

2020 Second Extraordinary Session

HOUSE BILL NO. 4

BY REPRESENTATIVES WRIGHT, BACALA, HODGES, MIGUEZ, NELSON, AND TARVER

EMERGENCY PREPAREDNESS: Provides relative to emergency declarations (Items #1, 2, and 28)

1 AN ACT

2 To amend and reenact R.S. 29:724(B)(1) and 768(A) and to enact R.S. 29:768.1, relative to
3 emergency declarations; to provide relative to the renewal of emergency
4 declarations; to provide for legislative power and authority regarding renewal of
5 emergency declarations; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 29:724(B)(1) and 768(A) are hereby amended and reenacted and R.S.
8 29:768.1 is hereby enacted to read as follows:

9 §724. Powers of the governor

* * *

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

proclamation shall be subject to termination by either house of the legislature in the manner provided by R.S. 29:768.1.

* * *

4 §768. Termination of declaration of public health emergency

5 A. The state of public health emergency shall continue until the governor
6 finds that the threat of danger has passed or the disaster or emergency has been dealt
7 with to the extent that the emergency conditions no longer exist and terminates the
8 state of public health or emergency by executive order or proclamation, but no state
9 of public health emergency may continue for longer than thirty days unless renewed
10 by the governor. A renewal of a public health emergency or specific terms
11 prescribed by the governor in such an order or proclamation shall be subject to
12 termination by either house of the legislature in the manner provided by R.S.
13 29:768.1.

* * *

15 §768.1. Procedure for legislative approval of a renewal of an emergency or disaster
16 declaration

17 A. Once the governor has renewed a state of disaster or emergency or a state
18 of public health emergency, the speaker of the House of Representatives, the
19 president of the Senate, the speaker pro tempore of the House of Representatives,
20 and the president pro tempore of the Senate shall immediately review the order or
21 proclamation and the terms prescribed by the governor in such order or
22 proclamation. If at least three of the four legislative officers concur that the order
23 or proclamation or that the terms prescribed by the governor in such order or
24 proclamation exceed the authority granted to the governor by law or are not narrowly
25 tailored to address the disaster or emergency or public health emergency, the
26 presiding officers of the legislature shall immediately transmit to the governor a
27 concise description of the issues which cites the specific order or proclamation, and
28 if applicable, the specific sections or subsections of the order or proclamation.
29 Further, the presiding officers of the legislature shall direct the clerical officer of

1 each house of the legislature to immediately jointly prepare and transmit a ballot to
2 each surviving member of the legislature as provided in this Section.

3 B.(1) The ballots shall be uniform.

4 (2) Each ballot shall contain each issue identified in the description required
5 by Subsection A of this Section set forth in such a manner to enable each member
6 to cast his vote separately for or against terminating the governor's authority
7 regarding each issue.

8 (3) Each ballot shall include a place for the member to whom the ballot has
9 been transmitted to provide his name and validate his ballot after casting his vote.

10 (4) The clerk of the House of Representatives and the secretary of the Senate
11 shall transmit the ballots to all of the surviving members on the same day. The clerk
12 and the secretary shall certify this date, which is referred to in this Subsection as the
13 "transmittal date".

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

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

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

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

20 (d) Such other pertinent information as the clerk and the secretary shall
21 determine.

22 (6) The member shall cast his vote for each item on the ballot, provide his
23 name in the appropriate place on the ballot, and return the voted ballot to the clerical
24 officer of his house.

25 (7)(a) The clerk and the secretary shall provide notice to each member from
26 whom the clerk or the secretary, as applicable, receives a voted ballot confirming
27 that the ballot has been received.

28 (b) On the fourth day after the transmittal date, the clerk and the secretary
29 shall provide a notice to each member whose voted ballot has not been received

1 indicating that the member's voted ballot has not been received and informing the
2 member of the deadline for returning the ballot.

3 (8) Ballots shall be returned to the clerk and the secretary no later than five
4 o'clock p.m. on the fifth day after the transmittal date.

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

11 (10)(a) Whenever the clerk of the House of Representatives and the secretary
12 of the Senate are to transmit a ballot or notice to a member of the legislature pursuant
13 to this Subsection, the ballot or notice shall be transmitted using the most efficient
14 medium available to the clerk or the secretary under the circumstances and may
15 include but is not limited to electronic mail or SMS communications. Any such
16 medium shall provide for notice of receipt and the records of all such transmittals
17 and notices shall be maintained and preserved for a least six months following the
18 tabulation.

19 (b) The clerk and the secretary shall devise a method for a member to
20 validate his ballot which may include signature, personal identification number, or
21 other secure method.

22 C.(1) On the next business day after the deadline for returning ballots as
23 provided in Paragraph (B)(8) of this Section, the clerk of the House of
24 Representatives and the secretary of the Senate shall tabulate the vote in roll call
25 order for each house of the legislature. The clerk and the secretary shall hold such
26 ballots under seal and shall not disclose the contents to any person until the day when
27 such ballots are tabulated. No ballot shall be deemed spoiled if inadvertently
28 disclosed in processing.

1 (2) The tabulation shall indicate by name those members who voted in favor
2 of each item, those who voted against each item, those who did not vote on one or
3 more items, those who did not return the ballot by the due date and time, and those
4 whose ballots were invalid because not signed by the member. The clerk and the
5 secretary shall sign the tabulation sheet or sheets and cause a summary thereof to be
6 transmitted to each member of the legislature and the governor. Further, the clerk
7 and the secretary shall disseminate the tabulation promptly by means calculated to
8 bring its contents to the attention of the general public and promptly file it with the
9 Governor's Office of Homeland Security and Emergency Preparedness and with the
10 secretary of state, and if the ballot involved a public health emergency, with the
11 Louisiana Department of Health, office of public health.

12 D. If a majority of the surviving members of either house of the legislature
13 vote in favor of terminating the governor's authority regarding an issue on the ballot,
14 then that order or proclamation or section or subsection of such order or
15 proclamation, as the case may be, is deemed terminated and of no effect as of the
16 date and time the tabulation is transmitted to the governor.

17 Section 2. This Act shall become effective upon signature by the governor or, if not
18 signed by the governor, upon expiration of the time for bills to become law without signature
19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
21 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 4 Engrossed

2020 Second Extraordinary Session

Wright

Abstract: Provides procedures for either house of the legislature to terminate renewals of emergency declarations or specific provisions therein.

Present law provides that a disaster, emergency, or public health emergency shall be declared by executive order or proclamation of the governor if the governor finds that a disaster or emergency has occurred or the threat thereof is imminent.

Present law also provides that the 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 no state of disaster, emergency, or public health emergency may continue for longer than 30 days unless renewed by the governor. Present law provides that the legislature, by petition signed by a majority of the surviving members of either house, may terminate a state of disaster or emergency at any time. In cases of a public health emergency, provides that the legislature, in consultation with the public health authority, by petition signed by a majority of the surviving members of either house, may terminate a state of disaster or emergency at any time.

Proposed law additionally provides a method for either house of the legislature to terminate a renewal of a state of disaster or emergency or public health emergency or specific terms prescribed by the governor in the order or declaration. Provides that the presiding officers and the pro tempores immediately review the order or proclamation and the terms prescribed in the order or proclamation. If at least three of the four legislative officers concur that the order or proclamation or the terms prescribed within it exceed the authority granted to the governor or are not narrowly tailored to address the situation, the presiding officers are to immediately transmit to the governor a concise description of the issues and direct the legislative clerical officers to prepare and transmit a ballot to each surviving member. Provides procedures including requiring the ballot to be uniform and set forth in a manner to enable each member to cast a vote for or against each issue. Provides for the clerical officers to transmit the ballots to each member on the same day and include a notice to each member regarding the number of items, the vote required, the deadline for the ballot to be returned to the clerical officer and any other information deemed pertinent. Requires the ballots to be returned no later than 5:00 p.m. on the fifth day after transmittal. Provides procedures for tabulation of the ballots.

Proposed law provides that the tabulation shall be transmitted promptly to each member and the governor and also disseminated by means calculated to bring its contents to the attention of the public and filed with the Governor's Office of Homeland Security and Emergency Preparedness and the secretary of state, and if a public health emergency, the La. Dept. of Health, office of public health.

Proposed law provides that if a majority of the surviving members of either house of the legislature vote in favor of terminating the governor's authority regarding an issue on the ballot, then that order or proclamation or section or subsection of such order or proclamation, as the case may be, is deemed terminated and of no effect as of the date and time the tabulation is transmitted to the governor.

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

(Amends R.S. 29:724(B)(1) and 768(A); Adds R.S. 29:768.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Authorize a renewal of a state of disaster or emergency or public health emergency as provided in present law, but provide a procedure for either house of the legislature to terminate a renewal of a state of disaster or emergency or public health emergency or specific sections or subsections thereof.

2. Require review of the renewal by the presiding officers and pro tempores of the legislature and provides that if those legislative officers make certain determinations regarding the renewal, they must transmit those concerns to the governor and direct the clerical officers to prepare and transmit a ballot to the surviving members regarding the specific issues.
3. Provide for the ballot process and duties of the clerical officers of the legislature relative thereto.
4. Provide that if a majority of the surviving members vote to terminate the governor's authority regarding an issue on the ballot, then that order or proclamation or section or subsection of such order or proclamation, as the case may be, is deemed terminated.