

SENATE BILL NO. 22

BY SENATOR HEWITT

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AN ACT

To amend and reenact R.S. 18:423(J), and 1315(B) and to enact R.S. 18:1313.2, relative to elections impaired as the result of a declared disaster or emergency; to provide for the powers, functions, duties, processes, and compensation of parish boards of election supervisors relative to the preparation, verification, tabulation, and counting of absentee by mail and early voting ballots for elections impaired as a result of a declared state of disaster or emergency; to provide relative to effectiveness and documentation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:423(J), and 1315(B) are hereby amended and reenacted and R.S. 18:1313.2 is hereby enacted to read as follows:

§423. Parish boards of election supervisors

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J.(1) Notwithstanding Subsection E of this Section, in a parish where the parish board of election supervisors tabulates and counts absentee by mail and early voting ballots in accordance with R.S. 18:1313.1, a member of the board may be compensated not more than eight days for a presidential or regularly scheduled congressional general election or seven days for any other primary or general election.

(2) Notwithstanding any provision of this Section to the contrary, in a parish where the parish board of election supervisors tabulates and counts absentee by mail and early voting ballots in accordance with R.S. 18:1313.2, a member of the board may be compensated not more than eleven days for a presidential or regularly scheduled congressional general election or ten days for any other primary or general election if any such election is impaired as the result of a declared emergency or disaster.

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1 **§1313.2. Preparation, verification, tabulation, and counting of absentee by mail**
2 **and early voting ballots; parishes with one thousand or more**
3 **absentee by mail ballots for elections impaired as the result of a**
4 **declared disaster or emergency**

5 **A. Notwithstanding any contrary provision of this Code to the contrary,**
6 **parishes with one thousand or more absentee by mail ballots returned to the**
7 **registrar of voters for a primary or general election impaired as a result of a**
8 **declared disaster or emergency may conduct the preparation and verification**
9 **process for the tabulation and counting of absentee by mail and early voting**
10 **ballots beginning four days before the election and conduct the tabulation and**
11 **counting of absentee by mail and early voting ballots on election day in the**
12 **manner provided by this Section.**

13 **B. The parish board of election supervisors shall be responsible for the**
14 **preparation, verification, counting, and tabulation of all absentee by mail and**
15 **early voting ballots in the parish. The board may utilize parish board**
16 **commissioners to count the absentee by mail and early voting ballots in the**
17 **parish. If the board determines that parish board commissioners are necessary**
18 **for the preparation and verification process to count and tabulate the absentee**
19 **by mail and early voting ballots beginning four days before the election and to**
20 **count and tabulate the absentee by mail and early voting ballots on election day,**
21 **it shall select parish board commissioners in accordance with the provisions of**
22 **R.S. 18:1314. If a majority of the members of the board are not present for the**
23 **preparation and verification process to count the absentee by mail and early**
24 **voting ballots or to count the absentee by mail and early voting ballots and no**
25 **parish board commissioners were previously selected, the members present may**
26 **select a sufficient number of parish board commissioners four days before the**
27 **election or on election day, as applicable, to assist in the preparation and**
28 **verification process for the tabulation and counting of absentee by mail and**
29 **early voting ballots and the tabulation and counting of the ballots.**

30 **C.(1) The preparation and verification process for the counting of the**

1 absentee by mail and early voting ballots may begin four days before the
2 election at a public facility within the parish designated by the registrar of
3 voters at a time fixed by the parish board of election supervisors.

4 (2) Absentee by mail and early voting ballots shall be counted at a public
5 facility within the parish designated by the registrar of voters at a time fixed by
6 the parish board of election supervisors, which time shall be on election day no
7 later than 8:00 p.m.

8 (3) Prior to the counting of absentee by mail and early voting ballots on
9 election day, any person authorized by the secretary of state may assist the
10 registrar of voters in the challenge removal process on the early voting
11 machines, in the reading of the early voting machine results cartridges on the
12 secretary of state's equipment, and in producing the early voting machine
13 results report. All early voting machine results reports shall be placed in the
14 special absentee by mail and early voting envelope or container.

15 D.(1) If the counting and tabulation of absentee by mail and early voting
16 ballots begins on election day prior to the closing of the polls, such counting and
17 tabulation shall be conducted in a location and manner to prevent disclosure of
18 the results prior to the closing of the polls. Each person except a person
19 providing security to the parish board of election supervisors; a representative
20 of the attorney general, with written approval of the secretary of state; the clerk
21 of court; the registrar of voters; or a person providing technical assistance
22 pursuant to Paragraph (2) of this Subsection who enters the location in which
23 the absentee by mail and early voting ballots are being counted and tabulated
24 on election day shall remain in that location and shall not be allowed to leave
25 except temporarily, and then only when accompanied by a law enforcement
26 officer, and shall not communicate with any person outside until the polls are
27 closed. The parish board of election supervisors may take any action necessary
28 to ensure that no information with respect to the counting and tabulation of
29 absentee by mail and early voting ballots is transmitted from the location where
30 the absentee by mail and early voting ballots are being counted and tabulated

1 on election day prior to the close of the polls on election day.

2 (2) Any person authorized by the secretary of state may provide security
3 or technical assistance including advice, analysis, diagnosis, or repair for voting
4 machines at the location where absentee by mail and early voting votes are
5 being counted and tabulated. Such security or technical assistance shall be
6 provided only upon the request of the parish board of election supervisors or a
7 team of parish board commissioners, and may be made in person at the location
8 where absentee by mail and early voting votes are being counted and tabulated,
9 or by telephone, or both. Any authorized person providing such security or
10 technical assistance may enter and leave the location where absentee by mail
11 and early voting votes are being counted and tabulated on election day before
12 the closing of the polls and during the process of counting and tabulation. No
13 such person shall disclose any information with respect to the counting and
14 tabulation of absentee by mail and early voting ballots prior to the close of the
15 polls on election day.

16 E. Candidates, their representatives, and qualified electors may be
17 present during the preparation and verification process and for the counting
18 and tabulation of absentee by mail and early voting ballots. The board shall
19 give notice reasonably calculated to inform any person who wants to be present
20 during the counting and tabulation of absentee by mail and early voting ballots
21 that no person will be allowed to leave or to communicate with any other person
22 outside, until such time as the polls are closed, nor shall any person who is
23 present during the counting and tabulation of absentee by mail and early voting
24 ballots on election day possess a cellular telephone or electronic communication
25 device.

26 F. The board shall count the absentee by mail and early voting ballots
27 and announce the results after the closing of the polls on election day as the total
28 number of absentee by mail and early voting votes cast in the election for each
29 candidate and the total number cast for and against each proposition.

30 G. The procedure for the preparation and verification process for the

1 tabulation and counting of absentee by mail ballots and early voting paper
2 ballots beginning four days before the election shall be as follows:

3 (1)(a) A member of the board shall remove the certificates, early voting
4 verification forms, early voting machine public counter logs, early voting
5 confirmation sheets, absentee by mail ballots, early voting paper ballots, and
6 envelopes containing the absentee by mail ballots and early voting paper ballots
7 from the special absentee by mail and early voting ballot envelope or container.

8 (b) The board shall review the early voting verification forms and early
9 voting machine public counter logs and, if found to be acceptable to the board,
10 sign each early voting verification form. If the board does not find an early
11 voting verification form to be acceptable, it may review any early voting
12 confirmation sheet and shall document its correction to the early voting
13 verification form and then sign it.

14 (2) The board shall announce the name of each absentee by mail voter,
15 each voter who voted a paper ballot during early voting and the ward and
16 precinct where he is registered to vote, and shall compare the name on the
17 certificate or on the flap of the envelope containing the absentee by mail ballot
18 or early voting paper ballot with the names on the absentee by mail voter report
19 or early voter report, as applicable.

20 (3) The board shall separate any ballots that are challenged in
21 accordance with R.S. 18:1315(A) or (B) from the ballots that are not challenged.

22 (4)(a) If an absentee by mail ballot has not been challenged and is
23 determined by the board to be valid, a member of the board shall make a check
24 mark on the absentee by mail voter report beside the name of the voter as it
25 appears on the report and write his initials on each page of the report. If
26 applicable, a member of the board shall tear the flap from the envelope
27 containing the absentee by mail ballot and leave the envelope sealed.

28 (b) If an early voting paper ballot has not been challenged and is
29 determined by the board to be valid, a member of the board shall write the
30 words "voted early" and his initials on the early voter report beside the name

1 of the voter as it appears on the report. A member of the board shall tear the
2 flap from the envelope containing the paper ballot voted during early voting
3 and leave the envelope sealed.

4 (5) If an absentee by mail ballot or early voting paper ballot has been
5 challenged, the members shall leave the flap on the envelope, if applicable,
6 containing the absentee by mail ballot or early voting paper ballot and leave the
7 envelope sealed.

8 (6) A member of the board shall place the absentee by mail ballots and
9 early voting paper ballots that have been challenged and the ballots that have
10 not been challenged in the special absentee by mail envelope or container
11 provided for that purpose and seal the envelope or container. Two members of
12 the board shall execute the first certificate on the envelope or container and
13 date the certificate with the date on which it was executed before the election.

14 (7) The members of the board shall place the certificates of the absentee
15 by mail ballots and early voting paper ballots that have not been challenged and
16 the flaps removed from those ballots in the envelope or container provided for
17 that purpose and seal the envelope or container. Two of the members shall
18 execute the first certificate on the envelope and date the certificate with the date
19 on which it was executed before the election.

20 (8) Absentee by mail ballots that are received by the registrar of voters
21 after the preparation and verification process is completed but before the
22 deadline to return absentee by mail ballots shall be prepared, verified, counted,
23 and tabulated on election day.

24 H. The procedure for counting absentee by mail ballots and early voting
25 paper ballots on election day shall be as follows:

26 (1) A member of the board shall break the seal on the special absentee
27 by mail and early voting ballot envelope or container, remove the certificates,
28 absentee by mail ballots and early voting paper ballots that have been
29 challenged, and the absentee by mail ballots and early voting paper ballots that
30 have not been challenged from the envelope or container.

1 (2) The board shall determine the validity of challenges filed in
2 accordance with R.S. 18:1315(A) and (B).

3 (3)(a) If the board determines that an absentee by mail ballot is valid,
4 a member of the board shall make a check mark on the absentee by mail voter
5 report beside the name of the voter as it appears on the report and write his
6 initials on each page of the report. If applicable, a member of the board shall
7 tear the flap from the envelope containing the absentee by mail ballot and leave
8 the envelope sealed.

9 (b) If the board determines that a paper ballot voted during early voting
10 is valid, a member of the board shall write the words "voted early" and his
11 initials on the early voter report beside the name of the voter as it appears on
12 the report. A member of the board shall tear the flap from the envelope
13 containing the paper ballot voted during early voting and leave the envelope
14 sealed.

15 (4) If a majority of the members of the board determine that an absentee
16 by mail ballot or early voting paper ballot is invalid, the members shall leave
17 the flap on the envelope containing the ballot, leave the envelope sealed, and a
18 member of the board shall write the word "rejected", together with the reasons
19 for rejecting the ballot, across the envelope containing the ballot or across the
20 certificate attached to the special absentee by mail ballot or early voting paper
21 ballot. He shall also write the word "rejected" and his initials on the absentee
22 by mail voter report or early voter report, as applicable, beside the name of the
23 voter as it appears in the report. The rejected absentee by mail ballots and
24 early voting paper ballots and certificates shall be replaced in the special
25 absentee by mail and early voting ballot envelope or container. No rejected
26 absentee by mail ballot or early voting paper ballot shall be counted.

27 (5) After the validity of all absentee by mail ballots and early voting
28 paper ballots have been determined, the members of the board shall break the
29 seal on the envelope or container and place the valid certificates and the flaps
30 removed from the valid absentee by mail ballots and early voting paper ballots

1 in the envelope or container provided for that purpose and seal the envelope or
2 container. Two of the members shall execute the second certificate on the
3 envelope and date the certificate the day of the election.

4 (6) The members shall open the envelopes containing the valid absentee
5 by mail ballots and early voting paper ballots and remove the ballots.

6 (7) The board shall, in accordance with the requirements of R.S.
7 18:1316, reject any ballot which contains a distinguishing mark or feature
8 making the ballot susceptible of identification. However, a ballot shall not be
9 rejected as containing a distinguishing mark if the ballot was transmitted
10 electronically to a member of the United States Service, as defined in R.S.
11 18:1302, or a person residing outside the United States.

12 (8) If a ballot is physically damaged or cannot properly be counted by
13 the counting equipment and the vote cast by the voter is clearly discernible from
14 a physical inspection of the defective ballot, the ballot may be counted by hand
15 or a true duplicate may be made of the defective ballot in the presence of
16 witnesses and substituted for the ballot. Any duplicate ballot shall be clearly
17 labeled "duplicate", bear a ballot number which shall be recorded on the
18 defective ballot, and be counted in lieu of the defective ballot. After a ballot has
19 been duplicated, the defective ballot shall be placed in the special absentee by
20 mail and early voting ballot envelope or container, and the duplicate ballot shall
21 be counted with the other valid ballots.

22 (9) The special absentee ballots cast by members of the United States
23 Service or persons who reside outside of the United States may be counted by
24 hand or counted as a true duplicate.

25 I. The procedure for counting early voting machine ballots on election
26 day shall be as follows:

27 (1) A member of the board shall remove the early voting machine results
28 reports from the special absentee by mail and early voting ballot envelope or
29 container.

30 (2) The board shall announce the results from each early voting machine

1 results report for the early voting ballots.

2 (3) The board shall determine the validity of challenges made in
3 accordance with R.S. 18:1315(A) and (B).

4 (4)(a) Prior to utilizing any absentee by mail and early voting counting
5 equipment, the parish board of election supervisors shall generate a zero tally
6 to ensure that the equipment's candidate and question counters are set at zero
7 and that no votes have been cast for any candidate or for or against any
8 proposition.

9 (b) The board shall sign and certify to the correctness of each zero proof
10 sheet and place all zero proof sheets in the special absentee by mail and early
11 voting envelope or container.

12 (5) The absentee by mail and early voting votes cast for a candidate and
13 those cast for and against a proposition shall be counted and the total number
14 of absentee by mail and early voting votes cast for a candidate and those cast for
15 and against a proposition shall be announced in the order the offices and
16 candidates and propositions are listed on the ballot. The members of the board
17 shall enter the total number of votes on the final absentee by mail and early
18 voting vote report and shall certify the results.

19 J. The final absentee by mail and early voting vote report prepared by
20 the parish board of election supervisors shall be transmitted to the clerk of
21 court immediately upon completion of the tabulation of the absentee by mail
22 and early voting ballots on election night. A copy of the record shall be
23 transmitted immediately to the secretary of state, and a copy of the record shall
24 be placed in the special absentee by mail and early voting envelope or container.

25 K. When the absentee by mail and early voter reports have been
26 returned to the registrar of voters, the registrar, based on the information
27 contained in the reports, shall confirm that the words "voted by mail" or "voted
28 early" are written in the proper space on the precinct register for each voter
29 who voted early or absentee by mail.

30 L.(1) Upon completion of the tabulation and counting of the absentee by

1 mail and early voting ballots on election day, the parish board of election
2 supervisors shall return the absentee by mail and early voting ballots and
3 electronic results report to the special absentee by mail and early voting ballot
4 envelope or container, shall seal the envelope or container, and shall deliver the
5 envelope or container to the registrar of voters. The registrar shall preserve the
6 envelope or container and its contents inviolate and, except upon order of a
7 court of competent jurisdiction, shall not allow the absentee by mail and early
8 voting documents to be inspected by anyone until the delay for filing an action
9 contesting the election has lapsed. If an action contesting the election is
10 commenced timely, the registrar shall continue to preserve the envelope or
11 container and its contents inviolate, subject to the orders of the court, until the
12 final judgment in the action has become definitive.

13 (2)(a)(i) Notwithstanding the provisions of Paragraph (1) of this
14 Subsection, if the number of absentee by mail and early voting ballots cast for
15 all candidates for an office could make a difference in the outcome of the
16 election for such office, upon the written request of a candidate for such office,
17 the board shall recount the absentee by mail ballots by hand or scanning
18 equipment and early voting ballots electronically, unless paper ballots were
19 used for early voting and in such case, the ballots shall be recounted by hand for
20 such office.

21 (ii) Notwithstanding the provisions of Paragraph (1) of this Subsection,
22 if the number of absentee by mail and early voting ballots cast for and against
23 a proposition could make a difference in the outcome of the election, upon the
24 written request of a person who voted in the proposition election, the board
25 shall recount the absentee by mail ballots by hand or scanning equipment and
26 early voting ballots electronically, unless paper ballots were used for early
27 voting and in such case, the ballots shall be recounted by hand for such election.

28 (b) All recounts of absentee by mail and early voting ballots shall be held
29 at 10:00 a.m. or following the reinspection of voting machines on the fifth day
30 after the election and at any time ordered by a court of competent jurisdiction.

1 If the fifth day after the election falls on a holiday or weekend, such recount
2 shall be held on the next working day at 10:00 a.m. or following the reinspection
3 of voting machines. Any written request for recount of absentee by mail and
4 early voting ballots shall be filed with the clerk of court. The deadline for filing
5 a request for recount of absentee by mail and early voting ballots shall be 4:30
6 p.m. on the last working day prior to the date of the recount. Immediately upon
7 receiving any request, the clerk of court shall prominently post in his office a
8 notice of the time and place where the absentee by mail and early voting ballots
9 will be recounted and the name of the candidate or the voter in the proposition
10 election requesting the recount.

11 (c) Upon completion of the recount of the absentee by mail and early
12 voting ballots, the board shall return the absentee by mail and early voting
13 documents to the special absentee by mail and early voting ballot envelope or
14 container, shall reseal the envelope or container, and shall deliver the envelope
15 or container and its contents to the registrar of voters who shall preserve the
16 envelope or container and its contents in the manner provided for in Paragraph
17 (1) of this Subsection.

18 (d)(i) The candidate or the voter in the proposition election requesting
19 the recount shall be responsible for all reasonable costs associated with such
20 recount, which shall be payable to the clerk of court. The costs shall be paid at
21 the time the written request for the recount is filed with the clerk of court and
22 shall be paid in cash or by certified or cashier's check on a state or national
23 bank or credit union, United States postal money order, or money order issued
24 by a state or national bank or credit union.

25 (ii) If the recount changes the outcome of the election, the costs paid by
26 the candidate or voter in the proposition election shall be refunded by the clerk
27 of court, and the costs of the recount shall be a reimbursable election expense
28 as provided in Chapter 8-A of this Title.

29 (3) A candidate or his representative, in the presence of a majority of the
30 parish board of election supervisors, shall be allowed to inspect the flaps

1 removed from the valid absentee by mail ballots and the flaps removed from the
2 valid early voting ballots when paper ballots are used for early voting. All such
3 inspections shall be held at 10:00 a.m. or following the recount of absentee by
4 mail and early voting ballots on the fifth day after the election and at any time
5 ordered by a court of competent jurisdiction. If the fifth day after the election
6 falls on a holiday or weekend, such inspection shall be held on the next working
7 day at 10:00 a.m. or following the recount of absentee by mail and early voting
8 ballots. Any written request for inspection shall be filed with the clerk of court.
9 The deadline for filing a request for inspection shall be the last working day
10 prior to the date of the inspection. Immediately upon receiving any request, the
11 clerk of court shall prominently post in his office a notice of the time and place
12 where the inspection will occur and the name of the candidate requesting the
13 inspection. The candidate requesting the inspection shall be responsible for all
14 reasonable costs associated with such inspection, which shall be payable to the
15 clerk of court. The costs shall be paid at the time the written request for the
16 inspection is filed with the clerk of court and shall be paid in cash or by certified
17 or cashier's check on a state or national bank or credit union, United States
18 postal money order, or money order issued by a state or national bank or credit
19 union.

20 (4) The parish board of election supervisors shall be entitled to
21 reimbursement at the rate established in R.S. 18:423(E) for attending the
22 recount of absentee by mail and early voting ballots and inspection, but not both
23 if they are conducted on the same day. However, such reimbursement shall not
24 be counted toward the limitation provided in R.S. 18:423(J). No member of the
25 parish board of election supervisors shall be reimbursed for attending a recount
26 of absentee by mail an early voting ballots or inspection if such member
27 received reimbursement for attending the reinspection of voting machines
28 which was conducted on the same day as the recount of the absentee by mail
29 and early voting ballots or inspection.

30 M. The provisions of this Section shall be void and of no effect on

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August 1, 2021.

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§1315. Challenge of absentee by mail or early voting ballot

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B.(1) During the preparation and verification process for the counting of absentee by mail and early voting ballots on the day before the election, as applicable, or the counting of absentee by mail and early voting ballots on election day, any candidate or his representative, member of the board, or qualified elector may challenge an absentee by mail or early voting ballot for cause, other than those grounds specified in R.S. 18:565(A).

(2) Notwithstanding Paragraph (1) of this Subsection, for elections impaired as a result of a declared disaster or emergency, during the preparation and verification process for the counting of absentee by mail and early voting ballots before an election in accordance with R.S. 18:1313.2, or the counting of absentee by mail and early voting ballots on election day in accordance with R.S. 18:1313.2, any candidate or his representative, member of the board, or qualified elector may challenge an absentee by mail or early voting ballot for cause, other than those grounds specified in R.S. 18:565(A).

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Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____