Regular Session, 2011

HOUSE BILL NO. 533

BY REPRESENTATIVE GALLOT

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

ELECTION CODE: Makes revisions to the Election Code

AN ACT

To amend and reenact R.S. 18:103(B)(3)(b) and (C)(3)(b), 109, 152(C)(2)(a), 154(C), 427(B), 431(A)(1)(a), 435(A)(1), 463(A)(1)(a), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1259(A) and (B), 1284(F)(1) and (2), 1299.1, 1300.13, 1307(B)(2) and (H), 1309.1, 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), and 1433(A) and (B), to enact R.S. 18:1307(I), 1401(F), 1404(E), 1405(H), and 1415(G), and to repeal R.S. 18:1259(D), relative to the Louisiana Election Code; to revise the system of laws comprising the Louisiana Election Code; to provide for the return of voter registration materials to the registrar of voters; to provide for the content of notices of registration; to provide relative to precinct registers used by the registrar of voters; to provide relative to disclosure of voter information; to provide relative to watchers; to provide relative to courses of instruction for commissioners; to provide for information required on a notice of candidacy; to provide for the time limits for making appointments to fill vacancies in certain offices; to provide for the time limits for issuing proclamations for special elections to fill vacancies in certain offices; to provide relative to the requirements for special elections for certain offices; to provide for the arrangement of the ballot in elections for presidential electors; to provide relative to propositions submitted to voters at certain elections; to provide relative to recall elections; to provide relative to applying to vote absentee by mail; to provide relative to the preparation of voting machines; to provide relative



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to absentee by mail and early voting commissioners; to provide for the use of paper ballots; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:103(B)(3)(b) and (C)(3)(b), 109, 152(C)(2)(a), 154(C), 427(B), 431(A)(1)(a), 435(A)(1), 463(A)(1)(a), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1259(A) and (B), 1300.13, 1307(B)(2) and (H), 1309.1, 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), and 1433(A) and (B) are hereby amended and reenacted and R.S. 18:1307(I), 1401(F), 1404(E), 1405(H), and 1415(G) are hereby enacted to read as follows:

§103. Personal appearance of applicant required; exceptions

* * *

B. Any citizen of Louisiana who meets the qualifications set forth in R.S. 18:101 and who is a legal resident of this state, whether or not he has a place of abode in this state, but who is unable to appear in person to register because he is in the United States Service, as defined in R.S. 18:1302, may register by mail using the state mail voter registration form in accordance with the following provisions:

* * *

(3) Upon receipt of the document, the applicant shall:

* * *

(b) Return the document by mail<u>, facsimile, or other means of transmission</u> to the registrar.

* * *

C. A person who meets the qualifications set forth in R.S. 18:101(E) who is unable to appear in person to register because he is residing outside the United States may register by mail using the state mail voter registration form in accordance with the following provisions:

* * *

(3) Upon receipt of the document, the applicant shall:

* * *



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(b) Return the document by mail, facsimile, or other means of transmission to the registrar.

* * *

§109. Notice of registration and change in registration

After receiving from the registrar the information concerning a new registrant or the information concerning a change made with respect to the registration of any person, the Department of State promptly shall mail a notice to the appropriate registrar that the person is registered or that his registration has been changed. The registrar shall then mail ~~a notice~~, postage prepaid, to each new registrant and to each person whose registration was changed in any manner a notice that he is registered or that his registration has been changed. The notice shall show the parish, ward, precinct, and registration address~~, and party affiliation~~ of the registrant. The notice shall list an abbreviation of the name of the political party if the registrant is registered as being affiliated with a recognized political party, "other" if the registrant is registered as being affiliated with a political party that is not recognized, or "none" if the registrant is registered with no political party affiliation. However, the registrar shall not be required to send such a notice to any voter who has been on the inactive list of voters for at least two years unless the change in registration involves a change in the voter's address. The secretary of state shall prescribe the form to be used on the notice; however, "Return Service Requested" shall be printed on the front of the notice ~~shall contain directions to the postmaster to "deliver only as addressed; otherwise return to sender; address correction requested"~~, and the return address shall be that of the registrar. When a notice is returned by the postmaster, the registrar shall proceed in accordance with the applicable provisions of Part V of this Chapter.

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§152. Required records

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C.

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(2)(a) Prior to each election, the registrar shall ~~request a~~ obtain one current precinct register ~~and duplicate precinct register~~ for each precinct in the parish where an election is to be held. The Department of State shall provide the registrar with one duplicate precinct register in electronic form. Such registers shall contain both the official list of voters and the inactive list of voters. Each precinct register shall contain information for identification of the voter at the polls, a space which the voter shall sign at the time he votes, a space for the initials of the commissioner at the polls, a space for the date of the election, and space for such other information as is deemed necessary.

* * *

§154. Records open to inspection; copying; exceptions

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C.(1) Notwithstanding the provisions of this Section, neither the registrar nor the Department of State shall disclose the fact that a registered voter is entitled to assistance in voting or the social security number, driver's license number, day and month of the date of birth, mother's maiden name, or electronic mail address of a registered voter or circulate the fact that registered voters are entitled to assistance in voting or the social security numbers, driver's license numbers, day and month of the dates of birth, mother's maiden names, or electronic mail addresses of registered voters on commercial lists, except when voter registration data is transmitted to the office of motor vehicles of the Department of Public Safety and Corrections, for the purposes of verifying the accuracy and authenticity of the social security number, driver's license number, or full date of birth provided by the voter or when the full date of birth of a registered voter is transmitted to the Board of Ethics to verify the identity of a candidate for purposes of campaign finance reporting.



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(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the Board of Ethics shall not disclose the full date of birth of a registered voter transmitted to the board by the Department of State.

* * *

§427. Watchers

* * *

B. Powers and duties. A watcher shall be admitted within all parts of the polling place during the election day and the counting and tabulation of votes, and shall call any infraction of the law to the attention of the commissioners. A watcher may keep notes on the conduct of the election, but he shall not take part in the counting and tabulation of votes. A watcher shall not electioneer, engage in political discussions, or unnecessarily delay a voter at the polling place. A watcher shall be subject to the authority of the commissioners and shall not interfere with the commissioners in the performance of their duties.

* * *

§431. Commissioners; courses of instruction; certificates; reports; list of certified persons furnished by parish board of election supervisors

A.(1)(a) At least ~~semiannually~~ annually the clerk of court shall conduct a general course of instruction for commissioners. ~~These courses~~ Each such course of instruction shall be open to the public, and the clerk shall publicize ~~the courses~~ each course in a manner reasonably calculated to encourage maximum attendance and participation. For informational purposes, the registrar may assist the clerk of court in conducting the course.

* * *

§435. Watchers; appointment and commission

A. Right to have watchers. (1) Each candidate is entitled to have one watcher at every precinct on election day where the office he seeks is voted on in a primary or general election. The candidate or his authorized representative shall file one list of watchers on a form provided by the secretary of state or on a form which



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contains the same information as required by the form provided by the secretary of state. When a candidate's list of watchers is filed by the candidate's authorized representative, a letter of authorization from the candidate shall accompany the list of watchers; however, in the case of a presidential election, each slate of candidates for presidential elector is entitled to have one watcher at every precinct. The state central committee of each recognized political party shall be responsible for filing the list of watchers for its slate of candidates for presidential elector. The list of watchers for an independent or other party slate of candidates for presidential elector shall be filed by any person so authorized by the presidential candidate supported by the slate of electors. A letter of authorization from the presidential candidate, or an authorized agent of his campaign, shall accompany the list of watchers.

* * *

§463. Notice of candidacy; financial disclosure; political advertising; penalties

A.(1)(a) A notice of candidacy shall be in writing and shall state the candidate's name, the office he seeks, the address of his domicile, and the parish, ward, and precinct where he is registered to vote~~, and the political party, if any, with which he is registered as being affiliated~~. The candidate shall list on the notice of candidacy the name of the political party if he is registered as being affiliated with a recognized political party, "other" if he is registered as being affiliated with a political party that is not a recognized political party, or "no party" if he is registered with no political party affiliation. No candidate shall change or add his political party designation, for purposes of printing on the election ballot as required by R.S. 18:551(D), after he has qualified for the election.

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§591. Vacancy in office of elective members of state boards and commissions

Within twenty-four hours after any member of a state board or commission has knowledge of a vacancy in an elective office on that state board or commission, he shall notify the governor by certified mail of the vacancy, the date on which it occurred, and the cause thereof. Within ~~ten~~ twenty days after he is notified of the



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vacancy, the governor shall appoint a person to fill the vacancy who has the qualifications for the office. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. If the unexpired term is one year or less, the member so appointed shall serve for the remainder thereof. If the unexpired term exceeds one year, the governor, within ~~ten~~ twenty days after he is notified of the vacancy, shall issue his proclamation ordering a special election to fill the vacancy, which shall specify, in accordance with R.S. 18:402, the dates on which the primary and general elections shall be held, and in accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for the candidates in the special election. However, if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for issuing such proclamation. Immediately thereafter the governor shall publish the proclamation in the official journal of each parish in which the election is to be held. Within twenty-four hours after issuing the proclamation, the governor shall send a copy of the proclamation to the secretary of state who shall within twenty-four hours after receipt of the information notify all election officials having any duty to perform in connection with the special election to fill such vacancy, including the parish boards of election supervisors for the parish or parishes in which the vacancy occurred. The governor may appoint a person to fill a vacancy and issue a proclamation ordering a special election when he learns of a vacancy, whether or not he has received notice thereof from a state board or commission member. Whenever a special election is required, the governor's appointee shall serve only until the successor is elected and takes office.

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§602. Vacancies in certain local and municipal offices; exceptions

A. When a vacancy occurs in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other local or



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municipal office, except an office covered by Subsections B and C ~~hereof~~ of this Section and except the office of judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision, the governing authority of the local governmental subdivision where the vacancy occurs shall~~,~~ within ~~ten~~ twenty days~~,~~ appoint a person to fill the vacancy who meets the qualifications of the office. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. The presiding officer of the governing authority shall not be required to vote on such an appointment to be made by the governing authority of a local governmental subdivision unless a tie vote occurs thereon, in which case he shall vote to break the tie; however, in no case shall the presiding officer vote more than once on the appointment.

B. When a vacancy occurs in the membership of a city or parish school board, the remaining members of the board shall~~,~~ within ~~ten~~ twenty days~~,~~ declare that the vacancy has occurred and proceed to appoint a person who meets the qualifications of the office to fill the vacancy. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. For the purposes of this Subsection, in addition to the definition of "vacancy" provided in R.S. 18:581, a "vacancy" in a city or parish school board office shall be deemed to have occurred when, in the case of a city school board, a member's residence no longer lies within the jurisdiction of the board or when, in the case of a parish school board, a member changes his domicile from the district he represents or, if elected after reapportionment, is domiciled outside the district he represents at the time he is sworn into office, any declaration of retention of domicile to the contrary notwithstanding.

C. When a vacancy occurs in any of the following offices, the duties of the office shall be assumed by the person hereinafter designated: (1) district attorney, by



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the first assistant; (2) clerk of a district court, by the chief deputy; (3) coroner, by the chief deputy; (4) sheriff, by the chief criminal deputy, except that in a parish that has both a civil sheriff and a criminal sheriff, the civil sheriff by the chief civil deputy, and the criminal sheriff, by the chief criminal deputy, respectively; and (5) tax assessor, by the chief deputy assessor. If there is no such person to assume the duties when the vacancy occurs, the governing authority or authorities of the parish or parishes affected shall~~,~~ within ~~ten~~ twenty days~~,~~ appoint a person having the qualifications of the office to assume the duties of the office. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment.

D. If a vacancy is not filled within the time specified in Subsections A, B, or C ~~herein~~ of this Section, the governor shall fill the vacancy.

E.(1)(a) If the unexpired term of an office covered by Subsection A, B, or C ~~above~~ of this Section is one year or less, the person appointed to fill the vacancy or designated to assume the duties of the office shall serve for the remainder of the unexpired term.

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(2)(a) If the unexpired term exceeds one year, the governing authority of the local governmental subdivision in which the vacancy occurs, or the school board when the vacancy occurs in its membership, or the governor when a vacancy occurs in the office of district attorney or in an office for which there is not a single governing authority or as provided in Subsection F of this Section, within ~~ten~~ twenty days after the vacancy occurs, shall issue a proclamation ordering a special election to fill the vacancy and shall specify in the proclamation, in accordance with R.S. 18:402, the dates on which the primary and general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for candidates in the special election. However, if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day



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which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for issuing such proclamation. In selecting the dates for such special elections, the governing authority or school board as the case may be, may choose a gubernatorial or congressional election date, if such date is available within a year of the occurrence of the vacancy or may select an election date in accordance with R.S. 18:402. In the cases in which the governor has the authority to select the date for such special elections, the governor shall first choose a gubernatorial or congressional election date. If no such date is available within a year of the occurrence of the vacancy, the governor shall then select an election date in accordance with R.S. 18:402. If the governing authority or school board fails to issue the proclamation within ~~ten~~ twenty days after the vacancy occurs, the governor shall issue the proclamation.

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(4) If the unexpired term of a parish or municipal office covered by Subsection A of this Section is one year or more, but the vacancy occurs within one year of the ~~regular municipal~~ regularly scheduled primary election for that office, no special election will be called and the appointee shall serve for the remainder of the term of office.

F. Whenever multiple vacancies in a local or municipal governing authority or in a school board covered by Subsection A or B of this Section reduce the membership of such governing authority or board below the number of total members required to constitute a quorum to conduct official business, the remaining members shall immediately inform the governor of the existence of the vacancies. Within ~~ten~~ twenty days after he receives this notice, the governor shall make appointments to fill all the vacancies and shall issue a proclamation calling special elections to fill such vacancies if special elections are required under the provisions of this Section. However, if the deadline for making the appointment or issuing the proclamation, if applicable, falls on a Saturday, Sunday, or other legal holiday, then



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the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment or issuing such proclamation.

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§604. Marshal of city or municipal court; temporary absence; vacancy

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B.(1) When a vacancy occurs in the office of constable or marshal of a city or municipal court and the unexpired term of the office is one year or less, the chief deputy shall assume such duties and position and shall serve for the remainder of the expired term. However, in those cases where there is no such person to assume the duties when the vacancy occurs, the appropriate governing authority shall within ~~ten~~ twenty days appoint a person having the qualifications of the office to assume the duties of the office for the remainder of the unexpired term. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. The appointment shall be made by the governing authority of the parish, unless the jurisdiction of the city or municipal court is wholly within the municipal city limits, in which case, such appointment shall be made within ~~ten~~ twenty days by the municipal governing authority. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. If the appropriate governing authority fails to fill the vacancy within ~~ten~~ twenty days, the governor shall fill the vacancy. The judge of the city or municipal court which he serves shall fix the amount of the bond.

(2)(a) When the unexpired term exceeds one year, the chief deputy shall assume such duties and position and shall serve until the successor is elected and takes office. If there is no such person to assume the duties when the vacancy occurs, the appropriate governing authority shall within ~~ten~~ twenty days appoint a person having the qualifications of the office to assume the duties of the office until



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the successor is elected and takes office. However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. If the appropriate governing authority fails to fill the vacancy within ~~ten~~ twenty days, the governor shall fill the vacancy. The appropriate governing authority shall, within ~~ten~~ twenty days after the vacancy occurs, issue a proclamation ordering a special election to fill the vacancy and shall specify in the proclamation, in accordance with R.S. 18:402, the dates on which the primary and general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for candidates in the special election. However, if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for issuing such proclamation. If the appropriate governing authority fails to issue the proclamation within ~~ten~~ twenty days after the vacancy occurs, the governor shall issue the proclamation.

* * *

§1259. Arrangement of ballot; designation of party candidates

A. In any year in which presidential electors are to be elected, the secretary of state shall arrange the voting machine ballot in such manner that the names of candidates for president and vice president shall appear on the ballot in the first column, beginning at the top and proceeding downward. If necessary, the listing of the names of candidates for president and vice president may continue in the second and succeeding columns. The names of the presidential electors shall not appear on the ballot ~~in the manner as provided for in Subsection B of this Section~~.

B.(1) The ballot shall be so arranged that the names of the candidate for president and the candidate for vice president nominated by each recognized political party, by nominating petition, or by filing of notices of candidacy accompanied by a qualifying fee shall appear prominently together with the name of the presidential candidate on top and the name of the vice presidential candidate directly underneath.



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(2) Directly to the left of the names of the presidential and vice presidential candidates shall appear:

(a) If nominated by a recognized political party, the name of the party and such national party emblem, if any, or state party device, if any, as the state central committee of the party shall direct, and

(b) If nominated by a nominating petition or by the filing of notices of candidacy, the political principal which the candidates support, as stated on the nominating petition or on the notices of candidacy, if any, and the words "Nominating Petition" or the abbreviation "Nom. Petition" shall appear if nominated by petition.

(3) ~~Immediately below the name of the party, or, if nominated by a nominating petition, the words "Nominating Petition" or the abbreviation "Nom. Petition" shall appear the word "Electors".~~

~~(4) Immediately below the word "Electors" the names of the presidential electors nominated in support of the nominees for president and vice president of that party or political principal shall appear.~~

~~(5)~~ On a voting machine, there shall be a button or candidate selection button with which to mark the ballot opposite each pair of names. On paper ballots, there shall be a single box within which to mark the ballot opposite each pair of names.

~~(6)~~ (4) In preparing the ballots, the secretary of state shall arrange the names of the candidates of recognized political parties alphabetically, according to the names of the parties, followed by the names of the candidates nominated by nominating petitions and by the filing of notices of candidacy, listed alphabetically by designation of political principal.

* * *

§1300.13. Declaration of vacancy

When the majority is in favor of the recall, the public officer is, ipso facto, recalled and removed from office, and the office shall be vacated upon ~~receipt by the secretary of state of certified returns from all of the parish boards of election~~



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~~supervisors within the jurisdiction~~ expiration of the time period for contesting the recall election set forth in R.S. 18:1405(H) if an action contesting the recall election is not commenced timely or when the final judgment becomes definitive if an action contesting the recall election is commenced timely, and the office shall be filled as in the case of ordinary vacancies and according to the constitution and laws of the state. A public officer who has been recalled and removed from office shall not be appointed to succeed himself in the office from which he was recalled and removed.

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§1307. Application by mail

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(2) Except as provided in Subsections C and D of this Section and R.S. ~~18:1333(D)(2)~~ 18:1333(D)(1), an application must be received by the registrar not earlier than sixty days or later than 4:30 p.m. on the fourth day prior to the election for which it is requested, and the date received shall be noted thereon. However, if the deadline falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day of the deadline.

* * *

H. If the applicant is eligible to vote absentee by mail pursuant to R.S. 18:1303(H), his application, if such application meets the requirements of this Section, shall remain valid as long as the applicant is a program participant in the Department of State Address Confidentiality Program pursuant to Part III of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950. When the applicant ceases participation in the program, the Department of State shall notify the registrar of the parish where the applicant is registered to vote that the applicant is no longer a participant in the program. Upon receipt of the notification from the Department of State, the registrar shall send notice by forwardable mail to the applicant that his



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application will no longer be valid, and the applicant shall be required to submit a new application to the registrar that meets the requirements of this Section and provide a current address before the applicant will be eligible to vote absentee by mail again pursuant to this Section.

I. If the registrar of voters has reason to believe that the eligibility of a voter to vote absentee by mail pursuant to R.S. 18:1303(I) is based upon false or fraudulent information, he shall immediately notify the parish board of election supervisors. If, after appropriate hearing and opportunity for the voter to be heard, the parish board of election supervisors finds that the voter's eligibility to vote absentee by mail was based upon false or fraudulent information, the board shall inform the appropriate district attorney and the registrar of voters who shall not allow the voter to vote absentee by mail pursuant to R.S. 18:1303(I).

* * *

§1309.1. ~~Notice of preparation~~ Preparation of machines for early voting; examination by candidate or his representative; sealing machines

A. ~~Prior to the conduct of early voting~~ At the time of qualifying, the parish custodian shall notify each candidate ~~of~~ to contact the registrar of voters for the time and place at which the voting machines will be prepared for early voting. ~~The notice shall state the time and place at which he will begin preparation of the machines for sealing and that the~~ The candidate or his representative may be present to observe the preparation of the machines ~~for~~ by the registrar of voters with the assistance of the secretary of state's technicians and to observe the testing and sealing of the machines by the ~~parish custodian~~ registrar of voters in the presence of the parish board of election supervisors. Each candidate or his representative shall be afforded a reasonable opportunity to ~~inspect and test vote the machines~~ view the test vote tape for each machine to see that they are in the proper condition for use in the election, which opportunity shall not be less than thirty minutes beginning at the time designated by the ~~parish custodian~~ registrar of voters to begin preparation of the machines for sealing. However, no candidate, representative, or citizen shall



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interfere with the registrar of voters, secretary of state's technicians, parish ~~custodian~~ board of election supervisors, or any employee or technician or assume any of their duties.

B. Each candidate or representative shall identify to the registrar of voters the candidate whom he is representing. In addition, any citizen of this state may be present to observe the preparation, testing, and sealing of the machines by the ~~parish custodian~~ registrar of voters and shall be afforded an opportunity to inspect the ~~machines~~ test vote tape for each machine to see that they are in proper condition for use for early voting.

C. After the machines have been examined by each candidate, or representative, or citizen who is present, the parish board of election supervisors shall generate a zero tally to ensure that the voting machine's public counter is set at zero and that no votes have been cast for any candidate or for or against any proposition. The ~~parish custodian~~ registrar of voters shall then seal the voting machine.

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§1314. Absentee by mail and early voting commissioners

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B. Selection for primary election. (1) The parish board of election supervisors shall determine the number of absentee by mail and early voting commissioners necessary to count the absentee by mail and early voting ballots in the parish. The parish board of election supervisors shall select a ~~minimum~~ maximum of ~~three~~ six such commissioners. If the parish board of election supervisors determines that the number of absentee by mail and early voting commissioners should be increased to more than six such commissioners, the parish board shall make a request to the secretary of state for the additional absentee by mail and early voting commissioners. If the secretary of state or his designee determines that there is a need for the additional absentee by mail and early voting



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commissioners, the parish board shall select the additional absentee by mail and early voting commissioners.

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C. Selection for general election. (1)

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(b) If it determines that the number cannot be reduced or should be increased, those persons who served as absentee by mail and early voting commissioners and alternate absentee by mail and early voting commissioners for the parish in the primary election shall serve in the general election, unless replaced or disqualified in the manner provided by law for commissioners and alternate commissioners. ~~The number of absentee by mail and early voting commissioners for a general election shall not be less than three.~~ If the parish board of election supervisors determines that the number of absentee by mail and early voting commissioners should be increased to more than the number of such commissioners who served in the primary election, the parish board shall make a request to the secretary of state for the additional absentee by mail and early voting commissioners. If the secretary of state or his designee determines that there is a need for the additional absentee by mail and early voting commissioners, the parish board shall select the additional absentee by mail and early voting commissioners.

* * *

(3) If the parish board ~~determines~~ and the secretary of state or his designee determine that the number of absentee by mail and early voting commissioners should be increased, the parish board shall meet at 10:00 a.m. on the fifth day before a general election and shall select the additional absentee by mail and early voting commissioners and alternate absentee by mail and early voting commissioners to serve in the general election for that parish from the list of certified commissioners who have not been chosen to serve in the general election as a commissioner-in-charge, commissioner, or, if applicable, absentee by mail and early voting commissioner in the manner provided by law for the selection of commissioners and



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alternate commissioners. If there are not enough certified commissioners to select the appropriate number of absentee by mail and early voting commissioners and alternate absentee by mail and early voting commissioners, the board of election supervisors may select a qualified elector of the parish to serve; however, no such elector shall serve as an absentee by mail and early voting commissioner if a certified commissioner has been selected as an alternate absentee by mail and early voting commissioner.

D. Selection for provisional ballot counting for a primary or general election.

* * *

(2) Upon approval by the secretary of state or his designee, the parish board of election supervisors shall appoint the approved number of absentee by mail and early voting commissioners for assistance to the board in counting and tabulating the provisional ballots.

* * *

§1352. Use of voting machines throughout state; exception for failure of voting equipment, absentee by mail and early voting

A. Voting machines shall be used throughout this state in all elections~~:~~ ~~however, nothing.~~

B. Notwithstanding the provisions of Subsection A of this Section, paper ballots may be used when voting machines fail.

C. Nothing in this Chapter shall prohibit absentee by mail and early voting as otherwise provided in this Title.

* * *

§1401. Objections to candidacy, contests of elections, contests of certification of recall petition; parties authorized to institute actions

* * *

F. A public officer who alleges that, except for substantial irregularities or error, or except for fraud or other unlawful activities in the conduct of the election, he would not have been recalled may bring an action contesting the election.



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§1402. Proper parties

* * *

C. The secretary of state, in his official capacity, shall be made a party defendant to any action contesting an election for public office or an election for the recall of a public officer. The secretary of state, in his official capacity, shall be made defendant to any action objecting to the calling of a special election. The secretary of state, in his official capacity, shall be made a party defendant to any action contesting the certification of a recall petition. When named as a defendant in an action contesting an election, costs of court shall not be assessed against the secretary of state. When named as a defendant in an action contesting the certification of a recall petition, costs of court shall not be assessed against the secretary of state.

* * *

§1404. Venue

* * *

E. An action contesting an election for the recall of a public officer shall be instituted in the district court for a parish included in whole or in part in the voting area wherein the recall election is held; however if the public officer recalled is a statewide elected official, an action contesting the election shall be instituted in the district court for the parish where the state capitol is situated.

§1405. Time for commencement of action

* * *

H. An action contesting any election involving the recall of a public officer shall be instituted on or before 4:30 p.m. of the ninth day after the date of the election.

§1406. Petition; answer; notification

* * *

B. The petition shall set forth in specific detail the facts upon which the objection or contest is based. If the action contests an election involving election to



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office, the petition shall allege that except for substantial irregularities or error, fraud, or other unlawful activities in the conduct of the election, the petitioner would have qualified for a general election or would have been elected. If the action contests an election involving the recall of a public officer, the petition shall allege that except for substantial irregularities or error, fraud, or other unlawful activities in the conduct of the election, the petitioner would not have been recalled. The trial judge may allow the filing of amended pleadings for good cause shown and in the interest of justice.

* * *

§1415. Discovery prior to filing a suit contesting an election

* * *

B. Provided an action contesting an election involving the recall of a public officer has not been filed pursuant to R.S. 18:1405(H), the recalled public officer may conduct limited discovery as provided herein during the period of time after the close of the polls on election day and prior to the expiration of time to file a suit contesting such election.

C. Such discovery may be conducted only after execution of an affidavit by a poll watcher, commissioner, or any other election official that he has personal knowledge of an irregularity in the election and only after such affidavit has been filed with a court of competent jurisdiction. The nature of the irregularity shall be specified in the affidavit. The clerk of court shall immediately notify the secretary of state by telephone and by written notice when such affidavit has been filed, and shall notify the opponents of the candidate of the filing of the affidavit. The clerk shall also supply a copy of the affidavit to each opponent of the candidate.

~~C.~~ D. Discovery shall be limited to the taking of the deposition of any election official, including his employees, having responsibilities regarding the conduct of such election and the inspection and copying of documents and other records in the custody and control of any such election official, but shall not include access to voting machines prior to the date such machines are opened in accordance



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with R.S. 18:573. The deposition of a statewide elected official or his employee shall be conducted at the office of such official.

~~D.~~ E. Upon the request of the candidate or recalled public officer, after the filing of the affidavit as provided in Subsection B of this Section, the clerk of any district court shall issue subpoenas and subpoenas duces tecum in aid of the taking of depositions and the production of documentary evidence for inspection or copying, or both.

~~E.~~ F. The authority for a candidate or recalled public officer to conduct discovery under the provisions of this Section shall cease when an action contesting such election is filed pursuant to R.S. 18:1405(B) or (H).

~~F.~~ G. A candidate or recalled public officer who conducts limited discovery as provided in this Section shall be responsible for all reasonable costs associated with such discovery.

* * *

§1431. Fraudulent or illegal votes; uncounted votes; determination of election result

When the court finds that one or more of the votes cast in a contested election are illegal or fraudulent, the judge shall subtract such vote or votes from the total votes cast for the candidate who received them if the contest involves election to office, ~~or~~ from the total vote for or against a proposition~~,~~ if the contest is of an election upon a proposition, or from the total vote for or against the recall of a public officer if the contest involves an election for the recall of a public officer. If the court determines that legal votes cast in the election were excluded in the total votes cast on a candidate, ~~or~~ proposition, or recall, then these excluded legal votes shall be added to the total votes on the candidate, ~~or the~~ proposition, or recall to which they are attributable. Thereafter, and after considering all the evidence, the court shall determine the result of the election.

§1432. Remedies

A.(1) If the trial judge in an action contesting an election determines that: ~~(1)~~ (a) it is impossible to determine the result of election, or ~~(2)~~ (b) the number of



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qualified voters who were denied the right to vote by the election officials was sufficient to change the result in the election, if they had been allowed to vote, or ~~(3)~~ (c) the number of unqualified voters who were allowed to vote by the election officials was sufficient to change the result of the election if they had not been allowed to vote, or ~~(4)~~ (d) a combination of the factors referred to in ~~(2)~~ (b) and ~~(3)~~ (c) in this ~~Subsection~~ Paragraph would have been sufficient to change the result had they not occurred, the judge may render a final judgment declaring the election void and ordering a new primary or general election for all the candidates, or, if the judge determines that the appropriate remedy is the calling of a restricted election, the judge may render a final judgment ordering a restricted election, specifying the date of the election, the appropriate candidates for the election, the office or other position for which the election shall be held, and indicating which voters will be eligible to vote.

(2) If the trial judge in an action contesting an election for the recall of a public officer determines that: (a) it is impossible to determine the result of election, or (b) the number of qualified voters who were denied the right to vote by the election officials was sufficient to change the result in the election, if they had been allowed to vote, or (c) the number of unqualified voters who were allowed to vote by the election officials was sufficient to change the result of the election if they had not been allowed to vote, or (d) a combination of the factors referred to in (b) and (c) in this Paragraph would have been sufficient to change the result had they not occurred, the judge may render a final judgment declaring the election void and ordering a new recall election, or, if the judge determines that the appropriate remedy is the calling of a restricted election, the judge may render a final judgment ordering a restricted election, specifying the date of the election, and indicating which voters will be eligible to vote.

* * *



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§1433. Revote in precincts where voting machine malfunctions if result cannot be otherwise ascertained

A. Notwithstanding the provisions of R.S. 18:1432, if a discrepancy sufficient to change the result of the election between the total votes cast at an election and the votes counted for the candidates in the election or for or against the recall of a public officer occurs as a result of a voting machine malfunction, and an accurate count of the votes cast on the malfunctioning machine cannot be determined by the offering of circumstantial evidence or any other evidence, the court shall order a revote in the precinct where the voting machine malfunctioned, which shall be limited to those persons listed on the poll list as having cast their ballots in person at the polls in the election in which the machine malfunctioned.

B. Notwithstanding the provisions of R.S. 18:1432, if a discrepancy sufficient to change the result of the election between the total votes cast at an election and the votes counted for the candidates in the election or for or against the recall of a public officer occurs as a result of the malfunction of a voting machine used for early voting, and an accurate count of the votes cast on the malfunctioning machine cannot be determined by the offering of circumstantial evidence or any other evidence, the court shall order a revote of electronic early voting ballots in the parish where the voting machine used for early voting malfunctioned, which shall be limited to those persons who voted during early voting in the election.

* * *

Section 2. R.S. 18:1284(F)(1) and (2) and 1299.1 are hereby amended and reenacted to read as follows:

§1284. Resolution calling election; proposition

* * *

F.(1) The preparation of ~~the statement of~~ the proposition to be submitted to the voters at an election shall be the responsibility of the governing authority of the political subdivision ordering the election. The ~~statement of the~~ proposition shall ~~also include a simple and unbiased concise summary in easily understood language~~



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~~which sets forth the substance of the~~ proposition include the information required by this Section in simple, unbiased, concise, and easily understood language and be in the form of a question. The ~~statement of the~~ proposition~~, including the summary,~~ shall not exceed ~~four~~ two hundred words in length. ~~Such summary shall be placed at the beginning of the statement of the proposition.~~

(2) The secretary of state shall be responsible for ensuring that the ~~statement of the~~ proposition ~~contains the summary as provided in Paragraph (1) of this Subsection~~ complies with the requirements of this Section.

* * *

§1299.1. ~~Statement of question~~ Question or proposition to be voted on; ~~statement~~ length

A. The preparation of ~~the statement of any~~ a question or proposition to be submitted to the voters at an election shall be the responsibility of the governing authority or other entity calling the election or submitting the question or proposition. The ~~statement of the~~ proposition shall ~~also include a simple and unbiased concise summary in easily understood language which sets forth the substance of the proposition~~ be comprised of simple, unbiased, concise, and easily understood language and be in the form of a question. The ~~statement of the~~ proposition~~, including the summary,~~ shall not exceed ~~four~~ two hundred words in length. ~~Such summary shall be placed at the beginning of the statement of the proposition.~~

B. The secretary of state shall be responsible for ensuring that the ~~statement of the~~ proposition ~~contains the summary as provided in Subsection A~~ complies with the requirements of this Section.

Section 3. R.S. 18:1259(D) is hereby repealed in its entirety.

Section 4.(A) This Section and Sections 1 and 3 of this Act shall become effective upon signature of this Act 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 this Act is vetoed by the governor and



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subsequently approved by the legislature, this Section and Sections 1 and 3 of this Act shall become effective on the day following such approval.

(B) Section 2 of this Act shall become effective on January 1, 2012.

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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)]

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Gallot HB No. 533

**Abstract:** Revises the system of laws comprising the La. Election Code.

Present law (R.S. 18:103) provides for voter registration. Provides requirements and procedures for registering to vote by mail, including procedures for persons who are unable to register in person because they are in the U.S. Service or because they reside outside of the U.S. Provides that such a person must return registration documents by mail to the registrar. Proposed law allows for the transmission of registration documents by facsimile or other means of transmission in addition to mailing. Otherwise retains present law.

Present law (R.S. 18:152) provides that prior to each election, the registrar shall "request" a current precinct register and duplicate precinct register for each precinct in the parish where an election is to be held. Proposed law requires the registrar to "obtain" one current copy of the precinct register and repeals the requirement for a hard copy duplicate precinct register. Provides that the Dept. of State will provide the registrar with a duplicate precinct register in electronic form instead.

Present law (R.S. 18:154) prohibits the registrar and the Dept. of State from disclosing certain voter information, including the day and month of the date of birth of a voter. Proposed law retains present law, but provides an exception for transmitting the full date of birth of a voter to the Board of Ethics to verify the identity of a candidate for purposes of campaign finance reporting.

Present law (R.S. 18:431) requires the clerk of court to conduct a general course of instruction for commissioners at least semiannually. Proposed law changes this requirement to provide that the course of instruction be conducted at least annually instead of semiannually.

Present law (R.S. 18:427 and 435) provides for poll watchers. Provides for qualifications, powers, duties, appointment, and commission of watchers. Provides that each candidate is entitled to have one watcher at every precinct where the office he seeks is voted on in a primary or general election. Provides that a watcher shall be admitted within all parts of the polling place during the election and the counting and tabulation of votes, and shall call any infraction of the law to the attention of the commissioners. Proposed law specifies that watcher's responsibilities are limited to election day voting. Otherwise retains present law.

Present law (R.S. 18:463) requires a candidate to file a notice of candidacy. Requires that certain information be in the notice, including the political party, if any, with which the candidate is registered as being affiliated. Proposed law requires the candidate to list on the notice of candidacy the name of the political party if he is registered as being affiliated with a recognized political party, "other" if he is registered as being affiliated with a political party that is not a recognized political party, or "no party" if he is registered with no political party affiliation. Otherwise retains present law.



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Present law (R.S. 18:109) requires the registrar to mail a notice of registration to a person who has sent information to the registrar concerning a new registration or change in registration. Requires that the notice contain certain information, including the party affiliation of the registrant. Proposed law requires the notice to contain an abbreviation of the name of the political party if the registrant is registered as being affiliated with a recognized political party, "other" if the registrant is registered as being affiliated with a political party that is not recognized, or "none" if the registrant is registered with no political party affiliation.

Present law (R.S. 18:591, 602, and 604) provides a 10-day deadline for making an appointment to fill a vacancy in the offices of elective members of state boards and commissions and certain local and municipal offices. Provides a 10-day deadline for issuing a proclamation calling a special election for certain offices. Proposed law extends the deadlines to 20 days.

Present law (R.S. 18:602) provides for vacancies in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other local or municipal office, except member of a city or parish school board, district attorney, clerk of a district court, coroner, sheriff, tax assessor, judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision. Provides that if the unexpired term of such a municipal office is one year or more, but the vacancy occurs within one year of the regular municipal primary election for that office, no special election will be called and the appointee shall serve for the remainder of the term of office. Proposed law applies provisions of present law relative to the holding of a special election based on the timing of the regular primary election to parish offices covered by present law. Otherwise retains present law.

Present law (R.S. 19:1284 and 1299.1) provides relative to bond, debt, and tax elections and other elections where a proposition or question is put to the voters. Provides requirements for a statement of a proposition to be submitted to the voters. Provides that the statement is the responsibility of the governing authority, political subdivision, or other entity calling the election. Requires certain information to be included, including a simple, unbiased, and concise summary of the proposition. Provides that the statement of the proposition shall not exceed 400 words. Provides that the secretary of state is responsible for ensuring that the statement of the proposition contains a summary as required by present law.

Proposed law repeals references to a "statement of a proposition" and applies requirements to the proposition itself. Provides that the proposition shall not exceed 200 words, instead of 400. Requires the proposition to be stated in the form of a question. Provides that the secretary of state shall ensure that the proposition complies with proposed law. Otherwise retains present law.

Present law (R.S. 44:52 et seq.) provides for the Dept. of State Address Confidentiality Program. Provides for the confidentiality of the physical addresses of program participants who are victims of abuse, sexual assault, or stalking.

Present law (R.S. 18:1303) provides eligibility requirements for voting absentee by mail. Provides that a program participant in the Address Confidentiality Program is eligible to vote absentee by mail. Present law (R.S. 18:1308) provides procedures and requirements for applying to vote absentee by mail. Requires the submission within certain deadlines of an application containing certain required information.

Proposed law (R.S. 18:1307) retains present law. Additionally provides that if a person applying to vote absentee by mail is a program participant in the Address Confidentiality Program pursuant to present law his application, if it meets the requirements of present law, shall remain valid as long as the applicant is a program participant in the Address Confidentiality Program. Provides that when the applicant ceases participation in the program, the registrar shall send notice by forwardable mail to the applicant that his



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application will no longer be valid, and the applicant shall be required to submit a new application to the registrar that meets the requirements of present law and provide a current address before the applicant will be eligible to vote absentee by mail again.

Present law (R.S. 18:1309.1) requires the parish custodian, prior to the conduct of absentee voting, to provide notice to each candidate of the time and place at which the voting machines will be sealed for absentee voting in person; that each candidate or his representative may be present to observe the preparation of the machines; and that each candidate or his representative will have the opportunity to inspect and test vote the machines to see that they are in proper condition for the election. Provides that the notice shall state the time and place at which the parish custodian of voting machines will begin preparation of the machines for sealing and provides that the reasonable opportunity to inspect the machines shall not be less than 30 minutes beginning at the time designated by the parish custodian to begin preparation of the machines for sealing. Prohibits a candidate, his representative, or citizen from interfering with the registrar of voters, parish custodian, or any employee or technician or assuming any of their duties.

Proposed law requires each candidate to be notified at the time of qualifying instead of prior to the conduct of early voting. Provides that a candidate shall be notified to contact the registrar of voters concerning the time and place at which the voting machines will be prepared. Repeals provisions requiring the notice to contain the time and place for sealing. Provides that machines are prepared, tested, and sealed by the registrar in the presence of the parish board of election supervisors. Provides that a candidate may view the test vote tape for each machine instead of actually inspecting and testing the machines.

Present law (R.S. 18:1314) provides relative to absentee by mail and early voting commissioners. Provides for qualifications and selection. Provides that the parish board of election supervisors shall determine the number of absentee by mail and early voting commissioners necessary for an election. Requires the board to select at least three commissioners for the primary or first party primary election. Allows the board to increase or decrease the number of absentee by mail and early voting commissioners for a second party primary or general election.

Proposed law repeals the minimum number of absentee by mail and early voting commissioners that must be selected and provides for a maximum of six such commissioners. Requires approval of the secretary of state or his designee if the board seeks to use more than six absentee by mail and early voting commissioners for an election. Requires approval of the secretary of state or his designee to increase the number of commissioners to be used at the second party primary or general election. Provides that a designee of the secretary of state may approve the number of absentee by mail and early voting commissioners used to count and tabulate provisional ballots. Otherwise retains present law.

Present law (R.S. 18:1352) provides that voting machines shall be used throughout the state in all elections, provided that nothing in present law prohibits absentee by mail and early voting. Proposed law provides that paper ballots may be used when voting machines fail. Otherwise retains present law.

Present law provides procedures and time limits for contesting elections. Proposed law (R.S. 18:1401 and 1402) retains present law and additionally provides procedures and time limits for contesting recall elections. Provides that a public officer who alleges that, except for substantial irregularities or error, or except for fraud or other unlawful activities in the conduct of the election, he would not have been recalled may bring an action contesting the election. Provides that the secretary of state, in his official capacity, shall be made a party defendant to any action contesting an election for the recall of a public officer.

Proposed law (R.S. 18:1404, 1405, 1406, 1415) provides that an action contesting an election for the recall of a public officer shall be instituted in the district court for a parish



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included in whole or in part in the voting area wherein the recall election is held; however if the public officer recalled is a statewide elected official, an action contesting the election shall be instituted in the district court for the parish where the state capitol is situated. Provides that an action contesting an election involving the recall of a public officer shall be instituted on or before 4:30 p.m. of the ninth day after the date of the election. Requires the petition in such an action to contain allegations that except for substantial irregularities or error, fraud, or other unlawful activities in the conduct of the election, the petitioner would not have been recalled. Provides further that if an action contesting an election involving the recall of a public officer has not been filed, the recalled public officer may conduct limited discovery as provided pursuant to present law during the period of time after the close of the polls on election day and prior to the expiration of time to file a suit contesting such election.

Present law (R.S. 18:1431) provides that when the court finds that one or more of the votes cast in a contested election are illegal or fraudulent, the judge shall subtract such vote or votes from the total votes cast for the candidate who received them if the contest involves election to office, or from the total vote for or against a proposition, if the contest is of an election upon a proposition. Provides that if the court determines that legal votes cast in the election were excluded in the total votes cast on a candidate or proposition, then these excluded legal votes shall be added to the total votes on the candidate or the proposition to which they are attributable. Provides that thereafter, and after considering all the evidence, the court shall determine the result of the election. Proposed law applies present law to votes cast in a recall election.

Present law (R.S. 18:1432) provides if the trial judge in an action contesting an election determines that: (1) it is impossible to determine the result of election, or (2) the number of qualified voters who were denied the right to vote by the election officials was sufficient to change the result in the election, if they had been allowed to vote, or (3) the number of unqualified voters who were allowed to vote by the election officials was sufficient to change the result of the election if they had not been allowed to vote, or (4) a combination of the factors referred to in (2) and (3) would have been sufficient to change the result had they not occurred, the judge may render a final judgment declaring the election void and ordering a new primary or general election for all the candidates, or, if the judge determines that the appropriate remedy is the calling of a restricted election, the judge may render a final judgment ordering a restricted election, specifying the date of the election, the appropriate candidates for the election, the office or other position for which the election shall be held, and indicating which voters will be eligible to vote. Proposed law applies present law to actions contesting recall elections.

Present law (R.S. 18:1433) provides for a revote at a precinct when a discrepancy sufficient to change the result of the election is caused because of a voting machine malfunction. Proposed law applies present law to recall elections.

Present law (R.S. 18:1300.13) provides that when a majority votes in favor of the recall, the public officer is, ipso facto, recalled and removed from office, and the office shall be vacated upon receipt by the secretary of state of certified returns from all of the parish boards of election supervisors within the jurisdiction. Proposed law provides instead that the office shall be vacated upon expiration of the time period for contesting the recall election set forth in proposed law if an action contesting the recall election is not commenced timely or when the final judgment becomes definitive if an action contesting the recall election is commenced timely.

Present law (R.S. 18:1259) provides for the arrangement of the ballot in elections for presidential electors. Includes the names of the presidential electors on the ballot. Proposed law provides that the names of the presidential electors shall not be on the ballot.

Proposed law makes various technical changes.



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Effective upon signature of governor or lapse of time for gubernatorial action, except that provisions of proposed law relative to propositions submitted to voters become effective Jan. 1, 2012.

(Amends R.S. 18:103(B)(3)(b) and (C)(3)(b), 109, 152(C)(2)(a), 154(C), 427(B), 431(A)(1)(a), 435(A)(1), 463(A)(1)(a), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1259(A) and (B), 1284(F)(1) and (2), 1299.1, 1300.13, 1307(B)(2) and (H), 1309.1, 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), and 1433(A) and (B); Adds R.S. 18:1307(I), 1401(F), 1404(E), 1405(H), and 1415(G); Repeals R.S. 18:1259(D))



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