

2020 Second Extraordinary Session

SENATE BILL NO. 20

BY SENATOR HEWITT

EMERGENCY POWERS. Provides relative to voting and the holding of elections impaired as the result of a declared emergency or disaster. (1/1/21) (Item #5)

1 AN ACT

2 To amend and reenact R.S. 18:401.3(B)(1), (C), (D)(2)(a)(iii), (3), and (4), and to enact R.S.  
3 18:401.4 and R.S. 36:744(EE), relative to certification of an emergency and  
4 emergency election plan; to provide relative to certification requirements; to provide  
5 relative to approval requirements; to establish the Emergency Election Commission;  
6 to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:401.3(B)(1), (C), (D)(2)(a)(iii), (3), and (4) are hereby amended  
9 and reenacted and R.S. 18:401.4 is hereby enacted to read as follows:

10 §401.3. Emergency plan by secretary of state; ~~gubernatorial and legislative approval~~

11 B.(1)(a) After the issuance of an executive order by the governor declaring  
12 a state of emergency and if the secretary of state determines that such emergency  
13 impairs an election that may otherwise be held except for technical, mechanical, or  
14 logistical problems with respect to the relocation or consolidation of polling places  
15 within the parish, potential shortages of commissioners and absentee commissioners,  
16 or shortages of voting machines, the secretary of state shall certify such facts and the  
17 reasons therefor to the governor, ~~the Senate Committee on Senate and Governmental~~

1 ~~Affairs, and the House Committee on House and Governmental Affairs~~ **and the**  
 2 **Emergency Election Commission**. If the governor and a majority of the members  
 3 of each committee concur **commission concurs** that such an emergency plan is  
 4 necessary, the secretary of state shall develop an emergency plan in writing that  
 5 proposes a resolution to technical, mechanical, or logistical problems impairing the  
 6 holding of the election with respect to the relocation or consolidation of polling  
 7 places within the parish, potential shortages of commissioners and absentee  
 8 commissioners, or shortages of voting machines.

9 **(b) The secretary of state may present multiple plans to the commission**  
 10 **for consideration at any meeting.**

11 \* \* \*

12 C. The written emergency plan **or plans** shall be submitted by the secretary  
 13 of state to the ~~Senate Committee on Senate and Governmental Affairs, the House~~  
 14 ~~Committee on House and Governmental Affairs, and the governor~~ **Emergency**  
 15 **Election Commission** as soon as practicable following their concurrence with his  
 16 certification **of emergency**. If a majority of the members of the Senate Committee  
 17 ~~on Senate and Governmental Affairs and of the House Committee on House and~~  
 18 ~~Governmental Affairs approve the~~ **the commission approves an** emergency plan,  
 19 such plan shall be submitted to the members of each house of the legislature for  
 20 approval by mail ballot as provided in this Section. If a majority of the members of  
 21 each house of the legislature ~~and the governor~~ approve the emergency plan, the  
 22 secretary of state shall take all steps necessary to implement the plan and all officials  
 23 of the state and of any political subdivision thereof shall cooperate with and provide  
 24 assistance to the secretary of state as necessary to implement the plan.

25 D. \* \* \*

26 (2)(a)The ballot shall be uniform and the materials sent with the ballot shall  
 27 include:

28 \* \* \*

29 (iii) A copy of the roll call ~~votes of the Senate Committee on Senate and~~

1 ~~Governmental Affairs and the House Committee on House and Governmental~~  
2 ~~Affairs~~ vote of the Emergency Election Commission on the approval of the  
3 emergency plan.

4 \* \* \*

5 (3)(a) The ballots mailed to all members shall be postmarked on the same day  
6 and shall be returned to the secretary of the Senate or the clerk of the House of  
7 Representatives, as the case may be, within fifteen days after the postmarked date;  
8 or, when such ballots are delivered to the members of the legislature while in session,  
9 the ballots shall be returned to the secretary of the Senate or the clerk of the House  
10 of Representatives, as the case may be, within five days after the date the ballots  
11 were delivered to members. No ballot received after five o'clock p.m. on the fifth day  
12 after the date on which the ballots were delivered to the members during session or  
13 after five o'clock p.m. on the fifteenth day after the date on which the ballots were  
14 mailed shall be valid or counted, and the date and time received shall be marked on  
15 each such ballot and the ballot shall be marked "Invalid." Prior to five o'clock p.m.  
16 on the fifth day after the date when delivered to the members of the legislature while  
17 in session or prior to five o'clock p.m. on the fifteenth day after the postmarked date  
18 if mailed to the members of the legislature, a member may withdraw his ballot or  
19 change his vote upon his written request.

20 (b) If the emergency is declared within sixty days prior to the date of the  
21 election when the legislature is not in session, the Emergency Election  
22 Commission may require that ballots mailed to members be returned within  
23 five days after the postmarked date; or, when such ballots are delivered to the  
24 members of the legislature while in session, the ballots shall be returned to the  
25 secretary of the Senate or the clerk of the House of Representatives, as the case  
26 may be, within five days after the date the ballots were delivered to members.

27 (4) At any time after the deadline for submitting the ballots as provided in  
28 Paragraph ~~(3)~~ Subparagraph (3)(a) of this Subsection, but prior to the eighteenth  
29 day after the date on which the ballots were mailed, or prior to the eighth day after

1 the date on which the ballots were delivered to the members of the legislature in  
 2 session or mailed pursuant to Subparagraph (3)(b) of this Subsection, the  
 3 secretary of the Senate and the clerk of the House of Representatives shall jointly  
 4 open and tabulate the vote in roll call order for each house of the legislature.

5 \* \* \*

6 §401.4 Emergency Election Commission; creation; membership; meetings;  
 7 quorum; compensation; domicile

8 A. Creation; membership. The Emergency Election Commission is  
 9 hereby created within the Department of State. The commission shall be  
 10 composed of nine voting members and the Secretary of State, who shall serve  
 11 as chairman and shall vote only to break a tie. The commission shall be  
 12 composed as follows:

13 (1) The Secretary of State, or his designee.

14 (2) The chairman of the Senate and Governmental Affairs Committee,  
 15 or his designee.

16 (3) The chairman of the House and Governmental Affairs Committee,  
 17 or his designee.

18 (4) The Governor, or his designee.

19 (5) The Speaker of the House of Representatives, or his designee.

20 (6) The President of the Senate, or his designee.

21 (7) The chairman of the House republican delegation, or his designee.

22 (8) The chairman of the Senate republican delegation, or his designee.

23 (9) The chairman of the House democratic delegation, or his designee.

24 (10) The chairman of the Senate democratic delegation, or his designee.

25 B. Meetings. The commission shall meet as necessary upon the call of the  
 26 chairman. A majority of the members of the commission shall constitute a  
 27 quorum for the transaction of any and all business.

28 C. Compensation. Members shall serve without compensation or  
 29 reimbursement of expenses. Legislative members of the commission shall

1           receive the same per diem and reimbursement of travel expenses as is provided  
 2           for legislative committee meetings under the rules of the respective house in  
 3           which they serve.

4                   **D. Domicile. The commission shall be domiciled in Baton Rouge.**

5           Section 2. R.S. 36:744(EE) is hereby enacted to read as follows:

6           §744. Transfer of boards, commissions, and agencies to the Department of State

7   \*       \*       \*

8                   **EE. The Emergency Election Commission is placed within the**  
 9                   **Department of State as provided in R.S. 18:401.4.**

10           Section 3. This Act shall become effective on January 1, 2021; if vetoed by the  
 11           governor and subsequently approved by the legislature, this Act shall become effective on  
 12           January 1, 2021, or on the day following such approval by the legislature, whichever is later.

---

The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Matt DeVille.

---

DIGEST

SB 20 Engrossed

2020 Second Extraordinary Session

Hewitt

Proposed law creates the Emergency Election Commission within the Department of State; provides for its membership, meetings, quorum requirements, compensation policy, and domicile.

Present law provides that after the issuance of an executive order by the governor declaring a state of emergency and if the secretary of state determines that such emergency impairs an election that may otherwise be held except for technical, mechanical, or logistical problems with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, or shortages of voting machines, the secretary of state shall certify such facts and the reasons therefor to the governor, the Committee on Senate and Governmental Affairs, and the Committee on House and Governmental Affairs.

Proposed law provides that after the issuance of an executive order by the governor declaring a state of emergency and if the secretary of state determines that such emergency impairs an election that may otherwise be held except for technical, mechanical, or logistical problems with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, or shortages of voting machines, the secretary of state shall certify such facts and the reasons therefor to the governor and the Emergency Election Commission.

Present law provides that if the governor and a majority of the members of each committee concur that such an emergency plan is necessary, the secretary of state shall develop an emergency plan to address the logistical problems created by the emergency.

Proposed law provides that if the Emergency Election Commission concurs that such an emergency plan is necessary, the secretary of state shall develop an emergency plan to

address the logistical problems created by the emergency.

Present law provides that if the governor, Senate and Governmental Affairs Committee, and House and Government Affairs committee have certified the emergency, the secretary of state will develop and present a plan to the governor, Senate and Governmental Affairs Committee, and House and Governmental Affairs Committee for their approval.

Proposed law provides that once the Emergency Election Commission has certified the emergency, the secretary of state will develop and present a plan to the commission for their approval and that the secretary may present multiple plans at any meeting.

Present law provides that upon approval by a majority of the members of the Senate and Governmental Affairs Committee and House and Governmental Affairs Committee, the emergency election plan will be sent to members of each house of the legislature for approval by mail ballot.

Proposed law provides that upon approval by the Emergency Election Commission, the emergency election plan will be sent to members of each house of the legislature for approval by mail ballot.

Present law provides that upon approval by a majority of the members of each house of the legislature and the governor, the secretary of state will take all steps necessary to implement the plan.

Proposed law provides that upon approval by a majority of the members of each house of the legislature, the secretary of state will take all steps necessary to implement the plan.

Present law provides that a copy of the roll call votes of the Senate and Governmental Affairs Committee and the House and Governmental Affairs Committee on the approval of the emergency plan will be included in the mail ballots sent to members of both houses of the legislature and that the ballots must be returned to the secretary of the Senate or clerk of the House of Representatives within fifteen days of the postmarked date if the legislature is not in session or within five days after the date of delivery to members if the legislature is in session.

Proposed law provides that a copy of the roll call vote of the Emergency Election Commission on the approval of the emergency plan will be included in the mail ballots sent to members of both houses of the legislature and that the ballots must be returned to the secretary of the Senate or clerk of the House of Representatives within fifteen days of the postmarked date if the legislature is not in session or within five days after the date of delivery to members if the legislature is in session unless the emergency is declared within sixty days prior to the date of the election, whereupon the commission may elect to require the ballots returned within five days of being postmarked if the legislature is not in session.

Effective January 1, 2021.

(Amends R.S. 18:401.3(B)(1), (C), (D)(2)(a)(iii), (3), and (4); adds R.S. 18:401.4 and R.S. 36:744(EE))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Technical amendment