

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 actions alleging that a statute or law is unconstitutional shall be in writing
12 and be brought in an ordinary proceeding. The pleading shall be served upon the
13 attorney general of the state in accordance with Article 1314. Upon proper service,
14 the attorney general shall have thirty days to respond to the allegations or represent
15 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 null and shall be
19 void and unenforceable if the provisions of Article 855.1 have not been met.

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 brought in accordance with Code of Civil Procedure Articles 855.1
17 and 1845 and shall be served upon the attorney general of the state. Upon proper
18 service, the attorney general shall have thirty days to respond to the allegations or
19 represent or supervise the interests of the state. The attorney general shall have a
20 right to directly appeal adverse rulings to the supreme court of Louisiana for
21 supervisory review whether or not the attorney general participated in the underlying
22 proceeding.

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

24 §257. Legal representation of certain state agencies

25 * * *

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

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))