HOUSE SUMMARY OF SENATE AMENDMENTS

HB 563 **2019 Regular Session** **Gregory Miller**

ELECTION CODE: Makes revisions to the Louisiana Election Code

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Synopsis of Senate Amendments

1. Add provisions moving the presidential preference primary election in 2020 and elections held at the same time (including the primary elections for certain municipal and ward officers who are not elected at the same time as the governor or members of congress) <u>from</u> the first Saturday in March <u>to</u> the first Saturday in April.

2. Add provisions moving the general elections for certain municipal and ward officers who are not elected at the same time as the governor or members of congress in 2020 <u>from</u> the fifth Saturday after the first Saturday in March <u>to</u> the fifth Saturday after the first Saturday in April.

3. Add provisions making conforming changes to provisions relative to qualifying for these elections and relative to special elections and bond, tax, or other elections at which a proposition or question is submitted to the voters that may be held at the same time as these elections.

Digest of Bill as Finally Passed by Senate

<u>Present law</u> (R.S. 18:18) provides for the powers and duties of the secretary of state. Requires the secretary of state to develop activities, events, informational posters and pamphlets, and public service announcements for the implementation of an annual voter registration week and to be generally responsible for implementation of such week. Provides that in years when the U.S. president does not proclaim a National Voter Registration Day, the official state voter registration week is two weeks prior to the close of registration records for the regular fall primary election.

<u>Proposed law</u> retains <u>present law</u>.

<u>Present law</u> provides that in years when the U.S. president proclaims a National Voter Registration Day, the official state voter registration week is the full week in which the National Voter Registration Day occurs.

<u>Proposed law</u> provides that, in such years, if the National Voter Registration Day occurs after the close of the registration records for the regular fall primary election, the official state voter registration week is instead two weeks prior to the close of registration records for the regular fall primary election. Otherwise retains <u>present law</u>.

<u>Present constitution</u> (Art. XI, §5) provides that the governing authority of each parish must appoint a registrar of voters in the manner provided by law. <u>Present law</u> (R.S. 18:51 and 51.1) provides procedures and requirements for the appointment of registrars. Provides relative to the performance of the registrar's duties during a vacancy. Provides a deadline for the appointment of a registrar when a vacancy occurs.

<u>Proposed law</u> retains <u>present law</u>.

<u>Present law</u> (R.S. 18:51) requires the parish governing authority to fill a vacancy in the office of registrar within 30 days after the date on which the vacancy occurs.

<u>Proposed law</u> requires the vacancy to be filled within 90 days after the date on which the

vacancy occurs, instead of 30 days. Additionally provides that an appointment to fill a vacancy that is made prior to the time the office actually vacated is premature and without effect.

Present law (R.S. 18:104) provides for the content of the form in registering qualified citizens to vote.

Proposed law retains present law. Additionally provides that if the applicant is unable to write, the applicant shall affix his mark to the application in the presence of two witnesses who shall also sign their names as witnesses to the mark.

Present law (R.S. 18:110) provides that prior to the closing of registration for an election, a registrant who changes his address within the parish may change his registration without reregistering by making application by mail to the registrar or by appearing in person.

Proposed law retains present law and additionally provides that the person may change his registration by making application electronically.

Present law provides that if the registrant is unable to sign his name to the application, he shall sign it with his mark, witnessed by the signatures of two witnesses, and the application must state that he is unable to sign his name. Requires the application to contain the name in full; address appearing on the registration records; present residence, including apartment or room number, if any; date of change of residence; date of application, and signature of voter.

Proposed law deletes present law.

Present law (R.S. 18:435) authorizes each candidate, on election day, to have one watcher at every precinct where the office he seeks is voted on. Requires the candidate or his authorized representative to file a list of watchers with the clerk of court. Provides deadlines and requirements.

Proposed law retains present law. Additionally requires a list of watchers to be filed with the clerk of court in each parish where the candidate will have watchers if the office that the candidate seeks is voted on in more than one parish.

Present law (R.S. 18:444) provides relative to parish executive committees, including qualifications of members, elections, meetings, officers, and powers. Provides that a vacancy in the membership of the committee is filled by appointment of the committee. Provides that the committee may appoint a qualified resident of the parish for a vacancy in an at-large position. Provides that the committee may appoint a qualified resident of the district for a vacancy in a district position or, if no such person will accept, a qualified resident of the parish.

Proposed law retains present law. Additionally provides that if there are not enough members of the parish executive committee to fill a vacancy in the membership left by an at-large representative, the chairman of the state central committee of that political party may appoint a qualified resident of the parish to fill the vacancy. Provides that if there are not enough members of the parish executive committee to fill a vacancy in the membership left by a representative of a district, the chairman of the state central committee of that political party may appoint a qualified resident of the district to fill the vacancy. Provides that if no qualified resident of the district will accept the membership, the chairman of the state central committee of that political party may appoint any qualified resident of the parish to fill the vacancy.

Present law provides for the terms of members of certain parish executive committees in Orleans Parish elected in 1992. Proposed law deletes present law.

Present law (R.S. 18:463) provides for the content of the notice of candidacy that must be

filed by a candidate when the candidate qualifies for the election. Includes a certification that the candidate is not currently under an order of imprisonment for conviction of a felony.

Proposed law specifies that the certification in present law does not apply to a candidate for U.S. senator or representative in congress. Additionally requires a candidate for an office other than U.S. senator or representative in congress to certify the following:

1.   That he is not prohibited from qualifying as a candidate for conviction of a felony pursuant to present constitution (Art. I, §10.1).

2.   Except for a candidate who resides in a nursing home as defined in present law (R.S. 40:2009.2) or in a veterans' home operated by the state or federal government, that if he claims a homestead exemption on a residence pursuant to present constitution (Art. VII, §20) that he is registered and votes in the precinct in which that residence is located.

Present law (R.S. 18:501) provides for withdrawal of candidates. Provides that a candidate in a primary election may withdraw from the election by filing notice of his withdrawal with the secretary of state prior to 4:30 p.m. on the seventh day after the close of the qualifying period. Provides that a candidate in a general election may withdraw from the election by filing notice of his withdrawal with the secretary of state prior to 4:30 p.m. on the ninth day after the date of the primary election. Provides that after these deadlines, the secretary of state generally shall not accept a notice of withdrawal.

Proposed law retains present law.

Present law provides an exception if there are only two candidates remaining in a primary or general election for public office. Provides that in such case, the secretary of state will accept a notice of withdrawal that is filed prior to 4:30 p.m. on the second day prior to the election. Provides that the remaining candidate is declared the winner.

Proposed law provides that the secretary of state will accept a withdrawal when the number of candidates remaining in a primary or general election for public office is one more than the number of persons to be elected to the office, instead of two. Provides that the remaining candidate or candidates is declared the winner. Otherwise retains present law.

Present law (R.S. 18:532) provides for the establishment of precincts by the parish governing authority. Provides procedures and requirements, including requiring the parish governing authority to furnish a map clearly indicating the boundaries of each parish governing authority district, school board district, special election district, representative district, and senate district.

Proposed law retains present law. Additionally requires the parish governing authority to furnish to the registrar and secretary of state geospacial shape files if available for the specified districts.

Present law (R.S. 18:551) provides for the content of the ballot, including the listing of the names of candidates. Provides that the names of the candidates for each office shall be arranged alphabetically by surname and numbered from first to last. Provides that if two or more candidates have the same surname, the word "Incumbent" shall be listed after the name of each candidate having the same surname who is an incumbent and the residence address shall be listed after the name of each candidate having the same surname who is not an incumbent. Additionally provides that if two or more candidates have the same surname, the names shall be arranged alphabetically by first name, regardless of whether a candidate's first name appears on the ballot.

Proposed law retains present law. Additionally requires the residence address to be listed after the name of an incumbent.

Present law (R.S. 18:564) provides for assistance in voting on election day. Requires a person who seeks assistance in voting to file certain required documentation with the registrar prior to voting or to present certain documentation to election officials at the polls.

Proposed law retains present law. Additionally provides that a person who seeks assistance may provide the registrar a completed and signed voter assistance form provided by the secretary of state wherein the voter attests that he has a physical disability and requires assistance in voting.

Present law (R.S. 18:565) provides relative to challenges of voters. Provides for grounds and disposition of challenges.

Proposed law retains present law.

Present law provides that the original record of the challenge, signed by the challenger, shall be placed in the envelope marked "Put in Voting Machine" and shall be preserved as part of the election returns. Requires the duplicate record of the challenge and address confirmation card to be placed in the envelope marked "Registrar of Voters" and the envelope to be attached to the precinct register.

Proposed law deletes present law. Provides instead that the original record of the challenge and the address confirmation card shall be placed in the envelope marked "Registrar of Voters". Provides that a duplicate record of the challenge shall be placed in the clear plastic zipper bag and returned to the clerk of court on election night. Requires a duplicate record of the challenge to be given to the voter being challenged.

Present law (R.S. 18:571) provides procedures for commissioners to follow after the termination of voting, including announcing that voting is terminated, securing the voting machines against further voting, and exposing the count on the voting machines, leaving the counter in full view of the watchers.

Proposed law retains present law.

Present law requires the commissioners to complete Certificate No. 2 of the composite certificate designated "Machine Certificates". Provides for the content of the certificate.

Proposed law retains present law. Additionally requires the certificate to be completed in triplicate.

Present law requires the commissioners to place certain documents in the envelope marked "Registrar of Voters" and attach the envelope to the precinct register.

Proposed law retains present law. Additionally provides that one copy of the machine certificates be included in the envelope.

Present law requires the commissioners to place all duplicate records of challenges in the envelope marked "Registrar of Voters".

Proposed law deletes present law. Provides instead that all original executed challenges of voters be placed in the envelope.

Present law requires the commissioners to place original challenges of voters in the envelope marked "Secretary of State's Envelope".

Proposed law deletes present law.

Present law (R.S. 18:573) provides for evidence of election results. Provides procedures for the opening of the voting machines and verification of election results.

Proposed law retains present law.

Present law provides that at the opening of the voting machines, the clerk of court shall immediately remove the envelope marked "Put in Voting Machine" and shall preserve the envelope and its contents inviolate and, except upon order of a court of competent jurisdiction, shall not allow them to be inspected by anyone until the delay for filing an action contesting any election to office has lapsed. Provides that if an action contesting any election to office is commenced timely, the clerk shall continue to preserve these records inviolate, subject to the orders of the court, until the final judgment in the action has become definitive.

Proposed law repeals present law.

Present law provides for receipt by the registrar of duplicate record of challenges of voters made during the election.

Proposed law provides instead that the registrar receives the original record of challenges of voters made during the election.

Present law (R.S. 18:574) provides procedures for the compilation and promulgation of election returns. Provides that the parish board of election supervisors may complete a notation of irregularities form to document certain specified irregularities observed by the board.

Proposed law retains present law.

Present law requires the notation of irregularities to be executed in triplicate.

Proposed law deletes present law.

Present law (R.S. 18:1254) provides for the nomination of slates of candidates for presidential elector. Provides procedures and requirements. Refers to slates of independent candidates.

Proposed law refers to candidates not affiliated with a recognized political party, instead of independent candidates. Otherwise retains present law.

Present law (R.S. 18:1280.21) provides for a statewide presidential preference primary to be held on the first Sat. in March every four years, beginning in 2016.

Proposed law provides that the presidential preference primary in 2020 is to be held on the first Sat. in April instead of the first Sat. in March.

Present law provides that the qualifying period for presidential candidates opens on the first Wed. in Dec. and closes at 4:30 p.m. on the following Fri.

Proposed law provides that in 2020, the qualifying period opens on the second Wed. in Jan. (instead of the first Wed. in Dec.) and closes at 4:30 p.m. on the following Fri.

Present law (R.S. 18:402(C)(1)) provides that in all municipalities with a population of less than 300,000, elections for municipal and ward officers who are not elected at the same time as the governor or members of congress shall be held every four years. Provides that in a presidential election year, the primary elections for municipal and ward officers who are not elected at the same time as the governor or members of congress are held on the first Sat. in March.

Proposed law provides that in 2020, the primary elections for municipal and ward officers who are not elected at the same time as the governor or members of congress are to be held on the first Sat. in April instead of the first Sat. in March.

Present law (R.S. 18:467(3)) provides that in a presidential election year, the qualifying period for candidates in a primary election for municipal and ward officers who are not elected at the same time as the governor or members of congress in municipalities with a population of less than 300,000 and those in any special primary election to be held at the same time opens on the first Wed. in December of the year prior to the election.

Proposed law provides that in 2020, the qualifying period opens on the second Wed. in Jan. instead of the first Wed. in Dec. of the prior year.

Present law (R.S. 18:468) provides that the qualifying period for candidates in a primary election closes at 4:30 p.m. on the Fri. after the opening of the qualifying period for candidates in the primary election or, if that Fri. is a legal holiday, at 4:30 p.m. on the next day which is not a legal holiday.

Proposed law retains present law.

Present law (R.S. 18:402(E)) provides available dates for special elections to fill a newly created office or vacancy in office. Present law (R.S. 18:402(E)(1)) provides that in a presidential election year, a special primary election may be held on the first Sat. in March.

Proposed law provides that in 2020, the first Sat. in April is available for a special primary election instead of the first Sat. in March. Provides that if a special primary election is held on the first Sat. in April in 2020, the special general election is held on the fifth Sat. after the first Sat.

Present law (R.S. 18:402(F)) provides available dates for bond, tax, or other elections at which a proposition or question is to be submitted to the voters. Present law (R.S. 18:402(F)(3)) provides that such an election may be held on the last Sat. in March or the fifth Sat. after the last Sat. in March of any year or on the first Sat. in March or the fifth Sat. after the first Sat. in March during the presidential election year.

Proposed law provides that the first Sat. in March, the fifth Sat. after the first Sat. in March, the last Sat. in March, and the fifth Sat. after the last Sat. in March shall not be available for a bond, tax, or other election at which a proposition or question is submitted to the voters in 2020. Provides instead that the first Sat. in April and the fifth Saturday after the first Sat. in April shall be available for a bond, tax, or other election at which a proposition or question is submitted to the voters in 2020 pursuant to present law (R.S. 18:402(F)).

Present law (R.S. 18:1300.1) provides relative to recall elections. Provides that any public officer, excepting judges of the courts of record, may be recalled. However, provides that no recall petition may be submitted for certification to or accepted for certification by the registrar of voters or any other official if less than six months remain in the term of office.

Proposed law retains present law. Additionally prohibits the secretary of state from accepting a recall petition for filing if less than six months remain in the term of office. Requires the secretary of state to endorse the date and time of receipt of such recall petition, mark "invalid" on the petition, and return the petition forthwith, either personally or by registered or certified mail, to the chairman designated in the recall petition.

Present law (R.S. 18:1300.7) requires the governor to issue a proclamation ordering a recall election to be held if the required number of qualified electors sign the petition for recall. Provides deadlines and requirements for issuing the proclamation and selecting the election date.

Proposed law retains present law.

Present law provides that if the recall election is to be held on a primary election date, the proclamation must be issued on or before the last day for candidates to qualify in the election.

<u>Proposed law</u> provides instead that if the recall election is to be held on a primary election date, the proclamation must be issued at least four weeks prior to the opening of the qualifying period for the primary election.

<u>Present law</u> (R.S. 18:1306) provides procedures and requirements for the preparation and distribution of absentee by mail and early voting ballots and envelopes. Provides for the form and content of the ballots and envelopes. Requires an absentee by mail ballot envelope to include a certificate that includes certain specified statements and information. Requires the voter to sign the certificate in the presence of one witness.

<u>Proposed law</u> retains <u>present law</u>.

<u>Present law</u> (R.S. 18:1310) provides further requirements for voting absentee by mail. Provides that a person may receive assistance in voting absentee by mail. Requires a person who assists a voter in voting absentee by mail to execute the acknowledgment on the ballot envelope flap prepared by the secretary of state, verifying that the person providing the assistance has marked the ballot in the manner dictated by the voter.

<u>Proposed law</u> retains <u>present law</u>. Additionally provides that the signature on the acknowledgment by the person providing assistance may serve as the signature of the witness required by <u>present law</u> (R.S. 18:1306).

<u>Present law</u> (R.S. 18:1313) provides for the tabulation and counting of absentee by mail and early voting ballots by the parish board of election supervisors. Provides that if the counting and tabulation of absentee by mail and early voting ballots begins prior to the closing of the polls, such counting and tabulation shall be conducted in a location and manner to prevent disclosure of the results prior to the closing of the polls. Provides that each person except a person providing security to the parish board of election supervisors or a person authorized by the secretary of state to provide technical assistance who enters the location in which the absentee by mail and early voting ballots are being counted and tabulated shall remain in that location and shall not be allowed to leave except temporarily, and then only when accompanied by a law enforcement officer, and shall not communicate with any person outside until the polls are closed.

<u>Proposed law</u> retains <u>present law</u>. Additionally provides that the following may enter the location in which the absentee by mail and early voting ballots are being counted and tabulated and are allowed to leave without being accompanied by a law enforcement officer and may communicate with a person outside: a representative of the attorney general, with written approval of the secretary of state; the clerk of court; and the registrar of voters.

<u>Present law</u> provides procedures for counting absentee by mail ballots. Provides that if the board determines that an absentee by mail ballot is valid, a member of the board must write the words "voted by mail" and his initials on the absentee by mail voter report beside the name of the voter as it appears on the report.

<u>Proposed law</u> provides instead that if the board determines that an absentee by mail ballot is valid, a member of the board must make a check mark on the absentee by mail voter report beside the name of the voter as it appears on the report and write his initials on each page of the report.

<u>Present law</u> (R.S. 18:1351) provides definitions relative to voting machines and other voting equipment. <u>Proposed law</u> removes definitions for "candidate counters", "question counters", "diagram", and "model". In the definition of "protective counter", specifies that the counter registers each time the machine is operated during the life of the machine. Provides that "voting system" means the total combination of equipment, including voting machines, used to define ballots, cast and count votes, report or display election results, and maintain and produce any auditable data and the software, firmware, hardware, and documentation required to program, control, and support such equipment. Provides that "voting system" also includes the vendor's practices and documentation used to identify system components

and versions of such components, test the system during its development and maintenance, maintain records of system errors and defects, determine specific system changes made after initial certification, and make available any materials to the voter.

Present law (R.S. 18:1353) requires the secretary of state to prescribe uniform rules and regulations with respect to matters pertaining to procurement, preparation and use of voting machines and absentee by mail and early voting counting equipment in the conduct of elections and the duties of each category of persons charged with responsibility for any matter relating to voting machines or absentee by mail and early voting counting equipment. Provides that the rules and regulations shall be approved by the attorney general and thereafter shall be distributed by the secretary of state to the election officials having responsibilities relating to elections. Requires the rules and regulations to be applied uniformly throughout the state.

Proposed law provides that the secretary of state may prescribe uniform rules, instead of requiring such rules. Provides that such rules apply to voting systems. Otherwise retains present law.

Present law (R.S. 18:1353, 1361, and 1362) provides procedures and requirements for examination, testing, evaluation, certification, approval, and procurement of voting machines and absentee by mail and early voting counting equipment. Proposed law amends present law so that it applies to voting systems and system components instead of voting machines and counting equipment.

Present law (R.S. 18:1355) provides requirements for the construction and equipment of voting machines. Proposed law removes requirements in present law other than those relating to including a sound-creating device that indicates when a voter has left a machine after casting his vote and allowing for the challenge removal of early voting ballots.

Present law (R.S. 18:1375) provides that any duplicate or extra keys to the voting machines shall be sealed in an envelope by the parish custodian and the secretary of state and placed in a safe place. Prohibits the seal from being broken or the keys used in any manner except with the consent of both the parish custodian and secretary of state.

Proposed law prohibits the seal from being broken or the keys used in any manner except with the consent of the parish custodian or secretary of state, instead of both the parish custodian and the secretary of state. Otherwise retains present law.

Present law (R.S. 18:1400.3) provides for election expenses incurred by clerks of court. Specifies permissible election expenses.

Proposed law retains present law. Adds to the list of specified expenses those expenses incurred by a clerk of court to pay for law enforcement officers to control traffic on election day to the extent permitted by present law (R.S. 18:428), which generally provides, with certain exceptions, that law enforcement officers may not be stationed at polling places on election day.

Present law (R.S. 18:1400.6) provides for costs and expenses of primary and general elections. Requires any local governing authority or school board that receives a request for reimbursement of election costs must pay such reimbursement promptly. Provides that if payment for any such reimbursement is not received by the secretary of state on the 120th day following the first billing by the secretary of state, the account shall be forwarded to the attorney general for collection. Authorizes the attorney general to collect the actual expenses his office incurs in the collection of such account.

Proposed law retains present law.

Present law additionally provides that interest on any unpaid balance shall be added to the amount of any such reimbursement for which payment has not been received by the 60th day

after the date of billing by the secretary of state and that such interest shall be at an annual percentage rate of 15% and shall be received by the secretary of state to be remitted to the state treasurer.

Proposed law repeals present law.

Present law (R.S. 18:1432) provides remedies for a trial court in an action contesting an election for public office and a recall election.

Present law (R.S. 18:1433) provides procedures and requirements for conducting a revote when a voting machine malfunctions. Proposed law retains present law and makes present law applicable to a malfunction of the results tape and results cartridge.

Proposed law retains present law. Additionally provides remedies for an action contesting an election on a proposition.

Proposed law makes technical corrections, including correction of citations.

Provisions of proposed law become effective upon signature of the governor or January 1, 2020.

(Amends R.S. 18:18(A)(8)(b), 51(C)(1)(a), 104(C)(2), 110(A), 435(B)(1)(a), 444(I), 463(A)(2)(a)(iii) and (viii), 501(C), 532(D), 551(C)(1)(c)(iii), 565(B), 567.1(5), 571(A)(4)(a), (8), and (9), 573(E)(1), 574(B)(intro. para.), 1254(A), 1300.1, 1300.7(A), 1310(C)(1), 1313(C)(1) and (F)(4), 1351(9), 1353(B) and (C)(1) and (2), 1354(B)(3), 1361, 1362(A), 1373(A)(5), 1375, and 1433(A) and (B); Adds R.S. 18:104(C)(3), 444(F)(2)(c) and (d), 463(A)(2)(a)(ix), 564(D)(1)(a)(v), 572(A)(1)(b)(viii), 1280.21.1, 1351(14), 1400.3(E)(7), and 1432(A)(3); Repeals R.S. 18:573(D), 1351(2), (3), and (6), 1355, and 1400.6(B))