

2020 Second Extraordinary Session

HOUSE BILL NO. 60

BY REPRESENTATIVE IVEY

PUBLIC HEALTH: Provides for the termination or extension of a state of emergency (Item #28)

1 AN ACT

2 To amend and reenact R.S. 29:768 and to enact R.S. 29:768.1, relative to public health  
3 emergencies; to provide relative to the renewal of emergency declarations; to provide  
4 a procedure for legislative approval of the renewal of emergency declarations; to  
5 provide for an effective date; to provide for prospective and retroactive application;  
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:768 is hereby amended and reenacted and R.S. 29:768.1 is hereby  
9 enacted to read as follows:

10 §768. Termination of declaration of public health emergency

11 A. The state of public health emergency shall continue until the governor  
12 finds that the threat of danger has passed or the disaster or emergency has been ~~dealt~~  
13 with addressed to the extent that the emergency conditions no longer exist and  
14 terminates the state of public health or emergency by executive order or  
15 proclamation, but no state of public health emergency may continue for longer than  
16 thirty days unless ~~renewed by the governor~~ authorized by the legislature pursuant to  
17 the procedure provided by in R.S. 29:768.1.

18 B.(1) ~~The legislature, in consultation with the public health authority, House~~  
19 of Representatives or the Senate, by a petition signed by a majority of the surviving  
20 members of either house, may terminate a state of public health emergency at any

1 time. This petition terminating the public health emergency may establish a period  
2 during which no other declaration of public health emergency may be issued and  
3 shall include a date and time on which the state of public health emergency  
4 terminates. ~~Thereupon, the governor shall issue an executive order or proclamation~~  
5 ~~ending the state of public health or emergency.~~ The petition shall be submitted to  
6 the clerical officer of the house. Upon receipt of a valid petition, the clerical officer  
7 shall transmit copies of the signed petition to the other house, the governor, and the  
8 Secretary of State. The clerical officer shall give notice to the public of the  
9 termination of the state of public health emergency by publishing the petition on the  
10 joint legislative website and in the official journal. No additional action is required  
11 to effectuate the termination of the state of public health emergency.

12 (2) Upon receipt of the notice of the termination of the state of public health  
13 emergency, the governor may make a request to renew the state of public health  
14 emergency pursuant to R.S. 29:768.1.

15 \* \* \*

16 §768.1. Renewal of declaration of public health emergency

17 A. Any request by the governor to renew a public health emergency shall  
18 clearly delineate each item and shall be placed separately on the ballot and require  
19 each member to cast his vote separately for or against each item. Each item shall  
20 require approval by a majority of the surviving members of both houses.

21 B.(1) In order to obtain the written consent of a majority of the surviving  
22 members of either house of the legislature, the clerical officer shall prepare and  
23 transmit a ballot to each member of the legislature as provided in this Subsection.

24 (2) The ballots shall be uniform.

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

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

1           (5) The clerical officer shall transmit the ballots to all of the members on the  
2           same day. The clerical officer shall certify this date, which is referred to in this  
3           Subsection as the "transmittal date".

4           (6) The clerical officer shall provide a notice to each member of the  
5           legislature on the transmittal date. The notice shall include all of the following:

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

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

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

10          (d) Such other pertinent information as the clerk and the secretary shall  
11          determine.

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

15          (b)(i) The clerical officer shall initiate and oversee the design and  
16          implementation of a system to allow each member to electronically vote and return  
17          his ballot as provided in Subparagraph (a) of this Paragraph. The system shall be  
18          accurate and secure. The clerical officer shall certify that the system meets the  
19          requirements of this Subparagraph prior to implementation.

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

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

27          (b) On the fifth day after the transmittal date, the clerical officer shall  
28          provide a notice to each member whose voted ballot has not been received indicating

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

3 C.(1) If the legislature is not in session on the transmittal date, the ballots  
4 shall be returned to the clerical officer no later than five o'clock p.m. on the seventh  
5 day after the transmittal date.

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

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

14 (4) Whenever the clerical officer is to provide notice to a member of the  
15 legislature pursuant to this Section, the notice shall be transmitted using the most  
16 efficient communication medium available to the clerical officer. Any such  
17 communication media may includes e-mail communications.

18 D.(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 clerical officer shall tabulate  
20 the vote in roll call order for each house of the legislature. The clerical officer shall  
21 hold such ballots under seal and shall not disclose the contents to any person until  
22 the day when such ballots are tabulated. No ballot shall be deemed spoiled if  
23 inadvertently disclosed in processing.

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

1           E. Upon receipt of the tabulation summary from the clerical officer the  
 2           governor is authorized to renew, supplement the state of public health emergency to  
 3           include any item approved by the legislature for a period up to thirty days unless  
 4           renewed by the legislature pursuant to provisions of this section, or both.

5           Section 2. The provisions of this Act shall be given prospective and retroactive  
 6 application.

7           Section 3. This Act shall become effective upon signature by the governor or, if not  
 8 signed by the governor, upon expiration of the time for bills to become law without signature  
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 11 effective on the day following such approval.

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#### 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)]

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HB 60 Original

2020 Second Extraordinary Session

Ivey

**Abstract:** Requires legislative approval for the renewal of an emergency declaration and provides the procedure to be used in the legislative approval of an emergency declaration.

Present law provides that a 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 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 public health emergency may continue for longer than 30 days unless renewed by the governor.

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

Proposed law amends present law to provide that no public health emergency may continue for longer than 30 days unless renewed by the legislature as provided by proposed law.

Proposed law amends present law to clarify that the House of Representatives or the Senate may, by petition of the surviving members of either house, may terminate an emergency declaration.

Proposed law allows the governor to make a request to the legislature to approve renewal of a public health emergency and proposed law provides the procedure for renewal of a public health emergency declaration.

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

(Amends R.S. 29:768; Adds R.S. 29:768.1)