

SENATE BILL NO. 89

BY SENATOR JONES AND REPRESENTATIVES BRUNEAU AND LANCASTER

1 AN ACT

2 To enact R.S. 18:401.3, relative to holding certain elections; to authorize the secretary of  
3 state to develop and implement an emergency plan relative to holding certain  
4 elections impaired as a result of a gubernatorially declared disaster or emergency;  
5 to require and provide for gubernatorial and legislative approval of such emergency  
6 plan prior to implementation; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:401.3 is hereby enacted to read as follows:

9 §401.3. Emergency plan by secretary of state; gubernatorial and legislative  
10 approval

11 A. Due to the occurrence of a gubernatorially declared emergency or  
12 disaster occurring before or during a regularly scheduled or special election,  
13 and in order to ensure maximum citizen participation in the electoral process  
14 and provide a safe and orderly procedure for persons seeking to exercise their  
15 right to vote, minimize to whatever degree possible a person's exposure to  
16 danger during declared states of emergency, and protect the integrity of the

1 electoral process, it is hereby declared to be necessary to provide a procedure  
2 for the development of an emergency plan for the holding of elections impaired  
3 as a result of such an emergency or disaster.

4 B. After the issuance of an executive order by the governor declaring a  
5 state of emergency and if the secretary of state determines that such emergency  
6 impairs an election that may otherwise be held except for technical, mechanical,  
7 or logistical problems with respect to the relocation or consolidation of polling  
8 places within the parish, potential shortages of commissioners and absentee  
9 commissioners, or shortages of voting machines, the secretary of state shall  
10 certify such facts and the reasons therefor to the governor, the Senate  
11 Committee on Senate and Governmental Affairs, and the House Committee on  
12 House and Governmental Affairs. If the governor and a majority of the  
13 members of each committee concur that such an emergency plan is necessary,  
14 the secretary of state shall develop an emergency plan in writing that proposes  
15 a resolution to technical, mechanical, or logistical problems impairing the  
16 holding of the election with respect to the relocation or consolidation of polling  
17 places within the parish, potential shortages of commissioners and absentee  
18 commissioners, or shortages of voting machines.

19 C. The written emergency plan shall be submitted by the secretary of  
20 state to the Senate Committee on Senate and Governmental Affairs, the House  
21 Committee on House and Governmental Affairs, and the governor as soon as  
22 practicable following their concurrence with his certification. If a majority of  
23 the members of the Senate Committee on Senate and Governmental Affairs and  
24 of the House Committee on House and Governmental Affairs approve the  
25 emergency plan, such plan shall be submitted to the members of each house of  
26 the legislature for approval by mail ballot as provided in this Section. If a  
27 majority of the members of each house of the legislature and the governor  
28 approve the emergency plan, the secretary of state shall take all steps necessary  
29 to implement the plan and all officials of the state and of any political  
30 subdivision thereof shall cooperate with and provide assistance to the secretary

1 of state as necessary to implement the plan.

2 D.(1) In order to obtain the approval of a majority of the elected  
3 members of each house of the legislature, the secretary of the Senate and the  
4 clerk of the House of Representatives shall jointly prepare and transmit a ballot  
5 to each member of the legislature by certified mail with return receipt requested  
6 unless the legislature is in session and the ballots may be distributed and  
7 returned during the session as provided in this Subsection.

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

10 (i) A copy of the secretary of state's certification that the emergency  
11 impairs an election that may otherwise be held except for certain technical,  
12 mechanical, or logistical problems and the reasons therefor.

13 (ii) A copy of the emergency plan.

14 (iii) A copy of the roll call votes of the Senate Committee on Senate and  
15 Governmental Affairs and the House Committee on House and Governmental  
16 Affairs on the approval of the emergency plan.

17 (iv) The date and time on which the ballot may be returned to the  
18 secretary of the Senate or the clerk of the House of Representatives, as the case  
19 may be, in order for the ballot to be valid.

20 (b) Each ballot shall contain the name of the member to whom it is to be  
21 mailed or delivered, and the member shall sign the ballot after casting his vote.

22 (3) The ballots mailed to all members shall be postmarked on the same  
23 day and shall be returned to the secretary of the Senate or the clerk of the  
24 House of Representatives, as the case may be, within fifteen days after the  
25 postmarked date; or, when such ballots are delivered to the members of the  
26 legislature while in session, the ballots shall be returned to the secretary of the  
27 Senate or the clerk of the House of Representatives, as the case may be, within  
28 five days after the date the ballots were delivered to members. No ballot  
29 received after five o'clock p.m. on the fifth day after the date on which the  
30 ballots were delivered to the members during session or after five o'clock p.m.

1 on the fifteenth day after the date on which the ballots were mailed shall be  
2 valid or counted, and the date and time received shall be marked on each such  
3 ballot and the ballot shall be marked "Invalid." Prior to five o'clock p.m. on  
4 the fifth day after the date when delivered to the members of the legislature  
5 while in session or prior to five o'clock p.m. on the fifteenth day after the  
6 postmarked date if mailed to the members of the legislature, a member may  
7 withdraw his ballot or change his vote upon his written request.

8 (4) On the seventeenth day after the date on which the ballots were  
9 mailed, or the seventh day after the date on which the ballots were delivered to  
10 the members of the legislature in session as provided in this Subsection, the  
11 secretary of the Senate and the clerk of the House of Representatives shall, at  
12 a public meeting, jointly open and tabulate the vote in roll call order for each  
13 house of the legislature. The tabulation sheet shall indicate by name each  
14 member who voted in favor of the plan, each member who voted against the  
15 plan, each member who did not return the ballot by the deadline, and each  
16 member whose ballot was invalid because it was not marked or signed by the  
17 member. The secretary of the Senate and the clerk of the House of  
18 Representatives shall each sign the tabulation sheet and cause a certified copy  
19 thereof to be transmitted to the secretary of state, the governor, and the  
20 chairmen of the Senate Committee on Senate and Governmental Affairs and  
21 House Committee on House and Governmental Affairs.

22 (5) The tabulation sheet shall be a public record.

23 (6) If regular mail service is impaired, the secretary of the Senate and  
24 the clerk of the House of Representatives shall utilize any method necessary to  
25 deliver the ballots, including commercial delivery, electronic transmission, or  
26 hand delivery, and shall keep a record of the manner of delivery utilized to  
27 deliver the ballot to each member and the date the ballot was so transmitted to  
28 each member. For the purposes of this Subsection, if such an alternative  
29 delivery method is so required, the date on which the ballot was so transmitted  
30 shall be considered to be the date postmarked.

1           Section 2. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
5 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_