

2015 Regular Session

HOUSE BILL NO. 840 (Substitute for House Bill No. 650 by Representative Stokes and House Bill No. 398 by Representatives Price and Broadwater)

BY REPRESENTATIVES STOKES, PRICE, AND BROADWATER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INTERIM EMERGENCY BOARD: Provides procedures and requirements for obtaining consent of the legislature for certain acts of the board

1 AN ACT

2 To amend and reenact R.S. 39:461.1(B), (C), and (D)(1) and 461.4(B), (C), and (D), relative

3 to the interim emergency board; to provide procedures and requirements for

4 obtaining consent of the legislature for the appropriation or borrowing of funds for

5 an emergency or for capital outlay priority changes and adjustments; to provide

6 relative to the authority, functions, and duties of the board; to provide relative to the

7 authority, functions, and duties of the clerk of the House of Representatives and the

8 secretary of the Senate; to provide relative to ballots; to provide for the content of the

9 ballots; to require certain notices; to provide for the content of the notices; to provide

10 deadlines for submitting ballots; to provide relative to the execution of ballots; to

11 provide for the tabulation of ballots; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 39:461.1(B), (C), and (D)(1) and 461.4(B), (C), and (D) are hereby

14 amended and reenacted to read as follows:

15 §461.1. Emergency funds; legislative consent; procedure

16 * * *

17 B.(1) In order to obtain the written consent of two-thirds of the elected

18 members of each house of the legislature, the clerk of the House of Representatives

19 and the secretary of the Senate shall prepare and transmit a ballot to each member

1 of the legislature ~~by certified mail with return receipt requested, unless it is~~
2 ~~determined that the legislature will be in session in time for the ballots to be~~
3 ~~distributed to them and returned by them during the session~~ as provided in this
4 Section.

5 (2) The ~~ballot~~ ballots shall be uniform, ~~state the factual basis upon which the~~
6 ~~board concluded that an emergency not anticipated by the legislature exists which~~
7 ~~justifies the appropriation of funds or the borrowing of funds on the full faith and~~
8 ~~credit of the state in order to meet the emergency,~~ the amount for which the
9 appropriation is to be made or the money is to be borrowed, and be accompanied by
10 documentation that includes a statement of the factual basis upon which the board
11 concluded that an emergency not anticipated by the legislature exists which justifies
12 the appropriation of funds or the borrowing of funds on the full faith and credit of the
13 state in order to meet the emergency and such other pertinent information as the
14 clerk and secretary shall determine.

15 (3) The interim emergency board shall provide the clerk of the House of
16 Representatives and the secretary of the Senate such information as shall be
17 necessary to prepare the ballots and the accompanying documentation.

18 (4) If the board proposes to borrow funds on the full faith and credit of the
19 state, the ballot shall so state for each item to be financed in this manner and shall
20 also state the term of such debt and the interest to be paid thereon.

21 (5) If more than one item is to be voted on, the ballot shall set forth each
22 item in such form as to enable each member to cast his vote separately for or against
23 each item.

24 (6) Each ballot ~~also shall contain the name of~~ include a place for the member
25 ~~to whom it is to be mailed and the member shall~~ the ballot has been transmitted to
26 provide his name and sign the ballot after casting his vote.

27 (7) The clerk and the secretary shall transmit the ballots to all of the
28 members on the same day. The clerk and the secretary shall certify this date, which
29 is referred to in this Section as the "transmittal date".

1 (8) The clerk and the secretary shall transmit via electronic mail a notice to
2 each member of the legislature on the transmittal date. The notice shall include all
3 of the following:

4 (a) The documentation required by Paragraph (2) of this Subsection.

5 (b) The number of items on the ballot.

6 (c) The vote required for passage of the items on the ballot.

7 (d) The date and time by which the ballot must be returned to the clerical
8 officer of the member's house in order to be valid.

9 (e) Such other pertinent information as the clerk and secretary shall
10 determine.

11 (9)(a) The member shall cast his vote for each item on the ballot, provide his
12 name in the appropriate place on the ballot, sign the ballot, and return the voted
13 ballot to the clerical officer of his house.

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

19 (10)(a) The clerk or the secretary shall transmit via electronic mail a notice
20 to each member from whom the clerk or the secretary, as applicable, receives a voted
21 ballot confirming that the ballot has been received.

22 (b) On the tenth day after the transmittal date, the clerk and the secretary
23 shall transmit via electronic mail a notice to each member whose voted ballot has not
24 been received indicating that the member's voted ballot has not been received and
25 informing the member of the deadline for returning the ballot.

26 ~~C.(1)(a) The ballots mailed to all members shall be postmarked on the same~~
27 ~~day and~~ If the legislature is not in session on the transmittal date, the ballots shall be
28 returned to the clerk of the House of Representatives and the secretary of the Senate

1 ~~within fifteen days~~ no later than five o'clock p.m. on the fifteenth day after the
2 ~~postmarked~~ transmittal date.

3 (b)(i) If less than three-fourths of the members of either the House of
4 Representatives or the Senate have failed to return their voted ballots by five o'clock
5 p.m. on the fourteenth day after the transmittal date, the clerk and the secretary shall
6 certify that fact to the board on the fifteenth day after the transmittal date. Such
7 certification shall extend the deadline for returning the ballots until five o'clock p.m.
8 on the twenty-fifth day after the transmittal date.

9 (ii) If the deadline for returning ballots is extended pursuant to Item (i) of
10 this Subparagraph, the clerk and the secretary shall transmit via electronic mail a
11 notice to each member whose voted ballot has not been received indicating that the
12 member's voted ballot has not been received and informing the member of the
13 extended deadline for returning the ballot.

14 (2) When ~~such~~ ballots are ~~delivered~~ transmitted to the members of the
15 legislature while in session, they shall be returned to the clerk and the secretary
16 ~~within five days of the date which the clerk and secretary certify as the date that the~~
17 ~~ballots were delivered to members then present to which delivery was possible~~ no
18 later than five o'clock p.m. on the fifth day after the transmittal date.

19 (3) No ballot received by the clerk or the secretary after ~~five o'clock p.m. on~~
20 ~~the fifth day after the date on which the ballots were delivered to the members of the~~
21 ~~legislature in session, or after five o'clock p.m. on the fifteenth day after the date on~~
22 ~~which the ballots were mailed;~~ the deadline provided in Paragraph (1) or (2) of this
23 Subsection shall be valid or counted, but the day and time received shall be marked
24 on each ballot received after such time, and the ballot shall be marked "Invalid".
25 However, prior to ~~five o'clock p.m. on the fifth day when delivered to the members~~
26 ~~of the legislature while in session or prior to five o'clock p.m. on the fifteenth day~~
27 ~~after the postmarked date if mailed to the members of the legislature~~ the deadline for
28 returning a ballot, a member may withdraw his ballot or change his vote upon his
29 written request.

1 that includes a statement of the factual basis for the board's decision, a copy of the
2 written request for the adjustment as provided in R.S. 39:461.9(C), and such other
3 pertinent information as the clerk and the secretary shall determine.

4 ~~(v) The date and time on which the ballot can be returned to the board in~~
5 ~~order to be valid.~~

6 ~~(vi) Such other pertinent information as the board shall determine.~~

7 (3) The interim emergency board shall provide the clerk of the House of
8 Representatives and the secretary of the Senate such information as shall be
9 necessary to prepare the ballots and the accompanying documentation.

10 ~~(b) (4)~~ If more than one item is to be voted on, the ballot shall set forth each
11 item in such form as to enable each member to cast his vote separately for or against
12 each item.

13 (5) Each ballot also shall contain include a place for the name of the member
14 to whom it is to be mailed, and the member shall the ballot has been transmitted to
15 provide his name and sign the ballot after casting his vote.

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

19 (7) The clerk and the secretary shall transmit via electronic mail a notice to
20 each member of the legislature on the transmittal date. The notice shall include all
21 of the following:

22 (a) The documentation required by Paragraph (2) of this Subsection.

23 (b) The number of items on the ballot.

24 (c) The vote required for passage of the items on the ballot.

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

27 (e) Such other pertinent information as the clerk and secretary shall
28 determine.

1 (8)(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) 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 secretary shall certify that the system meets the
8 requirements of this Subparagraph.

9 (9)(a) The clerk or the secretary shall transmit via electronic mail a notice
10 to each member from whom the clerk or the secretary, as applicable, receives a voted
11 ballot confirming that the ballot has been received.

12 (b) On the tenth day after the transmittal date, the clerk and the secretary
13 shall transmit via electronic mail a notice to each member whose voted ballot has not
14 been received indicating that the member's voted ballot has not been received and
15 informing the member of the deadline for returning the ballot.

16 C.(1)(a) ~~The ballots mailed to all members shall be postmarked on the same~~
17 ~~day and~~ If the legislature is not in session on the transmittal date, the ballots shall be
18 returned to the board ~~within fifteen days~~ no later than five o'clock p.m. on the
19 fifteenth day after the ~~postmarked~~ transmittal date.

20 (b)(i) If less than three-fourths of the members of either the House of
21 Representatives or the Senate have failed to return their voted ballots by five o'clock
22 p.m. on the fourteenth day after the transmittal date, the clerk and the secretary shall
23 certify that fact to the board on the fifteenth day after the transmittal date. Such
24 certification shall extend the deadline for returning the ballots until five o'clock p.m.
25 on the twenty-fifth day after the transmittal date.

26 (ii) If the deadline for returning ballots is extended pursuant to Item (i) of
27 this Subparagraph, the clerk and the secretary shall transmit via electronic mail a
28 notice to each member whose voted ballot has not been received indicating that the

1 member's voted ballot has not been received and informing the member of the
2 extended deadline for returning the ballot.

3 (2) When ~~such~~ ballots are ~~delivered~~ transmitted to the members of the
4 legislature while in session, they shall be returned to the board ~~within five days of~~
5 ~~the date which the board secretary certifies as the date that the ballots were delivered~~
6 ~~to members then present to which delivery was possible~~ no later than five o'clock
7 p.m. on the fifth day after the transmittal date.

8 (3) No ballot received by the ~~board clerk or the secretary~~ after 5:00 p.m. on
9 ~~the fifth day after the date on which the ballots were delivered to the members of the~~
10 ~~legislature in session or after 5:00 p.m. on the fifteenth day after the date on which~~
11 ~~the ballots were mailed~~ the deadline provided in Paragraph (1) or (2) of this
12 Subsection shall be valid or counted, but the day and time received shall be marked
13 on each ballot received after such time, and the ballot shall be marked "Invalid".
14 However, prior to 5:00 p.m. on the fifth day when delivered to the members of the
15 legislature while in session or prior to 5:00 p.m. on the fifteenth day after the
16 postmarked date if mailed to the members of the legislature the deadline for
17 returning a ballot, a member may withdraw his ballot or change his vote upon his
18 written request.

19 (2) For the purposes of this Chapter, an electronically transmitted ballot shall
20 be sealed immediately upon receipt and its contents not disclosed until the day when
21 all ballots are opened and tabulated.

22 D.(1) On the ~~seventeenth~~ next business day after the date on which the
23 ballots were mailed, or the seventh day after the ballots were delivered to the
24 members of the legislature in session, as provided herein, the board secretary shall
25 ~~open and~~ deadline for returning ballots as provided in Paragraph (C)(1) or (C)(2) of
26 this Section, the clerk of the House of Representatives and the secretary of the Senate
27 shall tabulate the vote in roll call order for each house of the legislature. The ~~board~~
28 ~~clerk and the secretary~~ shall hold such ballots ~~unopened~~ under seal and shall not
29 disclose the contents to any person until the day when such ballots are ~~opened and~~

1 tabulated. No ballot shall be deemed spoiled if inadvertently ~~opened in~~ disclosed
 2 processing ~~or if received and sealed pursuant to Paragraph (C)(2) of this Section.~~
 3 The board secretary is authorized to open any ballot prior to the date for opening and
 4 tabulating such ballot for the limited purpose of permitting identification of any
 5 ballot which a member requests to withdraw or change. The board secretary shall
 6 immediately reseal any ballot inadvertently opened or opened for identification
 7 purposes and shall not reveal any information contained thereon until the date when
 8 such ballots are opened and counted.

9 (2) The tabulations 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 ~~board~~ clerk and
 13 the secretary shall sign the tabulation sheet or sheets and cause a summary thereof
 14 to be transmitted to the State Bond Commission, which may then proceed with the
 15 sale of general obligation bonds for each change approved.

16 * * *

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 840 Engrossed 2015 Regular Session Stokes

Abstract: Provides 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 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. 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.

Present law (R.S. 39:461.1) provides the procedures for obtaining the written consent of the members of the legislature for purposes of present constitution.

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

Present 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.

Proposed law retains present law.

Present law 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.

Proposed law retains present law.

Present law additionally requires the ballot to state the factual basis upon which the board concluded that an emergency not anticipated by the legislature exists which justifies the appropriation of funds or the borrowing of funds on the full faith and credit of the state in order to meet the emergency and such other pertinent information as the clerk and secretary shall determine.

Proposed law requires this information to be included in documentation accompanying the ballot instead of being included on the ballot. Otherwise retains present law.

Present 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.

Proposed law retains present law and additionally requires the board to provide the clerk and the secretary with such information as is necessary to prepare the documentation required by proposed law to accompany the ballots.

Present law (R.S. 39:461.4—capital outlay) requires the interim emergency board to prepare and transmit ballots to the members of the legislature.

Proposed law provides that the clerk of the House of Representatives and the secretary of the Senate prepare and transmit the ballots, instead of the board.

Present law requires the ballots to be transmitted to each member of the legislature 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 the proposed adjustment of the description of the project.

Proposed law retains present law.

Present law requires the ballots to state the date and time on which the ballot can be returned to the board in order to be valid and to contain such other pertinent information as the board shall determine.

Proposed law repeals present law.

Present law requires the ballots to state the factual basis for the board's decision and to include a copy of the written request for the adjustment as provided in present law (R.S. 39:461.9).

Proposed law requires the statement of the factual basis for the board's decision and copy of the written request to be included in documentation accompanying the ballots, instead of being included on 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.

Relative to appropriation and borrowing and capital outlay, proposed law amends present law as follows:

Present law requires each ballot to contain the name of the member to whom it is to be mailed.

Proposed law requires instead that the ballot include a place for the member to whom the ballot has been transmitted to provide his name. Additionally requires the member to provide his name in this place on the ballot after casting his vote.

Present 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.

Proposed law retains present law. Additionally requires the member to return the voted ballot to the clerical officer of his house.

Present law requires the ballots to be sent by certified mail with return receipt requested, unless it is determined that the legislature will be in session in time for the ballots to be distributed to them and returned by them during the session.

Proposed law repeals present law.

Proposed 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 proposed law as the "transmittal date".

Proposed law additionally requires the clerk and the secretary to transmit via electronic mail a notice to each member of the legislature on the transmittal date. Requires the notice to include all of the following:

- (1) The documentation required by proposed 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 to the clerical officer of the member's house in order to be valid.
- (5) Such other pertinent information as the clerk and secretary shall determine.

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 as provided in proposed law. Requires the system to be accurate and secure. Provides that the clerk and secretary shall certify that the system meets the requirements of proposed law.

Proposed law requires the clerk and the secretary to transmit via electronic mail 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 the transmittal date, the clerk and the secretary shall transmit via electronic mail 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.

Present law provides that the ballots mailed to all members shall be postmarked on the same day and shall be returned to the clerk and the secretary within 15 days after the postmarked date.

Proposed law repeals present law. Provides that if the legislature is not in session on the transmittal date, the ballots shall be returned to the clerk of the House of Representatives and the secretary of the Senate no later than 5:00 p.m. on the 15th day after the transmittal date. Provides that if less than three-fourths of the members of either the House or the Senate have failed to return their voted ballots by 5:00 p.m. on the 14th day after the transmittal date, the clerk and the secretary shall certify that fact to the board on the 15th day after the transmittal date. Provides that such certification shall extend the deadline for returning the ballots until 5:00 p.m. on the 25th day after the transmittal date.

Proposed law provides that if the deadline for returning ballots is extended pursuant to proposed law, the clerk and the secretary shall transmit via electronic mail 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 extended deadline for returning the ballot.

Present law provides that when such ballots are delivered to the members of the legislature while in session, they shall be returned to the clerk and the secretary within five days of the date which the clerk and secretary certify as the date that the ballots were delivered to members then present to which delivery was possible.

Proposed 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.

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

Proposed law retains present law.

Present law provides that an electronically transmitted ballot shall be sealed immediately upon receipt and its contents not disclosed until the day when all ballots are opened and tabulated.

Proposed law repeals present law.

Present law requires that the vote be tabulated in roll call order for each house of the legislature. Prohibits the disclosure of the contents of a ballot to any person until the day when the ballots are tabulated.

Proposed law retains present law.

Present law (R.S. 39:461.1) requires the clerk and the secretary to open and tabulate the vote on the 16th day after the mailing date. Present law (R.S. 39:461.4) requires the secretary of the interim emergency board to open and tabulate the vote on the 17th day after the mailing date. Present law (R.S. 39:461.1 and 461.4) requires that the ballots be held unopened until the day they are tabulated. Provides that no ballot is deemed spoiled if received and sealed pursuant to present law.

Proposed law repeals present law. Requires the clerk and secretary to tabulate the vote on the next business day after the deadline for returning the ballots as provided in proposed law. Provides that a ballot shall not be deemed spoiled if inadvertently disclosed in processing.

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