoption by the convention. Prohibits proxy voting. Limits committee membership to 17 members.

Proposed law provides for the initial meeting of the convention on Jan. 9, 2017. Provides that after organizational activities are completed, the convention may meet either as a full body or in committees until it completes its duties.

Proposed law provides for convention staff, budget, committees, meeting site, and other assistance:

- (1) Requires the executive committee to employ a research director, research and clerical staff, and other employees deemed necessary. Specifies certain staff membership. Provides for soliciting staff applications. Provides for executive committee to set staff compensation.
- (2) Provides that staff may include but not be limited to a research director, research assistants, personnel provided by the four law schools from the faculty as requested by the committee, and such other staff as deemed necessary by the executive committee. Requires the secretary of state, prior to the first meeting of the convention, to advertise and receive applications for staff service and present those applications to the executive committee on the day the convention convenes.
- (3) Requires the executive committee to prepare a budget of anticipated expenses of the convention, based on the amount of the appropriation for the convention and any other funds available for expenditure.
- (4) Authorizes the executive committee to establish any substantive or procedural committees it deems necessary. Provides that the chairman of the convention appoint the chairman, vice chairman, and membership of each such committee.
- (5) Requires that the House Chamber and the legislative committee rooms in the state capitol be available for convention use, unless the legislature is in session. Authorizes the convention to meet elsewhere in Baton Rouge as determined by the chairman when state capitol facilities are not available or are insufficient.
- (6) Authorizes convention use of facilities and services of state departments and agencies and of political subdivisions and requires their cooperation in furnishing services, facilities, and employees. Authorizes the convention to accept grants, facilities, and services from public and private sources, with such to be recorded in convention records which shall be open for inspection.

Proposed law provides for compensation of delegates and payment of convention expenses:

- (1) Provides per diem for delegates in the same amount provided for the legislature for each day of actual attendance at meetings of the convention or committees thereof. Prohibits payment of per diem after May 30, 2018, or the date the final draft is completed, whichever is earlier. Prohibits a delegate from accepting any additional compensation for work performed as a delegate to the convention, but allows a delegate to continue to receive compensation for the delegate's regular bona fide employment while a delegate.
- (2) Requires that the legislature make adequate appropriations to the convention for the payment of the necessary expenses of the convention such as per diem, salaries, and expenses of employees, supplies, materials, equipment, and printing for so long as the convention remains in existence and for so long thereafter as is necessary to pay the expenses of the convention. Provides that the convention is not a state budget unit. Specifies that the convention is subject to audit by the legislative auditor.
- (3) Requires that funds appropriated be withdrawn from the state treasury in accordance with warrants signed by the convention chairman and that checks be signed by the chairman and vice chairman, or the chairman or vice chairman and such other person as designated by the convention.

Submission to Voters/Effectiveness

Proposed law provides that the final draft of a proposed constitution be completed not later than May 30, 2018. Requires the convention, upon completion of its work and subject to the subject matter limitations on the convention, to submit to the governor the proposed constitution and any alternative provisions agreed upon no later than June 5, 2018. Provides that the constitution and any alternative provisions proposed for submission shall be submitted to the people for their adoption or rejection at a special election. Provides for the convention to determine the manner for submission of alternative proposals. Requires the governor to call the election within 15 days after the draft is submitted, to be held at the same time as the congressional primary in 2018 (Nov. 6, 2018). Provides for the election to be held and the results thereof promulgated in accordance with the La. Election Code and for costs to be paid as provided in the election code for elections in which a constitutional amendment appears on the ballot. Voters are allowed to vote without regard to party affiliation. Requires a majority vote to approve the constitution and any alternative proposals.

Proposed law, requires, upon promulgation of the results of the election by the secretary of state if the constitution is ratified and adopted by the people, that the governor proclaim the constitution, including alternative provisions adopted, to be the Constitution of La. Provides that the constitution and any such alternative provisions adopted shall become effective at midnight on Dec. 31, 2018, except as otherwise provided in the constitution or in any alternative provisions adopted.

Proposed law provides that if any provision or application of the Act which authorizes the convention to consider only certain subject matters and certain provisions of the constitution and

prohibits the convention from considering other subject matters and provisions is held invalid then this entire Act shall be invalid and of no effect. Specifies, however, that if any other provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application.

Effective upon signature of governor or lapse of time for gubernatorial action.

Timetable for Major Provisions of Bill

| <i>What</i> | <i>Date</i> |
|---|---|
| Election of 105 convention delegates | 11/8/16 & 12/10/16 Congressional elections |
| Eighteen additional convention delegates appointed & submitted to secretary of state by | 12/15/16 |
| Convention to convene | 1/9/17 (noon) |
| Convention to complete final draft & deadline for delegates' per diem | 5/30/18 |
| Convention to submit draft constitution to the governor by | 6/5/18 |
| Election for submission of proposed constitution | 11/6/18 Congressional primary |
| Constitution becomes effective if adopted | 12/31/18 (midnight) |