

2020 Second Extraordinary Session

HOUSE BILL NO. 57

BY REPRESENTATIVE EDMONDS

LEGISLATIVE POWERS: Provides relative to the emergency powers of the governor (Items #1, 2, 28, and 41)

1 AN ACT

2 To amend and reenact R.S. 29:724(B) and 768 and to enact R.S. 29:724.1, relative to
3 emergency declarations; to provide relative to renewals of emergency declarations;
4 to authorize the legislature to approve renewal of emergency declarations; to provide
5 relative to voting requirements and procedures; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 29:724(B) and 768 are hereby amended and reenacted and R.S.
8 29:724.1 is hereby enacted to read as follows:

9 §724. Powers of the governor

10 * * *

11 B.(1)(a) A disaster or emergency, or both, shall be declared by executive
12 order or proclamation of the governor if he finds that a disaster or emergency has
13 occurred or the threat thereof is imminent. The state of disaster or emergency shall
14 continue until the governor finds that the threat of danger has passed or the disaster
15 or emergency has been dealt with to the extent that the emergency conditions no
16 longer exist and terminates the state of disaster or emergency by executive order or
17 proclamation, but no state of disaster or emergency ~~may~~ shall continue for longer
18 than thirty days unless ~~renewed by the governor~~ approved by a majority of the
19 surviving members of the legislature.

1 (b) If the legislature is in session, a vote of the majority of the surviving
 2 members shall take place within ten days of the governor's executive order or
 3 proclamation declaring a state of disaster or emergency. If the legislature is not in
 4 session, a vote of the majority of the surviving members of the legislature shall occur
 5 within fifteen days of the executive order or proclamation declaring a state of
 6 disaster or emergency through ballot voting as provided in R.S. 29:724.1.

7 (2) The legislature, by petition signed by a majority of the surviving
 8 members of either house, may terminate or modify a state of disaster or emergency
 9 at any time. This petition terminating or modifying the state of emergency or
 10 disaster may establish a period during which no other declaration of emergency or
 11 disaster may be issued. Thereupon, the governor shall issue an executive order or
 12 proclamation ending or modifying the state of disaster or emergency.

* * *

14 §724.1. Procedure for termination of a state of disaster or emergency or public
 15 health emergency; legislative voting

16 A.(1) In order to obtain the written consent of a majority of the surviving
 17 members of either house of the legislature, the clerk of the House of Representatives
 18 and the secretary of the Senate shall prepare and transmit a ballot to each member
 19 of the legislature as provided in this Subsection.

20 (2) The ballots shall be uniform.

21 (3) If more than one part of the petition is to be voted on, the ballot shall set
 22 forth each item in such form as to enable each member to cast his vote separately for
 23 or against each item.

24 (4) Each ballot shall include a place for the member to whom the ballot has
 25 been transmitted to provide his name and sign the ballot after casting his vote.

26 (5) The clerk and the secretary shall transmit the ballots to all of the
 27 members on the same day. The clerk and the secretary shall certify this date, which
 28 is referred to in this Subsection as the "transmittal date".

1 (6) The clerk and the secretary shall provide a notice to each member of the
2 legislature on the transmittal date. The notice shall include all of the following:

3 (a) The number of items on the ballot.

4 (b) The vote required for passage of the items on the ballot.

5 (c) The date and time by which the ballot shall be returned to the clerical
6 officer of the member's house in order to be valid.

7 (d) Such other pertinent information as the clerk and the secretary shall
8 determine.

9 (7)(a) The member shall cast his vote for each item on the ballot, provide his
10 name in the appropriate place on the ballot, sign the ballot, and return the voted
11 ballot to the clerical officer of his house.

12 (b)(i) The clerk and the secretary shall initiate and oversee the design and
13 implementation of a system to allow each member to electronically vote and return
14 his ballot as provided in Subparagraph (a) of this Paragraph. The system shall be
15 accurate and secure. The clerk and the secretary shall certify that the system meets
16 the requirements of this Subparagraph.

17 (ii) Notwithstanding the provisions of Paragraph (4) of this Subsection and
18 Subparagraph (a) of this Paragraph, if a member votes using a system certified as
19 provided in Item (i) of this Subparagraph, the member shall not be required to sign
20 his ballot.

21 (8)(a) The clerk and the secretary shall provide notice to each member from
22 whom the clerk or the secretary, as applicable, receives a voted ballot confirming
23 that the ballot has been received.

24 (b) On the tenth day after the transmittal date, the clerk and the secretary
25 shall provide a notice to each member whose voted ballot has not been received
26 indicating that the member's voted ballot has not been received and informing the
27 member of the deadline for returning the ballot.

1 B.(1) If the legislature is not in session on the transmittal date, the ballots
2 shall be returned to the clerk of the House of Representatives and the secretary of the
3 Senate no later than five o'clock p.m. on the fifteenth day after the transmittal date.

4 (2) When ballots are transmitted to the members of the legislature while in
5 session, they shall be returned to the clerk and the secretary no later than five o'clock
6 p.m. on the fifth day after the transmittal date.

7 (3) No ballot received by the clerk and the secretary after the deadline
8 provided in Paragraph (1) or (2) of this Subsection shall be valid or counted, but the
9 day and time received shall be recorded for each ballot received after such time, and
10 the ballot shall be marked "Invalid". However, prior to the deadline for returning a
11 ballot, a member may withdraw his ballot or change his vote upon his written
12 request.

13 (4) Whenever the clerk of the House of Representatives and the secretary of
14 the Senate are required to provide notice to a member of the legislature pursuant to
15 this Section, the notice shall be transmitted using the most efficient communication
16 medium available to the clerk or the secretary. Any such communication media may
17 include but is not limited to telephonic, e-mail, or SMS communications.

18 C.(1) On the next business day after the deadline for returning ballots as
19 provided in Paragraph (B)(1) or (2) of this Section, the clerk of the House of
20 Representatives and the secretary of the Senate shall tabulate the vote in roll call
21 order for each house of the legislature. The clerk and the secretary shall hold such
22 ballots under seal and shall not disclose the contents to any person until the day when
23 such ballots are tabulated. No ballot shall be deemed spoiled if inadvertently
24 disclosed in processing.

25 (2) The tabulation shall indicate by name those members who voted in favor
26 of each item, those who voted against each item, those who did not vote on one or
27 more items, those who did not return the ballot by the due date and time, and those
28 whose ballots were invalid because not signed by the member. The clerk and the
29 secretary shall sign the tabulation sheet or sheets and cause a summary thereof to be

1 transmitted to the governor. Approval by the requisite majority of the surviving
2 members of the legislature shall constitute approval of the petition to terminate a
3 state of disaster or emergency or public health emergency.

4 * * *

5 §768. Termination of declaration of public health emergency

6 A.(1) The state of public health emergency shall continue until the governor
7 finds that the threat of danger has passed or the disaster or emergency has been dealt
8 with to the extent that the emergency conditions no longer exist and terminates the
9 state of public health ~~or~~ emergency by executive order or proclamation, but no state
10 of public health emergency ~~may~~ shall continue for longer than thirty days unless
11 ~~renewed by the governor.~~ approved by a majority of the surviving members of the
12 legislature.

13 (2) If the legislature is in session, a vote of the majority of the surviving
14 members shall take place within ten days of the governor's executive order or
15 proclamation declaring a state of public health emergency. If the legislature is not
16 in session, a vote of the majority of the surviving members of the legislature shall
17 occur within fifteen days of the executive order or proclamation declaring a state of
18 public health emergency through ballot voting as provided in R.S. 29:724.1.

19 B. The legislature, in consultation with the public health authority, by a
20 petition signed by a majority of the surviving members of either house, may
21 terminate or modify a state of public health emergency at any time. This petition
22 terminating or modifying the public health emergency may establish a period during
23 which no other declaration of public health emergency may be issued. Thereupon,
24 the governor shall issue an executive order or proclamation ending or modifying the
25 state of public health ~~or~~ emergency.

26 * * *

27 Section 2. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.
-

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)]

HB 57 Original

2020 Second Extraordinary Session

Edmonds

Abstract: Requires legislative approval for renewal of gubernatorial emergency declarations continuing beyond 30 days, provides for a procedure for legislative approval of the renewal, and allows the legislature to modify gubernatorial emergency declarations.

Present law provides that a state of disaster, emergency, or public health emergency shall continue until the governor finds that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist and terminates the state of disaster, emergency, or public health emergency by executive order or proclamation.

Present law provides that a majority of the surviving members of either house of the legislature may terminate a state of disaster, emergency, or public health emergency at any time.

Present law authorizes the legislature to terminate an emergency declaration of a state of disaster, emergency, or public health emergency by petition of a majority of the surviving members of either house.

Present law further provides that the petition terminating the state of disaster, emergency, or public health emergency may establish a period during which no other declaration of emergency or disaster may be issued and that the governor shall issue an executive order or proclamation ending the state of disaster or emergency.

Proposed law retains present law but makes renewal of an emergency declaration to extend beyond 30 days subject to legislative approval.

Proposed law amends present law to allow the legislature to terminate or modify emergency declarations.

Proposed law provides that if the legislature is in session then the vote shall take place within 10 days of the executive order or proclamation.

Proposed law further provides that if the legislature is not in session then the vote shall take place within 15 days of the executive order or proclamation by ballot voting as provided by proposed law.

Proposed law provides the procedure to be used to vote when the legislature is not in session.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 29:724(B) and 768; Adds R.S. 29:724.1)