

2020 Second Extraordinary Session

HOUSE BILL NO. 60

BY REPRESENTATIVE IVEY

PUBLIC HEALTH: Provides for the termination or extension of a state of emergency (Item #28)

1 AN ACT

2 To amend and reenact R.S. 29:768 and to enact R.S. 29:768.1, relative to public health
3 emergencies; to provide relative to the renewal of emergency declarations; to provide
4 a procedure for legislative approval of the renewal of emergency declarations; to
5 provide for an effective date; to provide for prospective and retroactive application;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

10 §768. Termination of declaration of public health emergency

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

18 B.(1) ~~The legislature, in consultation with the public health authority, by a~~
19 ~~petition signed by a majority of the surviving members of either house, may~~
20 ~~terminate a state of public health emergency at any time. This petition terminating~~

1 ~~the public health emergency may establish a period during which no other~~
2 ~~declaration of public health emergency may be issued. Thereupon, the governor~~
3 ~~shall issue an executive order or proclamation ending the state of public health or~~
4 ~~emergency. The House of Representatives or the Senate may terminate a state of~~
5 ~~public health emergency at any time by a petition signed by the majority of its~~
6 ~~surviving members. The petition may establish and confine the applicability of a~~
7 ~~period during which no other declaration of a public health emergency may be issued~~
8 ~~and shall include a date and time on which the state of public health emergency~~
9 ~~terminates. The petition shall be submitted to the clerical officer of the respective~~
10 ~~house. Upon receipt of a valid petition, the clerical officer shall transmit copies of~~
11 ~~the signed petition to the other house, the governor, and the secretary of state. The~~
12 ~~clerical officer shall give notice to the public of the termination of the state of public~~
13 ~~health emergency by publishing the petition on the joint legislative website and in~~
14 ~~the official journal of the state. No additional action is required to effectuate the~~
15 ~~termination of the state of public health emergency.~~

16 (2) Upon receipt of the notice of the termination of the state of public health
17 emergency, the governor may make a request to the legislature pursuant to R.S.
18 29:768.1 to renew the state of public health emergency.

19 * * *

20 §768.1. Renewal of declaration of public health emergency

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

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

27 (2) The ballots shall be uniform.

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

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

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

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

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

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

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

13 (d) Such other pertinent information as the clerk and the secretary shall
14 determine.

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

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

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

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

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

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

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

11 (3) No ballot received by the clerical officers of the legislature after the
12 deadline provided in Paragraph (1) or (2) of this Subsection shall be valid or counted,
13 but the day and time received shall be recorded for each ballot received after such
14 time, and the ballot shall be marked "Invalid". However, prior to the deadline for
15 returning a ballot, a member may withdraw his ballot or change his vote upon his
16 written request.

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

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

27 (2) The tabulation shall indicate by name those members who voted in favor
28 of each item, those who voted against each item, those who did not vote on one or
29 more items, those who did not return the ballot by the due date and time, and those

1 whose ballots were invalid because not signed by the member. The clerical officers
2 of the legislature shall sign the tabulation sheet or sheets and cause a summary
3 thereof to be transmitted to the governor.

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

7 Section 2. The provisions of this Act shall be given prospective and retroactive
8 application.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 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 60 Reengrossed

2020 Second Extraordinary Session

Ivey

Abstract: Requires legislative approval for the renewal of an emergency declaration and provides the procedure to be used in the legislative approval of an emergency declaration.

Present law provides that a public health emergency shall be declared by executive order or proclamation of the governor if the governor finds that a disaster or emergency has occurred or the threat thereof is imminent.

Present law also provides that a public health emergency shall continue until the governor finds that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist and terminates the state of disaster, emergency, or public health emergency by executive order or proclamation.

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

Present law authorizes the legislature to terminate an emergency declaration of a state of public health emergency by petition of a majority of the surviving members of either house.

Proposed law further provides that the petition may establish a period where no other declaration of a public health emergency may be issued. The petition must also include a date and time of termination for such emergency.

Proposed law provides that the petition must be submitted to the clerical officer of the respective house who will then send the signed petition to the other house, the governor, and the secretary of state. The clerical officer must also publish the petition on the joint legislative website and in the official journal of the state.

Present law provides that upon receiving a signed petition terminating a public health emergency, the governor must issue an executive order or proclamation ending the state of public health emergency. Proposed law provides that upon receipt of a signed petition terminating a public health emergency, no further action is needed from the governor to effectuate the termination of the state of public health emergency. Provides that the governor may ask the legislature for authority to renew the declaration.

Proposed law provides that no public health emergency may continue for longer than 30 days unless authorized by the legislature as provided by proposed law.

Proposed law establishes a balloting procedure by which the legislature may authorize the governor to renew a public health emergency.

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

(Amends R.S. 29:768; Adds R.S. 29:768.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Add that the petition may establish a period where no other declaration of a public health emergency may be issued.
2. Add a provision that the clerical officer of the respective house will then send the signed petition to the other house, the governor, and the secretary of state. Further add that the clerical officer must also publish the petition on the joint legislative website and in the official journal of the state.