

2022 Regular Session

SENATE BILL NO. 258

BY SENATOR HEWITT

EMERGENCY POWERS. Provides relative to voting and the holding of elections impaired as the result of a declared emergency or disaster. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 18:401.3(B), (C), and (D)(1), (2)(a)(i) and (ii), (3), and (4), and
3 to enact R.S. 18:401.3(E), relative to emergency election plans; to provide for
4 reasons for the development of a plan; to authorize alternative plans; to provide for
5 procedures for approval of a plan; to provide for an effective date; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:401.3(B), (C), and (D)(1), (2)(a)(i) and (ii), (3), and (4) are hereby
9 amended and reenacted and R.S. 18:401.3(E) is hereby enacted to read as follows:

10 §401.3. Emergency plan by secretary of state; gubernatorial and legislative approval

11 * * *

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

1 other impairments that affect participation in or the integrity of the electoral
2 process, the secretary of state shall certify such facts and the reasons therefor to the
3 governor, the Senate Committee on Senate and Governmental Affairs, and the House
4 Committee on House and Governmental Affairs.

5 (b)(i) The Senate Committee on Senate and Governmental Affairs and
6 the House Committee on House and Governmental Affairs shall meet and
7 function as a joint committee for all purposes pursuant to this Section. No
8 action shall be taken by the joint committee except by the favorable vote of a
9 majority of the members thereof from each house present and voting, each
10 house voting separately.

11 (ii) The joint committee shall meet no later than ten days following
12 receipt of the certification.

13 (c) If the governor and a majority of the members of each committee concur
14 that such an emergency plan is necessary, the secretary of state shall develop an
15 emergency plan in writing that proposes a resolution to technical, mechanical, or
16 logistical problems impairing the holding of the election with respect to the
17 relocation or consolidation of polling places within the parish, potential shortages of
18 commissioners and absentee commissioners, ~~or~~ shortages of voting machines, or
19 other impairments that affect participation in or the integrity of the electoral
20 process. The secretary of state may also present alternative written emergency
21 plans at the same time.

22 (2) If, in addition to the resolution of the ~~technical, mechanical, or logistical~~
23 problems as provided in Paragraph (B)(1) of this Section Subsection, the secretary
24 of state determines that it is necessary and feasible to conduct early voting in ~~certain~~
25 ~~parishes~~ to enable ~~displaced~~ affected voters to vote, the secretary of state may
26 include in the emergency plan a proposal to conduct early voting at ~~the offices of the~~
27 ~~registrars in certain parishes in the state. Any early voting authorized by the~~
28 ~~provisions of this Paragraph shall be conducted in the same manner as provided in~~
29 ~~R.S. 18:1309(A)~~ times and locations which are accessible to affected voters.

1 C.**(1)** The written emergency plan **and any alternatives** shall be submitted
2 by the secretary of state to the Senate Committee on Senate and Governmental
3 Affairs, the House Committee on House and Governmental Affairs, and the governor
4 **either at the same time as he submits the certification or** as soon as practicable
5 following ~~their~~ **the joint committee's and the governor's** concurrence with his
6 certification. **The joint committee shall meet no later than ten days following**
7 **receipt of the emergency plan. The secretary of state may incorporate changes**
8 **suggested and approved by the joint committee into the emergency plan.** If a
9 majority of the members of the Senate Committee on Senate and Governmental
10 Affairs and of the House Committee on House and Governmental Affairs approve
11 the emergency plan **or an alternative emergency plan**, ~~such~~ **the approved** plan
12 shall be submitted to the members of each house of the legislature for approval by
13 mail ballot as provided in this Section. If a majority of the members of each house
14 of the legislature and the governor approve the emergency plan **or if the legislature**
15 **overrides the governor's disapproval of the emergency plan as provided in**
16 **Subsection E of this Section**, the secretary of state shall take all steps necessary to
17 implement the plan and all officials of the state and of any political subdivision
18 thereof shall cooperate with and provide assistance to the secretary of state as
19 necessary to implement the plan.

20 **(2) The joint committee shall send notice to the governor of each**
21 **meeting held pursuant to this Section. The governor or his designee may attend**
22 **each joint meeting held pursuant to this Section and may provide**
23 **recommendations to the joint committee regarding the emergency plan.**

24 D.(1) In order to obtain the approval of a majority of the elected members
25 of each house of the legislature, the secretary of the Senate and the clerk of the
26 House of Representatives shall jointly prepare and transmit a ballot to each member
27 of the legislature by certified mail with return receipt requested unless the legislature
28 is in session and the ballots may be distributed and returned during the session as
29 **soon as possible in the manner** provided in this Subsection.

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

3 (i) A copy of the secretary of state's certification that the emergency **or**
4 **disaster** impairs an election that may otherwise be held ~~except for certain technical,~~
5 ~~mechanical, or logistical problems~~ and the reasons therefor.

6 (ii) A copy of the emergency plan **approved by the joint committee.**

7 * * *

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

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

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

22 * * *

23 E. If a majority of the elected members of each house of the legislature
 24 approve the emergency plan, the governor shall either approve or disapprove
 25 the plan no later than five days after he receives the certified tabulation sheet.
 26 If the governor approves the plan, he shall immediately send a written message
 27 of approval to the secretary of state and the chairmen of the Senate Committee
 28 on Senate and Governmental Affairs and House Committee on House and
 29 Governmental Affairs. If the governor disapproves of the plan, he shall

1 immediately send a written message of disapproval to the secretary of the
 2 Senate and the clerk of the House of Representatives. The secretary and the
 3 clerk shall immediately and jointly prepare and transmit a ballot to each
 4 member of the legislature utilizing the same procedures and deadlines provided
 5 in Subsection D of this Section. The ballot shall contain a question phrased to
 6 allow each member to cast his vote for or against overriding the governor's
 7 disapproval of the emergency election plan. If two-thirds of the elected members
 8 of each house vote to override the governor's disapproval of the emergency
 9 election plan, the secretary of state shall implement the plan in the manner
 10 provided by Subsection C of this Section.

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

DIGEST

SB 258 Engrossed

2022 Regular Session

Hewitt

Present law provides that if the secretary of state determines that an emergency declared by the governor impairs an election that could be held except for technical, mechanical, or logistical problems with respect to the relocation or consolidation of polling places and potential shortages of commissioners or 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 adds other impairments that affect participation in or the integrity of the electoral process to the impairments that the secretary shall consider and certify to the governor and the committees.

Present law provides that if the governor and a majority of the members of each committee concur that an emergency plan is necessary, the secretary of state shall develop an emergency plan to address the impairments. Present law is applicable to the additional impairments added by proposed law.

Proposed law additionally requires the committees to meet within 10 days following the secretary of state's certification and requires the committees to meet and function as a joint committee.

Present law authorizes the secretary of state to include in the plan a proposal to conduct early voting. Proposed law retains present law.

Present law limits the locations of such early voting to the offices of the registrars and provides for conducting early voting in accordance with present law. Proposed law removes these limitations and provides for such early voting at times and locations that are accessible to affected voters.

Present law requires the secretary of state to present the plan to the governor, Senate and Governmental Affairs Committee, and House and Governmental Affairs Committee for their approval.

Proposed law specifically authorizes the secretary of state to present alternative plans at the same time and also authorize the secretary to present the plan or plans at the same time as the certification. Requires the joint committee to meet no later than 10 days following receipt of the plan and requires the joint committee to send notice of each meeting held pursuant to proposed law to the governor and provides that the governor or his designee may attend and provide recommendations regarding the emergency plan. Proposed law specifically provides that the secretary of state may incorporate changes suggested and approved by the joint committee.

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 shall be sent to members of each house of the legislature for approval by mail ballot. Proposed law retains present law.

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 and the plan shall be included in the notice sent with the ballots 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 a certain time period.

Proposed law retains present law.

Proposed law provides that if a majority of the elected members of each house approved the emergency plan, the governor shall approve or veto the plan no later than five days after he receives the certified tabulation sheet. Requires the governor to send his approval message to the secretary of state and the chairs of the governmental affairs committees. Requires the governor to immediately send his disapproval message to the secretary of the Senate and clerk of the House who shall immediately transmit a ballot to each member of the legislature phrased to allow members to vote for or against overriding the governor's disapproval using the same procedures and deadlines provided in proposed law above.

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 shall take all steps necessary to implement the plan. Proposed law retains present law and further provides that if two-thirds of the elected members of each house of the legislature vote to override the governor's disapproval, the secretary of state shall take all steps necessary to implement plan.

Effective August 1, 2022.

(Amends R.S. 18:401.3(B), (C), and (D)(1), (2)(a)(i) and (ii), (3), and (4); adds R.S. 18:401.3(E)