

2020 Second Extraordinary Session

HOUSE BILL NO. 68

BY REPRESENTATIVE SCHEXNAYDER

LEGISLATIVE POWERS: Provides with respect to legislative authority during periods of certain declared emergencies (Items #1, 2, 28, and 41)

1 AN ACT

2 To amend and reenact R.S. 29:722(A)(2), 724(A) and (B), and 768, and to enact R.S.
3 29:768.1, relative to the declaration of emergencies; to provide relative to the
4 declaration of a state of disaster or emergency and a state of public health
5 emergency; to provide for the renewal and termination of certain emergencies; to
6 create the Legislative Committee on Emergency Declarations; to provide for the
7 authority, duties, and membership of the Legislative Committee on Emergency
8 Declarations; to provide for prospective and retroactive application; and to provide
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 29:722(A)(2) and 724(A) and (B) are hereby amended and reenacted
12 to read as follows:

13 §722. Purpose

14 A. Because of the existing possibility of the occurrence of emergencies and
15 disasters of unprecedented size and destructiveness resulting from terrorist events,
16 enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or
17 other natural or manmade causes, and in order to ensure that preparations of this state
18 will be adequate to deal with such emergencies or disasters, and in order to detect,

1 prevent, prepare for, investigate, respond to, or recover from these events, and
2 generally to preserve the lives and property of the people of the state of Louisiana,
3 it is hereby found and declared to be necessary:

4 * * *

5 (2) To confer upon the governor and upon the parish presidents the
6 emergency powers as provided by and limited in this Chapter.

7 * * *

8 §724. Powers of the governor and legislature

9 A. ~~The governor is responsible for meeting the dangers to the state and~~
10 ~~people presented by emergencies or disasters, and in~~ In order to effectuate the
11 provisions of this Chapter, the governor may issue declarations by executive orders,
12 proclamations, and regulations and amend or rescind them. The Committee on
13 Emergency Declarations may issue a renewal of a declaration of a state of disaster
14 or emergency. ~~Executive orders, proclamations, and regulations~~ Declarations so
15 issued shall have the force and effect of law.

16 B.(1)(a) A disaster or emergency, or both, shall be declared by executive
17 order or proclamation of the governor if he finds that a disaster or emergency has
18 occurred or the threat thereof is imminent. The state of disaster or emergency shall
19 continue until the governor finds that the threat of danger has passed or the disaster
20 or emergency has been dealt with to the extent that the emergency conditions no
21 longer exist and terminates the state of disaster or emergency by executive order or
22 proclamation, but no state of disaster or emergency ~~may~~ shall continue, under any
23 single or successive declaration, for longer than thirty days unless renewed by the
24 ~~governor~~ Legislative Committee on Emergency Declarations.

25 (b) For the purposes of this Chapter, the Legislative Committee on
26 Emergency Declarations is hereby established to issue renewals of declarations of
27 a state of disaster or emergency.

28 (c) The Legislative Committee on Emergency Declarations shall meet within
29 thirty days of the issuance of the initial declaration of a state of disaster or

1 emergency to decide whether to renew the declaration. In issuing a renewed
2 declaration, the committee may make any modifications to the initial declaration it
3 deems appropriate. No renewed declaration shall continue for longer than thirty days
4 unless renewed by the committee.

5 (d) A decision by the committee to renew or modify a declaration shall
6 require the favorable vote of two of the four members of the committee. Each
7 declaration to renew a declaration shall be published as required by Subparagraph
8 (4)(c) of this Subsection.

9 (2)(a) ~~The~~ During the first thirty days after the initial declaration of a state
10 of disaster or emergency, either house of the legislature, by petition signed by a
11 majority of the surviving members of ~~either house~~ the house filing the petition, may
12 terminate ~~the entirety of any declaration related to~~ a state of disaster or emergency
13 or any section or subsection of the executive order or proclamation declaring the
14 state of disaster or emergency at any time. This petition terminating ~~the~~ a declaration
15 of a state of emergency or disaster may establish a period during which no other
16 declaration of a state of emergency or disaster may be issued based on the same
17 circumstances as the terminated declaration. The petition shall be delivered to the
18 governor and shall become effective upon delivery to the governor. Thereupon, the
19 governor shall issue ~~an executive order or proclamation~~ a declaration ending all prior
20 declarations related to the state of disaster or emergency.

21 (b) Subsequent to the first thirty days after the initial declaration of a state
22 of disaster or emergency, either house of the legislature, by petition signed by a
23 majority of the surviving members of the house filing the petition, may terminate any
24 declaration related to a state of disaster or emergency at any time. This petition
25 terminating a declaration of a state of emergency or disaster may establish a period
26 during which no other declaration of a state of disaster or emergency may be issued
27 based on the same circumstances as the terminated declaration. The petition shall
28 be delivered to the committee, shall become effective upon delivery to the
29 committee, and shall supersede a decision of the committee, if any. Thereupon, the

1 committee shall issue a declaration ending all prior declarations related to the state
2 of disaster or emergency.

3 (3) The Legislative Committee on Emergency Declarations shall be
4 composed of the following members:

5 (a) The speaker of the House of Representatives.

6 (b) The president of the Senate.

7 (c) The speaker pro tempore of the House of Representatives.

8 (d) The president pro tempore of the Senate.

9 (4)(a) The committee shall appoint a chairperson from among its members,
10 and each member may appoint a designee who shall have all the rights and privileges
11 as a member of the committee.

12 (b) The committee shall ensure that all notices relating to meetings and
13 official actions of the council are duly given as required by law.

14 (c) The committee shall publish all decisions and declarations in the
15 Louisiana Register in the same manner as provided in and pursuant to R.S. 49:954.1.

16 ~~(3)(5)~~ All executive orders or proclamations declarations issued under this
17 Subsection shall indicate the nature of the disaster or emergency, the designated
18 emergency area which is or may be affected, and the conditions which have brought
19 it about or which make possible the termination of the state of disaster or emergency.
20 ~~An executive order or proclamation~~ A declaration shall be disseminated promptly
21 by means calculated to bring its contents to the attention of the general public and,
22 unless the circumstances attendant upon the disaster or emergency prevent or impede
23 it, promptly filed with the Governor's Office of Homeland Security and Emergency
24 Preparedness and with the secretary of state.

25 ~~(4)(6)~~ As soon as conditions allow, the governor or the committee, as
26 appropriate, may ~~proclaim~~ declare a reduction of the designated emergency area, or
27 the termination of the state of emergency.

28 * * *

1 Section 2. R.S. 29:768 is hereby amended and reenacted and R.S. 29:768.1 is hereby
2 enacted to read as follows:

3 §768. Termination of declaration of public health emergency

4 A. The state of public health emergency shall continue until the governor
5 finds that the threat of danger has passed or the disaster or emergency has been ~~dealt~~
6 with addressed to the extent that the emergency conditions no longer exist and
7 terminates the state of public health ~~or~~ emergency by executive order or
8 proclamation, but no state of public health emergency may continue for longer than
9 thirty days unless ~~renewed by the governor~~ authorized by the legislature in
10 accordance with R.S. 29:768.1.

11 B.(1) ~~The legislature, in consultation with the public health authority, by a~~
12 ~~petition signed by a majority of the surviving members of either house, may~~
13 ~~terminate a state of public health emergency at any time. This petition terminating~~
14 ~~the public health emergency may establish a period during which no other~~
15 ~~declaration of public health emergency may be issued. Thereupon, the governor~~
16 ~~shall issue an executive order or proclamation ending the state of public health or~~
17 ~~emergency. The House of Representatives or the Senate may terminate a state of~~
18 public health emergency at any time by a petition signed by the majority of its
19 surviving members. The petition may establish and confine the applicability of a
20 period during which no other declaration of a public health emergency may be issued
21 and shall include a date and time on which the state of public health emergency
22 terminates. The petition shall be submitted to the clerical officer of the respective
23 house. Upon receipt of a valid petition, the clerical officer shall transmit copies of
24 the signed petition to the other house, the governor, and the secretary of state. The
25 clerical officer shall give notice to the public of the termination of the state of public
26 health emergency by publishing the petition on the joint legislative website and in
27 the official journal of the state. No additional action is required to effectuate the
28 termination of the state of public health emergency.

1 (2) Upon receipt of the notice of the termination of the state of public health
2 emergency, the governor may make a request to the legislature pursuant to R.S.
3 29:768.1 to renew the state of public health emergency.

4 §768.1. Renewal of declaration of public health emergency

5 A. Any request by the governor to renew a public health emergency shall
6 clearly delineate each item. Each item shall require approval by a majority of the
7 surviving members of each house of the legislature.

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

11 (2) The ballots shall be uniform.

12 (3) Each item shall be placed separately on the ballot and require each
13 member to cast his vote separately for or against each item.

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

16 (5) The clerical officers of the legislature shall transmit the ballots to all of
17 the members on the same day. The clerical officers of the legislature shall certify
18 this date, which is referred to in this Subsection as the "transmittal date".

19 (6) The clerical officers of the legislature shall provide a notice to each
20 member of the legislature on the transmittal date. The notice shall include all of the
21 following:

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

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

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

26 (d) Such other pertinent information as the clerk and the secretary shall
27 determine.

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

4 (b)(i) The clerical officers of the legislature shall initiate and oversee the
5 design and implementation of a system to allow each member to electronically vote
6 and return his ballot as provided in Subparagraph (a) of this Paragraph. The system
7 shall be accurate and secure. The clerical officers of the legislature shall certify that
8 the system meets the requirements of this Subparagraph prior to implementation.

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

13 (8)(a) The clerical officers of the legislature shall provide notice to each
14 member from whom the clerk or the secretary, as applicable, receives a voted ballot
15 confirming that the ballot has been received.

16 (b) On the fifth day after the transmittal date, the clerical officers of the
17 legislature shall provide a notice to each member whose voted ballot has not been
18 received indicating that the member's voted ballot has not been received and
19 informing the member of the deadline for returning the ballot.

20 C.(1) If the legislature is not in session on the transmittal date, the ballots
21 shall be returned to the clerical officers of the legislature no later than five o'clock
22 p.m. on the seventh day after the transmittal date.

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

26 (3) No ballot received by the clerical officers of the legislature after the
27 deadline provided in Paragraph (1) or (2) of this Subsection shall be valid or counted,
28 but the day and time received shall be recorded for each ballot received after such
29 time, and the ballot shall be marked "Invalid". However, prior to the deadline for

1 returning a ballot, a member may withdraw his ballot or change his vote upon his
2 written request.

3 (4) Whenever the clerical officers of the legislature are to provide notice to
4 a member of the legislature pursuant to this Section, the notice shall be transmitted
5 using the most efficient communication medium available to the clerical officer.
6 Any such communication media may include e-mail communications.

7 D.(1) On the next business day after the deadline for returning ballots as
8 provided in Paragraph (B)(1) or (2) of this Section, the clerical officers of the
9 legislature shall tabulate the vote in roll call order for each house of the legislature.
10 The clerical officers of the legislature shall hold such ballots under seal and shall not
11 disclose the contents to any person until the day when such ballots are tabulated. No
12 ballot shall be deemed spoiled if inadvertently disclosed in processing.

13 (2) The tabulation shall indicate by name those members who voted in favor
14 of each item, those who voted against each item, those who did not vote on one or
15 more items, those who did not return the ballot by the due date and time, and those
16 whose ballots were invalid because not signed by the member. The clerical officers
17 of the legislature shall sign the tabulation sheet or sheets and cause a summary
18 thereof to be transmitted to the governor.

19 E. Upon receipt of the tabulation summary from the clerical officers of the
20 legislature the governor may renew the state of public health emergency to include
21 any item approved by the legislature for a period up to thirty days.

22 Section 3. The provisions of this Act shall be given prospective and retroactive
23 application.

24 Section 4. 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 68 Reengrossed

2020 Second Extraordinary Session

Schexnayder

Abstract: Provides for renewal of gubernatorial declarations of disaster or emergency and of public health emergency.

Present law authorizes the governor to declare states of disaster or emergency. Provides that such a declaration shall continue until the governor finds that the threat of danger has passed or that the emergency has been dealt with to the extent that the emergency conditions no longer exist and he terminates the state of disaster or emergency. Provides that no state of disaster or emergency may continue for longer than 30 days unless renewed by the governor.

Proposed law creates the Legislative Committee on Emergency Declarations and provides that all renewals of a state of disaster or emergency are the responsibility of the committee. Provides that in renewing a declaration of a state of disaster or emergency, the committee may make any modifications it deems appropriate. Requires that decisions of the committee be published in the La. Register.

Proposed law provides that the committee is composed of the speaker and speaker pro tempore of the House of Representatives and the president and president pro tempore of the Senate. Provides that a decision of the committee requires approval of two of the four members.

Present law authorizes either house of the legislature to terminate a declaration of a state of disaster or emergency. Proposed law additionally authorizes either house of the legislature to terminate any part of such a declaration. Authorizes either house of the legislature to terminate a declaration that has been renewed by the Legislative Committee on Emergency Declarations.

Present law authorizes the governor, following consultation with the public health authority, to declare a state of public health emergency if he finds a public health emergency has occurred or the threat thereof is imminent. Provides that such a declaration shall continue until the governor finds that the threat of danger has passed or that the emergency has been dealt with to the extent that the emergency conditions no longer exist and he terminates the state of public health emergency.

Present law provides that no state of public health emergency may continue for longer than 30 days unless renewed by the governor. Proposed law provides that no state of public health emergency may continue for longer than 30 days unless authorized by the legislature.

Present law authorizes either house of the legislature to terminate a declaration of a state of public health emergency. Upon such a termination, present law requires the governor to issue an order to end the state of public health emergency. Proposed law provides that upon legislative termination of a public health emergency, no further action is needed from the governor to effectuate the termination. Provides that the governor may request that the legislature authorize renewal of the declaration.

Proposed law establishes a balloting procedure by which the legislature may authorize the governor to renew a public health emergency. Some of the elements of the procedure are as follows:

- (1) Requires that a request by the governor to renew a public health emergency shall clearly delineate each item and provides that each item requires approval by a majority of each house of the legislature.
- (2) Requires the clerical officers of each house to prepare, distribute, verify, and tabulate ballots to and from their respective members. Requires the clerical officers to implement a system for electronic voting.
- (3) Requires that ballots be returned on the seventh day after transmittal if the legislature is not in session and on the fifth day if the legislature is in session.

Proposed law provides that the Act is to be given prospective and retroactive application.

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

(Amends R.S. 29:722(A)(2), 724(A) and (B), and 768; Adds R.S. 29:768.1)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill.

1. Relative to declarations of disaster or emergency, authorize the legislature to terminate any part of a declaration.
2. Relative to declarations of disaster or emergency, change the vote requirement for a decision by the Legislative Committee on Emergency Declarations from a majority vote to two of the four members.
3. Relative to declarations of public health emergencies, remove provision for involvement of the Legislative Committee on Emergency Declarations in renewals of such declarations.
4. Relative to declarations of public health emergencies, add requirements for legislative approval of each part of such a declaration and add ballot procedures for obtaining such approval.