

2022 Regular Session

HOUSE BILL NO. 685

BY REPRESENTATIVE HILFERTY

LEGISLATIVE POWERS: Provides relative to the termination of emergency declarations

1 AN ACT

2 To amend and reenact R.S. 29:724(B)(2) and 768(B) and to enact R.S. 29:724.1, relative to
3 gubernatorial emergency declarations; to provide relative to legislative authority to
4 terminate emergency declarations; to provide relative to voting requirements and
5 procedures; to provide for an effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 29:724(B)(2) and 768(B) are hereby amended and reenacted and R.S.
8 29:724.1 is hereby enacted to read as follows:

9 §724. Powers of the governor

10 * * *

11 B.

12 * * *

13 (2) The legislature, ~~by petition signed by a majority of the surviving~~
14 ~~members of either house,~~ may terminate a state of disaster or emergency at any time.
15 ~~This petition terminating the state of emergency or disaster~~ and may establish a
16 period during which no other declaration of emergency or disaster may be issued
17 using procedures provided in R.S. 29:724.1. Thereupon, the governor shall issue an
18 executive order or proclamation ending the state of disaster or emergency.

19 * * *

1 §724.1. Procedure for termination of a state of disaster or emergency or public
2 health emergency; legislative voting

3 A.(1) If the legislature is in session, it may, by adoption of a concurrent
4 resolution, direct the governor to terminate a state of disaster or emergency or public
5 health emergency and may establish a period during which no other declaration of
6 emergency or disaster or public health emergency may be issued.

7 (2) If the legislature is not in session, it may, using the procedures outlined
8 in Subsection B of this Section, direct the governor to terminate a state of disaster
9 or emergency or public health emergency and may establish a period during which
10 no other declaration of emergency or disaster or public health emergency may be
11 issued.

12 B.(1) If so directed by the speaker and the president acting jointly regarding
13 the content of the ballot, the clerk of the House of Representatives and the secretary
14 of the Senate shall prepare and transmit a ballot to each member of the legislature on
15 the questions of directing the governor to terminate a state of disaster or emergency
16 or public health emergency or directing the governor to terminate a state of disaster
17 or emergency or public health emergency and establishing a period during which no
18 other declaration of emergency or disaster or public health emergency may be issued.

19 (2) The ballots shall be uniform.

20 (3) If more than one question is to be voted on, the ballot shall set forth each
21 item in such form as to enable each member to cast his vote separately for or against
22 each item.

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

25 (5) The clerk and the secretary shall transmit the ballots to all of the
26 members on the same day. The clerk and the secretary shall certify this date, which
27 is referred to in this Subsection as the "transmittal date".

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

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

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

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

5 (d) Such other pertinent information as the clerk and the secretary shall
6 determine.

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

10 (b)(i) The clerk and the secretary shall initiate and oversee the design and
11 implementation of a system to allow each member to electronically vote and return
12 his ballot as provided in Subparagraph (a) of this Paragraph. The system shall be
13 accurate and secure. The clerk and the secretary shall certify that the system meets
14 the requirements of this Subparagraph.

15 (ii) Notwithstanding the provisions of Paragraph (4) of this Subsection and
16 Subparagraph (a) of this Paragraph, if a member votes using a system certified as
17 provided in Item (i) of this Subparagraph, the member shall not be required to sign
18 his ballot for it to be valid.

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

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

26 (9)(a) The ballots shall be returned to the clerk of the House of
27 Representatives and the secretary of the Senate no later than five o'clock p.m. on the
28 fifteenth day after the transmittal date.

1 (b) No ballot received by the clerk and the secretary after the deadline
 2 provided in Subparagraph (a) of this Paragraph shall be valid or counted, but the day
 3 and time received shall be recorded for each ballot received after such time, and the
 4 ballot shall be marked "Invalid". However, prior to the deadline for returning a
 5 ballot, a member may withdraw his ballot or change his vote upon his written
 6 request.

7 (10) Whenever the clerk and the secretary are required to provide notice to
 8 a member of the legislature pursuant to this Section, the notice shall be transmitted
 9 using the most efficient communication medium available to the clerk or the
 10 secretary. Any such communication media may include but is not limited to
 11 telephonic, e-mail, or SMS communications.

12 (11)(a) On the next business day after the deadline for returning ballots, the
 13 clerk and the secretary shall tabulate the vote in roll call order for each house of the
 14 legislature. The clerk and the secretary shall hold such ballots under seal and shall
 15 not disclose the contents to any person until the day when such ballots are tabulated.
 16 No ballot shall be deemed spoiled if inadvertently disclosed in processing.

17 (b) The tabulation shall indicate by name those members who voted in favor
 18 of each item, those who voted against each item, those who did not vote on one or
 19 more items, those who did not return the ballot by the due date and time, and those
 20 whose ballots were invalid because not signed by the member. The clerk and the
 21 secretary shall sign the tabulation sheet or sheets and cause a summary thereof to be
 22 transmitted to the governor.

23 (12) Approval by the requisite majority of the surviving members of the
 24 legislature constitutes a resolution of the legislature directing the governor to take
 25 or cease from taking actions with respect to the declared emergency or disaster or
 26 public health emergency.

* * *

§768. Termination of declaration of public health emergency

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1 B. The legislature, in consultation with the public health authority, ~~by a~~
2 ~~petition signed by a majority of the surviving members of either house,~~ may
3 terminate a state of public health emergency at any time. ~~This petition terminating~~
4 ~~the public health emergency~~ and may establish a period during which no other
5 declaration of public health emergency may be issued using procedures provided in
6 R.S. 29:724.1. Thereupon, the governor shall issue an executive order or
7 proclamation ending the state of public health or emergency.

8 Section 2. This Act shall become effective upon signature by the governor or, if not
9 signed by the governor, upon expiration of the time for bills to become law without signature
10 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
12 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 685 Original

2022 Regular Session

Hilferty

Abstract: Changes procedures that the legislature may use to terminate a governor's declaration of an emergency from a petition of one house to a majority vote of both houses.

Present law provides that a state of disaster, emergency, or 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 a majority of the surviving members of either house of the legislature may terminate a state of disaster, emergency, or public health emergency at any time.

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

Present law further provides that the petition terminating the state of disaster, emergency, or public health emergency may establish a period during which no other declaration of emergency or disaster may be issued and that the governor shall issue an executive order or proclamation ending the state of disaster or emergency.

Proposed law retains present law except to change the procedure by which the legislature may terminate a declaration and prohibit issuance of other declarations.

Rather than providing for legislative action by a petition signed by a majority of the surviving members of either house of the legislature, proposed law provides for legislative action by majority vote of both houses.

Proposed law provides that if the legislature is in session, it may, by adoption of a concurrent resolution, direct the governor to terminate a state of disaster or emergency or public health emergency and establish a period during which no other declaration of emergency or disaster or public health emergency may be issued.

Provides that if the legislature is *not* in session, it may take such actions using a ballot voting procedure established for such purpose by proposed law.

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

(Amends R.S. 29:724(B)(2) and 768(B); Adds R.S. 29:724.1)