

2018 Regular Session

HOUSE BILL NO. 385

BY REPRESENTATIVE IVEY

CONSTITUTION/CONVENTION: Provides for calling a limited constitutional convention and preparations therefor

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 and 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 the application of specified laws, including
13 provisions of law containing criminal penalties, to committee members, delegates,
14 candidates for delegate, and staff of the convention; to require appropriation of funds
15 for the convention and provide with respect to convention funds; to fix the effective
16 date of the new constitution if approved by the electorate; and to provide for related
17 matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Legislative findings. The legislature finds that:

1 (A) It has been more than forty-three years since the Constitution of Louisiana
2 became effective at midnight on December 31, 1974, and during these years the document
3 which constitutes the state's basic law has been amended some one hundred eighty-nine
4 times.

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

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

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

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

27 (B)(1) The Evaluation and Drafting Committee shall be composed of twenty-seven
28 members as follows:

1 (a) A member appointed with the concurrence of the Public Affairs Research
2 Council of Louisiana, the Louisiana Budget Project, and the Council for a Better Louisiana.

3 (b) A member appointed with the concurrence of the Louisiana Association of
4 Business and Industry and the National Federation of Independent Business.

5 (c) A member appointed with the concurrence of Blueprint Louisiana and the
6 Committee of 100 for Economic Development.

7 (d) A representative of the Louisiana AFL-CIO appointed by the Louisiana AFL-
8 CIO.

9 (e) A member of any Louisiana chapter of the National Association for the
10 Advancement of Colored People appointed by the chairman of the national board of
11 directors of the association.

12 (f) A representative of elected parish officials appointed with the concurrence of the
13 Louisiana Sheriffs' Association, the Louisiana Assessors' Association, and the Louisiana
14 Clerks of Court Association.

15 (g) A representative of local governmental bodies appointed with the concurrence
16 of the Louisiana Municipal Association, the Police Jury Association of Louisiana, and the
17 Louisiana School Boards Association.

18 (h) One representative of the Louisiana State Law Institute appointed by the
19 Louisiana State Law Institute.

20 (i) A representative of the Louisiana State University system appointed by the Board
21 of Supervisors of Louisiana State University and Agricultural and Mechanical College.

22 (j) A representative of the Southern University system appointed by Board of
23 Supervisors of Southern University and Agricultural and Mechanical College.

24 (k) A representative of the University of Louisiana System appointed by the Board
25 of Supervisors for the University of Louisiana system.

26 (l) One member appointed by the Louisiana Association of Independent Colleges
27 and Universities.

28 (m) A representative of the Louisiana Farm Bureau Federation appointed by the
29 Louisiana Farm Bureau board of directors.

1 (n) One member appointed with the concurrence of the Louisiana District Judges
2 Association, the Conference of Court of Appeal Judges, and the chief justice of the
3 Louisiana Supreme Court.

4 (o) Four members of the Louisiana House of Representatives appointed by the
5 speaker of the House of Representatives.

6 (p) Four members of the Louisiana Senate appointed by the president of the Senate.

7 (q) Four members appointed by the governor.

8 (r) One representative of the Louisiana Tax Institute appointed by the board of the
9 Louisiana Tax Institute.

10 (2) The appointments required by this Subsection shall be made and shall be
11 submitted to the secretary of state not later than August 1, 2018. Not later than August 8,
12 2018, the secretary of state shall provide each member appointed with a list of the
13 membership appointed to the committee. The secretary of state shall issue a commission to
14 each person appointed as provided in this Section.

15 (3) The committee shall hold its organizational meeting not later than September 5,
16 2018, on the call of the speaker of the House of Representatives and the president of the
17 Senate acting jointly. The committee shall elect a chairman, a vice chairman, and such other
18 officers as it shall find necessary.

19 (4) Any vacancy in the membership of the committee shall be filled in the manner
20 of the original appointment.

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

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

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

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

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

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

7 (iii) Materials explaining the proposed provisions addressing significant policy areas
8 and the reasons therefor.

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

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

14 (b) Background and other materials that the committee determines will be useful to
15 the work of the convention.

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

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

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

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

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

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

1 (E)(1) As soon as possible after the members of the Evaluation and Drafting
2 Committee have been appointed, the committee shall request the provision of staff necessary
3 to assist it in completing its duties on a timely basis. Such staff may include:

4 (a) Such professional, research, and other employees as the committee shall deem
5 necessary to carry out its duties.

6 (b) Personnel provided by the Louisiana State University, Southern University,
7 Tulane University, and Loyola University law schools from the faculty as requested by the
8 committee.

9 (2) In addition, to assist the committee in its work, the committee may utilize the
10 personnel, facilities, and services of the legislative auditor, the legislative fiscal officer, and
11 the staffs of the House of Representatives and the Senate, and the committee may request
12 and utilize such counsel, assistance, personnel, facilities, and advice as may be obtained
13 from any and all public sources and from any and all private sources, including but not
14 necessarily restricted to universities, colleges, foundations, charitable corporations, private
15 research agencies, individuals, and organizations.

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

19 (F) The committee shall submit to the legislature its evaluation and determination
20 of whether or not a constitutional convention is needed, and if it determines that a
21 convention is needed, it shall also submit to the legislature, accompanying such evaluation,
22 a plan for the conduct of an effective constitutional convention as provided in Paragraph
23 (C)(2) of this Section. The committee shall complete its work and make the submission to
24 the legislature required by this Section no later than February 27, 2019. The committee shall
25 submit a copy of such report to the governor. If and when the constitutional convention
26 convenes as provided in Section 3 of this Act, the committee shall submit a copy of the plan
27 to the convention.

28 (G)(1) The committee may accept grants, donations, gifts, monies, aid, facilities,
29 and services from public or private sources for the purpose of completing its work and

1 preparing and submitting the plan for the conduct of the constitutional convention as
2 required by this Section. Any such grants, monies, facilities, services, and donations, as well
3 as the names of the donors thereof, shall be recorded in the records of the proceedings of the
4 committee and of the convention, and such records shall be open to inspection by any
5 person.

6 (2) The members of the Evaluation and Drafting Committee shall be subject to the
7 same limitation on compensation for committee work as provided in Section 9 of this Act
8 for convention work by convention delegates.

9 (3) Expenses incurred by the committee may be paid from any funds available for
10 the purpose and, with the approval of the presiding officers of the two houses of the
11 Louisiana Legislature, from funds available to such presiding officers for expenses of the
12 legislature.

13 (H) Legislative committee rooms in the state capitol shall be available for use by the
14 committee, unless required for legislative committee meetings. In addition, the committee
15 may use the facilities and services of any board, commission, department, or agency of the
16 state or of any political subdivision of the state, and all such entities shall cooperate with the
17 committee to the fullest extent in furnishing services and facilities upon request. In addition,
18 the committee may use the facilities and services of other persons and organizations.

19 (I) If the Evaluation and Drafting Committee determines that a constitutional
20 convention is needed, the Evaluation and Drafting Committee shall be dissolved thirty days
21 after submission of a copy of the plan for the conduct of the constitutional convention to the
22 convention, except that if a different termination date is provided in the rules of the
23 convention, the Evaluation and Drafting Committee shall be dissolved on that date.
24 However, if the Evaluation and Drafting Committee determines that a convention is not
25 necessary, the Evaluation and Drafting Committee shall be dissolved upon adjournment sine
26 die of the 2019 Regular Session of the Legislature of Louisiana.

27 Section 3. Call for convention; delegates. (A) A constitutional convention is hereby
28 called, to convene on January 6, 2020, at noon, which shall be held for the purpose of

1 framing a new constitution for the state of Louisiana subject to the terms, conditions, and
2 provisions in this Act.

3 (B)(1) There shall be one hundred thirty-two delegates to the convention, as follows:

4 (a) One delegate shall be elected from each of the districts from which members of
5 the House of Representatives of the Louisiana Legislature were elected in 2015.

6 (b) The twenty-seven members of the constitutional convention Evaluation and
7 Drafting Committee, appointed as provided in Section 2 of this Act, shall be delegates to the
8 convention.

9 (2) The secretary of state shall issue a commission to each delegate selected as
10 provided in this Section.

11 (3) Each delegate to the convention shall be an elector of the state of Louisiana, shall
12 be at least eighteen years of age, and shall be a resident of the state of Louisiana. In
13 addition, each delegate elected from a representative district shall be a resident of the district
14 from which he is elected at the time he qualifies as a candidate for election as a delegate.

15 (4) The election or appointment of any public official or public employee as a
16 delegate to the convention and his service in the convention or as a member of the
17 Evaluation and Drafting Committee and his service on the committee and the appointment
18 of any public official or public employee to the staff of the convention or the staff of the
19 Evaluation and Drafting Committee and his service on such staff, as authorized and provided
20 in this Act, shall not be construed to constitute dual officeholding or dual employment within
21 the prohibitions of Part III of Chapter 2 of Title 42 of the Louisiana Revised Statutes of
22 1950. Each appointed and elected delegate and each member of the Evaluation and Drafting
23 Committee shall be considered to be an elected official within the scope of and subject to
24 the provisions of the Code of Governmental Ethics, Chapter 15 of Title 42 of the Louisiana
25 Revised Statutes of 1950. Each staff member of the convention or of the Evaluation and
26 Drafting Committee shall be considered to be a public employee within the scope of and
27 subject to the provisions of the Code of Governmental Ethics, Chapter 15 of Title 42 of the
28 Louisiana Revised Statutes of 1950. For purposes of Chapter 15 of Title 42 of the Louisiana
29 Revised Statutes of 1950, the agency and the governmental entity of delegates and staff

1 members of the convention shall be the convention, and the agency and the governmental
2 entity of members and staff members of the Evaluation and Drafting Committee shall be
3 both the committee and the convention. For purposes of any other office or employment of
4 any such delegate, committee member, or staff member, the provisions of Chapter 15 of
5 Title 42 of the Louisiana Revised Statutes of 1950 shall remain applicable. Each delegate
6 to the convention, each member of the Evaluation and Drafting Committee, and each staff
7 member of the convention or of the Evaluation and Drafting Committee shall be considered
8 to be a public officer, public official, public employee, or person in a position of public
9 authority for purposes of the application of the provisions of the Louisiana Criminal Code.

10 (5) Each candidate for election as a delegate to the constitutional convention and
11 each elected delegate is subject to the provisions of the Campaign Finance Disclosure Act
12 and the office of delegate shall be a district office for the purposes of that Act.

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

16 (C)(1) The one hundred five delegates to the convention to be elected from
17 representative districts shall be elected at a special election to be held as provided in this Act.
18 The special primary election for such delegates shall be held at the primary election on
19 October 12, 2019, and, if necessary, the special general election for delegates shall be held
20 at a statewide election to be held on November 16, 2019. Not later than June 26, 2019, the
21 governor shall issue a proclamation and give notice of the election to be held under this
22 Section. Each person desiring to become a candidate for election as a delegate from a
23 representative district shall qualify as a candidate from the particular representative district
24 he seeks to represent by filing a statement of candidacy with the clerk of court for the parish
25 in which the candidate is registered to vote during the qualifying period for candidates in the
26 primary election on October 12, 2019, as otherwise provided by law. Qualification as a
27 candidate shall be without regard to party affiliation.

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

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

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

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

13 Section 5. Vacancies. In the event of the death or the inability or unwillingness of
14 any elected delegate to serve, whether before or during the convention, the speaker of the
15 House of Representatives, the president of the Senate, and the governor shall fill such
16 vacancy by appointment, by unanimous consent of the three officials, of a person from the
17 same district who possesses the qualifications for delegate. In the event of the death or the
18 inability or unwillingness to serve of any other delegate, the vacancy shall be filled in the
19 same manner as the original selection within thirty days after the vacancy.

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

25 (B) The convention shall have authority to propose substantive changes, including
26 one or more alternative provisions, with respect to matters of state and local government
27 finance, and higher education, which authority regarding such matters shall be limited to
28 proposals regarding the raising of revenue; the allocation and expenditure of funds; the
29 review, limitation, or control of the expenditure of funds; education funding; and the

1 management and control of higher education institutions. Specifically, the convention may
2 propose such substantive changes, including one or more alternative provisions, with respect
3 to matters contained in the following provisions of the Constitution of Louisiana of 1974,
4 as amended, and no other:

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

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

9 (3) Article VIII, entitled "Education", but only with respect to Sections 5, 6, 7, 7.1,
10 8, 12, and 13.

11 (4) Article XIV, entitled "Transitional Provisions", but only as necessary to provide
12 an orderly transition for any substantive changes proposed pursuant to the convention's
13 authority set forth in Paragraphs (1), (2), and (3) of this Subsection.

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

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

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

19 (b) Cause any bonded or other indebtedness of the state or of any parish,
20 municipality, district, or other political subdivision or authority of the state to be impaired.

21 (c) Cause the term of office of any elected official of the state or of any political
22 subdivision thereof to be reduced or shortened prior to the expiration of the term of office
23 being held at the time of the adoption of the new constitution, or cause the salary of any such
24 official to be reduced prior to the expiration of the term of office being held at the time of
25 the adoption of a new constitution.

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

27 (D) In addition to the authority to propose substantive changes as provided in
28 Subsection (B) of this Section, but solely for the purposes of orderly arrangement, style and
29 conformity, the convention may incorporate in its proposed revision or in any alternative

1 provision nonsubstantive changes in other provisions of the constitution but only to the
2 extent that they are: (1) germane to the matters enumerated in Subsection (B) of this Section
3 and (2) essential in order to conform to the substantive changes being proposed. For the
4 same purposes, the convention may: (1) renumber or rearrange provisions, (2) transfer or
5 divide provisions, (3) change reference designations to conform to redesignated provisions,
6 and (4) make any other purely formal or clerical changes in keeping with the purpose of the
7 revision.

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

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

17 Section 7. Convention organization. (A)(1) The delegates to the convention chosen
18 as provided in this Act shall meet in the House Chamber in the state capitol, or at such other
19 suitable location in the capital city as shall be determined jointly by the presiding officers
20 of the legislature, at noon on Monday, January 6, 2020. The chief justice, or in his absence
21 any associate justice of the supreme court designated by the court, shall attend the
22 convention at the opening thereof and shall preside until the chairman has been elected. The
23 secretary of state shall attend the opening of the convention and call the roll of the delegates,
24 whereupon the temporary presiding officer shall administer to the delegates the following
25 oath:

26 "I, . . . , do solemnly swear (or affirm) that I will support the constitution and laws of
27 the United States and the constitution and laws of this state and that I will faithfully and
28 impartially discharge and perform all the duties incumbent on me as a delegate to the
29 convention, according to the best of my ability and understanding, and that I will observe

1 and obey the limitation of authority contained in the Act under which this convention has
2 assembled. So help me God."

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

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

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

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

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

14 (4) Select a chief clerical officer of the convention from among the chief clerical
15 officers of the House of Representatives and the Senate and their assistants, who shall not
16 be a delegate and whose duties shall be provided by the rules of procedure for the
17 convention.

18 (5) Take such other actions as they deem necessary to effect a permanent
19 organization of the convention.

20 (C) Prior to the convening of the convention, members of the House of
21 Representatives and Senate staffs as designated by the presiding officers of the legislature
22 shall prepare a draft of rules of procedure for consideration, amendment, and adoption by
23 the convention when it convenes. Such proposed rules shall be based upon the rules of the
24 constitutional convention convened in 1973, except as inconsistent with the provisions of
25 this Act. The rules of procedure adopted by the convention shall be subject to later change
26 as the delegates shall provide therein. No delegate shall be allowed to vote by proxy and the
27 rules shall so provide. No committee of the convention, including the executive committee,
28 shall exceed seventeen members and the rules shall so provide.

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

3 Section 8. Staff; budget; committees. (A) As soon as possible after the members
4 of the executive committee are elected, the executive committee shall request the provision
5 of professional, research, technical, and clerical employees from any public or private
6 sources the committee deems necessary to accomplish the work of the convention.

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

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

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

13 (3) Personnel provided by the Louisiana State University, Tulane University, Loyola
14 University, and Southern University law schools from the faculty as requested by the
15 committee.

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

17 (C) Notwithstanding any provision of law to the contrary, if a staff member provided
18 to the Evaluation and Drafting Committee or to the convention is engaged in regular, bona
19 fide employment, the staff member may continue to be paid and receive the usual
20 compensation and benefits from his employer while the staff member is engaged in the work
21 of the committee or the convention.

22 (D) As soon as possible after the members of the executive committee are elected,
23 the executive committee shall prepare a budget of anticipated expenses of the convention
24 based on the amount of the appropriation for the convention and any other funds available
25 for expenditure.

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

1 (F) Unless the legislature is in session, the House chamber and the legislative
2 committee rooms in the state capitol shall be available for use by the convention and its
3 committees. If the facilities at the state capitol are not available or are not sufficient for use
4 by the convention or its committees, the convention or its committees shall meet at a suitable
5 location in the capital city, which location shall be determined by the chairman of the
6 convention, and public notice of the location shall be given and posted at suitable locations
7 in the state capitol. The convention shall have full authority to use the facilities and services
8 of any board, commission, department, or agency of the state or of any political subdivision
9 of the state, and all such entities shall cooperate with the convention to the fullest extent in
10 furnishing services, facilities, and employees upon request. In addition, the convention may
11 use the facilities and services of other persons and organizations.

12 (G) The convention shall have full authority to accept grants, monies, aid, facilities,
13 and services from public or private sources for the purpose of accomplishing its task of
14 framing a new constitution. Any such grants, monies, facilities, services, and donations, as
15 well as the names of the donors thereof, shall be recorded in the record of the proceedings
16 of the convention, and such records shall be open to inspection by any person.

17 (H) The final draft of the proposed constitution shall be completed no later than May
18 20, 2020.

19 Section 9. Compensation of delegates. No delegate may accept any compensation
20 from any source for work performed as a delegate to the convention. However, if a delegate
21 is engaged in regular, bona fide employment, should the delegate's employer choose to
22 continue to pay the usual compensation while the delegate is engaged in the work of the
23 convention, such delegate may accept that compensation, notwithstanding any provision of
24 law to the contrary.

25 Section 10. Appropriation; use of funds. (A) Any appropriation for the expenses
26 of the convention shall be used solely to defray the necessary expenses of the constitutional
27 convention for which provision is made in this Act, including the payment for supplies,
28 materials, equipment, printing, and reproduction of materials, and all other necessary
29 expenses incurred in connection with the convention and its work.

1 (B) Any funds appropriated for the convention shall be withdrawn from the state
2 treasury in accordance with warrants signed by the chairman of the convention, and all
3 checks for the disbursement of funds shall be signed by the chairman and the vice chairman
4 of the convention or by the chairman or vice chairman and such other person as shall be
5 designated by the convention.

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

13 Section 11. Submission of proposed constitution; election. (A) Upon completion
14 of its work, and not later than June 1, 2020, and subject to the limitations provided in Section
15 6 of this Act, the convention shall submit a proposed draft of a new constitution for the state
16 to the governor. At the discretion of the convention, but subject to the limitations provided
17 in Section 6 of this Act, the convention may also propose and submit at the same time such
18 alternative provisions as it deems appropriate. The constitution as drafted by the convention,
19 together with any alternative provisions proposed for submission, shall be submitted to the
20 people for adoption or rejection. Within fifteen days after submission of the proposed draft
21 to the governor, he shall by proclamation call an election to be held at the same time as the
22 congressional primary election in 2020 for the purpose of submitting the proposed draft and
23 any alternative provisions to the people for adoption or rejection.

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

1 The costs of the election shall be paid as provided in the Louisiana Election Code for
2 elections in which a constitutional amendment appears on the ballot.

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

10 (D) Upon promulgation of the results of the election by the secretary of state, if the
11 constitution is ratified and adopted by the people in the election for which provision is made
12 in this Section, the governor shall proclaim the constitution, including such alternative
13 provisions as are adopted by the people at the election, to be the Constitution of Louisiana.
14 The constitution, including such alternative provisions as are so adopted, shall become
15 effective at midnight on December 31, 2020, except as otherwise provided in the constitution
16 adopted or in any such alternative provisions adopted.

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

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

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)]

HB 385 Original

2018 Regular Session

Ivey

Abstract: Calls a limited constitutional convention preceded by study by an Evaluation and Drafting Committee to determine if a convention is needed. If the committee determines a convention is needed, provides that its report include a convention plan, including a proposed constitution. Calls convention to convene on Jan. 6, 2020, to be composed of 132 delegates, 105 elected from representative districts and 27 appointed. Requires convention to complete a new constitution by May 20, 2020. Limits convention to changes relative to state and local finance, raising revenue, allocation and expenditure of funds, education funding, and higher education.

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 section below.)

- (1) Provides that the committee is composed of 27 members to be appointed by August 1, 2018, as follows:
 - (a) A member appointed with the concurrence of the Public Affairs Research Council of La., the Louisiana Budget Project, and the Council for a Better Louisiana.
 - (b) A member appointed with the concurrence of the La. Association of Business and Industry and the National Federation of Independent Business.
 - (c) A member appointed with the concurrence of Blueprint La. and the Committee of 100 for Economic Development.
 - (d) A representative of the La. AFL-CIO appointed by the La. AFL-CIO.
 - (e) A member of any La. chapter of the National Association for the Advancement of Colored People appointed by the chairman of the national board of directors of the association.
 - (f) A representative of elected parish officials appointed with the concurrence of the La. Sheriffs' Association, the La. Assessors' Association, and the La. Clerks of Court Association.
 - (g) A representative of local governmental bodies appointed with the concurrence of the La. Municipal Association, the Police Jury Association of La., and the La. School Boards Association.
 - (h) One representative of the La. State Law Institute appointed by the La. State Law Institute.
 - (i) A representative of the La. State University system appointed by the Board of Supervisors of La. State University and Agricultural and Mechanical College.

- (j) A representative of the Southern University system appointed by Board of Supervisors of Southern University and Agricultural and Mechanical College.
 - (k) A representative of the University of La. System appointed by the Board of Supervisors for the University of La. system.
 - (l) One member appointed by the La. Association of Independent Colleges and Universities.
 - (m) A representative of the La. Farm Bureau Federation appointed by the La. Farm Bureau board of directors.
 - (n) One member appointed with the concurrence of the La. District Judges Association, the Conference of Court of Appeal Judges, and the chief justice of the La. Supreme Court.
 - (o) Four members of the La. House of Representatives appointed by the speaker of the House of Representatives.
 - (p) Four members of the La. Senate appointed by the president of the Senate.
 - (q) Four members appointed by the governor.
 - (r) One representative of the La. Tax Institute appointed by the board of the La. Tax Institute.
- (2) Requires the committee to hold its organizational meeting not later than Sept. 5, 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); and 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 request the provision of staff including any professional, research, and other employees necessary to accomplish its duties timely; and 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 by Feb. 27, 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) Makes committee members subject to the same limitations on other compensation as provided for convention delegates. (See Constitutional Convention section below). Provides that 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 upon adjournment sine die of the 2019 R.S.

Constitutional Convention

Proposed law provides for a constitutional convention as follows:

- (1) Calls the convention to convene at noon on Jan. 6, 2020, to frame a new constitution for the state, subject to the terms, conditions, and provisions of the Act.
- (2) Provides for 132 delegates as follows:
 - (a) 105 delegates to be elected from House of Representatives 2015 election districts at the regularly scheduled gubernatorial election in 2019.
 - (b) 27 delegates who shall be the members of the Evaluation and Drafting Committee (see above).
- (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, and, in the case of elected delegates and candidates for delegate, the campaign

finance laws. Further, members of the Evaluation and Drafting Committee, delegates, and staff are considered public officers, public officials, public employees, or person in a position of public authority for purposes of the application of the provisions of the La. Criminal code. 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 Oct. 12, 2019, and if a general election is necessary, on Nov. 16, 2019. 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 higher education, which authority regarding such matters shall be limited to proposals regarding the raising of revenue; the allocation and expenditure of funds; the review, limitation, or control of the expenditure of funds; education funding; and the management and control of higher education institutions. 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).
- (3) Article VIII (Education), but only with respect to Sections 5, 6, 7, 7.1, 8, 12, and 13 (MFP & Higher Ed management & funding).
- (4) Article XIV (Transitional Provisions), but only as necessary to provide an orderly transition for proposed changes pursuant Paragraphs (1), (2), and (3) above.

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 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 the Act, or conformity of any action of the convention with the provisions of the Act 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. 6, 2020. 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 request the provision of professional, research, technical, and clerical staff from public or private sources as deemed necessary.
- (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. Allows the staff of the convention and of the Evaluation and Drafting Committee to continue to receive compensation from the staff person's regular bona fide employment.
- (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) Prohibits a delegate from accepting any 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 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 May 20, 2020. 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 June 1, 2020. 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 congressional primary and presidential election in 2020 (Nov. 3, 2020). 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 at midnight on Dec. 31, 2020, except as otherwise provided in the constitution or in any alternative provisions adopted.

Proposed law provides that if any provision or application of the Act 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 Act shall be invalid and of no effect. Specifies, however, that if any other provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Act 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	8/1/18
Evaluation & Drafting Committee organizational meeting by	9/5/18
Evaluation & Drafting Committee to complete work by	2/27/19
Dissolution of Evaluation and Drafting Committee	If committee finds convention not needed – adjournment sine die of 2019 R.S. of legislature Otherwise, 30 days after submission of plan for convention to convention (or other date in convention rules)
Election of 105 convention delegates	10/12/19 & 11/16/19
Convention to convene	1/6/20 (noon)
Convention to complete final draft	5/20/20
Convention to submit draft constitution to the governor by	6/1/20
Election for submission of proposed constitution	11/3/20 (Congressional primary and presidential election)
Constitution becomes effective if adopted	12/31/20 (midnight)