

RÉSUMÉ DIGEST

ACT 438 (HB 840)

2015 Regular Session

Stokes

Existing Constitution (Art. VII, Sec. 7) creates the Interim Emergency Board to be composed of the governor, lieutenant governor, state treasurer, presiding officer of each house of the legislature, chairman of the Senate Finance Committee, and chairman of the House Appropriations Committee, or their designees. New law addresses two instances in which the Interim Emergency Board must obtain approval of the legislature to act.

First, existing Constitution provides that between sessions of the legislature, when the board by majority vote determines that an emergency or impending flood emergency exists, it may appropriate from the state general fund or borrow on the full faith and credit of the state an amount to meet the emergency. However, provides that the appropriation may be made or the indebtedness incurred only for a purpose for which the legislature may appropriate funds and then only after the board obtains, as provided by law, the written consent of two-thirds of the elected members of each house of the legislature.

Second, existing law (R.S. 39:461.4) authorizes changes in the priority for any capital outlay project or adjustment to a project description if the interim emergency board determines the change is necessary and the change is approved by a majority vote of the elected members of each house of the legislature.

Existing law provides procedures for obtaining consent of the legislature for these purposes.

New law makes changes to procedures that apply separately to either obtaining legislative approval for appropriation or borrowing or to capital outlay as follows:

Existing law (R.S. 39:461.1—appropriation or borrowing) requires the clerk of the House of Representatives and the secretary of the Senate to prepare and transmit a ballot to each member of the legislature. Requires the ballots to be uniform and to state the amount for which the appropriation is to be made or the money is to be borrowed. If the board proposes to borrow funds on the full faith and credit of the state, requires the ballot to state this fact for each item to be financed in this manner and to also state the term of such debt and the interest to be paid thereon.

Existing law additionally requires that the members receive a statement of the factual basis upon which the board concluded that an emergency not anticipated by the legislature exists and such other pertinent information as the clerk and secretary shall determine. Prior law required the ballot to state this information. New law requires this information to be included in documentation accompanying the ballot.

Existing law requires the board to provide the clerk of the House and the secretary of the Senate such information as is necessary to prepare the ballots. New law additionally requires the board to provide the clerk and the secretary with such information as is necessary to prepare the documentation required by new law to accompany the ballots.

Prior law (R.S. 39:461.4—capital outlay) required the interim emergency board to prepare and transmit ballots to the members of the legislature. New law provides that the clerk and the secretary prepare and transmit the ballots.

Existing law requires the ballots to be transmitted to each member and requires the ballots to be uniform, to state the nature of the project, the amount appropriated for the project, and the proposed priority revision or proposed adjustment of the description of the project.

Prior law required the ballots to state the date and time on which the ballot could be returned to the board in order to be valid and to contain such other pertinent information as the board determined. New law repeals prior law.

Existing law requires that the members receive a statement of the factual basis for the board's decision and a copy of the written request for the adjustment as provided in existing law (R.S. 39:461.9). Prior law required the ballot to state this information. New law requires this information to be included in documentation accompanying the ballots, instead of being stated in the ballot, and requires this documentation to include such other pertinent

information as the clerk and the secretary shall determine. Additionally requires the board to provide the clerk and the secretary such information as shall be necessary to prepare the ballots and the accompanying documentation.

New law makes changes to procedures that apply to obtaining legislative approval for both appropriation or borrowing and for capital outlay as follows:

Prior law required each ballot to contain the name of the member to whom it was to be mailed. New law requires that the ballot include a place for the member to provide his name. Additionally requires the member to provide his name in this place on the ballot after casting his vote.

Existing law requires the member to sign his ballot after casting his vote. Provides that if more than one item is to be voted on, requires the ballot to set forth each item in such form as to enable each member to cast his vote separately for or against each item.

New law requires the member to return the voted ballot to the clerical officer of his house.

Prior law required the ballots to be sent by certified mail with return receipt requested, unless it was determined that the legislature would be in session in time for the ballots to be distributed to them and returned by them during the session. New law repeals prior law.

New law requires the clerk and the secretary to transmit the ballots to all of the members on the same day. Requires the clerk and the secretary to certify this date, which is referred to in new law as the "transmittal date".

New law additionally requires the clerk and the secretary to provide a notice to each member on the transmittal date. Requires the notice to include all of the following:

- (1) The documentation required by new law to accompany the ballots.
- (2) The number of items on the ballot.
- (3) The vote required for passage of the items on the ballot.
- (4) The date and time by which the ballot must be returned.
- (5) Such other pertinent information as the clerk and secretary shall determine.

New law requires the clerk and the secretary to initiate and oversee the design and implementation of an accurate and secure system to allow each member to electronically vote and return his ballot as provided in new law. Provides that the clerk and secretary shall certify that the system meets the requirements of new law.

New law requires the clerk and the secretary to provide a notice to each member from whom the clerk or the secretary, as applicable, receives a voted ballot confirming that the ballot has been received. 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.

New law provides that when the clerk or the secretary is to provide notice to a member of the legislature pursuant to new law, the notice shall be transmitted using the most efficient communication medium available.

Prior law provided that the ballots mailed to all members were to be postmarked on the same day and returned within 15 days after the postmarked date. New law repeals prior law. Provides that if the legislature is not in session on the transmittal date, the ballots shall be returned no later than 5:00 p.m. on the 15th day after the transmittal date.

Prior law provided that when the ballots were delivered to the members while in session, they were required to return the ballots within five days of the date which the clerk and secretary certified as the date that the ballots were delivered to members then present to which delivery was possible. New law provides that the ballots are "transmitted" instead of

"delivered". Provides that the ballots must be returned no later than 5:00 p.m. on the fifth day after the transmittal date, instead of within five days of the date the ballots were delivered.

Existing law provides that no ballot received by the clerk or the secretary after the deadline shall be valid or counted, but the day and time received shall be marked on each such ballot and the ballot shall be marked "Invalid". Provides that prior to the applicable deadline a member may withdraw his ballot or change his vote upon his written request.

Prior law provided that an electronically transmitted ballot was required to be sealed immediately upon receipt and its contents not disclosed until the day when all ballots were opened and tabulated. New law repeals prior law.

Existing law requires that the vote be tabulated in roll call order for each house. Prohibits the disclosure of the contents of a ballot until the ballots are tabulated.

Prior law (R.S. 39:461.1) required the clerk and the secretary to open and tabulate the vote on the 16th day after the mailing date. Prior law (R.S. 39:461.4) required the secretary of the interim emergency board to open and tabulate the vote on the 17th day after the mailing date. Prior law (R.S. 39:461.1 and 461.4) required that the ballots be held unopened until the day they were tabulated. Provided that no ballot was deemed spoiled if received and sealed.

New law repeals prior law. Requires the clerk and secretary to tabulate the vote on the next business day after the deadline. Provides that a ballot shall not be deemed spoiled if inadvertently disclosed in processing.

Effective August 1, 2015.

(Amends R.S. 39:461.1(B), (C), and (D)(1) and 461.4(B), (C), and (D))