



PROTECTING THE VOTE FOR ALL AMERICANS

June 21, 2023

Via Email

Office of Gov. John Bel Edwards
PO Box 94004
Baton Rouge, LA 70804

Re: Requested Veto of HB 260

Dear Governor Edwards:

On behalf of the Fair Elections Center, a nonpartisan, nonprofit organization dedicated to removing barriers to registration and voting through advocacy and impact litigation, I write to express our strong opposition to HB 260 and respectfully request that you veto this bill. HB 260 gives unfettered authority to the House and Senate Governmental Affairs Committees to prohibit local election administration officials from implementing best practices or guidance issued by the federal government related to elections. This measure undermines the ability of local elections officials to make administrative decisions in the best interests of electors in their communities, violates state constitutional separation of powers provisions, and inserts undue partisan and political influence into election administration.

Specifically, HB 260 requires any election official to obtain permission from the House and Senate Governmental Affairs Committees before implementing “any federal directive or guidance pertaining to elections without either an explicit state or federal legal requirement to do so...”¹ This bill is substantively identical to a measure you vetoed during the 2022 Regular Session, HB 359.² During a House and Governmental Affairs Committee on HB 260, the sponsor of the bill testified that “nothing has been changed from the [2022] vetoed bill.” Given the constitutional and practical issues this bill presents, as well as the failure of the sponsor to address your previous concerns with its substance, we strongly urge you to remain in opposition to this measure and veto HB 260.

Restricting local election officials’ ability to respond to circumstances that arise while administering elections and adhere to best practices established by policy experts at the federal level makes elections in

¹ H.B. 260, 2023 Leg., Reg. Sess. (La. 2023).

² Veto of La. H.B. 359 (2022) (letter from Gov. John Bel Edwards to Speaker Clay Schexnayder, June 27, 2022), <http://www.legis.la.gov/Legis/ViewDocument.aspx?d=1290393>.



Louisiana less secure, not more. For example, federal agencies like the Cybersecurity & Infrastructure Security Agency and the bipartisan U.S. Election Assistance Commission have compiled guidance and best practices for election security preparedness in recent elections. These resources include toolkits to improve cybersecurity and election infrastructure resilience,³ chain of custody best practices for elections materials,⁴ and checklists to ensure proper planning and implementation of incident response protocols.⁵ Although not mandatory to follow, these documents provide local elections officials with crucial guidance to administer secure elections and ensure election integrity. HB 260 would stymie implementation of this sort of guidance by first requiring that state lawmakers approve it, creating an opportunity for undue political influence in implementation. Further, implementation of urgent guidance to respond to and mitigate risks for emergencies such as the COVID-19 pandemic would also be subject to the delay inherent in requiring state-level politicians to approve it first under this bill.

Additionally, HB 260 inserts legislative actors into election administration activities that should be left to executive branch and local government officials, violating Art. 2 § 2 of the Louisiana constitution. Unless otherwise provided, the state constitution prohibits any branch of government from exercising an authority belonging to a separate branch.⁶ Art. 4, § 7 designates the Secretary of State as the “elections officer of the state” with the authority to “administer the election laws, except those relating to voter registration and custody of voting machines.” The authority over implementation of election guidance that HB 260 would give to the legislative branch is, therefore, not constitutionally within that body’s purview. When the legislature seeks to make policy changes to election operations and administration, such legislative action should be made through the introduction, consideration, and bicameral passage of a bill.⁷ HB 260 instead inserts legislative actors into future election administration decisions without regard for constitutional limitations on their authority to do so.

Louisiana’s election code further establishes parish boards of election supervisors to “supervise the preparation for and conduct of all elections held in the parish.”⁸ HB 260 would inject political and partisan influence into what should be the nonpartisan job of parish boards of election supervisors to facilitate free, fair, and secure elections.

We respectfully request that you veto HB 260 to protect the safety and security of elections in Louisiana. Thank you for your consideration, and if you have questions or need further information, please contact Patrick Williamson, Counsel at Fair Elections Center, pwilliamson@fairelectionscenter.org.

Sincerely,

Patrick Williamson
Counsel
Fair Elections Center

³ U.S. CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, CYBERSECURITY TOOLKIT AND RESOURCES TO PROTECT ELECTIONS, <https://www.cisa.gov/cybersecurity-toolkit-and-resources-protect-elections> (last visited Jun. 16, 2023).

⁴ U.S. ELECTION ASSISTANCE COMMISSION, BEST PRACTICES: CHAIN OF CUSTODY (2021), https://www.eac.gov/sites/default/files/bestpractices/Chain_of_Custody_Best_Practices.pdf.

⁵ U.S. ELECTION ASSISTANCE COMMISSION, INCIDENT RESPONSE CHECKLIST (2022), https://www.eac.gov/sites/default/files/electionofficials/security/Incident_Response_Checklist_508.pdf.

⁶ La. Constit. Ann. Art. 2, § 2.

⁷ La. Constit. Ann. Art. 3, § 15.

⁸ La. Stat. Ann. § 18:423.