

SENATE BILL NO. 258

BY SENATOR HEWITT AND REPRESENTATIVE GAROFALO

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

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B.(1)(a) After the issuance of an executive order by the governor declaring a state of emergency **or disaster** and if the secretary of state determines that such emergency **or disaster** impairs an election that may otherwise be held except for technical, mechanical, or logistical problems with respect to the relocation or consolidation of polling places within the parish, potential shortages of commissioners and absentee commissioners, ~~or~~ shortages of voting machines, **or other impairments that affect participation in or the integrity of the electoral process**, the secretary of state shall certify such facts and the reasons therefor to the governor, the Senate Committee on Senate and Governmental Affairs, and the House Committee on House and Governmental Affairs.

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

7 **(ii) The joint committee shall meet no later than ten days following**
 8 **receipt of the certification.**

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

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

26 C.(1) The written emergency plan **and any alternatives** shall be submitted
 27 by the secretary of state to the Senate Committee on Senate and Governmental
 28 Affairs, the House Committee on House and Governmental Affairs, and the governor
 29 **either at the same time as he submits the certification or** as soon as practicable
 30 following their **the joint committee's and the governor's** concurrence with his

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

15 (2) The joint committee shall send notice to the governor of each
 16 meeting held pursuant to this Section. The governor or his designee may attend
 17 each joint meeting held pursuant to this Section and may provide
 18 recommendations to the joint committee regarding the emergency plan.

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

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

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

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

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

17 **(b) If the emergency is declared within sixty days prior to the date of the**
18 **election when the legislature is not in session, the joint committee may require**
19 **that ballots be returned within five days. The secretary of the Senate and the**
20 **clerk of the House of Representatives shall utilize any method necessary to**
21 **deliver the ballots, including commercial delivery, electronic transmission, or**
22 **hand delivery, and shall keep a record of the manner of delivery utilized to**
23 **deliver the ballot to each member and the date the ballot was so transmitted to**
24 **each member. When such ballots are delivered to the members of the legislature**
25 **while in session, the ballots shall be returned to the secretary of the Senate or**
26 **the clerk of the House of Representatives, as the case may be, within five days**
27 **after the date the ballots were delivered to members.**

28 (4) At any time after the deadline for submitting the ballots as provided in
29 Paragraph ~~(3)~~ **Subparagraph (3)(a)** of this Subsection, but prior to the eighteenth
30 day after the date on which the ballots were mailed, or prior to the eighth day after

1 the date on which the ballots were delivered to the members of the legislature in
2 session or delivered pursuant to Subparagraph (3)(b) of this Subsection, the
3 secretary of the Senate and the clerk of the House of Representatives shall jointly
4 open and tabulate the vote in roll call order for each house of the legislature. The
5 clerk and the secretary shall hold such ballots unopened and shall not disclose the
6 contents to any person until the day when such ballots are opened and tabulated. The
7 tabulation sheet shall indicate by name each member who voted in favor of the plan,
8 each member who voted against the plan, each member who did not return the ballot
9 by the deadline, and each member whose ballot was invalid because it was not
10 marked or signed by the member. The secretary of the Senate and the clerk of the
11 House of Representatives shall each sign the tabulation sheet and cause a certified
12 copy thereof to be transmitted to the secretary of state, the governor, and the
13 chairmen of the Senate Committee on Senate and Governmental Affairs and House
14 Committee on House and Governmental Affairs.

15 * * *

16 **E. If a majority of the elected members of each house of the legislature**
17 **approve the emergency plan, the governor shall either approve or disapprove**
18 **the plan no later than five days after he receives the certified tabulation sheet.**
19 **If the governor approves the plan, he shall immediately send a written message**
20 **of approval to the secretary of state and the chairmen of the Senate Committee**
21 **on Senate and Governmental Affairs and House Committee on House and**
22 **Governmental Affairs. If the governor disapproves of the plan, he shall**
23 **immediately send a written message of disapproval to the secretary of the**
24 **Senate and the clerk of the House of Representatives. The secretary and the**
25 **clerk shall immediately and jointly prepare and transmit a ballot to each**
26 **member of the legislature utilizing the same procedures and deadlines provided**
27 **in Subsection D of this Section. The ballot shall contain a question phrased to**
28 **allow each member to cast his vote for or against overriding the governor's**
29 **disapproval of the emergency election plan. If two-thirds of the elected members**
30 **of each house vote to override the governor's disapproval of the emergency**

1 election plan, the secretary of state shall implement the plan in the manner
2 provided by Subsection C of this Section.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____