

2016 Regular Session

HOUSE BILL NO. 796

BY REPRESENTATIVES BISHOP AND SHADOIN

MUNICIPALITIES: Provides relative to the dissolution of municipalities

1 AN ACT

2 To amend and reenact Subpart B of Part VI of Chapter 1 of Title 33 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 33:251 through 261, relative to the
4 dissolution of certain municipalities; to provide relative to the procedures for
5 dissolution; to make changes with respect to such procedures; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Subpart B of Part VI of Chapter 1 of Title 33 of the Louisiana Revised
9 Statutes of 1950, to be comprised of R.S. 33:251 through 261, is hereby amended and
10 reenacted to read as follows:

11 SUBPART B. DISSOLUTION BY PETITION AND ELECTION

12 §251. Petition for dissolution of ~~municipality having population of less than 2500~~
13 any municipality with a population of not more than twenty-five hundred
14 persons

15 A. ~~When in any municipality having a population of not more than twenty-~~
16 ~~five hundred a petition signed by a majority in number and amount of the property~~
17 ~~taxpayers qualified to vote is presented to the governing authority of the~~
18 ~~municipality, praying for the surrender of the charter and the dissolution of the~~
19 ~~municipal corporation, the governing authority by resolution shall immediately order~~
20 ~~a special election for the purpose of determining whether the charter should be~~

1 ~~surrendered and the municipality dissolved.~~ If the surrender of the charter and
2 dissolution of a municipality with a population of not more than twenty-five hundred
3 persons according the latest federal decennial census is sought, a petition shall be
4 submitted to the governing authority of the municipality, referred to in this Subpart
5 as the "local governing authority". The petition shall be limited to the request that
6 an election be called and held in the municipality for the purpose of determining
7 whether the municipality shall be dissolved, shall be signed by a majority of the
8 qualified electors of the municipality as certified by the registrar of voters, and shall
9 be in compliance with the provisions of R.S. 18:3.

10 B. If the petition meets the requirements of Subsection A of this Section,
11 then the local governing authority shall adopt a resolution calling a special election,
12 for the purpose specified in Subsection A of this Section, to be held within the
13 municipality on any of the dates set forth in R.S. 18:402(F).

14 §252. ~~Notice of election on issue of dissolution of municipality~~ Procedures; notice
15 of election

16 ~~Notice of the special election, stating the proposition to be submitted at the~~
17 ~~election, the date of the election, and the date, hour and place that the authority~~
18 ~~ordering the election will, in open session, open the ballot box, canvass the returns~~
19 ~~and declare the result, shall be published for thirty days in a newspaper published in~~
20 ~~the municipality; if there be no newspaper published therein, then in a newspaper~~
21 ~~published in the parish in which the municipality is situated; or if there be no~~
22 ~~newspaper published in the parish, the publication shall be made in a newspaper~~
23 ~~published in an adjoining parish, and by posting in three public places in the~~
24 ~~municipality ordering the election. Publication in a newspaper once a week for four~~
25 ~~consecutive weeks shall constitute a publication for thirty days. Thirty days shall~~
26 ~~intervene between the date of the first publication and the day of the election.~~

27 The procedures for the election and notice of the election shall be in
28 compliance with the provisions of Chapter 6-A and Chapter 6-B of Title 18 of the
29 Louisiana Revised Statutes of 1950.

~~§253. List of persons entitled to vote and valuation of their property; affidavits for persons omitted~~

~~Only property taxpayers qualified as electors may vote at this special election.~~

~~The registrar of voters shall furnish to the election commissioners appointed to hold the special election a list of the taxpayers entitled to vote at the election, together with the valuation of each taxpayer's property, as shown by the last assessment roll filed prior to the election. If any taxpayer's name and valuation of property is omitted from the list or erroneously entered thereon, the commissioners of the election may receive affidavits of the taxpayer's right to vote and the proper assessed valuation of his property, which affidavits shall be attached to the taxpayer's ballot. No defect in the list of voters furnished by the registrar of voters shall affect the validity of the election unless it be established that voters were thereby deprived of votes sufficient in number and amount to have changed the result of the election.~~

~~§254. Governing authority of municipality to arrange for election; appointment of commissioners and clerk~~

~~The governing authority of the municipality ordering the special election shall designate the polling place; provide the ballot box, ballots, the valuations of property and compiled statement of the voters in number and amount; appoint for each polling place, three commissioners and one clerk of election, all of whom shall be property taxpayers qualified to vote in the municipality, and fix their compensation.~~

~~§255;~~§253. Form of ballot

~~The ballots to be used at the special election shall be in substantially the following form:~~

Shall the Charter of the municipality of

_____ YES _____

(Name of municipality)

be surrendered and the municipality dissolved? _____ NO _____

1 Taxable valuation of Voter's Property \$ _____

2 _____

3 Signature of Voter.

4 ~~Notice to Voters:~~

5 To vote in favor of the proposition submitted on this ballot, place a cross (X)

6 mark in the square after the word "YES"; to vote against it, place a similar mark after

7 the word "NO".

8 The ballot for the election shall provide as follows:

9 "PROPOSITION ELECTION

10 Shall the Charter of the municipality of _____ be surrendered

11 and the municipality dissolved?".

12 ~~§256:§254. Oath of commissioners and clerks; power to administer oaths and~~

13 ~~receive affidavits~~ Election officers; oath

14 ~~Commissioners and clerks of the special election, before opening the polls,~~

15 ~~shall be sworn to perform all the duties incumbent on them, by any officer authorized~~

16 ~~to administer oaths, or by the clerk, and each commissioner may be sworn before any~~

17 ~~other commissioner. The commissioners of election may administer any oath and~~

18 ~~receive any affidavit provided for in this Sub-part.~~ Commissioners-in-charge and

19 commissioners shall take the oath or affirmation provided in R.S. 18:424 and R.S.

20 18:425.

21 ~~§257:§255. Substitute commissioners or clerks~~ Elections officers; substitutes

22 ~~If any commissioner or clerk of the election is unable, fails or neglects to~~

23 ~~attend or serve at the polling place designated, at the hour fixed for opening of the~~

24 ~~polling place, or within one hour thereafter, the commissioners present shall appoint,~~

25 ~~or, in the absence of all commissioners, the voters present shall elect the necessary~~

26 ~~number of commissioners and clerks, who shall have the same powers,~~

27 ~~compensation, and duties, as other commissioners and clerks and who shall serve in~~

28 ~~the place of the absentee or delinquent appointees.~~ The commissioner-in-charge and

29 the commissioners shall be present at the polling place at least thirty minutes prior

1 to the time the polls are open. A commissioner-in-charge who fails to so appear shall
2 be replaced in accordance with R.S. 18:433(H). If any commissioner fails to so
3 appear, or if the number of commissioners present is less than the number necessary
4 to conduct the election as previously established by the local governing authority, the
5 commissioner-in-charge shall appoint the necessary number of commissioners in
6 accordance with R.S. 18:434(D)(2).

7 ~~§258. Time polls are to be open~~

8 ~~The polls shall open on the day appointed at 7 o'clock a.m., and remain open~~
9 ~~until, and not later than, 6 o'clock p.m. No election shall be vitiated by a failure to~~
10 ~~open the polls at the time prescribed or by closing them before the time prescribed,~~
11 ~~unless on a contest it be established that voters were thereby deprived of votes~~
12 ~~sufficient in number and amount to have changed the result of the election.~~

13 ~~§259;§256. Casting ballots~~ Applicable election laws

14 ~~Each voter's name shall be written on his ballot. The commissioners of the~~
15 ~~election shall receive the ballot of each voter, check his name on the list of voters~~
16 ~~furnished by the registrar as having voted, enter and number his name on the list of~~
17 ~~taxpayers voting, and immediately deposit his ballot in the ballot box, reserving to~~
18 ~~each voter the right to fold his ballot so that it is not known at the time of the voting~~
19 ~~whether he voted for or against the proposition submitted. The election laws of this~~
20 ~~state applicable to other elections held under Part V and VI of Chapter 5, Chapter 6-~~
21 ~~A, Chapter 6-B, Chapter 7, Chapter 8, Chapter 8-A, and Chapter 9 of Title 18 of the~~
22 ~~Louisiana Revised Statutes of 1950 shall govern elections held pursuant to this~~
23 ~~Subpart.~~

24 ~~§260. Challenging right to vote~~

25 ~~If the vote of any taxpayer is challenged, the commissioners of the election~~
26 ~~shall permit him to vote and shall receive in writing the ground of challenge, signed~~
27 ~~by the challenger, together with the challenged taxpayer's statement of his asserted~~
28 ~~right to vote, and attach the challenge and statement to his ballot.~~

1 ~~§261. Counting ballots; disposition of ballots and duplicate returns~~

2 ~~Immediately after the closing of the polls, the commissioners shall, in the~~
3 ~~presence of the bystanders, open the ballot box, count the ballots found therein,~~
4 ~~check the same with the list of voters, and count the ballots in number and amount.~~
5 ~~The commissioners shall keep duplicate tally sheets showing the votes in number in~~
6 ~~favor of and against the proposition submitted, and showing the valuation of property~~
7 ~~in favor of and against the same, and shall make duplicate compiled statements of~~
8 ~~the votes in number and amount, both in favor of and against the proposition~~
9 ~~submitted. Each commissioner shall swear to the correctness of the numbered list~~
10 ~~of voters, the duplicate tally sheets and duplicate compiled statements, and the~~
11 ~~commissioners shall then deposit the ballots, the registrar's list of voters, the~~
12 ~~numbered list of taxpayers voting, one duplicate tally sheet and one duplicate~~
13 ~~compiled statement, in the ballot box, immediately seal the ballot box, and within~~
14 ~~twenty-four hours after the closing of the polls, deliver the sealed ballot box with its~~
15 ~~contents to the authority ordering the election, and shall, within the period, deliver~~
16 ~~the duplicate tally sheet and the duplicate compiled statement to the clerk of the~~
17 ~~district court of the parish in which the election was held, who shall file the same in~~
18 ~~his office.~~

19 ~~§262; §257. Canvassing returns; transmitting copies of proces verbal; promulgation~~
20 ~~of result~~ Canvass of returns; proces verbal

21 ~~On the day and at the hour and place named in the notice of election, the~~
22 ~~authority ordering the election shall, in public session, open each ballot box, examine~~
23 ~~and count the ballots in number and amount, examine and canvass the returns and~~
24 ~~declare the result of the election.~~

25 ~~The authority ordering the election shall keep a proces verbal of the canvass~~
26 ~~of the election returns and shall forward one copy thereof to the Secretary of State,~~
27 ~~who shall record it, a second copy to the clerk of the district court, who shall record~~
28 ~~it in the mortgage records of the parish, and a third copy to the governor. The result~~
29 ~~of the election shall be promulgated by publication in one issue of a newspaper~~

1 ~~published within the municipality, or if there be none, in a newspaper published in~~
2 ~~the parish in which the municipality is situated or in an adjoining parish if no~~
3 ~~newspaper is published in the parish.~~

4 A. On the date and at the hour and place specified in the notice of election,
5 the local governing authority ordering the election, in public session, shall examine
6 and canvass the returns and declare the result of the election. The result shall be
7 promulgated by one publication in a newspaper of general circulation in the
8 municipality or, if there is none, in a newspaper of general circulation in the parish,
9 or if there is no newspaper of general circulation in the parish, then in a newspaper
10 of general circulation in an adjoining parish.

11 B. The local governing authority ordering the election shall preserve a proces
12 verbal of the canvass. The governing authority shall forward a copy of the proces
13 verbal to the secretary of state, who shall record it. A copy also shall be forwarded
14 to the clerk of the district court, and in Orleans Parish to the clerk of the civil district
15 court, who shall record it in the mortgage records. A copy shall be retained in the
16 archives of the office of the local governing authority ordering the election.

17 ~~§263:§258. Sixty days for election contest; proclamation of dissolution~~ Contests

18 ~~Any cause or right of action to contest the validity of the special election shall~~
19 ~~be prescribed after a period of sixty days from the date of the promulgation of the~~
20 ~~result of the election. If the validity of the election has not been judicially raised~~
21 ~~within this period, no court shall thereafter have authority to inquire into the matter.~~
22 ~~After the sixty-day period, if it appears from the proces verbal of the canvass of~~
23 ~~election returns provided for in R.S. 33:262 that a majority in number and amount~~
24 ~~of the taxpayers entitled to vote at the election have voted in favor of surrendering~~
25 ~~the charter and dissolving the corporation, and if no judicial contest thereof has been~~
26 ~~entered, the Governor shall issue his proclamation, declaring the charter of the~~
27 ~~corporation surrendered and the municipality dissolved.~~

28 For sixty days after promulgation of the results of an election held under Part
29 VI, Subpart B of this Chapter, any person in interest may contest the legality of the

1 election as provided in Chapter 9 of Title 18 of the Louisiana Revised Statutes of
2 1950. After that time no one shall have any cause or right of action to contest the
3 regularity, formality, or legality of the election. If the validity of the election is not
4 raised within the sixty days, the authority to dissolve the municipality shall be
5 conclusively presumed to be valid, and no court shall have authority to inquire into
6 such matters.

7 ~~§264.~~§259. Tax levy by police jury to liquidate municipal indebtedness

8 If any ~~municipal corporation~~ municipality is dissolved and its charter
9 surrendered under the provisions of this ~~Sub-part~~ Subpart, and is, on the day of
10 dissolution, indebted in any sum to any person, the police jury of the parish in which
11 the municipality is situated shall levy such tax as the governing authority of the
12 municipality could have legally levied, for the purpose of liquidating the outstanding
13 indebtedness of the municipality.

14 ~~§265.~~§260. Liquidation of other affairs of municipality

15 The governing authority of a municipality dissolved under this ~~Sub-part~~
16 Subpart, in office at the time of its dissolution shall liquidate the other affairs of the
17 municipality as speedily as possible and shall continue in office until the final
18 settlement thereof.

19 ~~§266.~~§261. Disposition of surplus funds of municipality

20 If after the payment of all the debts of a municipality dissolved under this
21 ~~Sub-part~~ Subpart, any balance of money remains, it shall be turned over to the school
22 board of the parish to be used in the education of the children of school age residing
23 within the territory covered by the municipality.

24 Section 2. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 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 796 Reengrossed

2016 Regular Session

Bishop

Abstract: Changes the procedures for the dissolution of municipalities with a population of not more than 2,500 persons.

Present law requires a municipal governing authority in any municipality with a population of not more than 2,500 persons to call an election for the purpose of determining whether the municipality shall be dissolved and its charter surrendered if presented with a petition signed by a majority in number and amount of the property taxpayers of the municipality.

Proposed law removes present law and instead requires a municipal governing authority in any such municipality to call an election for such purpose if presented with a petition signed by a majority of the qualified electors of the municipality. Requires that the petition be limited to a request that an election be called and held in the municipality. Additionally requires that the petition be in compliance with present law (R.S. 18:3) relative to the content of petitions submitted to a registrar of voters for certification.

Present law requires that a notice of the election be published for 30 days in a newspaper published in the municipality. Requires that the notice state the proposition to be submitted and include the date of the election. Provides further with respect to the content of the notice.

Proposed law removes present law and requires that the procedures for the election and notice of the election be in compliance with the provisions of present law (the La. Election Code).

Present law requires the registrar of voters to furnish the election commissioners a list of taxpayers entitled to vote at the election, together with the valuation of each taxpayer's property, as shown by the last assessment roll filed prior to the election. Requires the municipal governing authority to designate the polling place, provide the ballot box, ballots, and the valuations of property and compiled statement of voters in number and amount.

Proposed law removes present law.

Present law provides relative to the content of the ballot, including the question of whether the municipality be dissolved and its charter surrendered and a statement of the taxable valuation of a voter's property. Proposed law provides for inclusion of only the question of whether the municipality shall be dissolved and its charter surrendered.

Present law requires that commissioners and clerks, before the polls open, be sworn to perform all the duties incumbent on them. Proposed law instead requires commissioners-in-charge and commissioners to take the oath or affirmation as provided in present law (the La. Election Code).

Present law provides for the appointment of substitute commissioners and clerks if any commissioner or clerk is unable, fails, or neglects to attend or serve at the polling place designated. Requires the commissioners present, or if none present, the voters to make the appointments. Proposed law instead requires the commissioner-in-charge and the commissioners to be present at the polling place at least 30 minutes prior to the time the polls are to open. Provides that if a commissioner-in-charge fails to appear, he must be replaced. Provides that if any commissioner fails to appear, or if the number present is less

than the number necessary to conduct the election, the commissioner-in-charge must appoint the necessary number of commissioners all in accordance with present law (the La. Election Code).

Present law requires that the polls open on the day appointed at 7 o'clock a.m., and remains open until, and not later than, 6 o'clock p.m. Provides that no election shall be vitiated by a failure to open the polls at the time prescribed or by closing them before the time prescribed, unless it is established that the voters were deprived of votes sufficient in number and amount to have changed the result of the election.

Proposed law removes present law.

Present law requires that each voter's name be written on his ballot. Requires the commissioners to check his name on the list of voters furnished by the registrar as having voted, enter and number his name on the list of taxpayers voting, and immediately deposit his ballot in the ballot box. Proposed law removes present law and provides that the election laws of this state applicable to other elections shall govern elections held pursuant to proposed law.

Present law provides that if the vote of any taxpayer is challenged, the commissioners must permit him to vote and must receive in writing the ground of challenge signed by the challenger, together with the challenged taxpayer's statement of his asserted right to vote. Proposed law removes present law.

Present law requires the commissioners, immediately after the closing of polls and in the presence of bystanders, to open the ballot box, count the ballots, check with the list of voters, and count the ballots in number and amount. Proposed law removes present law.

Present law requires the municipal governing authority, on the date and at the hour and place of the election, to, in public session, open each ballot boars, examine and count the ballots in number and amount, examine and canvass the returns and declare the result of the election. Proposed law removes present law and instead requires the municipal governing authority to examine and canvass the returns and declare the result of the election.

Present law requires that the results be promulgated by publication in one issue of a newspaper published in the municipality, or, if there is none, in a newspaper published in the parish in which the municipality is situated, or in an adjoining parish if no newspaper is published in the parish. Proposed law retains present law but clarifies that the newspaper must be one with general circulation.

Present law requires the municipal governing authority to keep a proces verbal of the canvass of the election returns and to forward one copy to the secretary of state, one to the clerk of the district court, and one to the governor. Proposed law no longer requires that a copy be sent to the governor. Specifies that in Orleans Parish, a copy must be sent to the clerk of the civil district court and requires the municipal governing authority to retain a copy in its archives.

Present law requires that any cause or right of action to contest the validity of the election must be brought within 60 days from the promulgation of the result of the election. Provides that after that time, no court shall have authority to inquire into the matter. Proposed law retains present law.

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

(Amends R.S. 33:251-261)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill:

1. Make bill effective upon signature of the governor.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Make the bill applicable to municipalities with a population of not more than 2,500 persons rather than municipalities with a population of less than 2,500 persons.