AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

Art. 855.1. Pleadings for unconstitutionality of state law

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

* * *

Art. 1845. Effects of judgments on state law

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

* * *

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Art. 1880. Parties

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

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

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

* * *

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

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

§257. Legal representation of certain state agencies

* * *

C. Notwithstanding any other law to the contrary, the attorney general, at his
discretion, shall represent or supervise the representation of the interests of the state
in any action or proceeding in which the constitutionality of a state statute law or of
a resolution of the legislature is challenged or assailed. In all other proceedings in
which the constitutionality of a law is assailed, the attorney general shall be served
notice or a copy of the pleading. The attorney general, at his discretion, shall be
permitted to present, represent, or supervise the representation of the state’s interest in the proceeding if the proceeding is in accordance with Code of Civil Procedure Articles 855.1 and 1845 and Code of Criminal Procedure Article 62(D). In any civil proceeding challenging the constitutionality of a law, the allegations of unconstitutionality shall be contained in a pleading as defined in Code of Civil Procedure Article 852.

* * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ______________________

CODING: Words in struck through type are deletions from existing law; words underscored are additions.