

2020 Second Extraordinary Session

HOUSE BILL NO. 4

BY REPRESENTATIVES WRIGHT, BACALA, DWIGHT, EDMONDS, EDMONSTON,  
EMERSON, FIRMENT, HORTON, MIKE JOHNSON, MIGUEZ, NELSON,  
ORGERON, CHARLES OWEN, ROBERT OWEN, SCHAMERHORN, AND  
TARVER

1 AN ACT

2 To amend and reenact R.S. 29:724(B)(1) and 768(A) and to enact R.S. 29:768.1, relative to  
3 emergency declarations; to provide relative to the termination of emergency  
4 declarations; to provide for legislative power and authority regarding termination of  
5 emergency declarations; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 29:724(B)(1) and 768(A) are hereby amended and reenacted and R.S.  
8 29:768.1 is hereby enacted to read as follows:

9 §724. Powers of the governor

10 \* \* \*

11 B.(1) A disaster or emergency, or both, shall be declared by executive order  
12 or proclamation of the governor if he finds that a disaster or emergency has occurred  
13 or the threat thereof is imminent. The state of disaster or emergency shall continue  
14 until the governor finds that the threat of danger has passed or the disaster or  
15 emergency has been dealt with to the extent that the emergency conditions no longer  
16 exist and terminates the state of disaster or emergency by executive order or  
17 proclamation, but no state of disaster or emergency may continue for longer than  
18 thirty days unless renewed by the governor. A renewal of a state of disaster or  
19 emergency or specific terms prescribed by the governor in such an order or  
20 proclamation shall be subject to termination by the legislature in the manner  
21 provided by R.S. 29:768.1.

22 \* \* \*

1 §768. Termination of declaration of public health emergency

2 A. The state of public health emergency shall continue until the governor  
 3 finds that the threat of danger has passed or the disaster or emergency has been dealt  
 4 with to the extent that the emergency conditions no longer exist and terminates the  
 5 state of public health or emergency by executive order or proclamation, but no state  
 6 of public health emergency may continue for longer than thirty days unless renewed  
 7 by the governor. A renewal of a public health emergency or specific terms  
 8 prescribed by the governor in such an order or proclamation shall be subject to  
 9 termination by the legislature in the manner provided by R.S. 29:768.1.

10 \* \* \*

11 §768.1. Procedure for legislative termination of an emergency or disaster  
 12 declaration

13 A. Once the governor has renewed a state of disaster or emergency or a state  
 14 of public health emergency, the speaker of the House of Representatives, the  
 15 president of the Senate, the speaker pro tempore of the House of Representatives,  
 16 and the president pro tempore of the Senate shall immediately review the order or  
 17 proclamation and the terms prescribed by the governor in such order or  
 18 proclamation. If at least one legislative officer from each house of the legislature  
 19 concurs that the order or proclamation or that the terms prescribed by the governor  
 20 in such order or proclamation exceed the authority granted to the governor by law  
 21 or are not narrowly tailored to address the disaster or emergency or public health  
 22 emergency, the presiding officers of the legislature shall immediately transmit to the  
 23 governor a concise description of the issues which cites the specific order or  
 24 proclamation, and if applicable, the specific sections or subsections of the order or  
 25 proclamation. Further, the presiding officers of the legislature shall direct the clerical  
 26 officer of each house of the legislature to immediately jointly prepare and transmit  
 27 a ballot to each surviving member of the legislature as provided in this Section.

28 B.(1) The ballots shall be uniform.

29 (2) Each ballot shall contain each issue identified in the description required  
 30 by Subsection A of this Section set forth in such a manner to enable each member

1 to cast his vote separately for or against terminating the governor's authority  
2 regarding each issue.

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

5 (4) The clerk of the House of Representatives and the secretary of the Senate  
6 shall transmit the ballots to all of the surviving members on the same day. The clerk  
7 and the secretary shall certify this date, which is referred to in this Subsection as the  
8 "transmittal date".

9 (5) The clerk and the secretary shall provide a notice to each member of the  
10 legislature on the transmittal date. The notice shall include all of the following:

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

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

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

15 (d) Such other pertinent information as the clerk and the secretary shall  
16 determine.

17 (6) The member shall cast his vote for each item on the ballot, provide his  
18 name in the appropriate place on the ballot, and return the voted ballot to the clerical  
19 officer of his house.

20 (7)(a) The clerk and the secretary shall provide notice to each member from  
21 whom the clerk or the secretary, as applicable, receives a voted ballot confirming  
22 that the ballot has been received.

23 (b) On the fourth day after the transmittal date, the clerk and the secretary  
24 shall provide a notice to each member whose voted ballot has not been received  
25 indicating that the member's voted ballot has not been received and informing the  
26 member of the deadline for returning the ballot.

27 (8) Ballots shall be returned to the clerk and the secretary no later than five  
28 o'clock p.m. on the fifth day after the transmittal date.

29 (9) No ballot received by the clerk and the secretary after the deadline  
30 provided in Paragraph (8) of this Subsection shall be valid or counted, but the day

1 and time received shall be recorded for each ballot received after such time, and the  
2 ballot shall be marked "Invalid". However, prior to the deadline for returning a  
3 ballot, a member may withdraw his ballot or change his vote upon his written  
4 request.

5 (10)(a) Whenever the clerk of the House of Representatives and the secretary  
6 of the Senate are to transmit a ballot or notice to a member of the legislature pursuant  
7 to this Subsection, the ballot or notice shall be transmitted using the most efficient  
8 medium available to the clerk or the secretary under the circumstances and may  
9 include but is not limited to electronic mail or SMS communications. Any such  
10 medium shall provide for notice of receipt and the records of all such transmittals  
11 and notices shall be maintained and preserved for at least six months following the  
12 tabulation.

13 (b) The clerk and the secretary shall devise a method for a member to  
14 validate his ballot which may include a signature, a personal identification number,  
15 or other secure method.

16 C.(1) On the next business day after the deadline for returning ballots as  
17 provided in Paragraph (B)(8) of this Section, the clerk of the House of  
18 Representatives and the secretary of the Senate shall tabulate the vote in roll call  
19 order for each house of the legislature. The clerk and the secretary shall hold such  
20 ballots under seal and shall not disclose the contents to any person until the day when  
21 such ballots are tabulated. No ballot shall be deemed spoiled if inadvertently  
22 disclosed in processing.

23 (2) The tabulation shall indicate by name those members who voted in favor  
24 of each item, those who voted against each item, those who did not vote on one or  
25 more items, those who did not return the ballot by the due date and time, and those  
26 whose ballots were invalid because not validated by the member. The clerk and the  
27 secretary shall sign the tabulation sheet or sheets and cause a summary thereof to be  
28 transmitted to each member of the legislature and the governor. Further, the clerk  
29 and the secretary shall disseminate the tabulation promptly by means calculated to  
30 bring its contents to the attention of the general public and promptly file it with the

1 Governor's Office of Homeland Security and Emergency Preparedness and with the  
2 secretary of state, and if the ballot involved a public health emergency, with the  
3 Louisiana Department of Health, office of public health.

4 D. If a majority of the surviving members of each house of the legislature  
5 votes in favor of terminating the governor's authority regarding an issue on the  
6 ballot, then that order or proclamation or section or subsection of such order or  
7 proclamation, as the case may be, is deemed terminated and of no effect as of the  
8 date and time the tabulation is transmitted to the governor.

9 E. For the purposes of the procedure provided in this Section, each clerical  
10 officer shall designate another employee of the clerical officer's respective house to  
11 carry out the duties contained in this Section if the clerical officer is unavailable for  
12 any reason.

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

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