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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.

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SB 218 Engrossed

DIGEST  
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

<i>What</i>	<i>Date</i>
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.