Louisiana Law Review

Volume 21 | Number 1
Law-Medicine and Professional Responsibility: A Symposium
Symposium on Civil Procedure
December 1960

The 1960 Proposals To Amend the Louisiana Constitution

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In its regular session of 1960 the Louisiana legislature proposed a total of fifty-five amendments for the electorate to consider at the November 1960 general election. This represents an all time record in the number of amendments proposed at any session of the legislature, although the gross volume of the proposals may be somewhat less than the forty-eight approved by the legislature in 1956 or the thirty-four placed on the ballot in 1952. It would be supererogatory on the part of this writer to express himself at length on the condition reflected by the extensive use of the power of constitutional amendment.[1] Suffice it to say that the usual numerical confusions are present in these proposals, that a number of them have been defeated by the voters at previous elections (in their present or slightly altered form), and that these proposals further compound the faults already assessed against the abuse of the amending process.

The following categories are used, in the order indicated, for classifying the proposed amendments for discussion: the legislature; suffrage and elections; executive officers, boards, and agencies; public education; the judiciary; tax exemptions; and political subdivisions and local authorities.

THE LEGISLATURE

In 1960 only one amendment was proposed that has a direct bearing on legislative organization and procedure. Act 610 provides for an amendment to Article III, Section 5, concerning the apportionment of the House of Representatives. The proposal would raise the number of seats in the House from 101 to 105

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1. For a discussion of the problem see: Havard, *The 1958 Proposals to Amend the Louisiana Constitution*, 19 LOUISIANA LAW REVIEW 128, 129, 142-144 (1958); Reynard, *The 1956 Proposals to Amend the Louisiana Constitution*, 17 LOUISIANA LAW REVIEW 130 (1956); Owen, *The Proposed Constitutional Amendments*, 15 LOUISIANA LAW REVIEW 91, 99-102 (1954); Owen, *1952 Amendments to the Louisiana Constitution*, 13 LOUISIANA LAW REVIEW 219, 229 (1953), and Owen, *The Need of Constitutional Revision in Louisiana*, 8 LOUISIANA LAW REVIEW 47-67 (1947).

and assign the four additional members to East Baton Rouge and Jefferson Parishes, thereby increasing the representation in those parishes from the present two members to four members for each of them.[2]

One other proposed amendment is concerned with the legislature's power to waive the immunity of the state and its political subdivisions from suit and liability (Article III, Section 35). This proposal has a long and involved pre-history.[3] The existing provision was adopted in 1946[4] in order to overrule a case decided in 1945[5] under which provisions for payment of claims could be included in acts authorizing suit and such payments could be made without being subject to the constitutional conditions prescribed for appropriations. The present provision not only prohibits the satisfaction of money judgments against the state except out of monies appropriated by the legislature for this purpose, but it contains a concluding sentence which stipulates that the effect of authorization by the legislature for a suit against the state shall be "nothing more than a waiver of the State's immunity from suit insofar as the suit so authorized is concerned." In recent decisions[6] the Supreme Court of Louisiana has interpreted the latter sentence to mean that legislative authorization to sue the state, or its agencies, subdivisions, or corporations, in an action *ex delicto* does not constitute a waiver of governmental immunity from liability for the negligence of an employee and that a waiver of the latter type would be an unconstitutional exercise of the legislative power. Since an overwhelming majority of all legislative authorizations for suits against the state involve precisely this type of action,[7] the interpretation cited above is likely to cause inestimable hardship to parties who are damaged in person or property by employees of the state.

Although the primary motivation for proposing the amendment apparently derives from the desire to remedy the situation outlined above, the change contemplated goes much further in

2. In both the 1956 and 1958 sessions amendments were proposed which would have added one seat in the House of Representatives. La. Acts 1956, No. 618; La. Acts 1958, No. 535. The extra seat would have been assigned by an enabling act to East Baton Rouge, but the proposals were defeated at the respective general elections in November 1956 and November 1958.

3. For a detailed discussion see, McMahon and Miller, *The Crain Myth—A Criticism of the Duree and Stephens Cases*, 20 LOUISIANA LAW REVIEW 449-485 (1960).

4. La. Acts 1946, No. 385.

5. Lewis v. State, 207 La. 194, 20 So.2d 917 (1945).

6. Duree v. Maryland Casualty Company, 238 La. 166, 114 So.2d 594 (1959). Stephens v. Natchitoches Parish School Board, 238 La. 388, 115 So.2d 793 (1959).

7. See note 3 *supra*.

attempting to provide the constitutional means to override the sweeping effects of governmental immunity and the cumbersome procedures by which this immunity is presently removed. The proposal would empower the legislature to waive, by special or general laws or resolutions, the immunity from suit and from liability of the state, parishes, municipalities, political subdivisions, public boards, institutions, departments, commissions, districts, corporations, agencies, authorities, and other public or governmental bodies. The act provides that the legislature shall prescribe procedural rules for such a suit (including rules of venue and service of process) and that, in the absence of procedural rules promulgated by the legislature, the procedure is to be the same as in suits between private litigants. The legislature is further permitted to waive any prescription or peremption which may have accrued in favor of the state or other public body, with the proviso that any such prescription or peremption accruing prior to January 1, 1962, is waived by the amendment itself, provided the suit on such claim is brought before that date. In retroactive protection of parties whose cases had previously been authorized by the legislature and whose suits were dismissed on the ground that the defendant's immunity from liability had not been waived, the amendment authorizes the filing of another suit on the same claim prior to January 1, 1962, and prohibits the defense of *res judicata* based on the prior dismissal. The proposal continues the requirement that judgments be payable only out of funds appropriated therefor.[8]

SUFFRAGE AND ELECTIONS

Four proposals for amending provisions of the Constitution relative to suffrage and elections were passed by the legislature in 1960. Act 597, amending Article VIII, Section 15, would change the dates during which write-in candidates must file statements with the clerks of courts indicating their willingness and consent to be voted for in the subsequent general election. Under the existing provision this notification must be filed at least ten days before the general election; the proposed amendment requires that these notices be filed no later than the tenth day after the date fixed for the second primary.

8. An act contingent on the passage of this amendment was passed by the legislature (La. Acts 1960, No. 27) to establish procedural rules governing such cases. However it does not go so far as the comprehensive implementing legislation proposed by McMahon, note 3 *supra*.

Acts 604 and 613 propose amendments with regard to voter qualification and registration. Act 604 would amend Article VIII, Section 1, by reducing the period of residence required of voters in the parish from one year to six months.[9] Act 613 also proposes to amend Article VIII, Section 1, by tightening the present registration requirements in subsections (c) and (d) with respect to character, literacy, and understanding and by adding two new subsections — (f) and (g). The amendment proposes to add to the existing general requirement that a voter be of good character and reputation at least six specifications under which a person shall not be considered of good character. These include: conviction of a felony without having received a pardon and full restoration of franchise; conviction for more than one misdemeanor involving a jail sentence of 90 or more days other than for traffic and game law violations during the five years immediately prior to applying for registration; conviction for a misdemeanor involving a jail sentence of six months or more other than for traffic and game law violations within one year immediately prior to application for registration; having lived in "common law" marriage as defined by the criminal laws of the state within five years of the date of application; having given birth to an illegitimate child within the five years immediately prior to the application (except for mothers whose children were conceived as a consequence of rape or forced carnal knowledge), and having been proved or having acknowledged oneself to be the father of an illegitimate child within the five years immediately prior to the application. It is further stipulated that this enumeration of acts denoting bad character is not deemed exclusive and that "bad character may be established by any competent evidence."

The literacy requirements of the Constitution are also tightened by the latter proposal. In addition to the present requirement for demonstrating literacy by filling out the registration application, potential voters would be required to read and write from dictation any portion of the preamble to the Constitution of the United States. Although the proposed amendment stipulates, in a manner reminiscent of the "Grandfather Clause," that the inability to read and write shall not be grounds for removing persons from the registration rolls who are quali-

9. Only in 1956 did Louisiana amend the Constitution to lower its state residence requirement from two years to one. La. Acts 1956, No. 601. Even a six month parish residence requirement would leave Louisiana with a longer local residence requirement than most states, 12 BOOK OF THE STATES 20 (1958).

fied to vote as of November 8, 1960, it is the apparent intention of the amendment to preclude the qualification of illiterates in the future. The existing provisions which allow certain tests to be used as substitutes for literacy would henceforth be made applicable to all potential voters under the terms of the act. Furthermore the applicant would be required to demonstrate his favorable disposition to the good order and happiness of the State of Louisiana by executing an affidavit affirming that he will faithfully and fully abide by *all of the laws of the State of Louisiana.* If it is the intention of the officials of the state to continue the defense of racial segregation through the policy of "legislate and litigate," the extension of administrative discretion which is implied in this act would appear to make a decided contribution to this end.

Act 622 proposes an amendment to Article VIII, Section 18, which would repeal the prohibition against a registrar of voters being appointed to any other office within 12 months after vacating the office of registrar. The proposal retains the prohibition against a registrar being *elected* to any other office during that period.

EXECUTIVE OFFICERS, BOARDS AND AGENCIES

Three proposals relate to statewide elected executive officers. The first of these, Act 608, seeks to remedy the language in Article V, Section 3, which provides that any person elected Governor is not eligible to be "his own immediate successor." The proposed clause stipulates that no person elected Governor is eligible "as a candidate for nomination, election, or re-election to the office of Governor in the election immediately following that in which he was elected as Governor."[10] Acts 609 and 612 provide for the amendment of Article V, Sections 1 and 18, in order to add the Commissioner of Insurance and the State Custodian of Voting Machines, respectively, to the list of constitutional elective offices.[11]

Four additional proposals affect the much disputed "blue-

10. The proposed amendment is obviously directed against the possibility, suggested by Governor Earl K. Long in 1959, that an incumbent governor might resign prior to the final date fixed for qualifying for the office and run for the subsequent term without violating the prohibition against a person being "his own immediate successor" as Governor.

11. An amendment to add the Commissioner of Insurance to the list of constitutional elective officers was proposed in 1958 (La. Acts 1958, No. 560), but was defeated in general election of that year.

ribbon boards" established during the Kennon administration.[12] Acts 614 to 617, inclusive, propose the repeal of the constitutional provisions establishing the Board of Public Welfare (Article XVIII, Section 7(4)), Board of Institutions (Article V, Section 30), Board of Highways (Article VI, Section 19.2), and the Wildlife and Fisheries Commission. The legislature passed four accompanying statutes which are contingent upon the ratification of these proposed amendments. The effect of these statutes is to restore the agencies approximately to the status they occupied prior to 1952 — the boards would be appointed by the Governor and their terms would not overlap his, the Governor would appoint the directors of these agencies except for the Department of Public Welfare, and the functions of the Boards would be largely advisory except for certain activities in Highways and Welfare.[13] Passage of the amendments would restore single-head administration to these agencies, with responsibility to the Governor (except possibly for Welfare) and would bring the law into line with the apparent practice.

PUBLIC EDUCATION

Two amendments respecting higher education and one relating to sixteenth section school lands were proposed by the legislature in 1960. Act 624 provides for an amendment to Article XII, Section 7, which would increase the membership on the Board of Supervisors of Louisiana State University from fourteen to eighteen members and reduce the terms of future members from fourteen years to nine years. The proposal would have the further effect of adding the president of the University's Alumni Federation to the Board as an ex officio member. (The Governor, who is already an ex officio member, would continue in that capacity.) The act also prohibits the reappointment of any person to the Board who has served thereon for as much as five years, and it adds to the present stipulations respecting appointments to the Board the requirement that at least one member be appointed from each congressional district. This is perhaps the most controversial proposal on the list of amendments since the present governing arrangement for the University was established in 1940 as a direct outgrowth of

12. The Kennon "board bills" are discussed in Owen, *1952 Amendments to the Louisiana Constitution*, 13 LOUISIANA LAW REVIEW 219, 221 *et seq.* (1953). Proposals were submitted to the voters for repeal of the constitutional provisions for these boards in 1956, but were defeated. La. Acts 1956, Nos. 609, 610, 611, 612.

13. La. Acts 1960, Nos. 157 through 160 inclusive.

the state scandals in 1939. Since that time the Board of Supervisors seems to have developed a considerable degree of independence of the various state administrations in governing the affairs of the University.

Act 632 would add a new section — number 26 — to Article XII under which the New Orleans Branch of Southern University would have constitutional status as an integral part of Southern University and Agricultural and Mechanical College, and would come under the direct supervision, control, and management of the State Board of Education.[14]

Act 645 proposes to amend Article XII, Section 18, in order to provide that revenues produced from sales, leases, and contracts deriving from sixteenth section lands be credited to parish school boards in proportion to the percentage of the *sixteenth section* which lies in the parish rather than in proportion to the percentage of the *township* containing the sixteenth section which lies in the parish. The act also provides that all future revenues derived from these sources shall be paid directly to the parish school board for use as capital expenditures; these funds presently go into the state treasury where they accumulate four per cent interest per annum until they are withdrawn by the school boards for capital outlay.[15]

JUDICIARY

Seven of the 1960 proposals relate to the state judicial system. Act 592 would amend Article VII, Section 8, relative to the retirement of judges as follows: the retirement provisions of this section (which now include the Supreme Court, Courts of Appeal, District Courts, City Courts of Record, and Juvenile Courts) would be extended to include Municipal and Traffic Courts, where these are courts of record, and Family Courts. Under the proposed amendment the compulsory retirement age would be reduced from 80 to 75 years, except that a person now serving could continue to serve either until he is 80 years of age or until he has served 20 years (whichever comes first) if he had not completed the 20 years service on a court of record

14. The New Orleans branch of Southern University was established by La. Acts 1956, No. 28.

15. A similar amendment was proposed in 1958 (La. Acts 1958, No. 543), and was defeated at the November general election of that year. The only difference between the 1958 and the 1960 proposals is that the former would have allowed future funds from these sources to be spent on current operations as well as on capital outlay.

necessary for him to qualify for retirement at full pay. Service of less than twenty years would make the judge eligible for retirement pay in the proportion that his years of service bears to twenty. Under the proposal judges may voluntarily retire at 65 on two-thirds pay if they have served on a court of record for 20 years (at present voluntary retirement is possible at this rate and age after 15 years of continuous service immediately prior to retirement). An added provision would allow a judge to retire at full pay at 70 years of age if he has had 20 years of service on a court of record, with proportionate reductions if he has served less than 20 years. The act continues the present voluntary retirement at two-thirds pay at any age if the judge has served more than 23 years on a court of record, and additionally permits appellate judges to retire at 65 with full pay after continuous service for 25 years. The present requirements that the judge should have served continuously and immediately preceding the date of retirement are not included in the act except for the one instance stipulated in the preceding sentence.

The disability retirement provisions of the present Constitution would also be altered somewhat by the proposed amendment. At present the certificates of disability which are filed with the Governor and Secretary of State are executed by a majority of the other members of the Court in the case of judges of the Supreme Court, Courts of Appeal, and the District Courts, and by two competent physicians with the approval of the Supreme Court in other instances. Under the proposed amendment the courts would execute the certificates in the case of judges of the Supreme Court, Courts of Appeal, District Courts of three or more judges, and City Courts of three or more judges; the second method cited above would be used in all other cases. The proposed act also fully spells out the effective time of judicial retirement in each type of retirement — compulsory, voluntary, or by reason of incapacity. Finally, the proposed act eliminates the prohibition in the present section against the temporary assignment of judges who have been retired on account of physical disability.

Act 593 proposes to amend Article VII, Section 30, in order to speed up the effectiveness of the 1958 constitutional amendment providing for the reorganization of Courts of Appeal and a reduction in the burden of appeals handled by the Supreme

Court.[16] The proposed amendment requires that cases in which appeals were perfected prior to July 1, 1960 (the effective date of the 1958 amendment) be disposed of by the appellate court which has jurisdiction as of July 1, 1960, and that the necessary transfers between the Supreme Court and the Courts of Appeal and between the Courts of Appeal *inter se* be made as of July 1, 1960. Under the 1958 reorganization, appeals granted by trial courts prior to July 1, 1960, were made returnable to the courts to which appeal would have lain under the old provision.

Act 595, amending Article VII, Section 96, proposes to add to the present jurisdiction of the Juvenile Court of Orleans Parish proceedings involving the establishment or disavowal of the paternity of children. It should be noted that although the proposed amendment tracks the language of the prior amendment with regard to the number of judges and their salaries, legislation passed since the last constitutional amendment in this area increases the number of judges and provides for the augmentation of their salaries.[17]

Four of the proposed amendments affecting the judiciary would have the effect of adding a thirty-second judicial district to the district court system (Article VII, Section 31); each of these acts proposes to split an existing two-parish district in order to create the new district. Act 603 would separate St. Bernard Parish from Plaquemines Parish (Twenty-fifth District); Act 605 would separate Lafourche Parish from Terrebonne Parish (Seventeenth District); Act 611 would separate St. Tammany from Washington Parish (Twenty-second District), and Act 637 would separate Webster Parish from Bossier Parish (Twenty-sixth). Each of these acts provides that the judges of the present divisions of the affected courts shall serve out their terms as judges of the districts coeval with their respective parishes of residence (with a special provision in Act 605 should the judges be from the same parish), and that an additional district attorney shall be chosen for the parish (district) in which the incumbent district attorney is not resident. Act 611 would additionally repeal Section 31.1 of Article VII which was added in 1958 to provide a second judge for the

16. The appellate court reorganization was proposed by La. Acts 1958, No. 561, and approved at the November general election. See Tucker, Tate & McMahon, *Appellate Reorganization in Louisiana*, 19 LOUISIANA LAW REVIEW 287 *et seq.* (1959).

17. LA. R.S. 13:1566 (1950) (salaries); *id.* 13:1593 (Supp. 1960) (number of judges).

twenty-second district. The problem of duplicating the numerical designation of the new districts is resolved by a clause in each act directing the Secretary of State to assign consecutive numbers to these districts if more than one act is adopted.

TAX EXEMPTIONS

Six of the amendments proposed in 1960 would provide constitutional exemptions from various types of taxation. Act 599 proposes to add to the list of property exempted from ad valorem taxes in Article X, Section 4(3) commercial boats of twelve hundred horsepower or less which are powered by diesel fuel.[18]

Act 618 proposes to amend Article X, Section 4, by adding paragraphs 19(a) and 19(b) to exempt from ad valorem taxes certain imported property and certain property awaiting export. Sub-paragraph (a) would exempt raw materials, goods, commodities, and articles imported into the state from abroad under the following conditions: (1) so long as the imports remain on the public property of the port authority or docks of a common carrier where the imports first entered the state; (2) so long as the imports (other than products of the same kind as those mined or produced in this state and manufactured articles) are held as inventory solely for manufacturing or processing and are retained in the state in the original package or, in the case of raw materials, in bulk; (3) so long as the imports are held by an importer in storage in the original package or, in the case of agricultural products, in bulk (this is not applicable to a retail merchant holding the imports as part of his stock in trade for sale at retail). Sub-paragraph (b) would extend the exemption to raw materials, goods, commodities, and other articles being held on the public property of a port authority, or in docks of any common carrier, or in a warehouse, grain elevator, dock wharf, or public storage facility in the state for export to a point outside the continental United States.

18. A question may be raised as to whether the language of this amendment actually has this effect. The existing provision simply exempts boats using gasoline as motor fuel, whereas the enrolled bill proposing the amendment provides for the exemption in the following language: ". . . commercial boats using gasoline as motor fuel; boats of twelve hundred horsepower or less using diesel fuel as motor fuel . . ." As written, the proposal would seem to exempt *only commercial gasoline-powered boats* and *all diesel-powered boats of twelve hundred horsepower or less* from the tax. Although the title of the act indicates that the only intention of the proposal is *to extend* the exemption to the aforementioned *commercial boats* using diesel fuel, the courts have held that it is not necessary that a title precede a proposed amendment but may be given for identification and verification for purpose of legislative action. Graham v. Jones, 198 La. 507, 3 So.2d 761 (1941).

Act 619 would further extend the ad valorem exemption of property in transit by adding an additional sub-paragraph (c) to the projected paragraph 19 of Article X, Section 4, discussed immediately above. This provision would exempt property in storage while in transit through the state, provided the property is moving in interstate commerce through or over the territory of the state, or is in storage after having been shipped into the state for storage in transit to a final destination outside the state, whether such destination was specified at the time the transportation began or later.

Act 623 proposes an amendment to Article X, Section 4(3), which would have the effect of exempting all agricultural implements and other machinery and equipment used exclusively for agricultural purposes from ad valorem taxation. The present provision exempts agricultural implements and farm improvements to the value of $500, as well as one wagon or cart. Identical proposals were defeated by the voters at the general elections of November 1956 and November 1958.

Act 639 proposes to amend Article VI, Section 22(1),[19] by adding to the present list of types of machinery on which a refund of state motor fuel taxes may be claimed the item "any stationary motor used for agricultural purposes."

Act 642 proposes an amendment to Article X, Section 4(15), which would exempt from ad valorem taxes all aircraft based or operating in this state which are used solely for agricultural purposes, together with all hangars, machine shops, and equipment used solely to service such aircraft.[20]

POLITICAL SUBDIVISIONS AND LOCAL AUTHORITIES

Twenty-six of the amendments proposed for adoption in 1960 are concerned with local affairs. Only six of these are of general applicability; the remainder concern particular localities or governing bodies. Seven of the proposed amendments in the latter category provide for special navigation, waterway, terminal, or port districts; three relate to special tax districts; two provide zoning authority for particular parishes; one creates a city court,

19. There are two paragraphs labeled (1): the proposal stipulates, however, that it is amending that paragraph added by La. Acts 1950, No. 552 (which is first in order of appearance in the Constitution).

20. The present Article X, Section 4(15), is obsolete, since it provided a general ten year ad valorem exemption for aircraft and aircraft service equipment based or operating in the state, beginning in 1946.

and seven are concerned with various governmental affairs in New Orleans.[21]

The amendments of general application regarding local units of government cover a variety of topics. Act 601 proposes to add a new section — 15.2 — to Article XIV which would provide for mandatory civil service for all paid firemen in municipalities containing populations from 1000 to 13,000 and in parishes and fire protection districts. Although the proposal spells out in great detail (the enrolled bill ran to 50 pages) the method of operating the system, the way in which the local boards shall be constituted, the classification process, the testing program, the general regulations for appointment, promotion and discipline, prohibition against political activity, etc., these provisions are largely a repetition of existing arrangements for mandatory fire and police civil service in cities between 13,000 and 250,000 (Article XIV, Section 15.1). The main effect of the act therefore would be to extend the present civil service coverage to fire departments in the political units indicated. The testing program would be carried out by the present State Examiner of Municipal Fire and Police Civil Service and local boards would be established to administer other phases of the plan.

Act 625 provides for the addition of a new section — 14(d-2) — to Article XIV which would permit the legislature by general law to authorize the governing authorities of one or more parishes to create gas utility districts for the purpose of providing facilities for the transmission and distribution of natural or manufactured gas. The districts may be authorized to incur debt and issue negotiable bonds following a property taxpayer election, and they may also be authorized to issue revenue bonds upon the authority of their respective governing bodies. They are, however, prohibited from exercising eminent domain to acquire existing gas transmission or distribution facilities or property of any gas utility company.[22]

Act 630 may be somewhat out of context in a list of meas-

21. In the view of this writer there is some ambiguity in the identity of state as opposed to local authorities in Louisiana. Some administrative bodies which are cited as state agencies have mixed methods of selection involving both state and local authorities and are financed by local taxation (although the full faith and credit of the state may be pledged against their indebtedness). The procedure used here is to include all amendments affecting agencies which are circumscribed in their functions to a specified geographical area within the state in the discussion of political subdivisions.

22. An enabling act was passed to implement this constitutional authorization. La. Acts 1960, No. 415.

ures pertaining to local government since it is a part of the segregation legislation enacted by the 1960 legislature.[23] It is, however, a measure which seeks to provide sanctions for securing compliance on the part of local authorities with the state's policies on this question. The act proposes to add a new section — 5.1 — to Article X requiring that any facility of government which is maintained by a tax voted by any political subdivision of the state and which was segregated according to race at the time of the election at which the tax was authorized shall be declared by the governing authority of the subdivision to be no longer a function of the government when it is ordered integrated by any commission, board, or other authority. Furthermore, the governing authority would be required to recall the appointment of all members of the commission or board which ordered the integration. Taxes due for the support of such facilities would be collected and the proceeds applied first to the liquidation of outstanding obligations of the facility and then to the retirement of any bonded indebtedness of the facility, following which any surplus would be deposited in the general fund of the political subdivision. A clause is included to protect outstanding bonds issued in support of the discontinued function. Another clause exempts parish and city school boards, school districts, school sub-districts, and consolidated school districts from the act, presumably because means for abolishing the local school systems already exist.

Act 631 proposes to amend Article XIV by adding a new section to be designated as 3(d).[24] The act would provide a uniform charter commission for changing the government of a parish from the police jury system to a commission form or a commission-manager form.[25] Under this proposal an ordinance by the police jury or petition by fifteen per cent of the electors of the parish filed with the police jury would be necessary to initiate action, whereupon a charter commission composed of the president of the police jury and four persons appointed by the police jury, the sheriff, clerk of court, assessor, coroner, representatives, and district attorney would draft the alternative charter

23. The 1960 laws regarding racial segregation are discussed at page 85 *supra*.

24. There is already a provision in the Constitution designated Article XIV, 3(d) but, as has previously been indicated, numerical duplication is not without precedent in the Louisiana Constitution.

25. At present the Constitution (Article XIV, Section 3) stipulates that the legislature shall provide optional plans for the organization of parochial government, and the legislature has made provision for changing from the police jury system to the commission form in LA. R.S. 33:1271-1285 (1950).

for approval or rejection at a special election. The proposed charter could not affect the form of government of incorporated municipalities within the parish or the powers and functions of the school board, the sheriff, the clerk of the district court, and the assessor. The provisions of the act would not apply to the Parishes of East Baton Rouge, Jefferson, and Orleans, which have their own constitutionally prescribed charter arrangements.

Act 634 proposes an amendment to Article XIV, Section 15, Subsection G(c), which would add a proviso requiring the governing body of any city or any parish governed jointly with one or more municipalities or any municipality desiring to change non-elective positions from the unclassified service (as defined in Article XIV, Section 15(G)(a)) to the classified service shall notify the city or state Civil Service Commission (whichever is appropriate) of this intention at least six months prior to the effective date of such inclusion. The existing provision permits offices and positions in the unclassified service, other than elective offices, to be placed in the classified service, but sets forth no procedural limits on the action.

Act 641 would provide for the addition of a paragraph to Article X, Section 13, to permit municipalities and other subdivisions to pledge their full faith and credit to the payments of certificates of indebtedness issued against special assessments on real property for public improvements. The full faith and credit pledge would supplement the primary security afforded by the assessments and liens.

Among the amendments dealing with navigation, waterways, terminal, and port facilities, four provide for port commissions. Act 596 proposes to amend Article VI by adding a new section — 34 — creating the Concordia Parish Port Commission; Act 602 also proposes to add a Section 34 to Article VI providing for the Greater Krotz Springs Port Commission.[26] Act 629 proposes to add Section 35 to Article VI, creating the Avoyelles Parish Port Commission, and Act 633 proposes the addition of Section 33.1 to Article VI, creating the South Louisiana Port Commission embracing the parishes of St. Charles, St. John the Baptist, and St. James. Although varying in detail, each of these acts provides for the composition and selection of the commission, its powers,

26. The Krotz Springs Port Commission was created by La. Acts 1956, Nos. 228, 246. In 1958 an amendment was proposed to extend constitutional authorization to the agency to incur indebtedness, but it was defeated at the November general election of that year. La. Acts 1958, No. 546.

its method of issuing bonds, its debt limitation, and its permissible pledges of credit. The Concordia Parish Commission and the Avoyelles Parish Commission are each permitted to levy ad valorem taxes of two and one-half mills in their respective parishes upon the approval of the property taxpayers; the other two commissions are specifically denied the authority to levy ad valorem taxes.

Act 594 would authorize the legislature to enact a law creating the St. Bernard Navigable Waterway and Terminal District as a public corporation and political subdivision, with territorial limits co-extensive with St. Bernard Parish except for the Mississippi River and its batture and levee. The proposed amendment permits the legislature to provide for the governing board and for its powers, including the levy of a five mill ad valorem tax and the capacity to incur bonded indebtedness not to exceed ten per cent of the assessed value of taxable property within the district.[27]

Act 607 proposes to add a new section — 30.5 — to Article XIV authorizing the Board of Commissioners of the Morgan City Harbor and Terminal District[28] to issue general obligation bonds not exceeding $20,000,000 to finance the digging of a ship channel and other capital improvements. The act pledges the full faith and credit of the state to secure these bonds.

Act 646 proposes an amendment which would add a new section — 45 — to Article XIV. This amendment would give constitutional status to the Sabine River Authority, which was created by Act 261 of 1950 (as amended). The Authority is a multipurpose development district which covers the area of the watershed of the Sabine River and its tributaries. The proposed amendment spells out the powers of the Authority with respect to the construction and acquisition of facilities, cooperation with other states and the federal government, incurring debt, etc. The act further provides for the dedication of such proceeds of the special ad valorem tax levied by Article XVIII, Section 3, of the Constitution[29] as are not already dedicated to other purposes to the Department of Public Works for expenditure on water con-

27. A contingent enabling act was passed in conjunction with the act, establishing the District authorized by the amendment. La. Acts 1960, No. 228.

28. Created by La. Acts 1952, No. 530 and amended by La. Acts 1956, No. 428 (LA. *R.S.* 34:321-332 (Supp. 1960)).

29. This is the three-fourths mill state tax originally dedicated to Confederate veterans and widows pensions.

servation, recreation, and the development of water resources of the state. This dedication of funds is limited to a ten-year period beginning with the 1961-1962 fiscal year, and the act stipulates that the Department of Public Works shall give priority (up to $15,000,000) to the construction of the Toledo Bend Dam Project by the Sabine River Authority.

Three of the proposed amendments affecting political subdivisions are concerned with a wide variety of special functions. Act 600 proposes to amend the Constitution by adding Section 23 to Article X in order to permit the governing authorities of certain parishes, after approval by property taxpayer elections in the areas subject to the tax, to levy a one mill ad valorem tax, the proceeds of which would be used exclusively for capital outlay at Francis T. Nicholls State College at Thibodaux. The tax could be imposed throughout the entire parish in the parishes of Assumption, Lafourche, St. Mary, and Terrebonne, and on all property on the west bank of the Mississippi River in the case of Ascension, St. Charles, St. James, and St. John the Baptist Parishes. Act 636 also proposes to add a Section 23 to Article X; in this instance to permit the governing bodies of the parishes of Assumption and Lafourche, respectively, to levy parish-wide sales or use taxes not to exceed two cents on the dollar for the construction, operation, and maintenance of Old Folks' Homes. The imposition of this tax would be subject to approval by the electors of the respective parishes, and the conditions for funding the proceeds of the tax into bonds are prescribed by the act. Act 638, which proposes to add Section 38.1 to Article XIV, would permit existing or future Public Improvement Districts in St. Charles Parish which have frontages on Lake Pontchartrain to undertake reclamation projects along the shores and on the bed of the lake up to an inland distance of 300 feet from the present shoreline and to a maximum of one mile into the lake.[30] The districts would be able to dispose of reclaimed lands which, if they are in the state's domain, would be ceded to the district with mineral rights reserved to the state. The act also stipulates that such districts shall reserve in perpetuity a specified portion of these lands for public uses. Bonded indebtedness to an aggregate maximum of $30,000,000 is permitted, but the proposal specifically precludes the pledging of the credit of the state to the service of such obligations.

30. The language of this proposal generally tracks that in Article XIV, Section 38, extending similar powers to public improvement districts in Jefferson Parish.

Acts 628 and 643 are concerned with parish-wide zoning authority for specific parishes. Act 628 proposes an amendment to Article XIV, Section 29(c)[31] which would change the present wording of the dependent clause in the first sentence from "to prohibit the establishment of places of business in residential districts" to the wording, "to protect these districts by regulating the intrusion of incompatible land uses." The act would further delete the existing exceptions to the Calcasieu zoning authority with respect to buildings approved for mortgage loans or constructed by the Federal Housing Administration or the Veterans Administration of the United States. Act 643 proposes to add a subsection (d) to Article XIV, Section 29, which would extend parish-wide zoning authority to the parishes of Rapides and Bossier, respectively.

Act 606 provides for the addition of a new section — 51.1 — to Article VII, which would authorize the legislature to create a city court in Golden Meadow, with jurisdiction over Ward Ten of Lafourche Parish (the ward in which Golden Meadow is located) and to abolish the justice of peace courts in that ward.[32]

The seven proposals to amend the Constitution that affect New Orleans could have been distributed topically among the subjects pertaining to political subdivisions as they were discussed above. However, since New Orleans is given somewhat exceptional treatment by the Constitution and laws of Louisiana, there is some justification for considering proposals affecting that city and parish as a separate package.

Act 598 proposes to add Section 31.5 to Article XIV, authorizing the City of New Orleans to acquire and develop facilities (other than office buildings) to be used as auditoriums, coliseums, exhibition halls, promenades, plazas, loggias, parking areas, garages, etc., as part of an International Trade Mart Center for the purposes of improving the flow of interstate and international trade through the city. The project must be financed from the revenues produced by these facilities and the debt obligations authorized by this act must be serviced by these revenues and by mortgages against facilities constructed or acquired in connection with this project.

31. Two sub-sections labelled (c) were added to the Constitution in 1958 (La. Acts 1958, Nos. 537 and 558), one providing comprehensive zoning for West Baton Rouge and the other for Calcasieu; the title of La. Acts 1960, No. 628 specifies that it is amending that subsection (c) which relates to Calcasieu.

32. A contingent enabling act (La. Acts 1960, No. 48) was passed in conjunction with the proposal instituting the city court authorized by the amendment.

Act 620 proposes an amendment to Article XVI, Section 7(h), which would authorize the Board of Levee Commissioners of the Orleans Levee District to sell to the highest bidder at public sale (on terms specified in detail) the tract containing the beach and amusement park commonly known as the Pontchartrain Beach area. The property so sold may be used only for the operation of an amusement park or beach similar to that now in existence; failure to abide by this reservation would cause the property to revert to the Board at the same price for which the property was conveyed to the purchaser.

Acts 626 and 627 propose to amend Sections 23.1 and 23.2, respectively, of Article XIV. These two provisions permit the City Council of New Orleans to levy a special two mill ad valorem tax for 50 years, beginning in 1942, and a special three mill tax for a similar period, beginning in 1951, for the exclusive purpose of constructing and extending the city sewerage, water, and drainage systems. The proposed amendments would permit the Board of Liquidation of the City Debt to invest the proceeds of these special taxes in bonds, treasury certificates, and general obligations of the United States upon the condition that the New Orleans Sewerage and Water Board requests the investment, designates such proceeds as idle funds, and indicates the dates when the funds will be needed for authorized purposes.

Act 635 proposes to add a new section — 31.6 — to Article XIV authorizing the City of New Orleans (acting through the New Orleans Aviation Board) to extend or improve Moisant International Airport and to issue revenue bonds to finance these improvements. These revenue bonds are to be secured solely by pledging revenues from the airport's operating receipts, and support through property tax or assessment is prohibited.

Act 640 proposes an amendment to Article VI, Section 17, which would add the Central Labor Council of New Orleans and Vicinity, AFL-CIO, to the list of organizations (presently seven trade associations) authorized to submit nominees for vacancies in the Board of Commissioners of the Port of New Orleans.

Act 644 would amend Article VI of the Constitution by adding a new Section — 34 — to create a state authority entitled the Industrial Canal Bridge and Tunnel Authority. The proposed amendment provides for the governing body of the agency, authorizes and directs the agency to construct a high-level bridge

or a tunnel across the New Orleans Industrial Canal either at the present crossing of U.S. 90 (Chef Menteur Highway) or at the crossing of the proposed federal express road, and generally extends to the agency the corporate powers necessary to construct, operate, and maintain such a crossing. A maximum toll of ten cents for private passenger vehicles is fixed by the act and the conditions for the issuance of a maximum of $20,000,000 in revenue bonds (to be financed by income from the Authority's operation) are prescribed in detail. Although the full faith and credit of the Authority (but not the state) may be pledged to the redemption of the bonds, the agency is denied the power to mortgage or to create liens upon the property operated or controlled by it. When the bonds issued to finance the bridge or tunnel and the interest thereon have been paid off or sufficient funds have been placed in trust to meet the obligations on maturity, the tolls or fares set by the authority shall be no more than is sufficient to provide for the annual expense of operating and maintaining the facility. And if the bridge or tunnel should be accepted by the Highway Department as part of the State Highway System, it shall be maintained free of tolls after the outstanding claims of the bondholders have been satisfied.