

2016 Regular Session

SENATE BILL NO. 393

BY SENATOR CARTER

CONSTITUTION CONVENTION. Provides for the calling of a constitutional convention for the purpose of revising the constitution in order to provide for state revenue and finance and matters relating thereto. (2/3 - CA13s2) (gov sig)

1 AN ACT

2 To provide for the calling of a constitutional convention for the purpose of revising the  
3 constitution in order to provide for state revenue and finance and matters relating  
4 thereto; to fix the time and place for said convention; to provide for the organization  
5 and staff of the convention; to place restrictions on said convention; to require that  
6 the revision of the constitution as adopted by such convention, including any  
7 alternative provisions, be submitted to the qualified electors for adoption, to provide  
8 the manner of such submission, and to provide with respect thereto; to provide with  
9 respect to the disbursement of funds appropriated for the convention; to fix the  
10 effective date of the revised constitution if approved by the electorate; and to provide  
11 for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 **Section 1. The legislature finds that:**

14 **A. It has been more than forty-one years since the Constitution of**  
15 **Louisiana became effective at midnight on December 31, 1974, and during these**  
16 **years the document, which constitutes the state's basic law, has been amended**  
17 **some one hundred eighty-three times.**

1           **B. The need to address a number of key policy areas that require**  
2           **constitutional change has become apparent, including such matters as the**  
3           **state's budgetary practices that hamper the state's economic growth and**  
4           **competitiveness as well as the quality of life of Louisiana residents; the**  
5           **dedication of state revenues and the resulting inability of the legislature to**  
6           **allocate resources where needed, particularly for the needs of health care and**  
7           **higher education; and other matters.**

8           **Section 2. A. A constitutional convention is hereby called, to convene at**  
9           **five o'clock p.m. on August 20, 2016, which shall be held for the purpose of**  
10          **revising the Constitution of Louisiana in order to provide for state revenue and**  
11          **finance and matters relating thereto, all subject to the terms, conditions, and**  
12          **provisions hereinafter set forth.**

13          **B.(1) There shall be one hundred forty-four delegates to the convention.**

14          **(a) The convention shall consist of two houses, a Senate and a House of**  
15          **Representatives. The Senate shall be composed of delegates who are serving as**  
16          **senators in the legislature. The House of Representatives shall be composed of**  
17          **delegates who are serving as representatives in the legislature.**

18          **(b) Each convention house, and any committee of the convention, may**  
19          **compel the attendance and testimony of witnesses and the production of books**  
20          **and papers before it and may punish those in wilful disobedience of its orders**  
21          **for contempt.**

22          **(c) Not less than a majority of the delegates of each house shall form a**  
23          **quorum to transact business, but a smaller number may adjourn from**  
24          **day-to-day and may compel the attendance of absent members. Each house**  
25          **may meet upon the call of its presiding officer without notice to the other house.**

26          **(d) The convention shall keep a journal of the proceedings of each house.**  
27          **The journal of the convention shall accurately reflect the proceedings of the**  
28          **convention, including all record votes. The journal of each house shall**  
29          **accurately reflect the proceedings of that house, including all record votes. A**

1 record vote is a vote by yeas and nays, with each member's vote published in the  
2 journal. The journal of the proceedings of the convention shall be published  
3 immediately after the close of the convention.

4 (2) The service of a delegate to the convention or the appointment of any  
5 public servant to the staff of the convention and his or her service on such staff,  
6 as authorized and provided in this Act, shall not be construed to constitute dual  
7 office holding or dual employment within the prohibitions of the laws of the  
8 state. However, all members of the staff who are not elected officials shall be  
9 considered as state employees within the scope of and subject to the provisions  
10 of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950. Both the  
11 delegates to the convention and the staff of the convention shall be subject to the  
12 public bribery provisions of the laws of this state.

13 (3) Any attorney at law serving as a delegate to the convention or as a  
14 member of the staff of the convention shall be entitled to the absolute right of  
15 the continuance of any case in which he is bona fide counsel of record in any  
16 court of the state during his attendance upon the sessions and work of the  
17 convention.

18 C. The convention shall have authority to propose substantive changes,  
19 including one or more alternative provisions, only with respect to matters of  
20 state finance and the raising of revenue and the allocation and expenditure of  
21 funds therefor; specifically, the convention may propose such substantive  
22 changes, including one or more alternative provisions, with respect to matters  
23 contained in the following provisions of the Constitution of Louisiana of 1974,  
24 as amended, and no other:

25 (1) Article III, entitled "Legislative Branch", but only Section 2(A)  
26 thereof and then only to the extent necessary to provide for the legislature to  
27 enact legislation during the 2017 Regular Session that is necessary to implement  
28 any changes occasioned by revision of provisions of Article VII of the  
29 constitution as proposed by the convention.

1                   (2) Article VII, entitled "Revenue and Finance", but only Sections 5, 9  
2 through and including 11, and 14(B).

3                   D. The convention shall not propose substantive changes to any  
4 provisions of the constitution not set forth in Section (B).

5                   E. In addition to the authority to propose substantive changes as  
6 enumerated in Subsection (B) of this Section, but solely for the purposes of  
7 orderly arrangement, style and conformity, the convention may incorporate in  
8 its proposed revision or in any alternative provision nonsubstantive changes in  
9 other provisions of the constitution but only to the extent that they are (1)  
10 germane to the matters enumerated in Subsection (B) and (2) essential in order  
11 to conform to the substantive changes being proposed. For the same purposes,  
12 the convention may (1) renumber or rearrange provisions, (2) transfer or divide  
13 provisions, (3) change reference designations to conform to redesignated  
14 provisions, and (4) make any other purely formal or clerical changes in keeping  
15 with the purpose of the revision.

16                   F. Any action by the convention in contravention of the provisions of this  
17 Section shall be null and void and of no effect.

18                   G. An action to determine a question of the construction or validity of  
19 this Act, to determine the scope of authority of the convention, or to determine  
20 the conformity of any action of the convention with the provisions of this Act  
21 may be brought in the district court for the parish in which the convention is  
22 meeting. The matter shall be tried by preference over other matters and the  
23 court shall render a decision as soon as practicable. In the event of an appeal,  
24 the appellate court shall place the matter on its preferential docket, shall hear  
25 it without delay, and shall render a decision as soon as practicable.

26                   Section 3. A.(1)(a) The delegates shall meet in convention at the state  
27 capitol at five o'clock p.m. on Sunday, August 20, 2016. The Senate of the  
28 convention shall convene in the Senate Chamber, and the House of  
29 Representatives of the convention shall convene in the House of Representatives

1           **Chamber.**

2                   **(b) The presiding officer of each convention house shall convene the**  
3                   **delegates of that house and preside at the opening.**

4                   **(c) The clerical officer of each house shall call the roll of the delegates of**  
5                   **that house, whereupon the clerical officer shall administer to the delegates of**  
6                   **that house the following oath:**

7                   **"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the**  
8                   **constitution and laws of the United States and the constitution and laws of this**  
9                   **state and that I will faithfully and impartially discharge and perform all the**  
10                   **duties incumbent on me as a delegate to the convention, according to the best**  
11                   **of my ability and understanding, and that I will observe and obey the limitation**  
12                   **of authority contained in the Act under which this convention has assembled.**  
13                   **(So help me God.)"**

14                   **(2) No delegate shall be qualified to serve as such unless and until he has**  
15                   **taken and subscribed to the above oath.**

16                   **(3) No delegate shall be allowed to vote by proxy.**

17                   **B.(1) After the oath has been administered, the delegates shall proceed**  
18                   **to effect the permanent organization of the convention and shall:**

19                   **(a) Adopt joint rules of procedure for the convention by separate**  
20                   **majority vote of each house, which rules shall not be inconsistent with the**  
21                   **provisions of this Act, and which may create and establish such committees as**  
22                   **the delegates may deem appropriate.**

23                   **(b) Take such other actions as they deem necessary to effect a permanent**  
24                   **organization of the convention.**

25                   **(2) Except as inconsistent with the provisions of this Act, the rules of**  
26                   **procedure for each house of the convention shall be as follows, unless revised by**  
27                   **the convention house:**

28                   **(a) The rules of the Senate of the convention shall be the Rules of Order**  
29                   **of the Senate and for the purposes of such rules, proposals shall be deemed**

1 "legislative instruments" and more particularly "bills".

2 (b) The rules of the House of Representatives of the convention shall be  
3 the Rules of Order of the House of Representatives and for the purposes of such  
4 rules, proposals shall be deemed "legislative instruments" and more  
5 particularly "bills".

6 (3) The committees of the convention shall be subject to the provisions  
7 of Chapter 1 of Title 42 of the Louisiana Revised Statutes of 1950 applicable to  
8 legislative committees.

9 (4) Each delegate may prepare and file with the clerical officer of the  
10 convention house in which the delegate serves proposals to amend the  
11 constitution as authorized in Section 2 of this Act, beginning on the day the  
12 convention convenes until five o'clock in the afternoon on Monday, August 29,  
13 2016.

14 C. Prior to the convening of the convention, members of the staffs of the  
15 House of Representatives and Senate, as designated by the presiding officers of  
16 the legislature, shall prepare drafts of the joint rules of procedure for adoption  
17 by the convention when it convenes.

18 D. Prior to the convening of the convention, the fiscal staffs of the  
19 division of administration, the Senate, the House of Representatives, and the  
20 legislative fiscal office shall meet and publish official data to be used by the  
21 delegates in their deliberations. The official data shall be incorporated into the  
22 record of the proceedings of the convention. Such data shall include but not be  
23 limited to revenue and expenditure forecasts, state debt obligations, debt service  
24 requirements on those obligations, and cash flow projections for the next five  
25 years. Nothing in this Subsection shall prevent the submission of information  
26 which conflicts with the official data provided such information is supplied in  
27 accordance with the rules of procedure adopted by the convention.

28 E. The Senate of the convention shall meet in session in the Senate  
29 Chamber at the state capitol. The House of Representatives of the convention

1 shall meet in session in the Chamber of the House of Representatives at the state  
2 capitol.

3 Section 4. A. Staff support for the convention shall be provided by the  
4 staffs of the House of Representatives, the Senate, and other legislative agencies.  
5 The presiding officers of the two houses shall determine the manner in which  
6 this shall be accomplished. Each convention house may also employ such other  
7 professional, research, technical, clerical, stenographic, and other employees as  
8 necessary to the work of the convention.

9 B. Each convention house may use the facilities and services of any  
10 board, commission, department, or agency of the state or of any political  
11 subdivision of the state, and all such agencies shall cooperate with the  
12 convention to the fullest extent in furnishing services, facilities, and employees  
13 upon request.

14 C. Each convention house may accept grants, monies, aid, facilities,  
15 and/or services from public or private sources for the purpose of accomplishing  
16 its task and any such grants, monies, facilities, services, and donations, as well  
17 as the names of the donors thereof, shall be recorded in the record of the  
18 proceedings of the convention and such records shall be open to inspection by  
19 any person.

20 D. The proposed revision to the constitution, together with any  
21 alternative provisions agreed upon by the convention shall be adopted no later  
22 than five o'clock p.m. on September 19, 2016.

23 Section 5. The delegates to the convention shall receive a per diem of and  
24 travel allowances as provided for members of the legislature in R.S. 24:31 and  
25 31.1 (C) and (D) for their attendance at the convention or of committees thereof,  
26 but no delegate shall be paid a per diem after September 19, 2016. No delegate  
27 may accept any other compensation for work performed for the convention  
28 from any source while serving as a delegate and engaged in the work of the  
29 convention, other than his compensation as a member of the legislature.

1 However, no delegate may receive a per diem pursuant to this Act for any day  
2 which the delegate receives a per diem as a legislator. Further, if a delegate is  
3 engaged in regular, bona fide employment, should his employer choose to  
4 continue to pay the usual compensation while the delegate is engaged in the  
5 work of the convention, such delegate may accept that compensation,  
6 notwithstanding any provision of law to the contrary.

7 Section 6. Any appropriation for the expenses of the convention shall be  
8 used to defray the necessary expenses of the constitutional convention for which  
9 provision is made in this Act, including the payment of per diem of delegates,  
10 salaries, and expenses of necessary employees, supplies, materials, equipment,  
11 printing and reproduction of materials, and all other necessary expenses  
12 incurred in connection with the convention and its work.

13 Section 7. Copies of documents of the convention shall be provided at the  
14 same fees existing for legislative documents. Funds derived from the sale of  
15 documents of the convention shall be used to offset the cost of printing the  
16 journals and calendars of the convention.

17 Section 8. A. Upon completion of its work, the convention shall submit  
18 to the governor the proposed revision to the constitution and any alternative  
19 provisions agreed upon by the convention. The revision as drafted by the  
20 convention, together with any alternative provisions proposed for submission,  
21 shall be submitted to the people for their adoption or rejection at the statewide  
22 election to be held on November 8, 2016.

23 B.(1) No proposal shall be considered for adoption in the convention  
24 house of origin unless reported by a committee of that house or a joint  
25 committee after a public hearing on the proposal and the proposal has been  
26 read by a title indicative of its object. Each proposal shall be read by a title  
27 indicative of its object prior to adoption by each convention house.

28 (2) No proposal shall be amended in either convention house to make a  
29 change not germane to the proposal as introduced.

1                   **(3) No proposal shall be adopted in either convention house without a**  
2                   **favorable vote of at least a majority of the delegates of that convention house.**

3                   **Final adoption of a proposal shall be by record vote.**

4                   **(4) No amendment to a proposal by one house of the convention shall be**  
5                   **concurrent in by the other, and no conference report shall be concurrent in by**  
6                   **either house, except by a majority of the delegates of that house. The vote**  
7                   **thereon shall be by record vote.**

8                   **(5) No proposed revision of the constitution or any alternative provisions**  
9                   **shall be submitted to the governor for submission to the electorate without the**  
10                  **favorable vote of at least a majority of the delegates of each house of the**  
11                  **convention.**

12                  **C. An election seeking approval of the majority of the electors on the**  
13                  **report of the convention shall be held and the results shall be promulgated in**  
14                  **accordance with the Louisiana Election Code. All electors duly qualified to vote**  
15                  **in the state at the time of the election shall be entitled to vote without regard to**  
16                  **party affiliation in their respective precincts on the proposition for or against**  
17                  **adoption of the revision and on the question or questions of adoption of such**  
18                  **alternative provisions as may be proposed by the convention.**

19                  **D. The convention may submit to the electors of the state the proposal**  
20                  **of acceptance or rejection of the revision and any alternative provisions in such**  
21                  **form and manner as it may determine and may direct the proper election**  
22                  **officials to take the necessary steps to effectuate such determination of the**  
23                  **convention in presenting the proposed revision and any alternative provisions**  
24                  **to the electors. Adoption of the revision and of any such alternative provisions**  
25                  **shall require the favorable vote of a majority of the electors voting on the**  
26                  **respective proposition.**

27                  **E. Upon promulgation of the results of the election by the secretary of**  
28                  **state, if the revision is ratified and adopted by the people in the election for**  
29                  **which provision is made in this Section, the governor shall proclaim the revision**

1 including such alternative provisions as are adopted by the people at said  
 2 election, to be part of the Constitution of Louisiana. The revision, including such  
 3 alternative provisions as are so adopted, shall become effective at midnight on  
 4 the tenth day after the day on which the governor proclaims the revision and  
 5 such alternative provisions to be the constitution, except as otherwise provided  
 6 in the revision or in any such alternative provisions adopted.

7 Section 9. If any provision or item of this Act, or the application thereof, is held  
 8 invalid, such invalidity shall not affect other provisions, items, or applications of this Act  
 9 which can be given effect without the invalid provision, item, or application.

10 Section 10. This Act shall become effective upon signature by the governor or, if not  
 11 signed by the governor, upon expiration of the time for bills to become law without signature  
 12 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Ben Huxen.

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## DIGEST

SB 393 Original

2016 Regular Session

Carter

Proposed law calls a constitutional convention, including the following provisions:

- (1) Provides for convention to convene at five o'clock p.m. on August 20, 2016, to revise the state constitution "in order to provide for state revenue and finance and matters relating thereto," subject to the terms, conditions, and provisions of the Act.
- (2) Provides for 144 delegates consisting of two houses, a Senate and a House of Representatives. The Senate shall be composed of delegates who are serving as senators in the legislature. The House of Representatives shall be composed of delegates who are serving as representatives in the legislature.
- (3) Limits convention authority to make substantive changes to matters of state finance and the raising of revenue and the allocation and expenditure of funds therefor. Designates specific provisions that the convention may include in the proposed revision or in alternative provisions as follows and prohibits including others:
  - (a) Article III, entitled "Legislative Branch", but only Section 2(A) thereof and then only to the extent necessary to provide for the legislature to enact legislation during the 2017 Regular Session that is necessary to implement any changes occasioned by revision of provisions of Article VII of the constitution as proposed by the convention.
  - (b) Article VII, entitled "Revenue and Finance", but only Sections 5, 9 through and including 11, and 14(B).
- (4) Authorizes additional nonsubstantive changes to be included in the revision solely for purposes of orderly arrangement, style and conformity. Provides procedure for

- judicial determination of scope of convention authority and questions relating to construction and validity of the Act and for expedited hearing and decision.
- (5) Provides for the delegates to adopt joint rules of procedure for the convention by separate majority vote of each house, which may create and establish such committees as the delegates may deem appropriate. Prohibits proxy voting. Requires the fiscal staffs of the DOA, Senate, House, and the legislative fiscal officer to meet and publish official data to be used by the delegates in their deliberations.
  - (6) Provides that staff services for the convention shall be provided by the staffs of the House of Representatives and the Senate, as determined by the presiding officers. 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. Requires the fiscal staffs of the DOA, Senate, House, and the legislative fiscal officer to publish official data to be used by the convention.
  - (7) Provides that delegates receive a per diem of and travel allowances as provided for members of the legislature.
  - (8) Requires the convention, upon completion of its work, to submit to the governor the revised constitution and any alternative provisions agreed upon. Provides that the revision, and any alternative provisions proposed for submission, shall be submitted to the people for their adoption or rejection at the statewide election to be held on November 8, 2016. Requires majority approval of the revision and of alternative proposals for adoption.
  - (9) Provides for commissioners as provided above for the delegates' election and for costs to be paid as provided by law for elections in which constitutional amendments appear on the ballot. Provides for convention to determine manner for submission of alternative proposals. Provides that, upon promulgation of the results of the election by the secretary of state, if the revision is ratified and adopted by the people, the governor shall proclaim the revision, including alternative provisions adopted, to be the Constitution of Louisiana. Provides that the revision and any such alternative provisions adopted shall become effective at midnight on the 10th day after the day of the governor's proclamation, except as otherwise provided in the revision or in any alternative provisions adopted.
  - (10) Provides that, if any provision or item of this Act, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provision, item, or application.

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