

2022 Regular Session

HOUSE BILL NO. 701

BY REPRESENTATIVE HILFERTY

EMERGENCY PREPAREDNESS: Provides relative to the declaration of a state of emergency

1 AN ACT

2 To amend and reenact R.S. 29:727(D) and 737(C) and to enact R.S. 29:724.1, relative to
3 emergency preparedness; to provide relative to declarations of states of emergency;
4 to provide for the termination of states of emergency; to provide for the duration of
5 states of emergency; to provide for approval of an extension of a declaration of
6 emergency under certain circumstances; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:727(D) and 737(C) are hereby amended and reenacted and R.S.
9 29:724.1 is enacted to read as follows:

10 §724.1. Procedure for termination of a state of disaster or emergency or public
11 health emergency; legislative voting

12 A.(1) If the legislature is in session, it may, by adoption of a concurrent
13 resolution, direct the governor, parish president, or mayor who declared a state of
14 disaster or emergency to terminate the state of disaster or emergency or public health
15 emergency and may establish a period during which no other declaration of
16 emergency or disaster or public health emergency may be issued.

17 (2) If the legislature is not in session, it may, using the procedures outlined
18 in Subsection B of this Section, direct the governor, parish president, or mayor who
19 declared a state of disaster or emergency or public health emergency to terminate the
20 state of disaster or emergency or public health emergency and may establish a period

1 during which no other declaration of emergency or disaster or public health
2 emergency may be issued.

3 B.(1) If so directed by the speaker and the president acting jointly regarding
4 the content of the ballot, the clerk of the House of Representatives and the secretary
5 of the Senate shall prepare and transmit a ballot to each member of the legislature on
6 the questions of directing the governor, parish president, or mayor who declared a
7 state of disaster or emergency or public health emergency to terminate the state of
8 disaster or emergency or public health emergency or establishing a period during
9 which no other declaration of emergency or disaster or public health emergency may
10 be issued or both.

11 (2) The ballots shall be uniform.

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

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

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

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

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

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

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

26 (d) Such other pertinent information as the clerk and the secretary shall
27 determine.

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

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

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

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

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

20 (9)(a) The ballots shall be returned to the clerk and the secretary no later than
21 five o'clock p.m. on the fifteenth day after the transmittal date.

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

28 (10) Whenever the clerk and the secretary are required to provide notice to
29 a member of the legislature pursuant to this Section, the notice shall be transmitted

1 using the most efficient communication medium available to the clerk or the
2 secretary. Any such communication media may include but is not limited to
3 telephonic, e-mail, or SMS communications.

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

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

15 (12) Approval by the requisite majority of the surviving members of the
16 legislature constitutes a resolution of the legislature directing the governor, parish
17 president, or mayor who declared a state of disaster or emergency or public health
18 emergency to take or cease from taking actions with respect to the declared
19 emergency or disaster or public health emergency.

20 * * *

21 §727. Powers of the parish president; penalties for violations

22 * * *

23 D.(1) A local disaster or emergency may be declared only by the parish
24 president, except as otherwise provided in this Chapter. In that event, the state of
25 emergency shall continue until the parish president finds that the threat of danger has
26 been dealt with to the extent that emergency conditions no longer exist. The state of
27 emergency may be terminated by executive order or proclamation, but no state of
28 emergency may continue for longer than thirty days unless extended by the parish
29 president. The state of emergency or disaster may be terminated by the governor, a

1 ~~petition signed by a majority of the surviving members of either house of the~~
 2 ~~legislature~~ by the legislature using the procedures provided by R.S. 29:724.1, or by
 3 a majority of the surviving members of the parish governing authority. The
 4 document terminating the state of emergency or disaster may establish a period
 5 during which no other declaration of emergency or disaster may be issued. All
 6 executive orders or proclamations issued under this Subsection shall indicate the
 7 nature of the emergency, the area or areas which are or may be affected, and the
 8 conditions which brought it about. Any order or proclamation declaring, continuing,
 9 or terminating a local disaster or emergency shall be given prompt and general
 10 publicity and shall be filed promptly with the office of emergency preparedness and
 11 the office of the clerk of court.

12 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection or any
 13 other law or ordinance or any exercise of authority pursuant to a home rule charter,
 14 no state of emergency declared by a parish president may continue for a period of
 15 more than ninety days unless approved by the governing authority of the parish.

16 * * *

17 §737. Municipalities; authority to respond to emergencies

18 * * *

19 C.(1) The state of emergency shall continue until the mayor or chief
 20 executive officer finds that the threat of danger has been dealt with to the extent that
 21 emergency conditions no longer exist. The state of emergency may be terminated
 22 by executive order or proclamation, but no state of emergency may continue for
 23 longer than thirty days unless extended by the mayor or chief executive officer. The
 24 state of emergency or disaster may be terminated by the governor, parish president,
 25 ~~a petition signed by a majority of the surviving members of either house of the~~
 26 ~~legislature~~ the legislature using the procedures provided by R.S. 29:724.1, a majority
 27 of the surviving members of the parish governing authority, or a majority of the
 28 surviving members of the municipal governing authority. The document terminating
 29 the state of emergency or disaster may establish a period during which no other

1 declaration of emergency or disaster may be issued. All executive orders or
 2 proclamations issued under this Subsection shall indicate the nature of the
 3 emergency, the area or areas which are or may be affected, and the conditions which
 4 brought it about. Any order or proclamation declaring, continuing, or terminating
 5 a local disaster or emergency shall be given prompt and general publicity and shall
 6 be filed promptly with the Governor's Office of Homeland Security and Emergency
 7 Preparedness, the local office of homeland security and emergency preparedness, and
 8 the office of the clerk of court.

9 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection or any
 10 other law or ordinance or any exercise of authority pursuant to a home rule charter,
 11 no state of emergency declared by a mayor or chief executive officer may continue
 12 for a period of more than ninety days unless approved by the governing authority of
 13 the municipality.

14 * * *

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 701 Original

2022 Regular Session

Hilferty

Abstract: Provides the procedures for the legislature to terminate a declaration of a state of disaster or emergency; provides for the declaration of a state or emergency in parishes and municipalities; requires the approval of the governing authority of the parish or municipality before a declaration of a state of emergency may continue for a period exceeding 90 days.

Present law provides for the termination of a state of emergency by executive order or proclamation by the governor, a petition signed by a majority of the surviving members of either house of the legislature, a majority of the surviving members of the parish governing authority (in the case of a parish-declared emergency), or a majority of the surviving members of the municipal governing authority (in the case of a municipal-declared emergency).

Proposed law retains present law except for changing the procedure for termination of a state of emergency by the legislature.

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

Proposed law provides that if the legislature is not in session, the speaker of the House of Representatives and the president of the Senate may utilize the procedures provided by proposed law to allow the surviving members of the legislature to vote to direct the governor, parish president, or mayor who declared a state of disaster or emergency or public health emergency to terminate such declaration.

Proposed law provides that upon the direction by the speaker and the president, the clerk of the House of Representatives and the secretary of the Senate shall prepare and transmit a ballot to each member of the legislature.

Proposed law provides for the uniformity, information contained in, and criteria of the ballots to be transmitted.

Proposed law requires each member to complete and sign the ballot and return it to the clerical officer of his house.

Proposed law requires the clerk and the secretary to initiate and oversee the design and implementation of a system to allow each member to electronically vote and return his ballot and shall certify that the system meets the requirements of proposed law.

Proposed law provides that on the 10th day after the transmittal date, the clerk and the secretary shall provide a notice to each member whose voted ballot has not been received indicating that the member's voted ballot has not been received and informing the member of the deadline for returning the ballot.

Proposed law provides that the ballots shall be returned to the clerk and the secretary no later than five o'clock p.m. on the 15th day after the transmittal date, and that no ballot received after the deadline shall be valid or counted and shall be marked "Invalid".

Proposed law requires the clerk and the secretary to tabulate the vote and to hold the ballots under seal until the day when such ballots are tabulated.

Proposed law requires the tabulation to indicate by name those members who voted in favor of each item, those who voted against each item, those who did not vote on one or more items, those who did not return the ballot by the due date and time, and those whose ballots were invalid because not signed by the member. Proposed law further requires the clerk and the secretary to sign the tabulation sheet and cause a summary to be transmitted to the governor, parish president, or mayor who declared a state of disaster or emergency.

Proposed law provides that approval by the requisite majority of the surviving members of the legislature shall constitute approval to direct the termination of a state of disaster or emergency or public health emergency declared by the governor, parish president, or mayor who declared a state of disaster or emergency or public health emergency.

Present law provides that a local disaster or emergency may be declared only by the parish president, except as otherwise provided in present law, and that it shall continue until the parish president finds that the threat of danger has been dealt with to the extent that emergency conditions no longer exist. The state of emergency may be terminated by executive order or proclamation.

Proposed law retains present law and also provides that no state of emergency may continue for longer than 30 days unless extended by the parish president.

Proposed law provides that no state of emergency may be extended by the parish president for a period exceeding 90 days unless approved by the governing authority of the parish.

Present law provides that whenever a situation develops within or outside of a municipality which the chief executive officer of the municipality determines requires immediate action

to preserve the public peace, property, health, or safety within the municipality or to provide for continued operation of municipal government, the chief executive officer of the municipality is authorized to undertake immediate emergency response measures.

Present law further provides that whenever the chief executive officer undertakes immediate emergency response measures because of a disaster or emergency, he shall immediately notify the parish president and advise him of the nature of the disaster or emergency and the emergency response measures being undertaken.

Present law provides that the state of emergency shall continue until the mayor or chief executive officer finds that the threat of danger has been dealt with to the extent that emergency conditions no longer exist, and further provides that the state of emergency may be terminated by executive order or proclamation, but that no state of emergency may continue for longer than 30 days unless extended by the mayor or chief executive officer.

Proposed law retains present law.

Proposed law provides that no state of emergency may be extended by the mayor or chief executive officer for a period exceeding 90 days unless approved by the governing authority of the municipality.

(Amends R.S. 29:727(D) and 737(C); Adds R.S. 29:724.1)