

**Law 21,200****MODIFIES CHAPTER XV OF THE POLITICAL CONSTITUTION OF THE REPUBLIC  
MINISTRY OF THE GENERAL SECRETARIAT OF THE PRESIDENCY**

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Bearing in mind that the Honorable National Congress has given its approval to the next constitutional reform project, originated in consolidated motions and messages; the first one, corresponding to the bulletin No. 7,769-07, from deputies Marcelo Schilling Rodríguez, Tucapel Jiménez Fuentes, Pedro Velásquez Seguel and Guillermo Teillier Del Valle, from deputies Cristina Girardi Lavín and Alejandra Sepulveda Orbenes, from former deputies Sergio Aguiló Melo, Felipe Harboe Bascuñán and Roberto León Ramírez, and from the former deputy Karla Rubilar Barahona; the second one, corresponding to the bulletin No. 7,792-07, from deputies Marcelo Díaz Díaz, Pepe Auth Stewart, Marcelo Schilling Rodríguez and Guillermo Teillier Del Valle, from deputy Alejandra Sepúlveda Orbenes, and former deputies Sergio Aguiló Melo, Osvaldo Andrade Lara, Aldo Cornejo González, Alfonso De Urresti Longton and Marcos Espinosa Monardes; the third one, corresponding to the bulletin No. 10,014-07, from deputies Karol Cariola Oliva, Maya Fernández Allende, Cristina Girardi Lavín, Marcela Hernando Perez and Camila Vallejo Dowling, from deputies Giorgio Jackson Drago and Leonardo Soto Ferrada, from former deputies Iván Fuentes Castillo and Gaspar Rivas Sanchez, and the former deputy Yasna Provoste Campillay; the fourth one, corresponding to the bulletin No. 10,193-07, from deputy Marcelo Schilling Rodríguez, and former deputies Osvaldo Andrade Lara and Guillermo Ceroni Fuentes; the fifth one, corresponding to the bulletin No. 11,173-07, from the former President of the Republic Michelle Bachelet Jeria; the sixth one, corresponding to the bulletin No. 12,630-07, from deputies Marcelo Díaz Díaz, Gabriel Boric Font, Tomás Hirsch Goldschmidt, Giorgio Jackson Drago, Vlado Mirosevic Verdugo, Jaime Mulet Martínez, Alexis Sepúlveda Soto and Raul Soto Mardones, and from deputies Andrea Parra Sauterel and Camila Vallejo Dowling; and the seventh one, corresponding to the bulletin No. 13,024-07, from deputies Loreto Carvajal Ambiado, Carolina Marzán Pinto and Andrea Parra Sauterel, and from deputies Ricardo Celis Araya, Rodrigo González Torres, Tucapel Jiménez Fuentes and Raul Soto Mardones:

## **Bill of Constitutional reform:**

**“Sole Article.-** The following amendments should be included to the Political Constitution of the Republic, whose restated, coordinated and systematized text is contained in the supreme decree No. 100 of 2005 of the Ministry General Secretariat of the Presidency:

1) Replace the title of Chapter XV with the following:

“REFORM OF THE CONSTITUTION AND THE PROCEDURE TO ELABORATE A NEW CONSTITUTION OF THE REPUBLIC”.

2) Add, before Article 127, the following new heading:

“Reform of the Constitution”.

3) Add, after Article 129, the following new heading and articles 130 to 143, which shall be comprised therein:

“Procedure to elaborate a New Political Constitution of the Republic

### **Article 130. National Referendum.**

Three days after the entry into force of this article, the President of the Republic shall call for a national level referendum by means of an exempt supreme decree by April 26, 2020.

In the abovementioned referendum, the citizens shall have two electoral ballots. The first one shall contain the following question: “Do you want a New Constitution?”. Under the question posed there will be two horizontal lines, one at the side of the other. The first line will have at its bottom the expression “I approve” and the second, the expression “I reject”, so that the voter can mark his or her preference over one of the alternatives.

The second ballot will contain the question: “What type of organ should draft the New Constitution?”. Under the question posed there will be two horizontal lines, one at the side of the other. The first line will have at its bottom the expression “Mixed Constitutional Convention” and the second, the expression “Constitutional Convention”. Under the expression “Mixed Constitutional Convention” the following sentence will be incorporated: “Composed equally of popularly elected members and parliamentarians in office”. Under the expression “Constitutional Convention” the following the sentence will be incorporated: “Composed exclusively of popularly elected members”, so that the voter can mark his or her preference over one of the alternatives.

For the purpose of this referendum, the relevant provisions contained in the following legal bodies shall apply, in their version in force as of January 1st 2020:

a) Law-ranking Decree No. 2 of 2017, from the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting, in the following passages: Chapter V, Chapter VI, with the exception of the sixth paragraph of Article 32 and Article 33, second to fourth paragraphs, Chapter VII, VIII, IX, X and XI of Title I; Title II to X inclusive; Title XII and XIII;

**b)** Law-ranking Decree No. 5 of 2017, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,556, constitutional organic law on the Voter Registration System and Electoral Service;

**c)** Law-ranking Decree No. 4 of 2017, from the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,603, constitutional organic law of Political Parties, in the following passages: Title I, V, VI, IX and X.

The free reception television channels shall use thirty minutes a day of its broadcasts free of charge to electoral propaganda on this referendum, giving expression to the two options contemplated in each ballot, in accordance with an agreement to be adopted by the National Television Council, which shall be published in the Official Gazette, within thirty days from the publication of the call to the national referendum, observing a strict equal promotion of the referendum options. This agreement may be claimed before the Qualifying Tribunal of Elections within a term of three days as from the publication of the agreement. The Qualifying Tribunal of Elections shall summarily resolve the claim within five days from the date of its respective filing.

The Qualifying Tribunal of Elections will take cognizance of the general election and declare approved those issues that have obtained more than half of the votes validly issued. For these purposes, null votes and blank votes shall be considered not cast. The qualification process of the national referendum must be completed within thirty days of the date of the latter. The proclamation resolution of the referendum shall be communicated within three days after its issuance to the President of the Republic and the National Congress.

If the citizenry had approved the elaboration of a new Constitution, the President of the Republic shall call, by means of an exempt supreme decree, within five days following the communication referred to in the previous paragraph, for the election of the members of the Mixed Constitutional Convention or Constitutional Convention, as appropriate. This election shall be realized on the same day that the elections of mayors, councilors and regional governors corresponding to the year 2020.

### **Article 131. Convention.**

For all purposes of this section, the term "Convention" shall deem - without further addition - to make reference to the Mixed Constitutional Convention and the Constitutional Convention, without any distinction.

The members of the Convention shall be referred as Conventional Constituents.

In addition to the provisions of Articles 139, 140, and 141 of the Constitution, the provisions relevant to the election of deputies, contained in the following legal bodies, in their text in force as of June 25, 2020, shall be applicable to the election of Conventional Constituents referred to in the final paragraph of Article 130:

**a)** Law-ranking Decree No. 2 of the year 2017, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting;

**b)** Law-ranking Decree No. 5 of the year 2017, from the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,556, constitutional organic law on the Voter Registration System and Electoral Service;

c) Law-ranking Decree No. 4 of the year 2017, from the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,603, constitutional organic law on Political Parties;

d) Law-ranking Decree No. 3 of the year 2017, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 19,884 on Transparency, Limits and Control of Electoral Spending.

The qualification process of the election of Conventional Constituents shall be completed within thirty days as from the date of the latter. The proclamation resolution shall be communicated within three days after its issuance to the President of the Republic and the National Congress.

### **Article 132. Requirements and incompatibilities of candidates.**

Those citizens who meet the requirements established in Article 13 of the Constitution may be Convention-eligible members.

No other requirement, disability or prohibition shall be applicable to candidates for this election, except as provided in this section and with the exception of the rules on affiliation and independence of candidates provided in Article 5, paragraphs fourth and sixth, of the Law-ranking Decree No. 2 of the year 2017, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting;

The Ministers of State, the intendants, the governors, the mayors, the regional councilors, the councilors, the under-secretaries, the regional ministerial secretaries, the heads of service, the members of the Council of the Central Bank, the members of the Electoral Service Board, members and officials of the different levels of the Judiciary, the Public Ministry, the General Comptroller of the Republic, as well as those of the Constitutional Tribunal, the Court for the Defense of Free Competition, of the Court of Public Procurement, of the Qualifying Tribunal of Elections and of the regional electoral courts, advisors to the Transparency Council, and active members of the Armed Forces and the Forces of Order and Public Security, who declare their candidacy for membership in the Convention, shall be removed from office solely by the ministry of the Constitution, from the moment of registering their candidature in the Special Record referred to in the first paragraph of Article 21 of the Law-ranking Decree No. 2 of the year 2017, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700. The above provisions shall apply to senators and deputies only with respect to the Constitutional Convention.

Persons holding a leadership position of a trade union or neighborhood nature shall suspend these functions from the moment of registering their candidature in the Special Registry mentioned in the previous paragraph.

### **Article 133. Operation of the Convention.**

Within three days after receipt of the communication indicated in the final paragraph of Article 131, the President of the Republic shall call, by means of an exempt supreme decree, for the first meeting of installation of the Convention, indicating also the place of the meeting. In case that the place is not indicated, the Convention shall be installed in the building of the National Congress. This installation shall be made within fifteen days of the date of publication of the decree.

At its first session, the Convention shall elect a President and a Vice President by absolute majority of its members in office.

The Convention shall adopt the rules and regulations for voting thereof by a quorum of two-thirds of their members in office.

The Convention may not modify the quorum or procedures for its operation and for the passing of resolutions.

The Convention shall establish a technical secretariat, which shall be composed by persons with proven academic or professional qualifications.

The President of the Republic, or the bodies he may appoint, shall be responsible to provide the necessary technical, administrative and financial support for the installation and operation of the Convention.

#### **Article 134. Statute of the Constitutional Conventions.**

To the members of the Convention, the provisions of the Articles 51, with the exception of the first and second paragraphs; 58, 59, 60 and 61 shall apply.

As of the proclamation of the Qualifying Tribunal of Elections, the public officials, with the exception of those mentioned in the third paragraph of Article 132, as well as employees of State-Owned enterprises, may make use of a permit without remuneration while serving the Convention, in which case the provisions of the first paragraph of Article 58 of the Constitution shall not apply to them.

The Conventional Constituents shall be subject to the rules of Law No. 20,880, on probity in public service and prevention of conflicts of interest, applicable to deputies, and to Law No. 20,730, which regulates the lobbying and the actions on behalf of particular interests before public authorities and officials.

The positions of parliamentarian and members of the Mixed Constitutional Convention shall be compatible. The deputies and senators who are members of this convention shall be exempted from their obligation to attend the chamber and committee sessions of the Congress during the period in which it is in operation. The National Congress may incorporate organizational measures for an adequate legislative work while the Mixed Constitutional Convention is in operation.

The members of the Convention, with the exception of the parliamentarians who are members of it, shall receive a monthly remuneration of 50 UTM (monthly indexation units), in addition to the allowances established in the Regulation of the Convention. Such allowances shall be administered by an external committee determined by the same Regulation.

#### **Article 135. Special Provisions.**

The Convention may not intervene or exercise any other function or power of other bodies or authorities established in this Constitution or in the laws.

As long as the New Constitution does not become effective in the form established in this section, this Constitution shall remain in full force and effect, without the Convention being able to deny its authority or modifying it.

In accordance with the first paragraph of Article 5 of the Constitution, while the Convention is in force the sovereignty resides essentially in the Nation and is exercised by the people through referendums and periodic elections that the Constitution and the laws determine, and also by the authorities who are established by this Constitution. It shall be unlawful for the Convention, any of its members or a fraction of them, to claim the exercise of sovereignty,

assuming other powers than those expressly recognized by this Constitution.

The text of the New Constitution to be submitted for a referendum shall respect the character of the Republic of the State of Chile, its democratic regime, the final and enforceable judgments and the international treaties ratified by Chile and currently in force.

#### **Article 136. Claim.**

A claim may be filed for a violation of the rules of procedure applicable to the Convention, contained in this section, and of those rules of procedure that emanate from the general agreements of the Convention itself. Under no circumstances may any claim be made about the content of the wording being drafted.

This complaint shall be heard by five Supreme Court judges, elected by lot by the same Court for each question raised.

The complaint shall be signed by at least a quarter of the members in office and must be filed before the Supreme Court within five days after the alleged violation became known.

The complaint shall indicate the violation claimed, which shall be essential, and the damage it causes.

The procedure for the knowledge and resolution of the claims shall be established in a self-regulation to be adopted by the Supreme Court, which may not be subject to the control established in article 93 number 2 of the Constitution.

The resolution that accepts the claim can only annul the act. In any case, it must be resolved within ten days from the time the matter became known. No action or appeal shall be admitted against the decisions referred to in this article.

No authority or court may hear actions, claims, or appeals related to the tasks assigned to the Convention by the Constitution, except as provided herein.

The claim referred to in this article may not be filed with respect to the final paragraph of Article 135 of the Constitution.

#### **Article 137. Extension of the term of operation of the Convention.**

The Convention shall draft and approve a proposed text of the New Constitution within the maximum period of nine months from its installation, which may be extended once for three months.

The aforementioned extension may be requested by the President of the Convention or by a third of its members, with an anticipation of no more than fifteen days and no more than five days prior to the expiration of the nine month period. Once the request has been submitted, a special session shall be summoned immediately, in which the President shall give a public account of the progress in the preparation of the proposed text of the New Constitution, with which the term shall be understood to be extended without further procedure. All these circumstances shall be recorded in the relevant minutes. The period of extension shall commence on the day following that on which the original period expires.

Once the proposed text of the New Constitution has been drafted and approved by the Convention, or the deadline or its extension has expired, the Convention shall be automatically dissolved.

#### **Article 138. Temporary provisions.**

The Convention may establish special provisions for the entry into force of one of the rules or chapters of the New Constitution.

The New Constitution may not put an early end to the period of the authorities elected by popular vote, unless those institutions that they are part of are suppressed or substantially modified.



The New Constitution shall establish the procedure by which the other authorities established by this Constitution shall cease or continue in their functions.

**Article 139. Composition of the Mixed Constitutional Convention.**

The Mixed Constitutional Convention shall be composed of 172 members, of which 86 shall correspond to citizens elected especially for these purposes and 86 parliamentarians who shall be elected by the Plenary Congress, composed of all the senators and deputies in office, who may present lists or electoral agreements, and shall be elected in accordance with the system established in article 121 of Law-ranking Decree No. 2, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting, regarding the election of deputies.

**Article 140. Electoral system of the Mixed Constitutional Convention.**

The non-parliamentary Conventional Constituents shall be elected in accordance with the rules established in article 121 of Law-ranking decree No. 2 of 2017, of the Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting, in its text in force as of June 25, 2020, and articles 187 and 188 of the same legal body shall be applicable, with the following amendments:

- 1st District that shall elect 2 Conventional Constituents;
- 2nd District that shall elect 2 Conventional Constituents;
- 3rd District that shall elect 3 Conventional Constituents;
- 4th District that shall elect 3 Conventional Constituents;
- 5th District that shall elect 4 Conventional Constituents;
- 6th District that shall elect 4 Conventional Constituents;
- 7th District that shall elect 4 Conventional Constituents;
- 8th District that shall elect 4 Conventional Constituents;
- 9th District that shall elect 4 Conventional Constituents;
- 10th District that shall elect 4 Conventional Constituents;
- 11th District that shall elect 3 Conventional Constituents;
- 12th District that shall elect 4 Conventional Constituents;
- 13th District that shall elect 3 Conventional Constituents;
- 14th District that shall elect 3 Conventional Constituents;
- 15th District that shall elect 3 Conventional Constituents;
- 16th District that shall elect 2 Conventional Constituents;
- 17th District that shall elect 4 Conventional Constituents;
- 18th District that shall elect 2 Conventional Constituents;
- 19th District that shall elect 3 Conventional Constituents;
- 20th District that shall elect 4 Conventional Constituents;
- 21st District that shall elect 3 Conventional Constituents;
- 22nd District that shall elect 2 Conventional Constituents;
- 23rd District that shall elect 4 Conventional Constituents;
- 24th District that shall elect 3 Conventional Constituents;

25th District that shall elect 2 Conventional Constituents;  
26th District that shall elect 3 Conventional Constituents;  
27th District that shall elect 2 Conventional Constituents; and  
28th District that shall elect 2 Conventional Constituents.

**Article 141. Composition of the Constitutional Convention.**

The Constitutional Convention shall be composed of 155 citizens especially elected for these purposes. For this purpose, the electoral districts established in articles 187 and 188, and the electoral system described in article 121, all from the Law-ranking Decree No.2, of the year 2017, of Ministry Secretariat General of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting, regarding the election of deputies, in its text in force as of June 25, shall be considered.

The members of the Constitutional Convention may not be candidates for a position of popular election while in office and for one year after leaving office at the Convention.

**Article 142. Constitutional Referendum.**

Once the proposal for a constitutional text approved by the Convention has been communicated to the President of the Republic, the latter shall call for a national constitutional referendum within three days following said communication, by means of an exempt supreme decree, so that the citizens may approve or reject the proposal.

Voting in this referendum shall be mandatory for those who have an electoral domicile in Chile.

The citizen who does not vote shall be sanctioned with a municipal fine of 0.5 to 3 UTM.

This sanction shall not be incurred by a citizen who has failed to comply with his obligation due to illness, absence from the country, to be in a place located more than two hundred kilometers from the place where his electoral domicile is registered, or due to another serious impediment, duly verified before the competent judge, who shall assess the evidence according to the logical and reasonable rules of evaluation and procedure.

Those persons who, during the conduct of the national constitutional referendum, perform functions entrusted by Law-ranking decree No. 2 of the year 2017, of Ministry General Secretariat of the Presidency, which establishes the restated, coordinated and systematized text of Law No. 18,700, constitutional organic law on Popular Votes and Vote Counting, shall be exempted from the sanction established in this article by remitting to the competent judge a certificate attesting to this circumstance.

The decision of the indicated infraction shall correspond to the local police court of the municipality where such infractions were committed, in accordance with the procedure established in Law No. 18,287.

In the referred referendum, the citizenry shall have an electoral ballot containing the following question, as corresponding to the Convention that proposed the text: "Do you approve the text of the New Constitution proposed by the Mixed Constitutional Convention" or "Do you approve the text of the New Constitution proposed by the Constitutional Convention". Under the question posed there will be two horizontal lines, one at the side to the other. The first line will have at its bottom the expression "I approve" and the second, the expression "I reject", so that the voter can mark his or her preference over one of the alternatives.

This referendum shall be held sixty days after the publication in the Official Gazette of the supreme decree referred to in the first paragraph, if that day is a Sunday, or the Sunday immediately following it.



However, if in accordance with the above rules the date of the referendum is within the period of sixty days before or after a popular vote as referred to in Articles 26, 47 and 49 of the Constitution, the day of the referendum shall be postponed until the following Sunday. If, as a result of the application of the preceding rule, the referendum falls in the month of January or February, the referendum shall be held on the first Sunday in March.

The qualification process of the national referendum must be concluded within thirty days from the date of the referendum. The proclamation resolution of the referendum shall be communicated within the three days following its issuance to the President of the Republic and the National Congress.

If the question posed to the citizenry in the national constitutional referendum is approved, the President of the Republic shall, within five days following the communication of the resolution referred to in the preceding paragraph, call for the Plenary Congress, in a public and solemn meeting, for the New Political Constitution of the Republic to be enacted and sworn or promised to be complied with. Said text shall be published in the Official Gazette within ten days following its enactment and shall enter into force on said date. As of this date, the present Political Constitution of the Republic, which restated, coordinated and systematized text is established in Supreme Decree No. 100 of 17 September 2005, shall be derogated.

The Constitution shall be printed and distributed free of charge to all educational establishments, public or private; municipal libraries, universities and state bodies. The judges and magistrates of the higher courts of justice should receive a copy of the Constitution.

If the question posed to the citizenry in the ratification referendum is rejected, this Constitution shall remain in force.

#### **Article 143. Referral.**

The provisions of the paragraphs fourth to sixth of article 130 shall apply to the constitutional referendum.”

Based on the grounds I had in mind to approve it, this law is hereby enacted as Law of the Republic.

Santiago, December 23, 2019.- SEBASTIÁN PIÑERA ECHENIQUE, President of the Republic.- Felipe Ward Edwards, Minister Secretary-General of the Presidency.- Gonzalo Blumel Mac-Iver, Minister of the Interior and Public Security.

I am transcribing this for your information. Yours sincerely, Juan Francisco Galli Basili, Deputy Secretary General of the Presidency.