

2024 Second Extraordinary Session

HOUSE BILL NO. 23

BY REPRESENTATIVE MELERINE

CIVIL/PROCEDURE: Provides with respect to procedures for challenging the constitutionality of a statute or law (Item #21)

1 AN ACT

2 To amend and reenact R.S. 49:257(C) and Code of Civil Procedure Article 1880 and to enact
3 Code of Civil Procedure Articles 855.1 and 1845 and Code of Criminal Procedure
4 Article 62(D), relative to procedures challenging the constitutionality of state law;
5 to provide for procedures for actions alleging unconstitutionality of laws; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 1880 is hereby amended and reenacted,
9 and Code of Civil Procedure Articles 855.1 and 1845 are hereby enacted to read as follows:

10 Art. 855.1. Pleadings for unconstitutionality of state law

11 All civil actions alleging that a statute or law is unconstitutional shall be in
12 writing and be brought in an ordinary proceeding. The pleading shall be served upon
13 the attorney general of the state in accordance with Article 1314. Upon proper
14 service, the attorney general shall have thirty days to respond to the allegations or
15 represent or supervise the interests of the state.

16 * * *

17 Art. 1845. Effects of judgments on state law

18 A judgment rendering a statute or law unconstitutional is absolutely null and
19 shall be void and unenforceable if the provisions of Article 855.1 have not been met.

20 * * *

1 Art. 1880. Parties

2 When declaratory relief is sought, all persons shall be made parties who have
3 or claim any interest which would be affected by the declaration, and no declaration
4 shall prejudice the rights of persons not parties to the proceeding. In a proceeding
5 which involves the validity of a municipal ordinance or franchise, such municipality
6 shall be made a party, and shall be entitled to be heard. If the statute, ordinance, or
7 franchise is alleged to be unconstitutional, the attorney general of the state shall also
8 be served with a copy of the proceeding and be entitled to be heard. If the statute or
9 law is alleged to be unconstitutional, pleadings shall be made pursuant to the
10 requirements in Articles 855.1 and 1845.

11 Section 2. Code of Criminal Procedure Article 62(D) is hereby enacted to read as
12 follows:

13 Art. 62. Authority of attorney general; supervision of district attorney

14 * * *

15 D. Any pleading containing an allegation of unconstitutionality of a criminal
16 statute shall be in writing and served upon the attorney general of the state. Upon
17 proper service, the attorney general shall have thirty days to respond to the
18 allegations or represent or supervise the interests of the state. The attorney general
19 shall have a right to directly appeal adverse rulings to the supreme court of Louisiana
20 for supervisory review whether or not the attorney general participated in the
21 underlying proceeding.

22 Section 3. R.S. 49:257(C) is hereby amended and reenacted to read as follows:

23 §257. Legal representation of certain state agencies

24 * * *

25 C. Notwithstanding any other law to the contrary, the attorney general, at his
26 discretion, shall represent or supervise the representation of the interests of the state
27 in any action or proceeding in which the constitutionality of a state statute or of a
28 resolution of the legislature is challenged or assailed. In all other proceedings in
29 which the constitutionality of a statute or law is assailed, the attorney general shall

Proposed law allows the attorney general 30 days to respond to the pleading or represent or supervise the interests of the state.

Proposed law also allows the attorney general to directly appeal adverse rulings to the supreme court of Louisiana for a supervisory review whether or not the attorney general participated in the underlying proceeding.

(Amends R.S. 49:257(C) and C.C.P. Art. 1880; Adds C.C.P. Art. 855.1 and 1845 and C.Cr.P. Art. 62(D))

Summary of Amendments Adopted by House

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

1. Add technical changes.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Add language that would make judgments rendered in a civil proceeding not in compliance with proposed law absolutely null.
3. Require only civil actions be brought in an ordinary proceeding.