

2016 Regular Session

HOUSE BILL NO. 728

BY REPRESENTATIVE STOKES

INTERIM EMERGENCY BOARD: Provides with respect to the procedures and requirements for obtaining consent of the legislature for certain acts of the interim emergency board

1 AN ACT

2 To amend and reenact R.S. 39:77, 461.1(B)(9)(b) and (C)(3), 461.4(B)(5) and (8)(b), (C),  
3 (D)(2), and (E), and 461.5, relative to the interim emergency board; to provide  
4 relative to procedures and requirements for obtaining consent of the legislature for  
5 the appropriation or borrowing of funds for an emergency or for capital outlay  
6 priority changes and adjustments; to provide relative to the authority, functions, and  
7 duties of the board; to provide relative to the authority, functions, and duties of the  
8 clerk of the House of Representatives and the secretary of the Senate; and to provide  
9 for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 39:77, 461.1(B)(9)(b) and (C)(3), 461.4(B)(5) and (8)(b), (C), (D)(2),  
12 and (E), and 461.5 are hereby amended and reenacted to read as follows:

13 §77. Expenditure of monies in excess of funds appropriated; removal from office

14 The expenditure of any monies in excess of the funds appropriated or  
15 otherwise allocated for expenditure by any board, commission, department, or  
16 agency of the state during any fiscal year shall constitute reasonable cause for  
17 removal from office of the officer or officers, whether elected or appointed,  
18 responsible therefor in accordance with the provisions of Article X of the  
19 Constitution of Louisiana, unless said officer first has obtained approval therefor of

1 the interim emergency board and of the legislature by a two-thirds vote of the  
 2 members thereof taken by ~~mail~~ ballot conducted by ~~said board~~ the clerk of the House  
 3 of Representatives and secretary of the Senate as provided in R.S. 39:461.1;  
 4 provided, however, that the provisions of the Section shall not apply to the  
 5 Department of Military Affairs or the Department of Public Safety and Corrections  
 6 when a state of emergency has been declared by the governor so long as the  
 7 department heads shall certify to the governor that the expenditure of funds is  
 8 necessary as a direct result of said state of emergency.

9 \* \* \*

10 §461.1. Emergency funds; legislative consent; procedure

11 \* \* \*

12 B.

13 \* \* \*

14 (9)

15 \* \* \*

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

21 (ii) Notwithstanding the provisions of Paragraph (6) of this Subsection and  
 22 Subparagraph (a) of this Paragraph, if a member votes using a system certified as  
 23 provided in Item (i) of this Subparagraph, the member shall not be required to sign  
 24 his ballot.

25 \* \* \*

26 C.

27 \* \* \*

28 (3) No ballot received by the clerk or the secretary after the deadline  
 29 provided in Paragraph (1) or (2) of this Subsection shall be valid or counted, but the

1 day and time received shall be ~~marked on~~ recorded for each ballot received after such  
2 time, and the ballot shall be marked "Invalid". However, prior to the deadline for  
3 returning a ballot, a member may withdraw his ballot or change his vote upon his  
4 written request.

5 \* \* \*

6 §461.4. Capital budget bond projects; priority changes; legislative consent;  
7 procedure

8 \* \* \*

9 B.

10 \* \* \*

11 (5) Each ballot also shall include a place for ~~the name of~~ the member to  
12 whom the ballot has been transmitted to provide his name and sign the ballot after  
13 casting his vote.

14 \* \* \*

15 (8)

16 \* \* \*

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

22 (ii) Notwithstanding the provisions of Paragraph (5) of this Subsection and  
23 Subparagraph (a) of this Paragraph, if a member votes using a system certified as  
24 provided in Item (i) of this Subparagraph, the member shall not be required to sign  
25 his ballot.

26 \* \* \*

27 C.(1) If the legislature is not in session on the transmittal date, the ballots  
28 shall be returned to the ~~board~~ clerk of the House of Representatives and the secretary

1 of the Senate no later than five o'clock p.m. on the fifteenth day after the transmittal  
2 date.

3 (2) When ballots are transmitted to the members of the legislature while in  
4 session, they shall be returned to the ~~board~~ clerk and the secretary no later than five  
5 o'clock p.m. on the fifth day after the transmittal date.

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

12 D.

13 \* \* \*

14 (2) The tabulations shall indicate by name those members who voted in favor  
15 of each item, those who voted against each item, those who did not vote on one or  
16 more items, those who did not return the ballot by the due date and time, and those  
17 whose ballots were invalid because not signed by the member. The clerk and the  
18 secretary shall sign the tabulation sheet or sheets and cause a summary thereof to be  
19 transmitted to the interim emergency board. The board shall send a copy of the  
20 summary to the State Bond Commission, which may then proceed with the sale of  
21 general obligation bonds for each change approved.

22 \* \* \*

23 E. The interim emergency board shall report the tabulation of the results of  
24 each balloting at its next meeting, and the tabulation compiled and the report thereof  
25 shall become a part of the official minutes of that meeting. All ballots and  
26 communications on such ballot items received from members of the legislature by  
27 the ~~board secretary~~ clerk of the House of Representatives or secretary of the Senate,  
28 whether or not timely received, shall become a part of the official files of the ~~board~~  
29 clerk and the secretary.

1           §461.5. Exception to procedure for legislative consent  
 2                   Whenever the consent of the legislature must be obtained on emergency  
 3           funding appropriations, priority changes, and adjustments to capital outlay project  
 4           descriptions resulting from recommendations of the board at a single meeting, the  
 5           clerk of the House of Representatives and the secretary of the Senate are authorized  
 6           to transmit both ballots and required documentation to the members of the  
 7           legislature. The ballots ~~are to~~ shall be returned as provided ~~herein~~ in this Chapter to  
 8           the ~~appropriate offices of the~~ clerk of the House of Representatives; and the secretary  
 9           of the Senate; ~~and the board secretary.~~

## 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 728 Engrossed

2016 Regular Session

Stokes

**Abstract:** Provides relative to procedures and requirements for obtaining consent of the legislature for the appropriation or borrowing of funds for an emergency or for capital outlay priority changes and adjustments.

Present Constitution (Art. VII, Sec. 7) creates the Interim Emergency Bd. 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. Proposed law addresses two instances in which the Interim Emergency Bd. must obtain approval of the legislature to act.

First, present 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, present 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.

Present law provides procedures for obtaining consent of the legislature for these purposes. Provides that the clerk of the House of Representatives and secretary of the Senate prepare and transmit ballots and other required documents to members of the legislature. Provides for the content of ballots and other required documents. Provides deadlines and procedures for returning voted ballots. Requires the clerical officers to tabulate the ballots. Further, requires the clerical officers to oversee the design and implementation of an accurate and secure system to allow each member to electronically vote and return his ballot.

Proposed law retains present law.

Present law requires a ballot to contain a space for the member to sign his ballot. Proposed law retains present law, but provides that if votes using a system pursuant to present law that allows the member to electronically vote and return his ballot, the member will not be required to sign his ballot.

Present law requires the clerk and secretary to mark the day and time of receipt on each ballot received after the deadline for returning ballots. Proposed law provides that this information shall be recorded for each ballot, but need not be marked on the ballot.

Proposed law replaces obsolete references in present law (R.S. 39:461.4—capital outlay) to the interim emergency board conducting the ballot procedure with references to the clerk and secretary conducting the ballot procedure.

Present law provides that after tabulating the ballots, the clerk and secretary sign the tabulation sheets and send a summary to the State Bond Commission. Proposed law provides instead that the clerk and secretary send a summary to the interim emergency board and that the board sends a copy of the summary to the State Bond Commission.

Proposed law replaces references to the interim emergency board conducting the ballot procedure with references to the clerk and secretary conducting the ballot procedure in present law provisions (R.S. 39:461) relative to obtaining consent of the legislature for multiple issues at the same time, and in present law provisions relative to the removal of certain public officers for expending monies in excess of appropriated funds without approval of the interim emergency board and the legislature.

(Amends R.S. 39:77, 461.1(B)(9)(b) and (C)(3), 461.4(B)(5) and (8)(b), (C), (D)(2), and (E), and 461.5)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Provide that a member is not required to sign the ballot when the member actually votes using an electronic system instead of when the clerk or secretary uses such a system to send ballots.