

Regular Session, 2014

HOUSE BILL NO. 218

BY REPRESENTATIVE TALBOT

CIVIL/PROCEDURE: Provides relative to special civil proceedings

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 1878 and to repeal R.S. 13:4062,
3 relative to special civil proceedings; to provide for declaratory judgments; to provide
4 for expedited hearings; to provide for the effect of supplemental proceedings on the
5 hearing for a declaratory judgment; to provide for proceedings for temporary
6 restraining orders, injunctions, and mandamus relative to the expenditure of state
7 funds; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Civil Procedure Article 1878 is hereby amended and reenacted
10 to read as follows:

11 Art. 1878. Supplemental relief; expedited hearing for constitutional determination;
12 effect of pendency of other proceedings

13 A. Further relief based on a declaratory judgment or decree may be granted
14 whenever necessary or proper. The application therefor shall be by petition to a
15 court having jurisdiction to grant the relief. If the application is considered
16 sufficient, the court, on reasonable notice, shall require any adverse party whose
17 rights have been adjudicated by the declaratory judgment or decree, to show cause
18 why further relief should not be granted forthwith.

19 B. In any action or proceeding seeking a declaratory judgment as to the
20 constitutionality of the expenditure of state funds, the court shall set the matter with

- 1 preference and proceed to hear and determine the matter as expeditiously as the ends
 2 of justice may require, notwithstanding resolution of a pending petition for
 3 injunction sought pursuant to Article 3601 or a petition for mandamus sought
 4 pursuant to Article 3862.
 5 Section 2. R.S. 13:4062 is hereby repealed in its entirety.

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)]

Talbot

HB No. 218

Abstract: Provides that a court shall set a matter with preference if it is seeking a declaratory judgment as to the constitutionality of the expenditure of state funds, notwithstanding a pending petition for injunction or mandamus.

Present law (C.C.P. Arts. 1871 and 1872) provides procedures for declaratory judgments authorizing the court to declare rights, status, and other legal relations for parties affected by a statute, municipal ordinance, contract, or franchise.

Present law (C.C.P. Art. 1878) authorizes supplemental relief based on a declaratory judgment whenever necessary and proper.

Proposed law retains present law and provides that in any action or proceeding seeking a declaratory judgment as to the constitutionality of the expenditure of state funds, the court shall set the matter with preference and proceed to hear and determine the matter expeditiously, notwithstanding resolution of a pending petition for injunction sought pursuant to Article 3601 or a petition for mandamus sought pursuant to Article 3862.

Present law (C.C.P. Art. 3601 and R.S. 13:4062) requires that an injunction be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant, or in other cases specifically provided by law, and present law provides that no court shall have jurisdiction to issue any temporary restraining order, preliminary injunction, or permanent injunction against any state department, board, or agency to compel the expenditure of state funds when the director of such department, board, or agency or the governor certifies that the expenditure of such funds would have the effect of creating a deficit or be in violation of the requirements placed upon the expenditure of such funds by the legislature.

Proposed law retains present law but repeals the duplicate provisions of present law (R.S. 13:4062).

(Amends C.C.P. Art. 1878; Repeals R.S. 13:4062)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Deleted all provisions proposing to amend C.C.P. Art. 3601 relative to injunctions and the traversal of a certification offered by a state department, board, or agency in opposition to the issuance of an injunction.

2. Added provisions specifying that a court shall set a matter with preference if it is seeking a declaratory judgment as to the constitutionality of the expenditure of state funds, notwithstanding a pending petition for injunction or mandamus.