

Regular Session, 2010

SENATE BILL NO. 396

BY SENATOR N. GAUTREAUX

ELECTION CODE. Requires the qualifying fee paid by a candidate to be used to run a criminal background check on the candidate. (8/15/10)

1 AN ACT

2 To amend and reenact R.S. 18:461(A)(1) and (3) and to enact R.S. 18:462.1, relative to
3 qualifying for primary elections; to provide for criminal background checks on
4 certain candidates; to provide for the functions and duties of certain officials relative
5 thereto; to provide relative to objections to candidacy under certain circumstances;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:461(A)(1) and (3) are hereby amended and reenacted and R.S.
9 18:462.1 is hereby enacted to read as follows:

10 §461. Manner of qualifying

11 A.(1) **Qualifying and criminal background check.** (a) A person who
12 desires to become a candidate in a primary election shall qualify as a candidate by
13 timely filing notice of his candidacy, which shall be accompanied either by a
14 nominating petition or by the qualifying fee and any additional fee imposed. A
15 candidate whose notice of candidacy is accompanied by a nominating petition shall
16 not be required to pay any qualifying fee or any additional fee.

17 **(b) A candidate in a primary election may request a criminal**

1 background check on any other candidate. The challenging candidate shall be
 2 required to pay the cost of the criminal background check required by R.S.
 3 18:462.1.

4 * * *

5 (3) Each person who desires to become a candidate in a primary election
 6 shall sign a form prescribed by the secretary of state authorizing the qualifying
 7 official to forward the person's name and identifying information to the office
 8 of state police for purposes of a criminal background check pursuant to R.S.
 9 18:462.1. No person, whether or not currently registered as a voter with the registrar
 10 of voters, shall qualify to become a candidate if he is under an order of imprisonment
 11 for conviction of a felony.

12 * * *

13 §462.1. Criminal background check on candidates; duties of qualifying official,
 14 state police, and district attorney

15 A. On the day following the close of qualifying for a primary election, the
 16 qualifying official shall forward the name of and all identifying information in
 17 his possession regarding each candidate who has been challenged pursuant to
 18 R.S. 18:461(A)(1)(b) and who qualified with his office for that election to the
 19 office of state police.

20 B.(1) Upon receipt of the name of and identifying information regarding
 21 a candidate from a qualifying official, the office of state police shall conduct a
 22 criminal background check on the candidate. Such criminal background check
 23 shall be paid from the criminal background check fee paid by the challenging
 24 candidate to the qualifying official pursuant to R.S. 18:461(A)(1)(b), and the
 25 qualifying official shall forward such funds to the office of state police at the
 26 same time as the name and identifying information are forwarded.

27 (2) If the criminal background check on a candidate reveals that the
 28 candidate has been convicted of a felony, the office of state police shall
 29 immediately send the information regarding the candidate and the relevant

1 portions of the criminal background check to the district attorney whose
 2 jurisdiction includes the office for which the candidate has sought to qualify.
 3 C. If a district attorney receives information from the office of state
 4 police in accordance with Subsection B of this Section, he shall immediately
 5 proceed in accordance with R.S. 18:495.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law provides that a person who desires to become a candidate in a primary election must qualify as a candidate by timely filing notice of his candidacy, which must be accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed.

Proposed law retains present law.

Present law further provides that a candidate whose notice of candidacy is accompanied by a nominating petition will not be required to pay any qualifying fee or any additional fee.

Proposed law retains present law.

Proposed law provides that any other candidate in a primary election may request a criminal background check on any other candidate. Proposed law further provides that the challenging candidate will be required to pay the cost of such criminal background check provided for by proposed law.

Present law provides that no person, whether or not currently registered as a voter with the registrar of voters, can qualify to become a candidate if he is under an order of imprisonment for conviction of a felony.

Proposed law retains present law, and adds that each person who desires to become a candidate in a primary election must sign a form prescribed by the secretary of state authorizing the qualifying official to forward the person's name and identifying information to the office of state police for purposes of a criminal background check pursuant to proposed law.

Proposed law provides that on the day following the close of qualifying for a primary election, the qualifying official is to forward the name of and all identifying information in his possession regarding each candidate who qualified with his office for that election to the office of state police.

Proposed law provides that upon receipt of the name of and identifying information regarding a candidate from a qualifying official, the office of state police is to conduct a criminal background check on the candidate. Proposed law provides that such criminal background check is to be paid for out of the qualifying fee provided for by present law or the criminal background check fee paid by the candidate to the qualifying official pursuant to proposed law. Proposed law provides that the qualifying official is to forward such funds to the office of state police at the same time as the name and identifying information are forwarded.

Proposed law provides that if the criminal background check on a candidate reveals that the candidate has been convicted of a felony, the office of state police is to immediately send the information regarding the candidate and the relevant portions of the criminal background check to the district attorney whose jurisdiction includes the office for which the candidate has sought to qualify.

Proposed law provides that if a district attorney receives information from a sheriff in accordance with proposed law, he is to immediately proceed in accordance with present law relative to an action objecting to the candidacy of the person.

Effective August 15, 2010.

(Amends R.S. 18:461(A)(1) and (3); adds R.S. 18:462.1)