

Regular Session, 2010

HOUSE CONCURRENT RESOLUTION NO. 4

BY REPRESENTATIVE FOIL

CONSTITUTION/CONVENTION: Creates a commission to study the feasibility of a constitutional convention and makes recommendations relative thereto

1    A CONCURRENT RESOLUTION

2    To create and establish the Constitutional Convention Study Commission to undertake all  
3        necessary study to examine the feasibility and advisability of calling a convention  
4        to revise the Constitution of Louisiana and, if a convention is found to be feasible  
5        and advisable, to make recommendations to the legislature for calling such a  
6        convention.

7        WHEREAS, at twelve midnight on December 31, 1974, the Constitution of the state  
8    of Louisiana of 1974 became effective, culminating a remarkable effort to provide the state  
9    with a completely new constitution that today is recognized as having made landmark  
10   changes; namely, shortening the state's constitution from two hundred fifty-five thousand  
11   words to a mere thirty-five thousand words, providing for a dramatic reorganization of the  
12   executive branch of state government, making very significant changes in local government  
13   and in home rule government in particular, taking steps to strengthen the legislature, and  
14   removing many detailed provisions which had precluded legislative action without an  
15   accompanying constitutional amendment; and

16        WHEREAS, in the ensuing thirty-six years, however, the constitution has been  
17   amended one hundred thirty-five times, and as a result, today the document contains, not  
18   only the problematic provisions which the 1973 convention found itself unable or unwilling  
19   to address, but additional provisions that protect narrow interests from legislative action  
20   despite changing times and needs that tie the hands of the legislature in efforts to effect  
21   significant reforms; and

1           WHEREAS, various authorities have suggested the need for Louisiana to address a  
2 number of policy areas that would require constitutional change, including such matters as  
3 the state's tax structure and budgetary practices, dedication of state revenues and the  
4 resulting inability of the legislature to allocate tax resources where needed, as well as fiscal  
5 restraints on local governments that dramatically limit their authority to meet fiscal and  
6 budgetary demands; and

7           WHEREAS, as was the case in 1973, Louisiana once again faces the need for a  
8 serious analysis of its basic law and must determine whether a constitutional convention is  
9 needed and would be the most effective approach to conducting a genuine examination of  
10 the state's critical needs, undertaking an in-depth discussion of reform concepts, crafting  
11 provisions that allow for flexibility and innovation in legislative solutions to problems of the  
12 present and the future, and challenging Louisiana's voters to accept constructive change; and

13           WHEREAS, prior to calling a constitutional convention, it would also be wise to  
14 undertake appropriate study and analysis to enable effective decisions concerning details of  
15 convention composition, organization, procedure, staffing, and other resources.

16           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
17 create and establish the Constitutional Convention Study Commission to undertake all  
18 necessary study and analysis to examine the feasibility and advisability of calling a  
19 constitutional convention to revise the Constitution of Louisiana and, if a convention is  
20 found to be feasible and advisable, to make recommendations to the legislature for calling  
21 such a convention, including such matters as:

22           (1) The composition of the membership of the convention.

23           (2) Timetables for convening, for staff work, for completion of a draft constitution,  
24 for the election to submit the proposal to the voters of the state, and for effectiveness of the  
25 new constitution.

26           (3) Structure, including officers and committees, and procedures for convention  
27 organization and deliberations, including significant provisions for rules of procedure.

28           (4) Staffing and other resources needed and available to address policy issues and to  
29 skillfully draft constitutional language.

30           (5) Budget needs for effective conduct of a convention.

1 (6) A policy agenda providing for the most important policy decisions that must be  
2 made to develop a constitution that will serve the state effectively, including any limitations  
3 on the authority of the convention.

4 (7) Provisions for submission of alternative proposals to the voters and ballot  
5 structure.

6 BE IT FURTHER RESOLVED that the commission shall be composed of fifteen  
7 members as follows:

8 (1) Two members of the Louisiana House of Representatives appointed by the  
9 speaker of the House of Representatives.

10 (2) Two members of the Louisiana Senate appointed by the president of the Senate.

11 (3) Two members appointed by the governor.

12 (4) Two members appointed by the chief justice of the Louisiana Supreme Court.

13 (5) A representative of the Louisiana State Law Institute appointed by the Louisiana  
14 State Law Institute.

15 (6)(a) Four members who shall include a representative of the law school or business  
16 school of each of the following four universities appointed as provided in this Paragraph; the  
17 appointing authorities shall consult and make their appointments so as to provide that two  
18 of such members shall be representatives of law schools and two shall be representatives of  
19 business schools:

20 (i) A representative of the Louisiana State University Paul M. Hebert Law Center or  
21 the Louisiana State University E.J. Ourso College of Business appointed by the joint  
22 concurrence of the chancellor of the law center and the dean of the business college.

23 (ii) A representative of the Southern University Law Center or the Southern  
24 University College of Business appointed by the joint concurrence of the chancellor of the  
25 law center and the dean of the business college.

26 (iii) A representative of the Tulane University Law School or the Tulane University  
27 A.B. Freeman School of Business appointed by the joint concurrence of the dean of the law  
28 school and the dean of the business school.

1 (iv) A representative of the Loyola University New Orleans College of Law or the  
2 Loyola University New Orleans Joseph A. Butt, S.J., College of Business appointed by the  
3 joint concurrence of the dean of the college of law and the dean of the business college.

4 (b) If the appointing authorities do not make an appointment as provided in  
5 Subparagraph (a) of this Paragraph, the speaker of the House of Representatives and the  
6 president of the Senate shall make any appointment necessary to provide for such required  
7 membership, giving consideration to any recommendations of the appointing authorities.

8 (7) A representative of the Public Affairs Research Council of Louisiana appointed  
9 by the council.

10 (8) A representative of the Council for a Better Louisiana appointed by the council.

11 BE IT FURTHER RESOLVED that a vacancy in commission membership shall be  
12 filled in the manner of the original appointment.

13 BE IT FURTHER RESOLVED that the commission shall hold its organizational  
14 meeting within sixty days after adjournment sine die of the 2010 Regular Session of the  
15 Legislature on the call of the speaker of the House of Representatives and the president of  
16 the Senate acting jointly and that at such organizational meeting the commission shall elect  
17 a chairman, a vice chairman, and such other officers as it finds necessary and shall adopt  
18 rules for its own procedure which shall be subject to later amendment by the commission.

19 BE IT FURTHER RESOLVED that the commission shall make such studies as it  
20 finds necessary or appropriate to determine the feasibility and advisability of calling a  
21 convention to revise the Constitution of Louisiana and, if a convention is found to be feasible  
22 and advisable, to make recommendations to the legislature on all matters relevant to the  
23 convening and conduct of a constitutional convention, including all matters listed above.

24 BE IT FURTHER RESOLVED that the commission shall complete its study and  
25 determine its recommendations to the legislature no later than January 15, 2011, and shall  
26 submit to each member of the legislature and to the governor, no later than March 1, 2011,  
27 the complete results of its study and a report of its findings and its recommendations based  
28 thereon.

29 BE IT FURTHER RESOLVED that the commission, for the purposes of conducting  
30 the study as provided in this Resolution, may utilize the personnel, facilities, and services

1 of the legislative auditor, the legislative fiscal officer, and the staffs of the House of  
2 Representatives and the Senate, and that the commission may request and utilize such  
3 counsel, assistance, personnel, facilities, and advice as may be obtained from any and all  
4 public sources and from any and all private sources, including but not necessarily restricted  
5 to private research agencies, individuals, and organizations.

6 BE IT FURTHER RESOLVED that the speaker of the House of Representatives and  
7 the president of the Senate may each assign one or more employees whose full-time duties  
8 and responsibilities shall be providing staff support to the commission; that the legislative  
9 fiscal officer shall assign one employee whose full-time duty and responsibility shall be  
10 providing staff support to the commission; that the director of the Louisiana State Law  
11 Institute shall assign one employee whose half-time duty and responsibility shall be  
12 providing staff support to the commission; that the chief justice of the Louisiana Supreme  
13 Court shall assign one employee whose half-time duty and responsibility shall be providing  
14 staff support to the commission; and that each university that appoints a member to the  
15 commission shall assign one employee whose half-time duty and responsibility shall be  
16 providing staff support to the commission.

17 BE IT FURTHER RESOLVED that the commission may make or cause to be made  
18 any studies it finds useful for the purposes of this Resolution through legislative personnel  
19 or in cooperation with any public or private agency, including but not limited to universities,  
20 colleges, foundations, charitable corporations, and research organizations, and the  
21 commission may call upon the members or staffs of any and all departments or agencies of  
22 the state for data and assistance, and all such departments and agencies shall cooperate with  
23 the commission.

24 BE IT FURTHER RESOLVED that the commission may receive grants, donations,  
25 or gifts of money or services from public or private organizations or from any other source,  
26 to be utilized for the purposes of the commission.

27 BE IT FURTHER RESOLVED that the commission may create or appoint advisory  
28 commissions or task forces to act in an advisory capacity or to assist in its studies, composed  
29 of such representatives of the public or private sectors as it shall deem appropriate.

1 BE IT FURTHER RESOLVED that the members of the commission may receive the  
 2 same per diem and travel allowance in the performance of their duties as are provided for  
 3 members of the legislature and that such per diem and allowance and all other expenses  
 4 directly incurred by the commission may be paid from any funds available for the purpose  
 5 and, with the approval of the presiding officers of the two houses of the Louisiana  
 6 Legislature, from funds available to such presiding officers for expenses of the legislature.

7 BE IT FURTHER RESOLVED that the commission shall be deemed dissolved upon  
 8 the adjournment sine die of the 2011 Regular Session of the Legislature.

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#### 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)]

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HCR No. 4

**Abstract:** Creates the Constitutional Convention Study Commission to study the feasibility and advisability of a constitutional convention and to make recommendations to the legislature for the calling of such convention if a convention is found feasible and advisable.

Proposed concurrent resolution creates the Constitutional Convention Study Commission to make necessary studies and analysis to examine the feasibility and advisability of calling a constitutional convention to revise the Constitution of La. and, if a convention is found to be feasible and advisable, to make recommendations to the legislature for calling such a convention as follows:

- (1) Provides that the commission's recommendations include:
  - (a) Composition of the convention's membership.
  - (b) Timetables for: convening, staff work, completion of a draft constitution, the election to submit the proposal to the state's voters, and effectiveness of the new constitution.
  - (c) Convention structure, including officers and committees, and procedures for organization and deliberations, including significant rules provisions.
  - (d) Staffing and other resources needed and available to address policy issues and draft constitutional language.
  - (e) Budget needs for an effective convention.
  - (f) A policy agenda providing for the most important policy decisions to be made, including any limitations on the convention's authority.
  - (g) Provisions for submission of alternative proposals to the voters and ballot structure.
- (2) Provides that the commission be composed of 15 members as follows:

- (a) Two members of the La. House of Representatives appointed by the speaker of the House of Representatives.
- (b) Two members of the La. Senate appointed by the president of the Senate.
- (c) Two members appointed by the governor.
- (d) Two members appointed by the chief justice of the La. Supreme Court.
- (e) A representative of the La. State Law Institute appointed by the institute.
- (f) A representative of the LSU Paul M. Hebert Law Center or the LSU E.J. Ourso College of Business appointed by the joint concurrence of the chancellor of the law center and the dean of the business college.
- (g) A representative of the SU Law Center or the SU College of Business appointed by the joint concurrence of the chancellor of the law center and the dean of the business college.
- (h) A representative of the Tulane University Law School or the Tulane University A.B. Freeman School of Business appointed by the joint concurrence of the dean of the law school and the dean of the business school.
- (i) A representative of the Loyola University New Orleans College of Law or the Loyola University New Orleans Joseph A. Butt, S.J., College of Business appointed by the joint concurrence of the dean of the college of law and the dean of the business college.
- (j) A representative of the Public Affairs Research Council of La. appointed by the council.
- (k) A representative of the Council for a Better La. appointed by the council.

Relative to the appointments provided for in (f) through (i) above, requires the appointing authorities to consult and make their appointments so as to provide that two of such members shall be representatives of law schools and two shall be representatives of business schools. Further provides that if the appointing authorities provided for in (f) through (i) above do not make an appointment as provided, the House speaker and the Senate president shall make any appointment necessary to provide for such required membership, giving consideration to any recommendations of the appointing authorities.

Provides for filling of a vacancy in the manner of the original appointment.

- (3) Requires that the commission hold its organizational meeting within 60 days after adjournment sine die of the 2010 R.S. on the call of the House speaker and the Senate president acting jointly.

Requires the commission, at the organizational meeting, to elect a chairman, a vice chairman, and other officers it finds necessary and to adopt rules for its own procedure.

- (4) Requires the commission to make such studies as it finds necessary or appropriate to determine the feasibility and advisability of calling a constitutional convention to revise the state constitution and, if a convention is found to be feasible and advisable, to make recommendations to the legislature on all matters relevant to the convening and conduct of a constitutional convention including all matters listed in (1) above.

- (5) Requires the commission to complete its study and determine its recommendations by Jan. 15, 2011, and by March 1, 2011, to submit study results and a report of its findings and recommendations to each legislator and the governor.
- (6) Authorizes the commission to utilize the 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 use such counsel, assistance, personnel, facilities, and advice as may be obtained from any and all public or private sources.
- (7) Authorizes the House Speaker and the Senate President to each assign one or more full-time staff persons to provide staff support to the commission.
- (8) Requires that each of the following assign employees as follows to provide staff support to the commission:

Assigned by	Number	Full-time/ Half-time
Legislative fiscal officer	One	Full-time
Director of the La. State Law Institute	One	Half-time
Chief justice of the La. Supreme Court	One	Half-time
Each university that appoints a member to the commission	One	Half-time

- (9) Authorizes the commission to make, or cause to be made, studies useful to its purposes through legislative personnel or in cooperation with any public or private agency and to call upon departments or agencies of the state for data and assistance. Requires departments and agencies to cooperate with the commission.
- (10) Authorizes the commission to receive grants, donations, or gifts of money or services from public or private organizations or from any other sources and to create or appoint advisory commissions or task forces for advice or assistance, composed of representatives of the public or private sectors.
- (11) Provides that commission members may receive the same per diem and travel allowance in the performance of their duties as are provided for legislators. Authorizes payment thereof, along with all other expenses directly incurred by the commission, from any funds available for the purpose and, with the approval of the legislative presiding officers, from funds available to such presiding officers for expenses of the legislature.
- (12) Provides that the commission shall be dissolved upon the adjournment sine die of the 2011 R.S.