

Regular Session, 2011

HOUSE CONCURRENT RESOLUTION NO. 3

BY REPRESENTATIVE FOIL

CONSTITUTION/CONVENTION: Creates a commission to study the feasibility of a constitutional convention and make recommendations relative thereto

1 A CONCURRENT RESOLUTION

2 To create and establish the Constitutional Convention Study Commission to undertake all  
3 necessary study to examine the feasibility and advisability of calling a convention  
4 to revise the Constitution of Louisiana and, if a convention is found to be feasible  
5 and advisable, to make recommendations to the legislature for calling such a  
6 convention, including a plan for the conduct of an effective constitutional  
7 convention.

8 WHEREAS, at twelve midnight on December 31, 1974, the Constitution of the state  
9 of Louisiana of 1974 became effective, culminating a remarkable effort to provide the state  
10 with a completely new constitution that today is recognized as having made landmark  
11 changes; namely, shortening the state's constitution from two hundred fifty-five thousand  
12 words to a mere thirty-five thousand words, providing for a dramatic reorganization of the  
13 executive branch of state government, making very significant changes in local government  
14 and in home rule government in particular, taking steps to strengthen the legislature, and  
15 removing many detailed provisions which had precluded legislative action without an  
16 accompanying constitutional amendment; and

17 WHEREAS, in the ensuing thirty-seven years, however, the constitution has been  
18 amended one hundred sixty-three times, and as a result, today the document contains, not  
19 only the problematic provisions which the 1973 convention found itself unable or unwilling  
20 to address, but additional provisions that protect narrow interests from legislative action  
21 despite changing times and needs and that tie the hands of the legislature in its efforts to  
22 effect significant reforms; and

23 WHEREAS, various authorities have suggested the need for Louisiana to address a  
24 number of policy areas that would require constitutional change, including such matters as

1 the state's tax structure and budgetary practices, dedication of state revenues and the  
2 resulting inability of the legislature to allocate tax resources where needed, as well as fiscal  
3 restraints on local governments that dramatically limit their authority to meet fiscal and  
4 budgetary demands; and

5 WHEREAS, as was the case in 1973, Louisiana once again faces the need for a  
6 serious analysis of its basic law, and it must determine whether a constitutional convention  
7 is needed and would be the most effective approach to: conducting a genuine examination  
8 of the state's critical needs, undertaking an in-depth discussion of reform concepts, crafting  
9 provisions that allow for flexibility and innovation in legislative solutions to problems of the  
10 present and the future, and challenging Louisiana's voters to accept constructive change; and

11 WHEREAS, prior to calling a constitutional convention, it would also be wise to  
12 undertake appropriate study and analysis to enable effective decisions concerning details of  
13 convention composition, organization, procedure, staffing, and other resources.

14 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
15 create and establish the Constitutional Convention Study Commission to undertake all study  
16 and analysis necessary for a complete examination of the feasibility and advisability of  
17 calling a constitutional convention to revise the Constitution of Louisiana and, if a  
18 convention is found to be feasible and advisable, to make recommendations to the legislature  
19 for calling such a convention.

20 BE IT FURTHER RESOLVED that the commission shall be composed of fifteen  
21 members as follows:

22 (1) Two members of the Louisiana House of Representatives appointed by the  
23 speaker of the House of Representatives.

24 (2) Two members of the Louisiana Senate appointed by the president of the Senate.

25 (3) Two members appointed by the governor.

26 (4) Two members appointed by the chief justice of the Louisiana Supreme Court.

27 (5) A representative of the Louisiana State Law Institute appointed by the Louisiana  
28 State Law Institute.

29 (6)(a) Four members who shall include a representative of the law school or business  
30 school of each of the following four universities appointed as provided in this Paragraph; the

1 appointing authorities shall consult with each other and make their appointments so as to  
2 provide that two of such members shall be representatives of law schools and two shall be  
3 representatives of business schools:

4 (i) A representative of the Louisiana State University Paul M. Hebert Law Center  
5 or the Louisiana State University E. J. Ourso College of Business appointed by the joint  
6 concurrence of the chancellor of the law center and the dean of the business college.

7 (ii) A representative of the Southern University Law Center or the Southern  
8 University College of Business appointed by the joint concurrence of the chancellor of the  
9 law center and the dean of the business college.

10 (iii) A representative of the Tulane University Law School or the Tulane University  
11 A. B. Freeman School of Business appointed by the joint concurrence of the dean of the law  
12 school and the dean of the business school.

13 (iv) A representative of the Loyola University New Orleans College of Law or the  
14 Loyola University New Orleans Joseph A. Butt, S. J., College of Business appointed by the  
15 joint concurrence of the dean of the college of law and the dean of the business college.

16 (b) If the appointing authorities do not make an appointment as provided in  
17 Subparagraph (a) of this Paragraph, the speaker of the House of Representatives and the  
18 president of the Senate shall make any appointment necessary to provide for such required  
19 membership, giving consideration to any recommendations of the appointing authorities.

20 (7) A representative of the Public Affairs Research Council of Louisiana appointed  
21 by the council.

22 (8) A representative of the Council for a Better Louisiana appointed by the council.

23 BE IT FURTHER RESOLVED that in making appointments to the commission, the  
24 appointing authorities shall seek to provide diversity in the commission's membership,  
25 including diversity of geography, race, and gender.

26 BE IT FURTHER RESOLVED that a vacancy in commission membership shall be  
27 filled in the manner of the original appointment.

28 BE IT FURTHER RESOLVED that the commission shall hold its organizational  
29 meeting within sixty days after adjournment sine die of the 2011 Regular Session of the  
30 Legislature on the call of the speaker of the House of Representatives and the president of

1 the Senate acting jointly and that at such organizational meeting the commission shall elect  
2 a chairman, a vice chairman, and such other officers as it finds necessary and shall adopt  
3 rules for its own procedure which shall be subject to later amendment by the commission.

4 BE IT FURTHER RESOLVED that the commission shall make such studies as it  
5 finds necessary or appropriate to determine the feasibility and advisability of calling a  
6 convention to revise the Constitution of Louisiana and, if a convention is found to be feasible  
7 and advisable, to make recommendations to the legislature on all matters relevant to the  
8 convening and conduct of a constitutional convention, including a plan for the conduct of  
9 an effective constitutional convention, which plan shall include but not be limited to:

10 (1) A policy agenda for the convention which shall include:

11 (a) Identification of significant policy areas that must be addressed in order to  
12 propose a constitution that will serve the state effectively.

13 (b) Materials explaining the proposed provisions on significant policy areas and the  
14 reasons therefor.

15 (c) Alternative proposals for provisions on significant policy areas, together with  
16 explanations and explanatory materials therefor, including multiple optional approaches and  
17 solutions as appropriate to facilitate the work of the convention in addressing issues.

18 (d) Pertinent background material and data relative to significant policy areas.

19 (2) Background and other materials that the committee determines will be useful to  
20 the work of the convention.

21 (3) Proposals for elimination of statutory materials from the constitution, together  
22 with recommendations for legislative action relative thereto.

23 (4) Recommendations for convention organization and deliberations, including the  
24 composition of the membership of the convention, officers and committees, and significant  
25 provisions for rules of procedure.

26 (5) Timetables for convening, for staff work, for completion of a draft constitution,  
27 for the election to submit the proposal to the voters of the state, and for effectiveness of the  
28 new constitution.

29 (6) An analysis of staffing and other resources needed and available to address policy  
30 issues and to skillfully draft constitutional language.

1 (7) Recommendations for budget needs for effective conduct of a convention.

2 (8) Recommendations for procedures for submission of alternative proposals to the  
3 voters and ballot structure.

4 BE IT FURTHER RESOLVED that the commission shall complete its study and  
5 determine its recommendations to the legislature no later than January 15, 2012, and shall  
6 submit to each member of the legislature and to the governor, no later than March 1, 2012,  
7 the complete results of its study and a report of its findings and its recommendations based  
8 thereon.

9 BE IT FURTHER RESOLVED that the commission, for the purposes of conducting  
10 the study as provided in this Resolution, may utilize the personnel, facilities, and services  
11 of the legislative auditor, the legislative fiscal officer, and the staffs of the House of  
12 Representatives and the Senate, and that the commission may request and utilize such  
13 counsel, assistance, personnel, facilities, and advice as may be obtained from any and all  
14 public sources and from any and all private sources, including but not necessarily restricted  
15 to private research agencies, individuals, and organizations.

16 BE IT FURTHER RESOLVED that the speaker of the House of Representatives and  
17 the president of the Senate may each assign one or more employees whose full-time duties  
18 and responsibilities shall be providing staff support to the commission; that the legislative  
19 fiscal officer shall assign one employee whose full-time duty and responsibility shall be  
20 providing staff support to the commission; that the director of the Louisiana State Law  
21 Institute shall assign one employee whose half-time duty and responsibility shall be  
22 providing staff support to the commission; that the chief justice of the Louisiana Supreme  
23 Court shall assign one employee whose half-time duty and responsibility shall be providing  
24 staff support to the commission; and that each university that appoints a member to the  
25 commission shall assign one employee whose half-time duty and responsibility shall be  
26 providing staff support to the commission.

27 BE IT FURTHER RESOLVED that the commission may make or cause to be made  
28 any studies it finds useful for the purposes of this Resolution through legislative personnel  
29 or in cooperation with any public or private agency, including but not limited to universities,  
30 colleges, foundations, charitable corporations, and research organizations, and the

1 commission may call upon the members or staffs of any and all departments or agencies of  
2 the state for data and assistance, and all such departments and agencies shall cooperate with  
3 the commission.

4 BE IT FURTHER RESOLVED that the commission may receive grants, donations,  
5 or gifts of money or services from public or private organizations or from any other source,  
6 to be utilized for the purposes of the commission.

7 BE IT FURTHER RESOLVED that the commission may create or appoint advisory  
8 commissions or task forces to act in an advisory capacity or to assist in its studies, composed  
9 of such representatives of the public or private sectors as it shall deem appropriate.

10 BE IT FURTHER RESOLVED that all expenses directly incurred by the commission  
11 may be paid from any funds available for the purpose and, with the approval of the presiding  
12 officers of the two houses of the Legislature of Louisiana, from funds available to such  
13 presiding officers for expenses of the legislature.

14 BE IT FURTHER RESOLVED that the commission shall be deemed dissolved upon  
15 the adjournment sine die of the 2012 Regular Session of the Legislature.

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#### 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)]

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Foil

HCR No. 3

**Abstract:** Creates the Constitutional Convention Study Commission to study the feasibility and advisability of a constitutional convention and to make recommendations to the legislature for the calling of such convention if a convention is found feasible and advisable.

Proposed concurrent resolution creates the Constitutional Convention Study Commission to make necessary studies and analysis to examine the feasibility and advisability of calling a constitutional convention to revise the Constitution of La.

- (1) Provides that the commission be composed of 15 members as follows:
  - (a) Two members of the La. House of Representatives appointed by the speaker of the House of Representatives.
  - (b) Two members of the La. Senate appointed by the president of the Senate.
  - (c) Two members appointed by the governor.
  - (d) Two members appointed by the chief justice of the La. Supreme Court.
  - (e) A representative of the La. State Law Institute appointed by the institute.

- (f) A representative of the LSU Paul M. Hebert Law Center or the LSU E.J. Ourso College of Business appointed by the joint concurrence of the chancellor of the law center and the dean of the business college.
- (g) A representative of the SU Law Center or the SU College of Business appointed by the joint concurrence of the chancellor of the law center and the dean of the business college.
- (h) A representative of the Tulane University Law School or the Tulane University A.B. Freeman School of Business appointed by the joint concurrence of the dean of the law school and the dean of the business school.
- (i) A representative of the Loyola University New Orleans College of Law or the Loyola University New Orleans Joseph A. Butt, S.J., College of Business appointed by the joint concurrence of the dean of the college of law and the dean of the business college.
- (j) A representative of the Public Affairs Research Council of La. appointed by the council.
- (k) A representative of the Council for a Better La. appointed by the council.

Relative to the appointments provided for in (f) through (i) above, requires the appointing authorities to consult with each other and make their appointments so as to provide that two of such members shall be representatives of law schools and two shall be representatives of business schools. Further provides that if the appointing authorities provided for in (f) through (i) above do not make an appointment as provided, the House speaker and the Senate president shall make any appointment necessary to provide for such required membership, giving consideration to any recommendations of the appointing authorities.

Requires that, in making appointments, the appointing authorities shall seek to provide diversity in the commission's membership, including diversity of geography, race, and gender.

Provides for filling of a vacancy in the manner of the original appointment.

- (2) Requires that the commission hold its organizational meeting within 60 days after adjournment sine die of the 2011 R.S. on the call of the House speaker and the Senate president acting jointly.

Requires the commission, at the organizational meeting, to elect a chairman, a vice chairman, and other officers it finds necessary and to adopt rules for its own procedure.

- (3) Requires the commission to make such studies as it finds necessary or appropriate to determine the feasibility and advisability of calling a constitutional convention to revise the state constitution and, if a convention is found to be feasible and advisable, to make recommendations to the legislature on all matters relevant to the convening and conduct of a constitutional convention including a plan for the conduct of an effective constitutional convention which plan shall include but not be limited to:
  - (a) A policy agenda for the convention which shall include:
    - (i) Identification of significant policy areas that must be addressed in order to propose a constitution that will serve the state effectively.
    - (ii) Materials explaining the proposed provisions on significant policy areas and the reasons therefor.
    - (iii) Alternative proposals for provisions on significant policy areas, together with explanations and explanatory materials therefor, including multiple optional

approaches and solutions as appropriate to facilitate the work of the convention in addressing issues.

- (iv) Pertinent background material and data relative to significant policy areas.
  - (b) Background and other materials that the committee determines will be useful to the work of the convention.
  - (c) Proposals for elimination of statutory materials from the constitution, together with recommendations for legislative action relative thereto.
  - (d) Recommendations for convention organization and deliberations, including the composition of the membership of the convention, officers and committees, and significant provisions for rules of procedure.
  - (e) Timetables for convening, for staff work, for completion of a draft constitution, for the election to submit the proposal to the voters of the state, and for effectiveness of the new constitution.
  - (f) An analysis of staffing and other resources needed and available to address policy issues and to skillfully draft constitutional language.
  - (g) Recommendations for budget needs for effective conduct of a convention.
  - (h) Recommendations for procedures for submission of alternative proposals to the voters and ballot structure.
- (4) Requires the commission to complete its study and determine its recommendations by Jan. 15, 2012, and by March 1, 2012, to submit study results and a report of its findings and recommendations to each legislator and the governor.
- (5) Authorizes the commission to utilize the personnel, facilities, and services of the legislative auditor, the legislative fiscal officer, and the staffs of the House of Representatives and the Senate and to request and use such counsel, assistance, personnel, facilities, and advice as may be obtained from any and all public or private sources.
- (6) Authorizes the House speaker and the Senate president to each assign one or more full-time staff persons to provide staff support to the commission.
- (7) Requires that each of the following assign employees as follows to provide staff support to the commission:

<u>Assigned by</u>	<u>Number</u>	<u>Full-time/ Half-time</u>
Legislative fiscal officer	One	Full-time
Director of the La. State Law Institute	One	Half-time
Chief justice of the La. Supreme Court	One	Half-time
Each university that appoints a member to the commission	One	Half-time

- (8) Authorizes the commission to make, or cause to be made, studies useful to its purposes through legislative personnel or in cooperation with any public or private agency and to call upon departments or agencies of the state for data and assistance. Requires departments and agencies to cooperate with the commission.
- (9) Authorizes the commission to receive grants, donations, or gifts of money or services from public or private organizations or from any other sources and to create or appoint advisory commissions or task forces for advice or assistance, composed of representatives of the public or private sectors.
- (10) Provides that expenses directly incurred by the commission may be paid from any funds available for the purpose and, with the approval of the legislative presiding



officers, from funds available to such presiding officers for expenses of the legislature.

- (11) Provides that the commission shall be dissolved upon the adjournment sine die of the 2012 R.S.

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed resolution.

1. Requires appointing authorities to seek to provide diversity in commission's membership.
2. Requires that commission recommendations (if convention is found feasible and advisable) include a plan for convention conduct. Adds the following matters to those the commission recommendations should address:
  - (a) Materials explaining proposed provisions on significant policy areas and reasons therefor.
  - (b) Alternative proposals for provisions on significant policy areas, with explanations and explanatory materials, including multiple optional approaches and solutions.
  - (c) Pertinent background material and data relative to significant policy areas.
  - (d) Background and other materials that the committee determines will be useful.
  - (e) Proposals for elimination of statutory materials from the constitution and recommendations for related legislative action.
3. Removes limitations on convention authority from contents specified for policy agenda.