

Regular Session, 2014

HOUSE BILL NO. 587

BY REPRESENTATIVE CARMODY

FUNDS/FUNDING: (Constitutional Amendment) Eliminates certain constitutional dedications and funding mandates

1 A JOINT RESOLUTION

2 Proposing to amend Article VII, Sections 10(D)(3) and (F)(2)(a) and (b), 10.2(B), and 27(A)

3 and (B), Article VIII, Section 13(A) and (B), and Article XII, Section 6(A)(1) of the

4 Constitution of Louisiana, to remove certain constitutional funding mandates and

5 protections, including mandates and protections for state supplemental pay, free

6 school books, the Minimum Foundation Program, the Coastal Protection and

7 Restoration Fund, the Transportation Trust Fund, the Parish Transportation Fund,

8 and the Lottery Proceeds Fund; to provide for submission of the proposed

9 amendment to the electors; and to provide for related matters.

10 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members

11 elected to each house concurring, that there shall be submitted to the electors of the state of

12 Louisiana, for their approval or rejection in the manner provided by law, a proposal to

13 amend Article VII, Sections 10(D)(3) and (F)(2)(a) and (b), 10.2(B), and 27(A) and (B) of

14 the Constitution of Louisiana, to read as follows:

15 ARTICLE VII. REVENUE AND FINANCE

16 §10. Expenditure of State Funds

17 Section 10.

18 * * *

19 (D) Appropriations.

20 * * *

1 (3)(a) The legislature ~~shall~~ may provide by law for the payment by the state
2 of supplements to the salaries of full-time local law enforcement and fire protection
3 officers of the state. ~~No law shall reduce any payments by the state provided as a~~
4 ~~supplement to the salaries of full-time local law enforcement and fire protection~~
5 ~~officers of the state. Beginning with the fiscal year which begins July 1, 2003, the~~
6 ~~legislature shall appropriate funds sufficient to fully fund the cost of such state~~
7 ~~supplement to the salaries of full-time law enforcement and fire protection officers.~~

8 (b) ~~For the purposes of this Subparagraph, local law enforcement and fire~~
9 ~~protection officers shall mean and include the same classes of officers which are~~
10 ~~eligible for such state salary supplements under the law as of July 1, 2003.~~

11 (c) ~~Full funding as required in Subsubparagraph (a) of this Subparagraph~~
12 ~~shall be equal to the amount which is required to meet the requirements of law.~~

13 (d) ~~Neither the governor nor the legislature may reduce an appropriation~~
14 ~~made pursuant to this Subparagraph except that the governor may reduce such~~
15 ~~appropriation using means provided in the Act containing the appropriation,~~
16 ~~provided that two-thirds of the elected members of each house of the legislature~~
17 ~~consent to any such reduction in writing.~~

18 * * *

19 (F) Projected Deficit.

20 * * *

21 (2)(a) Notwithstanding any other provision of this constitution to the
22 contrary, adjustments to any constitutionally protected or mandated allocations or
23 appropriations, and transfer of monies associated with such adjustments, are
24 authorized when state general fund allocations or appropriations have been reduced
25 in an aggregate amount equal to at least seven-tenths of one percent of the total of
26 such allocations and appropriations for a fiscal year. Such adjustments may not
27 exceed five percent of the total appropriation or allocation from a fund for the fiscal
28 year. ~~For purposes of this Subsubparagraph, reductions to expenditures required by~~
29 ~~Article VIII, Section 13(B) of this constitution shall not exceed one percent and such~~

1 ~~reductions shall not be applicable to instructional activities included within the~~
2 ~~meaning of instruction pursuant to the Minimum Foundation Program formula.~~
3 Notwithstanding any other provisions of this constitution to the contrary, monies
4 transferred as a result of such budget adjustments are deemed available for
5 appropriation and expenditure in the year of the transfer from one fund to another,
6 but in no event shall the aggregate amount of any transfers exceed the amount of the
7 deficit.

8 (b) Notwithstanding any other provision of this constitution to the contrary,
9 for the purposes of the budget estimate and enactment of the budget for the next
10 fiscal year, when the official forecast of recurring revenues for the next fiscal year
11 is at least one percent less than the official forecast for the current fiscal year, the
12 following procedure may be employed to avoid a budget deficit in the next fiscal
13 year. An amount not to exceed five percent of the total appropriations or allocations
14 for the current fiscal year from any fund established by law or this constitution shall
15 be available for expenditure in the next fiscal year for a purpose other than as
16 specifically provided by law or this constitution. ~~For the purposes of this~~
17 ~~Subsubparagraph, an amount not to exceed one percent of the current fiscal year~~
18 ~~appropriation for expenditures required by Article VIII, Section 13(B) of this~~
19 ~~constitution shall be available for expenditures for other purposes in the next fiscal~~
20 ~~year.~~ Notwithstanding any other provisions of this constitution to the contrary,
21 monies made available as authorized under this Subsubparagraph may be transferred
22 to a fund for which revenues have been forecast to be less than the revenues in the
23 current fiscal year for such fund. Monies transferred as a result of the budget actions
24 authorized by this Subsubparagraph are deemed available for appropriation and
25 expenditure, but in no event shall the aggregate amount of any such transfers exceed
26 the amount of the difference between the official forecast for the current fiscal year
27 and the next fiscal year.

* * *

1 §10.2. Coastal Protection and Restoration Fund

2 Section 10.2

3 * * *

4 ~~(B)(1) After making the allocations provided for in Paragraph (A), the~~
5 ~~treasurer shall then deposit in and credit to the Coastal Protection and Restoration~~
6 ~~Fund any amount of mineral revenues that may be necessary to insure that a total of~~
7 ~~five million dollars is deposited into such fund for the fiscal year from this source;~~
8 ~~provided that the~~ The balance of the fund Coastal Protection and Restoration Fund
9 ~~which consists of mineral revenues from severance taxes, royalty payments, bonus~~
10 ~~payments, or rentals shall not exceed an amount provided by law, but in no event~~
11 ~~shall the amount provided by law be less than five hundred million dollars.~~

12 ~~(2) After making the allocations and deposits provided for in Paragraphs (A)~~
13 ~~and (B)(1) of this Section, the treasurer shall deposit in and credit to the Coastal~~
14 ~~Protection and Restoration Fund as follows:~~

15 ~~(a) Ten million dollars of the mineral revenues in excess of six hundred~~
16 ~~million dollars which remain after the allocations provided for in Paragraph (A) are~~
17 ~~made by the treasurer.~~

18 ~~(b) Ten million dollars of the mineral revenues in excess of six hundred fifty~~
19 ~~million dollars which remain after the allocations provided in Paragraph (A) are~~
20 ~~made by the treasurer.~~

21 ~~However, the balance of the fund which consists of mineral revenues from~~
22 ~~severance taxes, royalty payments, bonus payments, or rentals shall not exceed an~~
23 ~~amount provided by law, but in no event shall the amount provided by law be less~~
24 ~~than five hundred million dollars.~~

25 * * *

26 §27. Transportation Trust Fund

27 Section 27.(A) Creation of fund. Effective January 1, 1990, there shall be
28 established in the state treasury as a special permanent trust fund the Transportation
29 Trust Fund ("the trust fund") in which shall be deposited the "excess revenues" as

1 defined herein which are a portion of the avails received in each year from all taxes
2 levied on gasoline and motor fuels and on special fuels (said avails being referred to
3 as the "revenues") as provided herein. After satisfying pledges respecting that
4 portion of the revenues attributable to the tax rates in effect at the time of such
5 pledges for the payment of obligations for bonds or other evidences of indebtedness
6 on the effective date of this Section, the treasurer shall allocate such portion of the
7 revenues received in each year as necessary to pay all principal, interest, premium,
8 if any, and other obligations incident to the issuance, security, and payment in
9 respect of bonds as authorized in Paragraph (C) hereof. Thereafter, the portion of the
10 revenues remaining shall be deposited in the Bond Security and Redemption Fund
11 in the state treasury. After (1) the payment of any obligations for bonds or other
12 evidences of indebtedness in existence on the effective date of this Section which are
13 secured by revenues; (2) payments in respect of bonds authorized in Paragraph (C)
14 hereof; and (3) credit to the Bond Security and Redemption Fund, the treasurer shall
15 deposit in and credit to the trust fund all of the revenues remaining (the "excess
16 revenues") from the avails of all taxes levied on gasoline and motor fuels and on
17 special fuels, as follows: for the fiscal year beginning July 1, 1989, the avails of
18 twelve cents per gallon of said taxes received on and after January 1, 1990; for the
19 fiscal year beginning on July 1, 1990, the avails of fourteen cents per gallon of said
20 taxes; for the fiscal year beginning on July 1, 1991, through the fiscal year beginning
21 on July 1, 2014, and thereafter, the avails of all taxes levied on gasoline and motor
22 fuels and on special fuels; for the fiscal year beginning on July 1, 2015, and
23 thereafter, the avails of taxes levied on gasoline and motor fuels and on special fuels
24 necessary to satisfy pledges respecting that portion of the revenues attributable to the
25 tax rates in effect at the time of such pledges for the payment of bond obligations or
26 other evidences of indebtedness on January 1, 2015, and the avails of other taxes
27 levied on gasoline and motor fuels and on special fuels as may be provided by law.
28 Purchases of gasoline, diesel fuel, or special fuels which are subject to excise tax
29 under Chapter 7 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950

1 shall be exempt from the state sales tax and any sales tax levied by a political
2 subdivision as defined by Article VI, Section 44(2). All monies appropriated by the
3 Federal Highway Administration and the Federal Aviation Administration, or their
4 successors, either reimbursed or paid directly, shall be paid directly or deposited in
5 and credited to the trust fund.

6 (B) The monies in the trust fund shall be appropriated or dedicated solely
7 and exclusively for the costs for and associated with construction and maintenance
8 of the roads and bridges of the state and federal highway systems, the Statewide
9 Flood-Control Program or its successor, ports, airports, transit, state police for traffic
10 control purposes, and the Parish Transportation Fund or its successor and for the
11 payment of all principal, interest, premium, if any, and other obligations incident to
12 the issuance, security, and payment in respect of bonds or other obligations payable
13 from the trust fund as authorized in Paragraph (D) hereof. Unless pledged to the
14 repayment of bonds authorized in Paragraphs (C) or (D) of this Section, the monies
15 in the trust fund allocated to ports, airports, flood control, parish transportation, and
16 state highway construction shall be appropriated annually by the legislature only
17 pursuant to programs established by law which establish a system of priorities for the
18 expenditure of such monies, except that the Transportation Infrastructure Model for
19 Economic Development, which shall include only those projects enumerated in
20 House Bill 17 of the 1989 First Extraordinary Session of the Legislature* and US
21 Highway 61 from Thompson Creek to the Mississippi Line, in lieu of "US 61-Bains
22 to Mississippi Line", and US Highway 165 from I-10 to Alexandria to Monroe to
23 Bastrop and thence on US Highway 425 from Bastrop to the Arkansas Line, in lieu
24 of "US 165-I-10 Alexandria-Monroe-Bastrop-Arkansas Line", and LA 15-Natchez,
25 Mississippi to Chase in lieu of "LA 15-Natchez, Mississippi to Monroe", shall be
26 funded as provided by law. The state generated tax monies appropriated for ports,
27 Parish Transportation Fund, or its successor, and the Statewide Flood-Control
28 Program, or its successor, and state police for traffic control purposes shall not
29 exceed twenty percent annually of the state generated tax revenues in the trust fund.;

1 provided, however, that no less than the avails of one cent of the tax on gasoline and
 2 special fuels shall be appropriated each year to the Parish Transportation Fund, or its
 3 successor. ~~The annual appropriation for airports shall be a sum equal to, but not~~
 4 ~~greater than, the annual estimated revenue to be derived from the state taxes to be~~
 5 ~~collected and received on aviation fuel.~~ Unencumbered and unexpended balances
 6 at the end of each fiscal year shall remain in the trust fund. The earnings realized in
 7 each fiscal year on the investment of monies in the trust fund shall be deposited in
 8 and credited to the trust fund.

9 * * *

10 Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members
 11 elected to each house concurring, that there shall be submitted to the electors of the state of
 12 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
 13 amend Article VIII, Section 13(A) and (B) of the Constitution of Louisiana, to read as
 14 follows:

15 ARTICLE VIII. EDUCATION

16 §13. Funding; Apportionment

17 Section 13.(A) Free School Books. The legislature ~~shall~~ may appropriate
 18 funds to supply free school books and other materials of instruction prescribed by the
 19 State Board of Elementary and Secondary Education to the children of this state at
 20 the elementary and secondary levels.

21 (B) ~~Minimum Foundation Program.~~ The State Board of Elementary and
 22 Secondary Education, or its successor, shall annually develop and adopt a formula
 23 which shall be used to ~~determine the cost of a minimum foundation program of~~
 24 ~~education in all public elementary and secondary schools as well as to equitably~~
 25 allocate the funds appropriated by the legislature pursuant to this Section for to
 26 parish and city school systems, all as provided by law. Such formula shall provide
 27 for a contribution by every city and parish school system. Prior to approval of the
 28 formula by the legislature, the legislature may return the formula adopted by the
 29 board to the board and may recommend to the board an amended formula for

1 consideration by the board and submission to the legislature for approval. The
 2 legislature shall annually appropriate funds ~~sufficient to fully fund the current cost~~
 3 ~~to the state of such a~~ program as determined by applying the approved formula in
 4 order to insure ~~a minimum foundation of education in all public elementary and~~
 5 ~~secondary schools~~ an equitable allocation of funds to parish and city school systems.
 6 ~~Neither the governor nor the legislature may reduce such appropriation, except that~~
 7 ~~the governor may reduce such appropriation using means provided in the act~~
 8 ~~containing the appropriation provided that any such reduction is consented to in~~
 9 ~~writing by two-thirds of the elected members of each house of the legislature.~~ The
 10 funds appropriated shall be equitably allocated to parish and city school systems
 11 according to the formula as adopted by the State Board of Elementary and Secondary
 12 Education, or its successor, and approved by the legislature ~~prior to making the~~
 13 ~~appropriation~~ as provided by law. Whenever the legislature fails to approve the
 14 formula most recently adopted by the board, or its successor, the last formula
 15 adopted by the board, or its successor, and approved by the legislature shall be used
 16 ~~for the determination of the cost of the minimum foundation program and for the~~
 17 allocation of funds appropriated.

18 * * *

19 Section 3. Be it resolved by the Legislature of Louisiana, two-thirds of the members
 20 elected to each house concurring, that there shall be submitted to the electors of the state of
 21 Louisiana, for their approval or rejection in the manner provided by law, a proposal to
 22 amend Article XII, Section 6(A)(1) of the Constitution of Louisiana, to read as follows:

23 ARTICLE XII. GENERAL PROVISIONS

24 §6. Lotteries; Gaming, Gambling, or Wagering

25 Section 6.(A) Lotteries. (1) The legislature may provide for the creation and
 26 operation of a state lottery and may create a special corporation for that purpose
 27 whose employees shall not be subject to state civil service. The net proceeds from
 28 the operation of the lottery shall be deposited in a special fund created in the state
 29 treasury entitled the Lottery Proceeds Fund. Amounts deposited in the fund shall not

1 be appropriated for expenditure in the same calendar year in which they are received.

2 The legislature shall annually appropriate from the fund ~~only for the purposes of the~~
3 ~~minimum foundation program and no more than five hundred thousand dollars for~~
4 ~~services related to compulsive and problem gaming~~ as may be provided by law.

5 * * *

6 Section 4. Be it further resolved that this proposed amendment shall be submitted
7 to the electors of the state of Louisiana at the statewide election to be held on November 4,
8 2014.

9 Section 5. Be it further resolved that on the official ballot to be used at the election,
10 there shall be printed a proposition, upon which the electors of the state shall be permitted
11 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
12 follows:

13 Do you support an amendment to remove certain constitutional funding
14 mandates and funding protections, including mandates and protections for
15 state supplemental pay, free school books, the Minimum Foundation
16 Program, the Coastal Protection and Restoration Fund, the Transportation
17 Trust Fund, the Parish Transportation Fund, and the Lottery Proceeds Fund?
18 (Amends Article VII, Sections 10(D)(3) and (F)(2)(a) and (b), 10.2(B), and
19 27(A) and (B), Article VIII, Section 13(A) and (B), and Article XII, Section
20 6(A)(1))

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)]

Carmody

HB No. 587

Abstract: Deletes mandatory expenditures and allocations of certain revenues in the constitution relative to state supplemental pay, the MFP, the Coastal Protection and Restoration Fund, the Transportation Trust Fund, the Parish Transportation Fund, and the Lottery Proceeds Fund.

Proposed constitutional amendment changes mandates regarding state supplemental pay, free school books, the Minimum Foundation Program (MFP), the Coastal Protection and Restoration Fund, deposits into the Transportation Trust Fund, and the Lottery Proceeds Fund as follows:

STATE SUPPLEMENTAL PAY

Present constitution requires the legislature to provide by law for the payment of state supplemental pay to full-time local law enforcement and fire protection officers, as determined by present law on July 1, 2003. Prohibits the reduction of any payments by the state and requires the legislature to fully fund the cost of state supplemental pay. Restricts the ability of the governor or legislature to reduce supplemental pay appropriations unless the reduction is by means contained in the appropriation Act and that 2/3 of the elected members of the legislature consent in writing to the reduction.

Proposed constitutional amendment deletes the present constitution mandate to fully fund state supplemental pay but instead provides that the legislature may provide by law for the payment of state supplemental pay to full-time law enforcement and fire protection officers.

FREE SCHOOL BOOKS

Present constitution requires the legislature to appropriate funds to supply free school books and other instruction materials prescribed by the State Board of Elementary and Secondary Education (BESE) to elementary and secondary schools of the state.

Proposed constitutional amendment deletes the present constitution mandate to appropriate such funds but instead provides that the legislature may appropriate such funds.

MINIMUM FOUNDATION PROGRAM (MFP)

Present constitution, relative to projected deficits in the current year, authorizes adjustments to constitutionally protected or mandated allocations or appropriations, not to exceed 5% of the total appropriation or allocation, if there is a projected deficit in the current fiscal year. Further restricts the reduction of expenditures for the MFP. Reductions shall not exceed 1% and shall not be applicable to instructional activities.

Present constitution, relative to projected deficits in future years, authorizes constitutionally protected or mandated allocations or appropriations, not to exceed 5% of the total appropriation or allocation for the current fiscal year, to be used for purposes other than those established by law or constitution, to avoid a budget deficit if recurring revenues are expected to decrease. Further restricts the reduction of expenditures for the MFP. Reductions shall not exceed 1% of current year expenditures.

Proposed constitutional amendment deletes the restrictions in present constitution relative to projected deficits regarding the MFP.

Present constitution requires BESE to annually develop and adopt a formula to determine the cost of a minimum foundation program for all public elementary and secondary schools as well as to equitably allocate the funds to parish and city school systems. Present constitution requires the legislature to appropriate sufficient funds to fully fund the current state cost to the state of a program of the MFP by applying the approved formula to insure a minimum foundation of education in all public elementary and secondary schools.

Proposed constitutional amendment provides that BESE shall develop and adopt a formula as provided by law and deletes the requirement that funds be sufficient to fully fund the cost of the program. Retains present constitution requirement that the program funding be applied to insure a minimum foundation of education in all public elementary and secondary schools.

Present constitution requires that, whenever the legislature fails to approve the formula most recently adopted by BESE, the last formula adopted by BESE and approved by the

legislature be used for determination of the cost of the MFP and for the allocation of appropriated funds.

Proposed constitutional amendment deletes the requirement that the last formula be used to determine the cost of the MFP but retains the requirement that the last formula be used to determine the allocation of appropriated funds.

Present constitution provides that the application of the approved formula is to insure a minimum foundation of education in all public elementary and public schools.

Proposed constitutional amendment deletes present constitution and instead provides that the application of the approved formula is to insure an equitable allocation of funds to parish and city school systems.

Present constitution prohibits the governor or the legislature from reducing the appropriation for the MFP, except that the governor may reduce the appropriation using means provided in the act containing the appropriation, provided that the reduction is consented to in writing by 2/3 of the elected members of each house of the legislature.

Proposed constitutional amendment deletes present constitution.

COASTAL PROTECTION AND RESTORATION FUND

Present constitution establishes the Coastal Protection and Restoration Fund in the state treasury. Requires that certain mineral revenues from severance taxes, royalty payments, bonus payments, or rentals be deposited into the Coastal Protection and Restoration Fund.

Present constitutional requires the following mineral revenues (net mineral revenues), after deposits into the Bond Security Redemption Fund, payments to the political subdivisions of the state of severance tax and royalty payments, and the Conservation Fund, be deposited into the Coastal Protection and Restoration Fund:

- (1) \$5 million of net mineral revenues.
- (2) \$10 million of net mineral revenues in excess of \$600 million.
- (3) \$10 million of net mineral revenues in excess of \$650 million.

Present constitution prohibits the balance in the Coastal Protection and Restoration Fund which consists of mineral revenues from severance taxes, royalty payments, bonus payments, or rentals, from exceeding an amount provided by law, but in no event shall the amount be less than \$500 million.

Proposed constitutional amendment deletes the requirements that net mineral revenues be deposited into the Coastal Protection and Restoration Fund but retains the limit on the balance in the Coastal Protection and Restoration Fund consisting of certain mineral revenues.

TRANSPORTATION TRUST FUND

Present constitution establishes the Transportation Trust Fund (TTF) as a special permanent trust fund in the state treasury. Present constitution requires that, after payment of certain revenue bonds and credit to the Bond Security and Redemption Fund, remaining revenues from all taxes levied on gasoline and motor fuels and on special fuels be deposited into the TTF.

Proposed constitutional amendment retains present constitution through Fiscal Year 2014-2015. For the fiscal year beginning on July 1, 2015, dedicates the avails of taxes levied on

gasoline, motor fuels, and on special fuels necessary to satisfy revenues pledged for debt service on Jan. 1, 2015, and the avails of other taxes levied on gasoline, motor fuels, and on special fuels as provided by law.

Present constitution requires that no less than the avails of one cent of the tax on gasoline and special fuels be appropriated each year to the Parish Transportation Fund, or its successor.

Proposed constitutional amendment deletes present constitution.

Present constitution requires the annual appropriation for airports to be equal to the annual estimated revenue to be derived from the state taxes to be collected and received on aviation fuel.

Proposed constitutional amendment deletes present constitution.

LOTTERY PROCEEDS FUND

Present constitution requires that the net proceeds from the operation of the lottery be deposited in a special treasury fund entitled the Lottery Proceeds Fund. Amounts deposited in the fund shall not be appropriated for expenditure in the same calendar year in which they are received.

Proposed constitutional amendment retains present constitution.

Present constitution requires the legislature to appropriate monies from the Lottery Proceeds Fund annually but only for the purposes of the MFP and no more than \$500,000 for services related to compulsive and problem gaming as provided by law.

Proposed constitutional amendment deletes the requirement that funds may only be appropriated for the MFP and services related to compulsive and problem gaming but retains the requirement that the legislature annually appropriate funds as provided by law.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 4, 2014.

(Amends Art. VII, §§10(D)(3) and (F)(2), 10.2(B), and 27(A) and (B), Art. VIII, §13(A) and (B), and Art. XII, §6(A)(1))