

2020 Second Extraordinary Session

SENATE BILL NO. 29

BY SENATORS CORTEZ AND MCMATH

EMERGENCY POWERS. Provides for legislative review of a state of emergency issued by the governor that extends beyond thirty days. (gov sig) (Items #1 and #2)

1 AN ACT

2 To amend and reenact R.S. 29:724(B)(1) and (2) and (D)(1), 766(D)(1), and 768 and to
3 enact R.S. 29:724(I) and 768(C), relative to emergencies and disasters in the state of
4 Louisiana; to provide for duties and powers of the governor and of the legislature;
5 to create the Legislative Emergency Declaration Review Committee; to provide
6 relative to renewals of certain gubernatorial emergency or disaster declarations or of
7 suspensions related thereto; to provide for an effective date; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 29:724(B)(1) and (2) and (D)(1), 766(D)(1), and 768 are hereby
11 amended and reenacted and R.S. 29:724(I) and 768(C) are hereby enacted to read as follows:

12 §724. Powers of the governor

13 * * *

14 B.(1) A disaster or emergency, or both, shall be declared by executive order
15 or proclamation of the governor if he finds that a disaster or emergency has occurred
16 or the threat thereof is imminent. The state of disaster or emergency shall continue
17 until the governor finds that the threat of danger has passed or the disaster or

1 emergency has been ~~dealt with~~ **addressed** to the extent that the emergency
 2 conditions no longer exist and terminates the state of disaster or emergency by
 3 executive order or proclamation, but no state of disaster or emergency may continue
 4 for longer than thirty days unless renewed by the governor **in compliance with**
 5 **Subsection I of this Section.**

6 (2) The legislature, by petition signed by a majority of the surviving members
 7 of ~~either~~ **each** house, may terminate a state of disaster or emergency at any time.
 8 This petition terminating the state of emergency or disaster **shall include a date on**
 9 **which the state of emergency or disaster terminates and** may establish a period
 10 during which no other declaration of emergency or disaster may be issued.
 11 Thereupon, ~~the governor shall issue an executive order or proclamation ending the~~
 12 ~~state of disaster or emergency.~~ **The clerk of the House of Representatives and the**
 13 **secretary of the Senate shall transmit copies of the signed petition to the**
 14 **governor, the secretary of state, and the chief justice of the Louisiana Supreme**
 15 **Court. The clerk and secretary shall give notice to the public that the legislature**
 16 **has terminated the state of emergency by publishing the petition on the joint**
 17 **legislative website and in the official state journal. No additional action is**
 18 **required to effectuate the termination of the state of emergency or disaster.**

19 * * *

20 D. In addition to any other powers conferred upon the governor by law, he
 21 may do any or all of the following:

22 (1) Suspend the provisions of any regulatory statute prescribing the
 23 procedures for conduct of state business, or the orders, rules, or regulations of any
 24 state agency, if strict compliance with the provisions of ~~any~~ **the regulatory** statute,
 25 order, rule, or regulation would in any way prevent, hinder, or delay necessary action
 26 in coping with the emergency, **but no suspension may continue for longer than**
 27 **thirty days unless renewed by the governor in compliance with the provisions**
 28 **of Subsection I of this Section. The suspension of a regulatory statute shall be**
 29 **narrowly tailored to avoid the prevention, hindrance, or delay of the action**

1 necessary to cope with the emergency, and the language suspending the statute
2 shall state with specificity the obstacles to the action necessary for addressing
3 the emergency that strict compliance with the provisions of the statute would
4 cause.

5 * * *

6 I.(1) There is hereby created the Legislative Emergency Declaration
7 Review Committee, comprised of the following members:

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

9 (b) The president of the Senate.

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

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

12 (e) The chair of the House Committee on Appropriations.

13 (f) The chair of the Senate Committee on Finance.

14 (g) The chair of the House Committee on Health and Welfare.

15 (h) The chair of the Senate Committee on Health and Welfare.

16 (i) A member of the House of Representatives appointed by the speaker.

17 (j) A member of the Senate appointed by the president.

18 (2) The chairmanship and vice-chairmanship of the committee shall
19 rotate every two years between the speaker of the House of Representatives and
20 the president of the Senate. The president shall serve as chair for the first two
21 years of each legislative term. The speaker shall serve as chair for the last two
22 years of each legislative term. The committee may elect any other officers as the
23 committee may deem advisable.

24 (3) The governor may renew the initial executive order, proclamation,
25 or suspension; however, at least seven days before the expiration of the order,
26 proclamation, or suspension, he shall submit to the committee and to the chief
27 justice of the Louisiana Supreme Court for review, written notification of his
28 intent to renew the order, proclamation, or suspension. The notification shall
29 contain, at a minimum, the reasons for the renewal, the duration of the renewal,

1 and a plan of action to address the conditions necessitating the renewal.

2 (4) The committee may meet to review a notification received pursuant
3 to this Subsection not later than five days after receipt of the notification. The
4 committee may, in its discretion, call witnesses, receive testimony, and limit
5 public comment. The committee may hold an executive session; however, any
6 action by the committee shall occur in an open meeting. Committee members
7 may participate remotely pursuant to R.S. 24:7.1.

8 * * *

9 §766. Declaration of a state of public health emergency

10 * * *

11 D. Emergency powers. During a state of public health emergency, in addition
12 to any powers conferred upon the governor by law, he may do any or all of the
13 following:

14 (1) Suspend the provisions of any regulatory statute prescribing procedures
15 for the conducting of state business, or the orders, rules, or regulations of any state
16 agency, if strict compliance with the provisions of ~~any~~ **the regulatory** statute, order,
17 rule, or regulation would in any way prevent, hinder, or delay necessary action in
18 coping with the emergency, **but no suspension may continue for longer than**
19 **thirty days unless renewed by the governor in compliance with the provisions**
20 **of R.S. 29:768(C). The suspension of a regulatory statute shall be narrowly**
21 **tailored to avoid the prevention, hindrance, or delay of the action necessary to**
22 **cope with the emergency, and the language suspending the statute shall state**
23 **with specificity, the obstacles to the action necessary for addressing the**
24 **emergency that strict compliance with the provisions of the statute would cause.**

25 * * *

26 §768. Termination of declaration of public health emergency

27 A. The state of public health emergency shall continue until the governor
28 finds that the threat of danger has passed or the disaster or emergency has been ~~dealt~~
29 **with addressed** to the extent that the emergency conditions no longer exist and

1 terminates the state of public health or emergency by executive order or
2 proclamation, but no state of public health emergency may continue for longer than
3 thirty days unless renewed by the governor **in compliance with Subsection C of**
4 **this Section.**

5 B. The legislature, ~~in consultation with the public health authority,~~ by a
6 petition signed by a majority of the surviving members of ~~either~~ **each** house, may
7 terminate a state of public health emergency at any time. This petition terminating
8 the public health emergency **shall include a date on which the state of public**
9 **health emergency terminates and** may establish a period during which no other
10 declaration of public health emergency may be issued. ~~Thereupon, the governor shall~~
11 ~~issue an executive order or proclamation ending the state of public health or~~
12 ~~emergency.~~ **The clerk of the House of Representatives and the secretary of the**
13 **Senate shall transmit copies of the signed petition to the governor, the secretary**
14 **of state, and the chief justice of the Louisiana Supreme Court. The clerk and**
15 **secretary shall give notice to the public that the legislature has terminated the**
16 **state of emergency by publishing the petition on the joint legislative website and**
17 **in the official state journal. No additional action is required to effectuate the**
18 **termination of the state of public health emergency.**

19 **C.(1) The governor may renew the initial executive order, proclamation,**
20 **or suspension; however, at least seven days before the expiration of the order,**
21 **proclamation, or suspension, he shall submit to the Legislative Emergency**
22 **Declaration Review Committee, created pursuant to R.S. 29:724(I), and to the**
23 **chief justice of the Louisiana Supreme Court for review, written notification of**
24 **his intent to renew the order, proclamation, or suspension. The notification shall**
25 **contain, at a minimum, the reasons for the renewal, the duration of the renewal,**
26 **and a plan of action to address the conditions necessitating the renewal.**

27 **(2) The committee may meet to review a notification received pursuant**
28 **to this Subsection not later than five days after receipt of the notification. The**
29 **committee may, in its discretion, call witnesses, receive testimony, and limit**

1 **public comment. The committee may hold an executive session; however, any**
 2 **action by the committee shall occur in an open meeting. Committee members**
 3 **may participate remotely pursuant to R.S. 24:7.1.**

4 Section 2. A. The provisions of this Act shall not be applied to nullify any order,
 5 proclamation, or suspension in effect on the effective date of this Act.

6 B. Not more than seven days after the effective date of this Act, the governor shall
 7 submit to the Legislative Emergency Declaration Review Committee created by this Act and
 8 to the chief justice of the Louisiana Supreme Court any executive order or proclamation
 9 declaring a state of disaster or emergency, including a public health emergency, in effect on
 10 the effective date of this Act and any suspension related thereto for review in conformity
 11 with the provisions of this Act. Each submission shall contain at a minimum the reasons for
 12 the current renewal, a plan of action to address the conditions necessitating the continued
 13 declaration, and his intentions regarding the renewal of the current order, proclamation, or
 14 suspension.

15 C. The provisions of the Act shall apply to any renewal of an order, proclamation,
 16 or suspension in effect on the effective date of this Act.

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

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by LG Sullivan.

DIGEST

SB 29 Engrossed

2020 Second Extraordinary Session

Cortez

Present law provides for the governor to declare a state of emergency or disaster, including a public health emergency, by executive order or proclamation. Restricts the length of any declaration to 30 days. Allows the governor to renew the state of emergency or disaster. Authorizes the governor to suspend the provisions of any regulatory statute prescribing procedures for conducting state business, or the orders, rules, or regulations of any state agency, if strict compliance with the statute, order, rule, or regulation would prevent, hinder, or delay necessary action in coping with the emergency.

Proposed law retains present law and requires the suspension of a statute to be narrowly

tailored to avoid the prevention, hindrance, or delay of the action necessary to cope with the emergency. Further requires the language suspending the statute to state with specificity the obstacles to the action necessary for addressing the emergency that strict compliance with the provisions of the statute would cause.

Present law authorizes the legislature to terminate a state of disaster or emergency at any time by a petition signed by a majority of the surviving members of either house. Provides that the petition may establish a period during which no other declaration of emergency or disaster may be issued.

Proposed law requires the petition to be signed by a majority of the surviving members of each house.

Present law provides for the governor to issue an executive order or proclamation ending the state of disaster or emergency upon the petition is signed by the required members of the legislature.

Proposed law instead provides for notification of the governor, the secretary of state, the chief justice, and public. Specifies that no additional action is required to effectuate the termination of the state of emergency or disaster.

Proposed law creates the Legislative Emergency Declaration Review Committee, comprised of ten members:

- (1) The speaker of the House of Representatives.
- (2) The president of the Senate.
- (3) The speaker pro tempore of the House of Representatives.
- (4) The president pro tempore of the Senate.
- (5) The chair of the House Committee on Appropriations.
- (6) The chair of the Senate Committee on Finance.
- (7) The chair of the House Committee on Health and Welfare.
- (8) The chair of the Senate Committee on Health and Welfare.
- (9) A member of the House of Representatives, appointed by the speaker.
- (10) A member of the Senate, appointed by the president.

Provides for notification of the committee and the chief justice of the supreme court of a governor's intent to renew an executive order or proclamation declaring the existence or imminent threat of a state of emergency, including a public health emergency or to renew a suspension of a statute, order, rule, or regulation.

Proposed law provides that, after the initial 30-day period, the governor may renew the declaration or suspension and requires the governor to submit written notification of his intent to renew the order, proclamation, or suspension to the committee and the chief justice of the state supreme court for review.

Proposed law specifies that the notification of intent to renew or request for approval to renew must state the reasons for the renewal, the duration of the renewal, and a plan of action to address the conditions necessitating the renewal.

Proposed law allows the committee to hold a public meeting to consider the request not later than five days after receipt. Authorizes the committee to meet remotely pursuant to present law.

Proposed law provides that proposed law shall not be applied to nullify any order, proclamation, or suspension in effect on the effective date of proposed law.

Proposed law requires the governor to submit to the committee and to the chief justice any executive order or proclamation declaring a state of disaster or emergency, including a public health emergency, in effect on the effective date of proposed law and any suspension related thereto for review in conformity with the provisions of proposed law. Subjects any renewal of an order, proclamation, or suspension in effect on the effective date of proposed law to the requirements of proposed law.

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

(Amends R.S. 29:724(B)(1) and (2) and (D)(1), 766(D)(1), and 768; adds R.S. 29:724(I) and 768(C))