

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 * * *

11 §401.3. Emergency plan by secretary of state; ~~gubernatorial and legislative~~ approval

12 * * *

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

1 or shortages of voting machines, the secretary of state shall certify such facts and the
 2 reasons therefor to the governor, ~~the Senate Committee on Senate and Governmental~~
 3 ~~Affairs, and the House Committee on House and Governmental Affairs~~ **and the**
 4 **Emergency Election Commission**. If the governor and a majority of the members
 5 ~~of each committee concur~~ **commission concurs** that such an emergency plan is
 6 necessary, the secretary of state shall develop an emergency plan in writing that
 7 proposes a resolution to technical, mechanical, or logistical problems impairing the
 8 holding of the election with respect to the relocation or consolidation of polling
 9 places within the parish, potential shortages of commissioners and absentee
 10 commissioners, or shortages of voting machines.

11 **(b) The secretary of state may present multiple plans to the commission**
 12 **for consideration at any meeting.**

13 * * *

14 C. The written emergency plan **or plans** shall be submitted by the secretary
 15 of state to the ~~Senate Committee on Senate and Governmental Affairs, the House~~
 16 ~~Committee on House and Governmental Affairs, and the governor~~ **Emergency**
 17 **Election Commission** as soon as practicable following their concurrence with his
 18 certification **of emergency**. If a majority of the members of the ~~Senate Committee~~
 19 ~~on Senate and Governmental Affairs and of the House Committee on House and~~
 20 ~~Governmental Affairs approve the~~ **the commission approves an** emergency plan,
 21 such plan shall be submitted to the members of each house of the legislature for
 22 approval by mail ballot as provided in this Section. If a majority of the members of
 23 each house of the legislature ~~and the governor~~ approve the emergency plan, the
 24 secretary of state shall take all steps necessary to implement the plan and all officials
 25 of the state and of any political subdivision thereof shall cooperate with and provide
 26 assistance to the secretary of state as necessary to implement the plan.

27 D. * * *

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

1 * * *

2 (iii) A copy of the roll call ~~votes of the Senate Committee on Senate and~~
3 ~~Governmental Affairs and the House Committee on House and Governmental~~
4 ~~Affairs~~ **vote of the Emergency Election Commission** on the approval of the
5 emergency plan.

6 * * *

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

22 **(b) If the emergency is declared within sixty days prior to the date of the**
23 **election when the legislature is not in session, the Emergency Election**
24 **Commission may require that ballots be returned within five days. The**
25 **secretary of the Senate and the clerk of the House of Representatives shall**
26 **utilize any method necessary to deliver the ballots, including commercial**
27 **delivery, electronic transmission, or hand delivery, and shall keep a record of**
28 **the manner of delivery utilized to deliver the ballot to each member and the**
29 **date the ballot was so transmitted to each member. When such ballots are**

1 delivered to the members of the legislature while in session, the ballots shall be
 2 returned to the secretary of the Senate or the clerk of the House of
 3 Representatives, as the case may be, within five days after the date the ballots
 4 were delivered to members.

5 (4) At any time after the deadline for submitting the ballots as provided in
 6 ~~Paragraph (3)~~ Subparagraph (3)(a) of this Subsection, but prior to the eighteenth
 7 day after the date on which the ballots were mailed, or prior to the eighth day after
 8 the date on which the ballots were delivered to the members of the legislature in
 9 session or mailed pursuant to Subparagraph (3)(b) of this Subsection, the
 10 secretary of the Senate and the clerk of the House of Representatives shall jointly
 11 open and tabulate the vote in roll call order for each house of the legislature. The
 12 clerk and the secretary shall hold such ballots unopened and shall not disclose the
 13 contents to any person until the day when such ballots are opened and tabulated. The
 14 tabulation sheet shall indicate by name each member who voted in favor of the plan,
 15 each member who voted against the plan, each member who did not return the ballot
 16 by the deadline, and each member whose ballot was invalid because it was not
 17 marked or signed by the member. The secretary of the Senate and the clerk of the
 18 House of Representatives shall each sign the tabulation sheet and cause a certified
 19 copy 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 House~~
 21 ~~Committee on House and Governmental Affairs~~ Emergency Election Commission.

22 * * *

23 §401.4. Emergency Election Commission; creation; membership; meetings;
 24 quorum; compensation; domicile

25 A. Creation; membership. The Emergency Election Commission is
 26 hereby created within the Department of State. The commission shall be
 27 composed of nine voting members and the secretary of state, who shall serve as
 28 chairman and shall vote only to break a tie. The commission shall be composed
 29 as follows:

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

DIGEST

SB 20 Reengrossed

2020 Second Extraordinary Session

Hewitt

Proposed law creates the Emergency Election Commission within the Department of State; provides for its membership, meetings, quorum requirements, compensation policy, and domicile.

Present law provides that after the issuance of an executive order by the governor declaring a state of emergency and if the secretary of state determines that such emergency impairs an election that may otherwise be held except for technical, mechanical, or logistical problems with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, or shortages of voting machines, the secretary of state shall certify such facts and the reasons therefor to the governor, the Committee on Senate and Governmental Affairs, and the Committee on House and Governmental Affairs.

Proposed law provides that after the issuance of an executive order by the governor declaring a state of emergency and if the secretary of state determines that such emergency impairs an election that may otherwise be held except for technical, mechanical, or logistical problems with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, or shortages of voting machines, the secretary of state shall certify such facts and the reasons therefor to the governor and the Emergency Election Commission.

Present law provides that if the governor and a majority of the members of each committee concur that such an emergency plan is necessary, the secretary of state shall develop an emergency plan to address the logistical problems created by the emergency.

Proposed law provides that if the Emergency Election Commission concurs that such an emergency plan is necessary, the secretary of state shall develop an emergency plan to address the logistical problems created by the emergency.

Present law provides that if the governor, Senate and Governmental Affairs Committee, and House and Government Affairs committee have certified the emergency, the secretary of state will develop and present a plan to the governor, Senate and Governmental Affairs Committee, and House and Governmental Affairs Committee for their approval.

Proposed law provides that once the Emergency Election Commission has certified the 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 if the emergency is declared within 60 days prior to the date of the election when the legislature is not in session, the commission may require that ballots be returned within five days. Provides that the secretary of the Senate and the clerk of the House of Representatives shall utilize any method necessary to deliver the ballots and shall keep a record of the manner of delivery utilized to deliver the ballot to each member and the date the ballot was so transmitted to each member.

Proposed law provides that when the ballots are delivered to the members of the legislature while in session, the ballots shall be returned to the secretary of the Senate or the clerk of the House of Representatives, as the case may be, within five days after the date the ballots were delivered to members.

Effective January 1, 2021.

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

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Technical amendment.

Senate Floor Amendments to engrossed bill

1. Makes technical amendments.
2. Provides that if the emergency is declared within 60 days prior to the date of the election when the legislature is not in session, the commission may require the ballot be returned within five days.
3. Requires the secretary of the Senate and the clerk of the House of Representatives to utilize any method necessary to deliver the ballots and to keep a record of the manner of delivery utilized to deliver the ballot to each member and the date the ballot was transmitted to each member.