Regular Session, 2011

HOUSE BILL NO. 98

BY REPRESENTATIVE RICHARD

(On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LOCAL GOVERNMENT: Provides relative to revision of local government laws pursuant to HCR No. 218 of the 2009 R.S.

AN ACT

To repeal Article VI, Section 29 of the Constitution of 1921, continued as a statute by Article XIV, Section 19 of the Constitution of 1974, Article XIV, Sections 24, 24.2 through 24.9, 24.11 through 24.23, and 31.7, continued as statutes by Article XIV, Section 16(A) of the Constitution of 1974, and Article XVI, Section 6 of the Constitution of 1921, continued as a statute by Article XIV, Sections 16(A) and 32 of the Constitution of 1974 and Part VI of Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950, comprised of R.S. 33:1271 through 1285, relative to revision of local government laws pursuant to House Concurrent Resolution No. 218 of the 2009 Regular Session; including provisions to repeal certain constitution ancillaries that are no longer effective, including but not limited to provisions superseded by later constitutional provisions or legislative enactments, to repeal provisions for the parish commission form of government, and to direct the Louisiana State Law Institute to redesignate certain provisions of Title 33 of the Louisiana Revised Statutes of 1950, relative to judicial branch functions and local sales taxes to Titles 13 and 47 of the Louisiana Revised Statutes of 1950 respectively; to provide for redesignation of statutes and citations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Article VI, Section 29 of the Constitution of 1921, continued as a statute by Article XIV, Section 19 of the Constitution of 1974, Article XIV, Sections 24, 24.2

through 24.9, 24.11 through 24.23, and 31.7, continued as statutes by Article XIV, Section 16(A) of the Constitution of 1974, and Article XVI, Section 6 of the Constitution of 1921, continued as a statute by Article XIV, Sections 16(A) and 32 of the Constitution of 1974, are hereby repealed in their entirety.

Section 2. Part VI of Chapter 2 of Title 33 of the Louisiana Revised Statutes of 1950, comprised of R.S. 33:1271 through 1285, is hereby repealed in its entirety.

Section 3. The Louisiana State Law Institute is directed to redesignate R.S. 33:1421 through 1464; 1481 through 1485;1500 through 1531; 1551 through 1573.1; 1621; 1631 and 1632; 1641 through 1645; 1701 through 1706; 1731 through 1744 ; 2740.21; 2740.22; 9001 through 9011; 9012 through 9016; 9017.1; and 9601 through 9605 to Title 13 of the Louisiana Revised Statutes of 1950.

Section 4. The Louisiana State Law Institute is directed to redesignate R.S. 33:2711 through 2739; 2740.18 through 2740.18.4; 2740.25; 2740.32; 2740.34; 2740.42; 2740.43; 2740.68; 2740.69; 2741; and 2747 through 2753 to Chapter 2 - D, The Uniform Sales Tax Code, of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

Section 5. The Louisiana State Law Institute is further directed to make such technical changes in any citations and statutory forms as may be necessary to reflect the statutory redesignations made by the Louisiana State Law Institute as provided by Sections 3 and 4 of this Act.

Section 6. The redesignation of a statute as provided by Sections 3 and 4 of this Act shall not affect the validity of the statute, and references to a statute as redesignated shall be valid; however, the redesignation of a statute as provided by Sections 3 and 4 of this Act shall not invalidate a reference to the former citation of the redesignated statute.

Section 7. The Louisiana State Law Institute is hereby authorized to designate new chapters, parts, and subparts of Title 13 of the Louisiana Revised Statutes of 1950 and to designate new parts and subparts of Chapter 2 - D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, for those statutes redesignated from Title 33 of the Louisiana Revised Statutes of 1950.

Section 8. The redesignation of statutes as provided in Sections 3 and 4 of this Act shall be completed by January 1, 2012.

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)]

Richard HB No. 98

Abstract: Provides for revision of local government laws pursuant to House Concurrent Resolution No. 218 of the 2009 Regular Session, including repeal of certain provisions of the Constitution Ancillaries that are no longer effective, repeal of provisions for the commission form of parish government, and direction to the La. State Law Institute to redesignate certain provisions of Title 33 of the Louisiana Revised Statutes of 1950 to Titles 13 and 47 of the Louisiana Revised Statutes of 1950. (HCR No. 218 of the 2009 R.S. authorizes and requests the La. State Law Institute to conduct a thorough study of Title 33 (Municipalities and Parishes) and to recommend a revised codification thereof.)

I. Repeals certain provisions of the Constitution Ancillaries that are no longer effective, as follows: *(Note: The Constitution Ancillaries are provisions of the 1921 constitution made statutory by the 1974 constitution that have neither been incorporated into the Revised Statutes nor repealed by the legislature. The 1974 constitution (Art. VI, §43 and Art. XIV, §§16, 19, and 32) provides that these provisions are subject to change by the legislature).*

Present law (1921 Const. Art. VI, §29 (made statutory by 1974 Const. Art. XIV, §19)) provides relative to the Greater Baton Rouge Port Commission, including but not limited to provisions relative to membership, compensation of commission members, terms of office, and powers. Present law (R.S. 34:1221-1226) includes these provisions with some substantive differences that are later legislative expressions. Differences include change in commission membership, authority for per diem instead of service without compensation, service at the governor's pleasure instead of service for four-year terms, increased bond limit, and authority to levy ad valorem tax without voter approval rather than prohibition on ad valorem tax. Proposed law repeals 1921 Const. Art. VI, §29 but does not affect R.S. 34:1221-1226.

Present law (1921 Const. Art. XIV, §24 (made statutory by 1974 Const. Art. XIV, §16(A))) provides relative to bond issues for public improvements in New Orleans, including 1924, 1928, and 1936 borrowings which authority is no longer needed. The provisions are superseded by specific authority of the Board of Liquidation and the city of New Orleans to issue bonds. Proposed law repeals 1921 Const. Art. XIV, §24.

Present law (1921 Const. Art. XIV, §§24.2 - 24.9 and 24.11 (made statutory by 1974 Const. Art. XIV, §16(A))) provides relative to New Orleans sewerage, water, and drainage bonds, including but not limited to provisions for election, funds for payment, tax, tax exemptions, interest, sale, and use of proceeds. Also provides that provisions are self operative. The provisions are superseded by specific authority of the New Orleans Sewerage and Water Board and the Board of Liquidation, City Debt, to issue bonds as well as by provisions for issuance of revenue bonds, by provisions for bonds secured by ad valorem taxes for drainage, and by general authority to incur debt and provisions for form and manner of sale. Proposed law repeals 1921 Const. Art. XIV, §§24.2 - 24.9 and 24.11.

Present law (1921 Const. Art. XIV, §§24.12 - 24.22 (made statutory by 1974 Const. Art. XIV, §16(A))) provides relative to a 1930 New Orleans bond issue, including but not limited to provisions relative to authorization, purposes, debt limit, funds pledged for payment, tax, tax exemptions, interest, sale, and emergency borrowing. Also provides that provisions are self operative. These provisions have been superseded by specific authority to issue bonds and for city to incur indebtedness. Proposed law repeals 1921 Const. Art. XIV, §§24.12-24.22.

Present law (1921 Const. Art. XIV, §24.23 (made statutory by 1974 Const. Art. XIV, §16(A)) provides relative to certain street, water, and sewer improvements for New Orleans and for assessments and liens relative thereto. The provisions have been superseded by later authority to issue debt. Proposed law repeals 1921 Const. Art. XIV, §24.23.

Present law (1921 Const. Art. XIV, §31.7 (made statutory by 1974 Const. Art. XIV, §16(A))), added as an amendment to the 1921 constitution in 1964, provides relative to authority for the city of New Orleans to provide a vehicular and/or pedestrian crossing over or under the Inner-Harbor Navigation Canal and to acquire property for the project. Further provides for the Orleans Levee District, the commissioners of the Port of New Orleans, and the state through the Dept. of Transportation and Development to provide funds for the project. Authorizes the city to issue bonds for the project. The provisions are no longer needed. The project has been built and authority therefor is no longer necessary. Authority for contracts relating to this project is covered by other law (R.S. 34:41 et seq.) In addition, the city of New Orleans has other authority to issue general obligation bonds. Proposed law repeals 1921 Const. Art. XIV, §31.7.

Present law (1921 Const. Art. XVI, §6 (made statutory by 1974 Const. Art. XIV, §§16(A) and 32)) provides relative to property used or destroyed for levee or levee drainage purposes and compensation therefor. It provides that compensation paid shall not exceed the assessed value of the preceding year. In addition, it authorizes ad valorem taxation for such purposes under certain circumstances and specifies that it does not prevent the appropriation of property before payment. It also includes provisions relative to restoration of streets/ highways taken for levee purposes in a municipality with a population of 100,000 or more. Present constitution (Art. XIV, §32) provides that the compensation for property so used or destroyed shall be paid as provided in 1921 Const. Art. XVI, §6 until the legislature enacts a law to effectuate 1974 Const. Art. VI, §42. The legislature has done this (R.S. 38:301(C)(1)(a) by Acts 1985, No. 785) which provides, relative to appropriation for levee purposes, for payment at fair market value to the full extent of the loss. (The legislature has also provided for compensation when property is expropriated for levee purposes. R.S. 38:387 provides for compensation to the full extent of the loss). Other provisions are superseded or replaced by 1974 constitutional provisions (Art. VI, §42) or other law. Proposed law repeals 1921 Const. Art. XVI, §6.

II. Repeals provisions for the commission form of parish government as follows:

Present constitution and present law provide for the forms of parish government. Present law, relative to the form of government of parishes, provides for the police jury form of parish government and the commission form of parish government. In addition, present constitution (Const. Art. VI, §§ 4-5) recognizes home rule charters existing or adopted when the constitution was adopted, authorizes a local governmental subdivision (parish or municipality) to adopt a home rule charter to provide for its form of government, and also authorizes two or more local governmental subdivisions within the same parish to adopt a single home rule charter.

Present law (R.S. 33:1271 - 1285), relative to the commission form of parish government, authorizes parishes to adopt the commission form of government subject to procedures for petition of 15% of the parish electors and adoption of a proposition providing for the commission plan by the parish voters. Provides for election of three commissioners, a commissioner of public affairs, a commissioner of finance, and a commissioner of public improvements. Provides that the police jury shall be superseded by the board of commissioners if the commission form is adopted by the parish. Provides for term of office, powers and duties, meetings, and compensation of the commissioners. Provides relative to employees of the board of commissioners, for financial statements and reports, and for revision of budget and appropriations. Also provides relative to ordinances and procedures therefor, including initiative and referendum. Provides procedures, including petition and election, for a parish that has operated for more than six years under the commission form of government to resume its original form of government.

Proposed law repeals present law that provides for the commission form of parish government.

III. Directs the La. State Law Institute to redesignate certain statutes as follows:

Proposed law directs the La. State Law Institute to redesignate specified statutes (relative to judicial branch functions) from Title 33 to Title 13 of the Louisiana Revised Statutes of 1950. Also directs the La. State Law Institute to redesignate specified statutes (relative to local sales taxes) from Title 33 to Chapter 2 - D, The Uniform Sales Tax Code, of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950. Directs the law institute to make technical changes in citations and statutory forms as necessary to reflect such redesignations. Provides that such a redesignation shall not affect the validity of the statute, that references to a statute as redesignated shall be valid, and that redesignation of a statute shall not invalidate a reference to the former citation of the redesignated statute. Authorizes the law institute to designate new chapters, parts, and subparts of Title 13 and to designate new parts and subparts of Chapter 2 - D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950 for the redesignated statutes. Requires that such redesignation be completed by Jan. 1, 2012.

(Repeals 1921 Const. Art. VI, §29 (made statutory by 1974 Const. Art. XIV, §19), 1921 Const. Art. XIV, §§24, 24.2 - 24.9, 24.11 - 24.23, and 31.7 (made statutory by 1974 Const. Art. XIV, §16(A)), and Art. XVI, §6 (made statutory by 1974 Const. Art. XIV, §§16(A) and 32) and R.S. 33:1271 - 1285)