

2020 Second Extraordinary Session

SENATE BILL NO. 20

BY SENATOR HEWITT

EMERGENCY POWERS. Provides relative to voting and the holding of elections impaired as the result of a declared emergency or disaster. (1/1/21) (Item #5)

1 AN ACT

2 To amend and reenact R.S. 18:401.3(B)(1), (C), (D)(2)(a)(iii), (3), and (4), and to enact R.S.
3 18:401.4 and R.S. 36:744(EE), relative to certification of an emergency and
4 emergency election plan; to provide relative to certification requirements; to provide
5 relative to approval requirements; to establish the Emergency Election Commission;
6 to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:401.3(B)(1), (C), (D)(2)(a)(iii), (3), and (4) are hereby amended
9 and reenacted and R.S. 18:401.4 is hereby enacted to read as follows:

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

11 B.(1)(a) After the issuance of an executive order by the governor declaring
12 a state of emergency and if the secretary of state determines that such emergency
13 impairs an election that may otherwise be held except for technical, mechanical, or
14 logistical problems with respect to the relocation or consolidation of polling places
15 within the parish, potential shortages of commissioners and absentee commissioners,
16 or shortages of voting machines, the secretary of state shall certify such facts and the
17 reasons therefor to the governor, ~~the Senate Committee on Senate and Governmental~~

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2 (3)(a) The ballots mailed to all members shall be postmarked on the same day and
3 shall be returned to the secretary of the Senate or the clerk of the House of Representatives,
4 as the case may be, within fifteen days after the postmarked date; or, when such ballots are
5 delivered to the members of the legislature while in session, the ballots shall be returned to
6 the secretary of the Senate or the clerk of the House of Representatives, as the case may be,
7 within five days after the date the ballots were delivered to members. No ballot received
8 after five o'clock p.m. on the fifth day after the date on which the ballots were delivered to
9 the members during session or after five o'clock p.m. on the fifteenth day after the date on
10 which the ballots were mailed shall be valid or counted, and the date and time received shall
11 be marked on each such ballot and the ballot shall be marked "Invalid." Prior to five o'clock
12 p.m. on the fifth day after the date when delivered to the members of the legislature while
13 in session or prior to five o'clock p.m. on the fifteenth day after the postmarked date if
14 mailed to the members of the legislature, a member may withdraw his ballot or change his
15 vote upon his written request.

16 **(b) If the emergency is declared within sixty days prior to the date of the election**
17 **when the legislature is not in session, the Emergency Election Commission may require**
18 **that ballots mailed to members be returned within five days after the postmarked date;**
19 **or, when such ballots are delivered to the members of the legislature while in session,**
20 **the ballots shall be returned to the secretary of the Senate or the clerk of the House of**
21 **Representatives, as the case may be, within five days after the date the ballots were**
22 **delivered to members.**

23 (4) At any time after the deadline for submitting the ballots as provided in Paragraph
24 (3) of this Subsection, but prior to the eighteenth day after the date on which the ballots were
25 mailed, or prior to the eighth day after the date on which the ballots were delivered to the
26 members of the legislature in session **or mailed pursuant to Subparagraph (3)(b) of this**
27 **Subsection**, the secretary of the Senate and the clerk of the House of Representatives shall
28 jointly open and tabulate the vote in roll call order for each house of the legislature.

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1 **§401.4 Emergency Election Commission; creation; membership; meetings;**
2 **quorum; compensation; domicile**

3 **A. Creation; membership. The Emergency Election Commission is**
4 **hereby created within the Department of State. The commission shall be**
5 **composed of nine voting members and the Secretary of State, who shall serve**
6 **as chairman and shall vote only to break a tie. The commission shall be**
7 **composed as follows:**

8 **(1) The Secretary of State, or his designee.**

9 **(2) The chairman of the Senate and Governmental Affairs Committee,**
10 **or his designee.**

11 **(3) The chairman of the House and Governmental Affairs Committee,**
12 **or his designee.**

13 **(4) The Governor, or his designee.**

14 **(5) The Speaker of the House of Representatives, or his designee.**

15 **(6) The President of the Senate, or his designee.**

16 **(7) The chairman of the House republican delegation, or his designee.**

17 **(8) The chairman of the Senate republican delegation, or his designee.**

18 **(9) The chairman of the House democratic delegation, or his designee.**

19 **(10) The chairman of the Senate democratic delegation, or his designee.**

20 **B. Meetings. The commission shall meet as necessary upon the call of the**
21 **chairman. A majority of the members of the commission shall constitute a**
22 **quorum for the transaction of any and all business.**

23 **C. Compensation. Members shall serve without compensation or**
24 **reimbursement of expenses. Legislative members of the commission shall**
25 **receive the same per diem and reimbursement of travel expenses as is provided**
26 **for legislative committee meetings under the rules of the respective house in**
27 **which they serve.**

28 **D. Domicile. The commission shall be domiciled in Baton Rouge.**

29 Section 2. R.S. 36:744(EE) is hereby enacted to read as follows:

emergency, the secretary of state will develop and present a plan to the commission for their approval and that the secretary may present multiple plans at any meeting.

Present law provides that upon approval by a majority of the members of the Senate and Governmental Affairs Committee and House and Governmental Affairs Committee, the emergency election plan will be sent to members of each house of the legislature for approval by mail ballot.

Proposed law provides that upon approval by the Emergency Election Commission, the emergency election plan will be sent to members of each house of the legislature for approval by mail ballot.

Present law provides that upon approval by a majority of the members of each house of the legislature and the governor, the secretary of state will take all steps necessary to implement the plan.

Proposed law provides that upon approval by a majority of the members of each house of the legislature, the secretary of state will take all steps necessary to implement the plan.

Present law provides that a copy of the roll call votes of the Senate and Governmental Affairs Committee and the House and Governmental Affairs Committee on the approval of the emergency plan will be included in the mail ballots sent to members of both houses of the legislature and that the ballots must be returned to the secretary of the Senate or clerk of the House of Representatives within fifteen days of the postmarked date if the legislature is not in session or within five days after the date of delivery to members if the legislature is in session.

Proposed law provides that a copy of the roll call vote of the Emergency Election Commission on the approval of the emergency plan will be included in the mail ballots sent to members of both houses of the legislature and that the ballots must be returned to the secretary of the Senate or clerk of the House of Representatives within fifteen days of the postmarked date if the legislature is not in session or within five days after the date of delivery to members if the legislature is in session unless the emergency is declared within sixty days prior to the date of the election, whereupon the commission may elect to require the ballots returned within five days of being postmarked if the legislature is not in session.

Effective January 1, 2021.

(Amends R.S. 18:401.3(B)(1), (C), (D)(2)(a)(iii), (3), and (4); and adds R.S. 18:401.4 and R.S. 36:744(EE))