

2016 Regular Session

HOUSE BILL NO. 275

BY REPRESENTATIVES GREGORY MILLER, ADAMS, AMEDEE, BACALA, BAGLEY, BISHOP, BROADWATER, CARMODY, STEVE CARTER, CONNICK, DEVILLIER, EDMONDS, FALCONER, GAROFALO, LANCE HARRIS, HAVARD, HAZEL, HILFERTY, HOFFMANN, HOLLIS, HORTON, MIKE JOHNSON, NANCY LANDRY, LOPINTO, MACK, MAGEE, MIGUEZ, JAY MORRIS, PEARSON, PUGH, PYLANT, SCHRODER, SEABAUGH, SHADOIN, STOKES, AND ZERINGUE

CONSTITUTION/AMENDMENT: (Constitutional Amendment) Prohibits, subject to certain exceptions, a person convicted of a felony from holding elective or appointive office

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A JOINT RESOLUTION

Proposing to add Article I, Section 10.1 of the Constitution of Louisiana and to repeal Article I, Section 10(B) and (C) of the Constitution of Louisiana, relative to public office; to prohibit a person who is convicted of a felony from qualifying for election for or holding elective office and from being appointed to or holding appointive office; to provide for exceptions; to provide for definitions; to remove obsolete provisions relative to disqualification from seeking or holding public office; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to add Article I, Section 10.1 of the Constitution of Louisiana, to read as follows:

§10.1. Disqualification from Seeking or Holding Public Office

Section 10.1.(A) Disqualification. The following persons shall not qualify for election for or hold elective office or be appointed to or hold appointive office:

1 (1) A person who has been convicted within this state of a felony or
2 convicted under the laws of another state, the United States, or a foreign government
3 of a crime which, if committed in this state, would be a felony. "Convicted", as used
4 in this Subparagraph, means a conviction that is final and for which all appellate
5 review of the original trial court proceedings has been exhausted.

6 (2) A person under an order of imprisonment for conviction of a felony.

7 (B) Exceptions. A conviction may not be used to prohibit a person from
8 qualifying for election for or holding elective office or being appointed to or holding
9 appointive office pursuant to Subparagraph (A)(1) of this Section if either of the
10 following applies:

11 (1) Fifteen or more years have elapsed from the completion of the sentence
12 for the conviction.

13 (2) The person has been pardoned for the conviction either by the governor
14 of this state or by the officer of the government having such authority to pardon in
15 the place where the person was convicted and sentenced.

16 (C) Definitions. For purposes of this Section, the following terms shall have
17 the following meanings:

18 (1) "Appointive office" means any state or local office in any branch of
19 government or other position of an agency, board, or commission or any executive
20 office of any agency, board, commission, or department that is specifically
21 established or specifically authorized by this constitution or the laws of this state or
22 by the charter or ordinances of any political subdivision thereof and that is filled by
23 appointment or election by a public official or by a governmental body composed of
24 such officials of this state or of a political subdivision thereof.

25 (2) "Elective office" means any position that is established or authorized by
26 this constitution or the laws of this state or by the charter or ordinances of any
27 political subdivision thereof, that is not a political party office, and that is filled by
28 vote of the citizens of this state or of a political subdivision thereof.

1 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members
2 elected to each house concurring, that there shall be submitted to the electors of the state of
3 Louisiana, for their approval or rejection in the manner provided by law, a proposal to repeal
4 Article I, Section 10(B) and (C) of the Constitution of Louisiana.

5 Section 3.(A) Be it further resolved that this proposed amendment shall be submitted
6 to the electors of the state of Louisiana at the statewide election to be held on November 8,
7 2016.

8 (B) Notwithstanding the provisions of Paragraph (A) of this Section, if, prior to July
9 15, 2016, the Louisiana Supreme Court in the matter of *Shepherd v. Schedler*, 2015-CA-
10 1750, reverses or vacates its decision of January 27, 2016, wherein it found 1997 La. Acts
11 1492 to be null and void, and instead finds that the amendments to Article I, Section 10
12 made by that Act are effective, then this Resolution shall be repealed, the amendment to the
13 constitution proposed in this Resolution shall be withdrawn, and the secretary of state is
14 hereby ordered not to include the proposition contained in this Resolution on the ballot on
15 November 8, 2016.

16 Section 4. Be it further resolved that on the official ballot to be used at the election,
17 there shall be printed a proposition, upon which the electors of the state shall be permitted
18 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
19 follows:

20 Do you support an amendment to prohibit a person convicted of a felony
21 from qualifying for election for or holding elective office and from being
22 appointed to or holding appointive office within fifteen years of the
23 completion of his sentence unless he is pardoned? (Adds Article I, Section
24 10.1; Repeals Article I, Section 10(B) and (C))

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 275 Reengrossed

2016 Regular Session

Gregory Miller

Abstract: Prohibits a person who has been convicted of a felony from qualifying for or holding elective office or being appointed to or holding appointive office. Provides certain exceptions for persons pardoned by the appropriate officer and persons for whom more than 15 years have passed after completion of sentence.

Present constitution provides that the right to register and vote may be suspended while a person is interdicted and judicially declared mentally incompetent or under an order of imprisonment for conviction of a felony.

Proposed constitutional amendment retains present constitution and prohibits the following persons from qualifying for election for or holding elective office or being appointed to or holding appointive office:

- (1) A person who has been convicted within this state of a felony or convicted under the laws of another state, the U.S., or a foreign government of a crime which, if committed in this state, would be a felony. "Convicted", as used in proposed constitutional amendment, means a conviction that is final and for which all appellate review of the original trial court proceedings has been exhausted.
- (2) A person actually under an order of imprisonment for conviction of a felony.

Proposed constitutional amendment provides that a conviction may not be used to disqualify a person pursuant to proposed constitutional amendment if any of the following applies:

- (1) 15 or more years have elapsed from the completion of the sentence for the conviction.
- (2) The person has been pardoned for the conviction either by the governor of this state or by the officer of the government having such authority to pardon in the place where the person was convicted and sentenced.

Proposed constitutional amendment provides that for purposes of proposed constitutional amendment "appointive office" means any office in any branch of government or other position on an agency, board, or commission or any executive office of any agency, board, commission, or department which is specifically established or specifically authorized by the constitution or the laws of La. or by the charter or ordinances of any political subdivision thereof and which is filled by appointment or election by an elected or appointed public official or by a governmental body composed of such officials of La. or of a political subdivision thereof.

Proposed constitutional amendment provides that for purposes of proposed constitutional amendment, "elective office" means any position which is established or authorized by the constitution or the laws of La. or by the charter or ordinances of any political subdivision thereof, which is not a political party office, and which is filled by vote of the citizens of La. or of a political subdivision thereof.

Proposed constitutional amendment repeals conflicting constitutional provisions proposed by Acts 1997, No. 1492, which were held by the La. Supreme Court to be null in the case of *Shepherd v. Schedler*, 2015-CA-1750.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 8, 2016, unless the La. Supreme Court, prior to July 15, 2016, reverses or vacates its decision of Jan. 27, 2016, in the *Shepherd* case wherein it found Acts 1997, No. 1492 to be null and void, and instead finds that the amendments to Art. I, §10 made by that Act are effective. If this occurs, proposed constitutional amendment would be repealed, the amendment to the constitution proposed in proposed constitutional amendment would be withdrawn, and the secretary of state would be ordered not to include the proposition contained in proposed constitutional amendment on the ballot.

(Adds Const. Art. I, §10.1; Repeals Const. Art. I, §10(B) and (C))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Add provisions repealing conflicting constitutional provisions proposed by Acts 1997, No. 1492, which was held by the La. Supreme Court to be null in the case of *Shepherd v. Schedler*, 2015-CA-1750.
2. Add provisions that provide that proposed constitutional amendment will be repealed and will not be presented to the people for ratification if the La. Supreme Court, prior to July 15, 2016, reverses or vacates its decision of Jan. 27, 2016, in the *Shepherd* case wherein it found Acts 1997, No. 1492 to be null and void, and instead finds that the amendments to Art. I, §10 made by that Act are effective.