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## DIGEST

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HB 500 Reengrossed

2018 Regular Session

Abramson

**Abstract:** Calls a limited constitutional convention to convene on Jan. 6, 2020, to be composed of 117 delegates, 3 elected from each senate district. Requires convention to complete a new constitution by May 20, 2020.

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. 6, 2020, to frame a new constitution for the state, subject to the terms, conditions, and provisions of the Act.
- (2) Provides for 117 delegates, with three elected from each 2015 Senate election district at the regularly scheduled gubernatorial election in 2019.
- (3) Requires that delegates be qualified electors of the state and that elected delegates be residents of the district from which elected. Excludes election and service of delegates and service of the staff of the convention from dual employment/dual officeholding laws. Delegates and staff are subject to the code of ethics, and, in the case of delegates and candidates for delegate, the campaign finance laws. Further, delegates and staff are considered public officers, public officials, public employees, or person in a position of public authority for purposes of the application of the provisions of the La. Criminal code. 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 Oct. 12, 2019, and if a general election is necessary, on Nov. 16, 2019. Candidates qualify without regard to party affiliation. For purposes of qualifying and election only, a candidate for delegate shall qualify for either "Delegate A", "Delegate B", or Delegate C" of the senate district from which he seeks election. Election is to be in accordance with provisions for election of candidates for public office in the La. Election Code, but specifically allows a person to

qualify for one delegate position and one other office other than delegate at the same time.

- (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 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.

Proposed law grants to the convention the authority to frame a new state constitution. However, provides that the convention may propose substantive changes only 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).
- (2) Article VII (Revenue and Finance).
- (3) Article VIII (Education), but only with respect to Sections 5, 6, 7, 7.1, 8, 12, and 13 (MFP & Higher Ed management & funding).
- (4) Article X (Public Officials and Employees)
- (5) Article XII (General Provisions), but only with respect to Sections 6, 7, 8, 8.1, 9, 10, and 16.
- (6) Any provision of the constitution concerning revenue or a fund, subfund, account, or other designation of funds.
- (7) Article XIV (Transitional Provisions), but only as necessary to provide an orderly transition for proposed changes pursuant Paragraphs (1) through (6) above.

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 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.

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 that the convention shall adopt rules of procedure when it convenes. Prohibits proxy voting. Limits committee membership to 17 members.

Proposed law provides for the initial meeting of the convention on Jan. 6, 2020. 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 request the provision of professional, research, technical, and clerical staff from public or private sources as deemed necessary.
- (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. Allows the staff of the convention to continue to receive compensation from the staff person's regular bona fide employment.
- (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 appoints 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.
- (7) Provides that the convention may provide in its rules for advisory members who may participate in discussion and debate in up to two committees only, but shall not be allowed to vote and shall not participate on the executive committee. Provides that if so requested by the convention, the appointments shall be made and submitted to the chairman of the convention and the secretary of state no later than 15 days after the request. Provides that the advisory members shall consist of:
  - (a) A member appointed with the concurrence of the Public Affairs Research Council of La., the La. Budget Project, and the Council for a Better La.
  - (b) A member appointed with the concurrence of the La. Assoc. of Business and Industry and the National Federation of Independent Business.
  - (c) A member appointed with the concurrence of Blueprint La. and the Committee of 100 for Economic Development.
  - (d) A representative of the La. AFL-CIO appointed by the La. AFL-CIO.
  - (e) 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.
  - (f) A representative of elected parish officials appointed with the concurrence of the La. Sheriffs' Assoc., the La. Assessors' Assoc., and the La. Clerks of Court Assoc.
  - (g) A representative of local governmental bodies appointed with the concurrence of the La. Municipal Assoc., the Police Jury Assoc. of La., and the La. School Boards Assoc.
  - (h) One representative of the La. State Law Institute appointed by the La. State Law Institute.
  - (i) A representative of the La. State University system appointed by the Bd. of Supervisors of La. State University and Agricultural and Mechanical College.
  - (j) A representative of the Southern University system appointed by Bd. of Supervisors of Southern University and Agricultural and Mechanical College.
  - (k) A representative of the University of La. system appointed by the Bd. of Supervisors for the University of La. System.
  - (l) One member appointed by the La. Assoc. of Independent Colleges and Universities.

- (m) A representative of the La. Farm Bureau Federation appointed by the La. Farm Bureau board of directors.
- (n) One member appointed with the concurrence of the La. District Judges Assoc., the Conference of Court of Appeal Judges, and the chief justice of the La. Supreme Court.
- (o) Four members of the La. House of Representatives appointed by the speaker of the House of Representatives.
- (p) Four members of the La. Senate appointed by the president of the Senate.
- (q) Four members appointed by the governor.
- (r) One representative of the La. Tax Institute appointed by the board of the La. Tax Institute.

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

- (1) Prohibits a delegate from accepting any 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 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 20, 2020. Requires the convention, upon completion of its work and subject to the subject matter limitations on the convention, to submit the proposed constitution to the governor and the presiding officers of the legislature no later than June 1, 2020. Requires the presiding officers to post the proposed constitution on the legislative website within 24 hours of receipt. Provides that the proposed constitution shall be submitted to the people for their adoption or rejection at a special election. 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 and presidential election in 2020 (Nov. 3, 2020). 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.

Proposed law provides that the provisions of the proposed revision of the constitution shall be

severable and provides that if any provision is deemed null and void and of no effect by final judgment of a court of competent jurisdiction after adoption by the convention but prior to its submission to the electors, then the provision deemed null and void shall be removed from the proposed revision of the constitution by the secretary of state and the remainder of the proposed revision of the constitution shall be submitted to the electors in accordance proposed law. Further provides that if any provision of the revision of the constitution, or the application thereof, is deemed invalid after ratification by the electors, such invalidity shall not affect other provisions, items, or applications of the revision which can be given effect without the invalid provision, item, or application

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 to be the Constitution of La. Provides that the new constitution shall become effective at midnight on Dec. 31, 2020, except as otherwise provided in the constitution.

Proposed law provides that if any provision or application of proposed law 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 proposed law in its entirety shall be invalid and of no effect. Specifies, however, that if any other provision of proposed law or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of proposed law 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 117 convention delegates	10/12/19 & 11/16/19
Convention to convene	1/6/20 (noon)
Convention to complete final draft	5/20/20
Convention to submit draft constitution to the governor and presiding officers by	6/1/20
Election for submission of proposed constitution	11/3/20 (Congressional primary and presidential election)
Constitution becomes effective if adopted	12/31/20 (midnight)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed

bill:

1. Add to the scope of the convention all of the provisions in Article VI, all of the provisions in Article X, specified provisions of Article XII, and all provisions in the constitution concerning revenue or a fund, subfund, account, or other designation of funds.
2. Remove provisions for the Evaluation and Drafting Committee and for such members to serve as delegates to the convention, including provisions for a study by an Evaluation and Drafting Committee to determine if a convention is needed, and if so, a report to include a convention plan and a proposed constitution. However, provide for the same membership to be advisory members to the convention in a limited capacity if requested by the convention and subject to the rules of the convention.
3. Change the make-up of the delegates to the convention from 132 delegates, including the 27 members of the Evaluation and Drafting Committee and 105 delegates elected from the House of Representatives districts to 117 delegates selected by electing three delegates from each senate district.
4. Remove provisions for alternative proposals.
5. Add specific severability provisions regarding elements of the proposed constitution.
6. Remove provisions for legislative staff to prepare a draft of rules of procedure for consideration by the convention based upon the rules of the convention convened in 1973.
7. Require the proposed draft to be submitted to the presiding officers of the legislature and require the presiding officers to post the proposed draft on the legislative website within 24 hours of receipt.