

2018 Regular Session

SENATE BILL NO. 218

BY SENATORS CARTER AND BISHOP AND REPRESENTATIVE GARY CARTER

CONSTITUTION CONVENTION. Provides for calling a limited constitutional convention for finance matters. (gov sig)

1 AN ACT
2 To provide for the calling of a constitutional convention for the purpose of framing a new
3 constitution; to place restrictions on the convention and to limit the convention to the
4 consideration and submission of matters related to certain specified fiscal and related
5 subjects; to provide for legislative findings; to fix the time and place for the
6 convention; to provide for the qualifications and election or appointment of
7 delegates; to create a constitutional convention Evaluation and Drafting Committee
8 and provide for preparations and planning for the convention, including a draft of a
9 proposed constitution; to provide for the organization and staff of the convention; to
10 require that the constitution as adopted by the convention, including any alternative
11 provisions, be submitted to the qualified electors for adoption and to provide relative
12 to such submission; to provide for penalties for violations relating to elections; to
13 require appropriation of funds for the convention and provide with respect to
14 convention funds; to fix the effective date of the new constitution if approved by the
15 electorate; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 **Section 1. Legislative findings. The legislature finds that:**

1 (A) It has been forty-four years since the Constitution of Louisiana became
2 effective at midnight on December 31, 1974, and during these years the document
3 which constitutes the state's basic law has been amended in excess of one hundred
4 seventy-five times.

5 (B) The need to address a number of key policy areas that require
6 constitutional change has become apparent, including such matters as the state's tax
7 structure and budgetary practices that hamper the state's economic growth and
8 competitiveness as well as the quality of life of Louisiana residents; the dedication of
9 state revenues and the resulting inability of the legislature to allocate resources where
10 needed, particularly for the needs of health care and higher education; the fiscal
11 restraints on local governments that dramatically limit their authority to meet fiscal
12 and budgetary demands; and other matters.

13 (C) The constitution today contains many provisions that restrict the legislature
14 in effectively addressing state and constituent needs, and the document also includes
15 extensive provisions that are so detailed as to be statutory rather than constitutional
16 in nature and, as a result, require further constitutional amendment when any change
17 is needed.

18 (D) A serious analysis and revision of the state constitution is needed if the state
19 is to conduct a genuine examination of the state's critical needs, to undertake an in-
20 depth consideration of reform proposals, and to craft provisions that allow for
21 flexibility and innovation in legislative solutions to problems of the present and the
22 future.

23 Section 2. Evaluation and Drafting Committee. (A) The Evaluation and
24 Drafting Committee is hereby created. The purpose of the committee shall be to
25 evaluate and determine if a constitutional convention is needed to address the needs of
26 the state and its people and, if it determines that a convention is needed, to develop and
27 propose a plan for the conduct of an effective constitutional convention, including,
28 subject to the limitations provided by Section 6 of this Act, a draft of a proposed
29 constitution with alternative proposals for provisions addressing significant policy

1 areas.

2 (B)(1) The Evaluation and Drafting Committee shall be composed of nineteen
3 members as follows:

4 (a) Four members of the Louisiana Legislature appointed with the concurrence
5 of the speaker and speaker pro tempore of the House of Representatives and the
6 president and president pro tempore of the Senate.

7 (b) Four members appointed by the governor.

8 (c) Four members appointed by the chief justice of the Louisiana Supreme
9 Court.

10 (d) A representative of the Louisiana State University Paul M. Hebert Law
11 Center appointed by the dean of the law center.

12 (e) A representative of the Southern University Law Center appointed by the
13 chancellor of the law center.

14 (f) A representative of the Tulane University Law School appointed by the dean
15 of the law school.

16 (g) A representative of Loyola University New Orleans College of Law
17 appointed by the dean of the college of law.

18 (h) A representative of the Public Affairs Research Council of Louisiana
19 appointed by the council.

20 (i) A representative of the Council for a Better Louisiana appointed by the
21 council.

22 (j) A representative of local governmental bodies appointed with the
23 concurrence of the Louisiana Municipal Association, the Police Jury Association of
24 Louisiana, and the Louisiana School Boards Association.

25 (2) The appointments required by this Subsection shall be made and shall be
26 submitted to the secretary of state not later than Monday, August 20, 2018. Not later
27 than Monday, August 27, 2018, the secretary of state shall provide each member
28 appointed with a list of the membership appointed to the committee. The secretary of
29 state shall issue a commission to each person appointed as provided in this Section.

1 **(3) The committee shall hold its organizational meeting not later than Monday,**
2 **September 17, 2018, on the call of the speaker of the House of Representatives and the**
3 **president of the Senate acting jointly. The committee shall elect a chairman, a vice**
4 **chairman, and such other officers as it shall find necessary.**

5 **(4) Any vacancy in the membership of the committee shall be filled in the**
6 **manner of the original appointment.**

7 **(C) The committee shall have the following powers and duties:**

8 **(1) The committee shall undertake such studies as necessary to evaluate if a**
9 **constitutional convention is needed to address the needs of the state and its people and,**
10 **based upon such study, shall make a determination as to whether or not a**
11 **constitutional convention is needed.**

12 **(2) If the committee determines that a constitutional convention is needed, it**
13 **shall prepare a plan for the conduct of an effective constitutional convention. Such**
14 **plan shall include but not be limited to:**

15 **(a) A policy agenda for the convention which shall include:**

16 **(i) Subject to the limitations provided in Section 6 of this Act, identification of**
17 **significant policy areas that must be addressed in order to propose a constitution that**
18 **will serve the state effectively.**

19 **(ii) Subject to the limitations provided in Section 6 of this Act, a draft of a**
20 **proposed constitution for the state, including provisions addressing significant policy**
21 **areas identified as well as all other provisions necessary for an effective constitution.**

22 **(iii) Materials explaining the proposed provisions addressing significant policy**
23 **areas and the reasons therefor.**

24 **(iv) Alternative proposals for provisions addressing significant policy areas,**
25 **together with explanations and explanatory materials therefor. The committee shall**
26 **include multiple optional approaches and solutions as appropriate to facilitate the work**
27 **of the convention in addressing issues.**

28 **(v) Pertinent background material and data relative to significant policy areas.**

29 **(b) Background and other materials that the committee determines will be**

1 useful to the work of the convention.

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

4 (d) Recommendations for convention organization and deliberations, including
5 significant provisions for rules of procedure.

6 (e) Recommendations for budget needs for effective conduct of a convention.

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

9 (3) The committee shall undertake all necessary study and analysis necessary
10 to complete such plan and submit such plan to the legislature as required by this
11 Section.

12 (D) The committee may create or appoint advisory committees or task forces
13 to act in an advisory capacity or to assist in its studies, composed of such
14 representatives of the public or private sectors as it deems appropriate.

15 (E)(1) As soon as possible after the members of the Evaluation and Drafting
16 Committee have been appointed, the committee shall assemble such staff as it shall
17 deem necessary to assist it in completing its duties on a timely basis. Such staff may
18 include:

19 (a) Such professional, research, and other employees as the committee shall
20 deem necessary to carry out its duties. The Evaluation and Drafting Committee may
21 employ such staff personnel and establish their compensation which shall be paid as
22 provided in Paragraph (G)(3) of this Section.

23 (b) Personnel provided by the Louisiana State University, Southern University,
24 Tulane University, and Loyola University law schools from the faculty as requested by
25 the committee.

26 (2) In addition, to assist the committee in its work, the committee may utilize
27 the personnel, facilities, and services of the legislative auditor, the legislative fiscal
28 officer, and the staffs of the House of Representatives and the Senate, and the
29 committee may request and utilize such counsel, assistance, personnel, facilities, and

1 advice as may be obtained from any and all public sources and from any and all private
2 sources, including but not necessarily restricted to universities, colleges, foundations,
3 charitable corporations, private research agencies, individuals, and organizations.

4 (3) The committee may call upon the members or staffs of any and all
5 departments or agencies of the state for data and assistance, and all such departments
6 and agencies shall cooperate with the committee.

7 (F) The committee shall submit to the legislature and the governor its
8 evaluation and determination of whether or not a constitutional convention is needed,
9 and if it determines that a convention is needed, it shall also submit to the legislature
10 and the governor, accompanying such evaluation, a plan for the conduct of an effective
11 constitutional convention as provided in Paragraph (C)(2) of this Section. The
12 committee shall complete its work and make the submission to the legislature and the
13 governor required by this Section no later than November 1, 2019. The committee
14 shall submit a copy of such report to the governor. If and when the constitutional
15 convention convenes as provided in Section 3 of this Act, the committee shall submit
16 a copy of the plan to the convention.

17 (G)(1) The committee may accept grants, donations, gifts, monies, aid, facilities,
18 and services from public or private sources for the purpose of completing its work and
19 preparing and submitting the plan for the conduct of the constitutional convention as
20 required by this Section. Any such grants, monies, facilities, services, and donations,
21 as well as the names of the donors thereof, shall be recorded in the records of the
22 proceedings of the committee and of the convention, and such records shall be open to
23 inspection by any person.

24 (2) The members of the Evaluation and Drafting Committee shall be paid the
25 same per diem for each day of conducting the work of the committee and for each day
26 of attendance at meetings of the committee as is provided in Section 9 of this Act for
27 convention delegates, and the members of the committee shall be subject to limitations
28 on other compensation for committee work as provided in that Section for convention
29 work by convention delegates.

1 **(3) Per diem of committee members and all other expenses directly incurred by**
2 **the committee may be paid from any funds available for the purpose and, with the**
3 **approval of the presiding officers of the two houses of the Louisiana Legislature, from**
4 **funds available to such presiding officers for expenses of the legislature.**

5 **(H) Legislative committee rooms in the state capitol shall be available for use**
6 **by the committee, unless required for legislative committee meetings. In addition, the**
7 **committee may use the facilities and services of any board, commission, department,**
8 **or agency of the state or of any political subdivision of the state, and all such entities**
9 **shall cooperate with the committee to the fullest extent in furnishing services and**
10 **facilities upon request. In addition, the committee may use the facilities and services**
11 **of other persons and organizations.**

12 **(I) If the Evaluation and Drafting Committee determines that a constitutional**
13 **convention is needed, the Evaluation and Drafting Committee shall be dissolved thirty**
14 **days after submission of a copy of the plan for the conduct of the constitutional**
15 **convention to the convention, except that if a different termination date is provided in**
16 **the rules of the convention, the Evaluation and Drafting Committee shall be dissolved**
17 **on that date. However, if the Evaluation and Drafting Committee determines that a**
18 **convention is not necessary, the Evaluation and Drafting Committee shall be dissolved**
19 **thirty days after submission of its evaluation and determination that a constitutional**
20 **convention is not needed.**

21 **Section 3. Call for convention; delegates. (A) A constitutional convention is**
22 **hereby called, to convene on January 18, 2021, at noon, which shall be held for the**
23 **purpose of framing a new constitution for the state of Louisiana subject to the terms,**
24 **conditions, and provisions in this Act.**

25 **(B)(1) There shall be ninety-nine delegates to the convention, as follows:**

26 **(a) One delegate shall be elected from each of the districts from which members**
27 **of the Senate of the Louisiana Legislature were elected in 2019.**

28 **(b) Twenty delegates appointed with the concurrence of the speaker and**
29 **speaker pro tempore of the House of Representatives and the president and president**

1 pro tempore of the Senate, of which four delegates shall be appointed from nominations
2 submitted by Public Affairs Research Council of Louisiana, Council for a Better
3 Louisiana, Louisiana Budget Project, and Louisiana Association of Business and
4 Industry. One delegate shall be chosen from each organization submitting
5 nominations.

6 (c) Twenty delegates appointed by the governor, of which three delegates shall
7 be appointed from nominations submitted by the Louisiana AFL-CIO, the League of
8 Women Voters of Louisiana, and the Louisiana chapter of the National Association for
9 the Advancement of Colored People. One delegate shall be chosen from each
10 organization submitting nominations.

11 (d) Twenty delegates appointed by the chief justice of the Louisiana Supreme
12 Court, of which four delegates shall be appointed from nominations submitted by
13 Louisiana State University Paul M. Hebert Law Center, Southern University Law
14 Center, Tulane University Law School, and Loyola University New Orleans College of
15 Law. One delegate shall be chosen from each university submitting nominations.

16 (2) The appointments required by this Subsection shall be made and shall be
17 submitted to the secretary of state not later than December 14, 2020.

18 (3) The secretary of state shall issue a commission to each delegate selected as
19 provided in this Section.

20 (4) Each delegate to the convention shall be an elector of the state of Louisiana,
21 shall be at least eighteen years of age, and shall be a resident of the state of Louisiana.
22 In addition, each delegate elected from a representative district shall be a resident of
23 the district from which he is elected at the time he qualifies as a candidate for election
24 as a delegate.

25 (5) The election or appointment of any public official or public employee as a
26 delegate to the convention and his service in the convention or as a member of the
27 Evaluation and Drafting Committee and his service on the committee and the
28 appointment of any public official or public employee to the staff of the convention or
29 the staff of the Evaluation and Drafting Committee and his service on such staff, as

1 authorized and provided in this Act, shall not be construed to constitute dual
2 officeholding or dual employment within the prohibitions of Part III of Chapter 2 of
3 Title 42 of the Louisiana Revised Statutes of 1950. However, a delegate elected from
4 a representative district shall be considered an elected official within the scope of and
5 subject to the provisions of Chapter 15 of Title 42 of the Louisiana Revised Statutes of
6 1950. A delegate who is not an elected delegate, a member of the Evaluation and
7 Drafting Committee, and a member of the staff of the convention or of the Evaluation
8 and Drafting Committee shall be considered a public employee within the scope of and
9 subject to the provisions of Chapter 15 of Title 42 of the Louisiana Revised Statutes of
10 1950. For purposes of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950,
11 the agency and the governmental entity of delegates and staff members of the
12 convention shall be the convention, and the agency and the governmental entity of
13 members and staff members of the Evaluation and Drafting Committee shall be both
14 the committee and the convention. For purposes of any other office or employment of
15 any such delegate, committee member, or staff member, the provisions of Chapter 15
16 of Title 42 of the Louisiana Revised Statutes of 1950 shall remain applicable. The
17 delegates to the convention, the staff of the convention, and the members and staff of
18 the Evaluation and Drafting Committee shall be subject to the public bribery
19 provisions of the laws of this state.

20 (6) Each candidate for election as a delegate to the constitutional convention
21 and each elected delegate is subject to the provisions of the Campaign Finance
22 Disclosure Act and the office of delegate shall be a district office for the purposes of
23 that Act.

24 (7) Any attorney at law serving as a delegate to the convention shall be entitled
25 to the absolute right of the continuance of any case in which he is bona fide counsel of
26 record in any court of the state during his attendance upon the sessions and work of the
27 convention.

28 (C)(1) The one hundred five delegates to the convention to be elected from
29 representative districts shall be elected at a special election to be held as provided in

1 this Act. The primary election for such delegates shall be held at the primary election
2 on Saturday, November 3, 2020, and, if necessary, the general election for delegates
3 shall be held at a statewide election to be held on Saturday, December 5, 2020. Not
4 later than August 15, 2020, the governor shall issue a proclamation and give notice of
5 the election to be held under this Section. Each person desiring to become a candidate
6 for election as a delegate from a representative district shall qualify as a candidate
7 from the particular representative district he seeks to represent by filing a statement
8 of candidacy with the clerk of court for the parish in which the candidate is registered
9 to vote during the qualifying period for candidates in the primary election on Tuesday,
10 November 3, 2020, as otherwise provided by law. Qualification as a candidate shall be
11 without regard to party affiliation.

12 (2) The election of a person to the office of delegate shall be in accordance with
13 provisions for the election of candidates for public office in the Louisiana Election
14 Code.

15 Section 4. Conduct of election for elected delegates. (A) Except as otherwise
16 provided in this Act, the primary and general elections for convention delegates shall
17 be conducted and the results thereof published and promulgated in accordance with
18 the Louisiana Election Code. All qualified electors shall be entitled to vote in their
19 respective election precincts without regard to party affiliation. The votes for
20 candidates for the office of delegate shall be tabulated as in the case of candidates for
21 public office.

22 (B) The costs of the elections authorized by this Act for election of delegates
23 shall be paid as provided by the Louisiana Election Code for payment of costs of
24 elections in which a candidate for the state legislature appears on the ballot.

25 (C) All offenses, prosecutions, penalties, and punishments arising out of or in
26 connection with the elections required by this Act shall be governed by the applicable
27 laws of the state.

28 Section 5. Vacancies. In the event of the death or the inability or unwillingness
29 of any elected delegate to serve, whether before or during the convention, the speaker

1 of the House of Representatives, the president of the Senate, and the governor shall fill
2 such vacancy by appointment, by unanimous consent of the three officials, of a person
3 from the same district who possesses the qualifications for delegate. In the event of the
4 death or the inability or unwillingness to serve of any other delegate, the vacancy shall
5 be filled in the same manner as the original selection within thirty days after the
6 vacancy.

7 Section 6.(A) The convention shall have authority to frame a new constitution
8 for the state, including such alternative provisions as it deems appropriate, which shall
9 be submitted to the electors of the state for their approval or rejection. However, in
10 revising the constitution, the convention may propose only such changes in the
11 constitution as specified in this Section.

12 (B) The convention shall have authority to propose substantive changes,
13 including one or more alternative provisions, only with respect to matters of state and
14 local government finance, including the raising of revenue and the allocation and
15 expenditure of funds therefor and the review, limitation, or control of the expenditure
16 of funds; specifically, the convention may propose such substantive changes, including
17 one or more alternative provisions, with respect to matters contained in the following
18 provisions of the Constitution of Louisiana of 1974, as amended, and no other:

19 (1) Article VI, entitled "Local Government", but only with respect to Part II
20 entitled "Finance" and comprised of Sections 26 through 37; and Part III, entitled
21 "Levee Districts and Regional Flood Protection Authorities" and comprised of Sections
22 38 through 42.

23 (2) Article VII, entitled "Revenue and Finance".

24 (C)(1) The convention shall not propose substantive changes to any provisions
25 of the constitution not set forth in Subsection (B) of this Section.

26 (2) The convention shall not propose any changes that will:

27 (a) Change or affect Article I of the constitution, entitled "Declaration of
28 Rights", in any way.

29 (b) Cause any bonded or other indebtedness of the state or of any parish,

1 municipality, district, or other political subdivision or authority of the state to be
2 impaired.

3 (c) Cause the term of office of any elected or of any appointed official of the
4 state or of any political subdivision thereof to be reduced or shortened prior to the
5 expiration of the term of office being held at the time of the adoption of the new
6 constitution, or cause the salary of any such official to be reduced prior to the
7 expiration of the term of office being held at the time of the adoption of a new
8 constitution.

9 (d) Remove or permit the removal of the state capital from Baton Rouge.

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

20 (E) Any action by the convention in contravention of the provisions of this
21 Section shall be null and void and of no effect.

22 (F) Any action to determine a question of the construction or validity of this
23 Act, to determine the scope of authority of the convention, or to determine the
24 conformity of any action of the convention with the provisions of this Act shall be
25 brought in the Nineteenth Judicial District Court. The matter shall be tried by
26 preference over other matters and the court shall render a decision as soon as
27 practicable. In the event of an appeal, the appellate court shall place the matter on its
28 preferential docket, shall hear it without delay, and shall render a decision as soon as
29 practicable.

1 Section 7. Convention organization. (A)(1) The delegates to the convention
2 chosen as provided in this Act shall meet in the House Chamber in the state capitol, or
3 at such other suitable location in the capital city as shall be determined jointly by the
4 presiding officers of the legislature, at noon on Monday, January 18, 2021. The chief
5 justice, or in his absence any associate justice of the supreme court designated by the
6 court, shall attend the convention at the opening thereof and shall preside until the
7 chairman has been elected. The secretary of state shall attend the opening of the
8 convention and call the roll of the delegates, whereupon the temporary presiding officer
9 shall administer to the delegates the following oath:

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

16 (2) No delegate shall be qualified to serve as such unless and until he has taken
17 and subscribed to the oath in Paragraph (1) of this Subsection.

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

20 (1) Adopt rules of procedure for the convention, which rules shall not be
21 inconsistent with the provisions of this Act.

22 (2) Elect from among their number a chairman, a vice chairman, and such
23 other officers as they deem necessary.

24 (3) Elect from among their number an executive committee, the membership
25 of which shall be determined by the delegates but which shall include among its
26 members all of the elected officers of the convention.

27 (4) Elect a chief clerical officer of the convention who shall not be a delegate
28 and whose duties shall be provided by the rules of procedure for the convention.

29 (5) Take such other actions as they deem necessary to effect a permanent

1 organization of the convention.

2 (C) Prior to the convening of the convention, members of the House of
3 Representatives and Senate staffs as designated by the presiding officers of the
4 legislature shall prepare a draft of rules of procedure for consideration, amendment,
5 and adoption by the convention when it convenes. Such proposed rules shall be based
6 upon the rules of the constitutional convention convened in 1973, except as inconsistent
7 with the provisions of this Act. The rules of procedure adopted by the convention shall
8 be subject to later change as the delegates shall provide therein. No delegate shall be
9 allowed to vote by proxy and the rules shall so provide. No committee of the
10 convention, including the executive committee, shall exceed seventeen members and the
11 rules shall so provide.

12 (D) After completing organizational activities, the convention may meet either
13 as a full body or in committees until it completes its duties as provided in this Act.

14 Section 8. Staff; budget; committees. (A) As soon as possible after the
15 members of the executive committee are elected, the executive committee shall employ
16 a research director, research assistants, and secretarial and clerical personnel in
17 accordance with the provisions of Subsection B of this Section and may also employ
18 such other professional, research, technical, and clerical employees as the committee
19 deems necessary. Compensation of staff personnel shall be established by the executive
20 committee.

21 (B) The staff of the constitutional convention may include but shall not be
22 limited to the following who shall not be delegates to the convention:

23 (1) A director of research who shall possess such qualifications as determined
24 by the committee.

25 (2) Research assistants in such number and possessing such qualifications as
26 determined by the committee.

27 (3) Personnel provided by the Louisiana State University, Tulane University,
28 Loyola University, and Southern University law schools from the faculty as requested
29 by the committee.

1 (4) Such other staff as the executive committee deems necessary.

2 (C) The secretary of state shall advertise for applicants for the staff of the
3 constitutional convention and shall receive such applications for staff service prior to
4 the first meeting of the convention. He shall present the applications he has received
5 to the executive committee on the day the convention convenes. If the executive
6 committee deems necessary, it may receive additional applications after the convention
7 convenes.

8 (D) As soon as possible after the members of the executive committee are
9 elected, the executive committee shall prepare a budget of anticipated expenses of the
10 convention, including staff salaries and other necessary expenditures, based on the
11 amount of the appropriation for the convention and any other funds available for
12 expenditure.

13 (E) The executive committee may create and establish such substantive and
14 procedural committees as it deems appropriate. The chairman of the convention shall
15 appoint the chairman, vice chairman, and the membership of each such committee.

16 (F) Unless the legislature is in session, the House chamber and the legislative
17 committee rooms in the state capitol shall be available for use by the convention and
18 its committees. If the facilities at the state capitol are not available or are not sufficient
19 for use by the convention or its committees, the convention or its committees shall meet
20 at a suitable location in the capital city, which location shall be determined by the
21 chairman of the convention, and public notice of the location shall be given and posted
22 at suitable locations in the state capitol. The convention shall have full authority to use
23 the facilities and services of any board, commission, department, or agency of the state
24 or of any political subdivision of the state, and all such entities shall cooperate with the
25 convention to the fullest extent in furnishing services, facilities, and employees upon
26 request. In addition, the convention may use the facilities and services of other persons
27 and organizations.

28 (G) The convention shall have full authority to accept grants, monies, aid,
29 facilities, and services from public or private sources for the purpose of accomplishing

1 its task of framing a new constitution. Any such grants, monies, facilities, services, and
2 donations, as well as the names of the donors thereof, shall be recorded in the record
3 of the proceedings of the convention, and such records shall be open to inspection by
4 any person.

5 (H) The final draft of the proposed constitution shall be completed no later than
6 September 1, 2021. The adoption of any proposed draft of a new constitution by the
7 convention shall require the favorable vote of two-thirds of the delegates to the
8 convention.

9 Section 9. Compensation of delegates. The delegates to the convention shall
10 receive a per diem for each day of actual attendance at meetings of the convention or
11 of committees thereof in the amount provided for members of the legislature for
12 attendance at legislative sessions, but no delegate shall be paid a per diem after
13 September 1, 2021, or the date the final draft is completed, whichever is earlier. No
14 delegate may accept any other compensation from any source for work performed as
15 a delegate to the convention. However, if a delegate is engaged in regular, bona fide
16 employment, should the delegate's employer choose to continue to pay the usual
17 compensation while the delegate is engaged in the work of the convention, such delegate
18 may accept that compensation, notwithstanding any provision of law to the contrary.

19 Section 10. Appropriation; use of funds. (A) Any appropriation for the
20 expenses of the convention shall be used solely to defray the necessary expenses of the
21 constitutional convention for which provision is made in this Act, including the
22 payment of per diem of delegates, salaries, and expenses of necessary employees,
23 supplies, materials, equipment, printing, and reproduction of materials, and all other
24 necessary expenses incurred in connection with the convention and its work.

25 (B) Any funds appropriated for the convention shall be withdrawn from the
26 state treasury in accordance with warrants signed by the chairman of the convention,
27 and all checks for the disbursement of funds shall be signed by the chairman and the
28 vice chairman of the convention or by the chairman or vice chairman and such other
29 person as shall be designated by the convention.

1 **(C) The legislature shall make adequate appropriations to the convention for**
2 **so long as the convention remains in existence and for so long thereafter as is necessary**
3 **to assure the payment of all expenses incurred in connection with the work of the**
4 **convention. The convention shall not be deemed to be a budget unit of the state and**
5 **therefore shall not be subject to the provisions of Chapter 1 of Title 39 of the Louisiana**
6 **Revised Statutes of 1950. The financial books and records of the convention, however,**
7 **shall be subject to audit by the legislative auditor.**

8 **Section 11. Submission of proposed constitution; election. (A) Upon**
9 **completion of its work, and not later than September 14, 2021, and subject to the**
10 **limitations provided in Section 6 of this Act, the convention shall submit a proposed**
11 **draft of a new constitution for the state to the governor. At the discretion of the**
12 **convention, but subject to the limitations provided in Section 6 of this Act, the**
13 **convention may also propose and submit at the same time such alternative provisions**
14 **as it deems appropriate. The constitution as drafted by the convention, together with**
15 **any alternative provisions proposed for submission, shall be submitted to the people**
16 **for adoption or rejection. Within fifteen days after submission of the proposed draft**
17 **to the governor, he shall by proclamation call an election to be held at the same time**
18 **as the general election to be held on Saturday, November 13, 2021, for the purpose of**
19 **submitting the proposed draft and any alternative provisions to the people for adoption**
20 **or rejection.**

21 **(B) The election shall be held and the results shall be promulgated in**
22 **accordance with the Louisiana Election Code. All electors duly qualified to vote in the**
23 **state at the time of the election shall be entitled to vote without regard to party**
24 **affiliation in their respective precincts on the proposition for or against adoption of the**
25 **revision and on the question or questions of adoption of such alternative provisions as**
26 **may be proposed by the convention. The costs of the election shall be paid as provided**
27 **in the Louisiana Election Code for elections in which a constitutional amendment**
28 **appears on the ballot.**

29 **(C) The convention may submit to the electors of the state the proposal of**

1 acceptance or rejection of the constitution and any alternative provisions in such form
2 and manner as it may determine and may direct the proper election officials to take the
3 necessary steps to effectuate such determination of the convention in presenting the
4 proposed constitution and any alternative provisions to the electors. Adoption of the
5 constitution and of any such alternative provisions shall require the favorable vote of
6 a majority of the electors voting on the respective proposition.

7 (D) Upon promulgation of the results of the election by the secretary of state,
8 if the constitution is ratified and adopted by the people in the election for which
9 provision is made in this Section, the governor shall proclaim the constitution,
10 including such alternative provisions as are adopted by the people at the election, to be
11 the Constitution of Louisiana. The constitution, including such alternative provisions
12 as are so adopted, shall become effective on January 1, 2022, except as otherwise
13 provided in the constitution adopted or in any such alternative provisions adopted.

14 Section 12. If any provision or application of this Act that authorizes the
15 convention to consider only certain subject matters and certain provisions of the
16 constitution and prohibits the convention from considering other subject matters and
17 provisions is held invalid, including without limitation any provision of Section 6 of this
18 Act, then this entire Act shall be invalid and of no effect. However, if any other
19 provision of this Act or the application thereof is held invalid, such invalidity shall not
20 affect other provisions or applications of this Act that can be given effect without the
21 invalid provision or application.

22 Section 13. This Act shall become effective upon signature by the governor or, if not
23 signed by the governor, upon expiration of the time for bills to become law without signature
24 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become
26 effective on the day following such approval.

The original instrument was prepared by Angela Lockett De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tim Prather.

DIGEST

SB 218 Engrossed 2018 Regular Session Carter

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.

EVALUATION AND DRAFTING COMMITTEE

Proposed law creates the Evaluation and Drafting Committee. Provides that its purpose is to evaluate and determine if a constitutional convention is needed, and if it determines that a convention is needed, to develop and propose a plan for the conduct of an effective constitutional convention, including a draft of a proposed constitution with alternative provisions, subject to subject matter limitations applicable to the convention. (See CONSTITUTIONAL CONVENTION below)

- (1) Provides that the committee is composed of 19 members to be appointed by Monday, August 20, 2018, as follows:
 - (a) Four members of the Louisiana Legislature appointed with the concurrence of the speaker and speaker pro tempore of the House of Representatives and the president and president pro tempore of the Senate.
 - (b) Four members appointed by the governor.
 - (c) Four members appointed by the chief justice of the Louisiana Supreme Court.
 - (d) A representative of the Louisiana State University Paul M. Hebert Law Center appointed by the dean of the law center.
 - (e) A representative of the Southern University Law Center appointed by the chancellor of the law center.
 - (f) A representative of the Tulane University Law School appointed by the dean of the law school.
 - (g) A representative of Loyola University New Orleans College of Law appointed by the dean of the college of law.
 - (h) A representative of the Public Affairs Research Council of Louisiana appointed by the council.
 - (i) A representative of the Council for a Better Louisiana appointed by the council.
 - (j) A representative of local governmental bodies appointed with the concurrence of the Louisiana Municipal Association, the Police Jury Association of Louisiana, and the Louisiana School Boards Association.
- (2) Requires the committee to hold its organizational meeting not later than Monday,

- September 17, 2018, and elect a chairman, a vice chairman, and other officers it finds necessary. Provides for filling of committee vacancies in the manner of the original appointments.
- (3) Requires the committee to undertake studies necessary to evaluate if a constitutional convention is needed to address the needs of the state and its people and, based upon such study, to determine if a constitutional convention is needed.
 - (4) Provides, if the committee determines that a constitutional convention is needed, that the committee prepare a plan for the conduct of an effective constitutional convention, such plan to include:
 - (a) A policy agenda for the convention which shall include (subject to subject matter limitations on the convention described below): identification of significant policy areas to be addressed; a draft of a proposed constitution, including provisions addressing significant policy areas and other necessary provisions; materials explaining the significant policy issue proposals; alternative proposals on significant policy areas, together with explanations and explanatory materials (to include multiple optional approaches and solutions); pertinent background material and data on significant policy areas.
 - (b) Background and other materials useful to the convention.
 - (c) Proposals for elimination of statutory materials and recommendations for legislative action relative thereto.
 - (d) Recommendations for convention organization and deliberations, including significant rules of procedure.
 - (e) Recommendations for convention budget needs.
 - (f) Recommendations for procedures for submission of alternative proposals to the voters and ballot structure.
 - (5) Authorizes the committee to create or appoint advisory committees or task forces to advise or assist in its studies, composed of representatives of the public or private sectors.
 - (6) Requires the Evaluation and Drafting Committee to assemble necessary staff, to include: committee employees (authorizes employment of professional, research, and other employees with compensation to be established by the committee and paid as provided in proposed law)(see 9 below); personnel provided by the LSU, Southern University, Tulane University, and Loyola University law schools from the faculty as requested by the committee. Authorizes the committee to use 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 utilize counsel, assistance, personnel, facilities, and advice from public and private sources. Authorizes the committee to call upon the members or staffs of state departments or agencies for data and assistance and requires them to cooperate with the committee.
 - (7) Requires the committee to complete its work and submit to the legislature and the governor by November 1, 2019, its evaluation and determination of whether or not a constitutional convention is needed, and if it determines that a convention is needed, to also submit its plan for the conduct of an effective constitutional convention. Requires that a copy of such report be submitted to the governor and to the constitutional convention if and when it convenes.

- (8) Authorizes the committee to accept grants, donations, gifts, monies, aid, facilities, and services from public or private sources which shall be recorded with donor names in the records of the committee and the convention, and shall be open to inspection by any person.
- (9) Provides that the Evaluation and Drafting Committee members be paid the same per diem for each day of committee work and each day of committee meeting attendance as is provided for convention delegates and makes committee members subject to the same limitations on other compensation as provided for convention delegates. (See CONSTITUTIONAL CONVENTION below). Provides that per diem and other expenses of the committee may be paid from any funds available for the purpose and, with the approval of the presiding officers of the two houses of the La. Legislature, from funds available for expenses of the legislature.
- (10) Requires that legislative committee rooms in the state capitol be available for committee use, unless required for legislative committee meetings. Permits the committee to use facilities and services of any state or local department or agency and requires that they cooperate by furnishing services and facilities upon request. Also authorizes the committee to use the facilities and services of other persons and organizations.
- (11) Provides that the Evaluation and Drafting Committee shall be dissolved 30 days after submission of the plan for the conduct of the constitutional convention to the convention unless a different termination date is provided in convention rules. However, provides that if the committee determines that a convention is not necessary, it shall be dissolved 30 days after submission of its evaluation and determination that a constitutional convention is not needed.

CONSTITUTIONAL CONVENTION

Proposed law provides for a constitutional convention as follows:

- (1) Calls the convention to convene at noon on January 18, 2021, to frame a new constitution for the state, subject to the terms, conditions, and provisions of proposed law.
- (2) Provides for 99 delegates as follows:
 - (a) One delegate shall be elected from each of the districts from which members of the Senate of the Louisiana Legislature were elected in 2019.
 - (b) 20 delegates appointed with the concurrence of the speaker and speaker pro tempore of the House of Representatives and the president and president pro tempore of the Senate, of which four delegates shall be appointed from nominations submitted by Public Affairs Research Council of Louisiana, Council for a Better Louisiana, Louisiana Budget Project, and Louisiana Association of Business and Industry. One delegate shall be chosen from each organization submitting nominations.
 - (c) 20 delegates appointed by the governor, of which three delegates shall be appointed from nominations submitted by the Louisiana AFL-CIO, the League of Women Voters of Louisiana, and the Louisiana chapter of the National Association for the Advancement of Colored People. One delegate shall be chosen from each organization submitting nominations.
 - (d) 20 delegates appointed by the chief justice of the Louisiana Supreme Court, of which four delegates shall be appointed from nominations submitted by Louisiana State University Paul M. Hebert Law Center, Southern University

Law Center, Tulane University Law School, and Loyola University New Orleans College of Law. One delegate shall be chosen from each university submitting nominations.

- (3) Requires that delegates be qualified electors of the state and that elected delegates be residents of the district from which elected. Excepts selection and service of members and staff of the Evaluation and Drafting Committee and delegates and staff of the convention from dual employment/dual officeholding laws. Members of the Evaluation and Drafting Committee, delegates, and staff are subject to the code of ethics, public bribery laws, and, in the case of elected delegates and candidates for delegate, the campaign finance laws. 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 November 3, 2020, and if a general election is necessary, on December 5, 2020. Candidates qualify without regard to party affiliation. Election is to be in accordance with provisions for election of candidates for public office in the La. Election Code.
- (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 in elected delegates' offices 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. Provides for filling other vacancies in the same manner as the original selection within 30 days of vacancy.

Proposed law grants to the convention the authority to frame a new state constitution, including such alternative provisions as it deems appropriate. However, provides that the convention may propose substantive changes only with respect to matters of state and local government finance and the raising of revenue and the allocation and expenditure of funds therefor, including review, limitation, or control of the expenditure of funds. Specifies that the convention may propose such substantive changes, including alternative provisions, 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) but only Part II (Finance) and Part III (Levee Districts and Regional Flood Protection Authorities).
- (2) Article VII (Revenue and Finance).

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 or appointed 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 proposed law, or conformity of any action of the convention with the provisions of proposed law 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 for House and Senate staff designated by the presiding officers of the legislature, prior to the convention, to prepare rules of procedure for adoption by the convention, based on the 1973 convention rules, such rules to be subject to change and adoption by the convention. Prohibits proxy voting. Limits committee membership to 17 members.

Proposed law provides for the initial meeting of the convention on Jan. 18, 2021. 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 employ a research director, research and clerical staff, and other employees deemed necessary. Specifies certain staff membership. Provides for soliciting staff applications. Provides for executive committee to set staff compensation.
- (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. Requires the secretary of state, prior to the first meeting of the convention, to advertise and receive applications for staff service and present those applications to the executive committee on the day the convention convenes.
- (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 appoint 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.

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

- (1) Provides per diem for delegates in the same amount provided for the legislature for each day of actual attendance at meetings of the convention or committees thereof. Prohibits payment of per diem after September 1, 2021, or the date the final draft is completed, whichever is earlier. Prohibits a delegate from accepting any additional 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 per diem, salaries, and expenses of employees, 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 September 1, 2021. The adoption of any proposed draft of a new constitution by the convention shall require the favorable vote of 2/3rds of the delegates to the convention. Requires the convention, upon completion of its work and subject to the subject matter limitations on the convention, to submit to the governor the proposed constitution and any alternative provisions agreed upon no later than September 14, 2021. Provides that the constitution and any alternative provisions proposed for submission shall be submitted to the people for their adoption or rejection at a special election. Provides for the convention to determine the manner for submission of alternative proposals. Requires the governor to call the election within 15 days after the draft is submitted, to be held at the same time as the general election to be held on Saturday, November 13, 2021. 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 and any alternative proposals.

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, including alternative provisions adopted, to be the Constitution of La. Provides that the constitution and any such alternative provisions adopted shall become effective on January 1, 2021, except as otherwise provided in the constitution or in any alternative provisions adopted.

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 this entire proposed law 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>
Evaluation & Drafting Committee members appointed by	8/20/18
Evaluation & Drafting Committee organizational meeting by	9/17/18
Evaluation & Drafting Committee to complete work by	11/1/19
Dissolution of Evaluation and Drafting Committee	If committee finds convention not needed – shall dissolve 30 days after submission of evaluation and determination that a convention is not needed.
Election of 99 convention delegates	11/3/20 & 12/5/20 Gubernatorial election
Five additional convention delegates appointed & submitted to secretary of state not later than	12/14/20
Convention to convene	1/18/21 (noon)
Convention to complete final draft & deadline for delegates' per diem	9/1/21
Convention to submit draft constitution to the governor by	9/14/21
Election for submission of proposed constitution	General election – 11/13/21
Constitution becomes effective if adopted	1/1/22

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Makes changes to the number and membership of the Evaluation and Drafting Committee.
2. Makes changes to the number of delegates and their election and appointment.
3. Changes dates for preparation and implementation of convention.