Regular Session, 2011

HOUSE BILL NO. 524

BY REPRESENTATIVES JANE SMITH, ARNOLD, AUBERT, BOBBY BADON, BURFORD, HENRY BURNS, TIM BURNS, BURRELL, CARMODY, CARTER, CHANDLER, CHANEY, CROMER, DOERGE, DOVE, DOWNS, GISCLAIR, GUILLORY, HAZEL, HENRY, HILL, HINES, HOFFMANN, HOWARD, GIROD JACKSON, MICHAEL JACKSON, KATZ, LORUSSO, MCVEA, MORRIS, NOWLIN, POPE, PUGH, RICHARD, SCHRODER, SEABAUGH, SIMON, GARY SMITH, ST. GERMAIN, TALBOT, TEMPLET, THIERRY, TUCKER, WHITE, WILLIAMS, AND WILLMOTT

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

ELECTION CODE: Provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

AN ACT

To amend and reenact R.S. 18:103(B)(3)(b) and (C)(3)(b), 1306(E)(2), 1307(C), 1308(A)(2), 1308.2, 1310(A)(2), and 1319 and to enact R.S. 18:1307(B)(1)(c), relative to procedures for voter registration and voting for persons in the United States Service and persons residing outside the United States; to provide for the transmission, including electronic transmission, of certain registration and election materials; to provide relative to procedures for applying to register to vote; to provide relative to procedures for making application to vote absentee by mail; to provide relative to procedures for voting absentee by mail; to provide for the delivery of voting materials to registrars of voters; 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), 1306(E)(2), 1307(C), 1308(A)(2), 1308.2, 1310(A)(2), and 1319 are hereby amended and reenacted and R.S. 18:1307(B)(1)(c) is hereby enacted to read as follows:

§103. Personal appearance of applicant required; exceptions

* * *

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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, facsimile, or other means of transmission 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:

* * *

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

* * *

§1306. Preparation and distribution of absentee by mail and early voting ballots

* * *

E.

* * *

(2)(a) An absentee by mail or early voting ballot envelope flap shall also contain lines for the handwritten signature of two witnesses. The voter may sign the certificate in the presence of two witnesses, or one witness if the voter is voting absentee by mail as authorized by R.S. 18:1303(F) or (I), and in such a case, the

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voter shall not be required to obtain the signature of a notary public, but his certificate shall be made under penalty of perjury for providing false or fraudulent information. Above the perforation and along the seal line, the words "DO NOT DETACH FLAP" shall be printed.

(b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a member of the United States Service or person residing outside of the United States who is registered to vote shall not be required to sign the certificate in the presence of two witnesses or to obtain the signature of a notary public, but his certificate shall be made under penalty of perjury for providing false or fraudulent information.

* * *

§1307. Application by mail

* * *

B.(1)

* * *

(c) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, with respect to members of the United States Service and persons residing outside the United States who are registered to vote, an application to vote by mail may be delivered to the registrar by electronic transmission.

* * *

C. If the applicant is a member of the United States Service or resides outside the United States, he may use the federal postcard application or an application electronically transmitted by the registrar or secretary of state, and the application shall be received by the registrar no later than 4:30 p.m. on the day before the election. Such application shall be valid for a period extending from the date the application is received in the office of the registrar of voters through two subsequent regularly scheduled federal general elections. If the registrar rejects the application of an applicant who is a member of the United States Service or resides

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outside the United States, the registrar shall provide the applicant with written reasons for the rejection.

* * *

§1308. Absentee voting by mail

A.

* * *

(2)(a) With respect to ~~registered voters on active duty in the United States military service or outside the continental boundaries of the United States~~ members of the United States Service and persons residing outside the United States who are registered to vote, these materials shall be mailed as provided by the Uniformed and Overseas Citizens Absentee Voting Act (39 U.S.C. 3406 and 42 U.S.C. 1973ff et seq.) and shall include both the primary election ballot and the special ballot for the general election. The registrar shall mail the materials for candidates for United States senator or United States representative in congressional primary and general elections, candidates for presidential nominee in presidential preference primary elections, and candidates in presidential elections at least forty-five days prior to the election to those voters who have made application to vote absentee by mail by such time.

(b) Notwithstanding the provision of Subparagraph (a) of this Paragraph, with respect to ~~registered voters on active duty in the United States military service or outside the continental boundaries of the United States~~ members of the United States Service and persons residing outside the United States who are registered to vote, these materials may be electronically transmitted for ~~a federal~~ candidates for United States senator or United States representative in congressional primary and general ~~election~~ elections and must include the special ballot or ballots as provided in R.S. 18:1306(A)(4) for the ~~federal~~ congressional general election. The registrar shall transmit the materials at least forty-five days prior to the election to those voters who have requested electronic transmission by such time.

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(c) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, with respect to members of the United States Service and persons residing outside the United States who are registered to vote, these materials may be electronically transmitted for candidates for presidential nominee in presidential preference primary elections and candidates in presidential elections. The registrar shall transmit the materials at least forty-five days prior to the election to those voters who have requested electronic transmission by such time.

(d) For mailed ballots, the envelope mailed to the voter shall contain four envelopes, two of which shall be the ballot envelopes and two of which shall be return envelopes. Each return envelope shall bear the official title and mailing address of the registrar, whether it contains a primary or general election ballot, and the name, return address, and precinct or district number of the voter. The voter shall return his voted primary election ballot and special ballot for the general election to the registrar in the appropriate envelopes. The registrar of voters shall ~~not~~ mail a regular general election absentee ballot to a member of the United States Service or to persons residing overseas only if the ~~registrar has mailed the special~~ regular general election absentee ballot includes one or more elections that were not included on the special ballot sent, as provided herein, to such voter. The envelope for the special ballot shall contain language on the outside of the envelope that clearly designates which envelope is to be used for return of the general election ballot.

~~(d)~~ (e)(i) For ~~each~~ electronically transmitted presidential preference primary, presidential, congressional primary, and ~~federal~~ congressional general election ~~ballot~~ ballots, the registrar shall transmit the ballot or ballots, certificate, and waiver of the right to a secret ballot to the voter for each ballot mailing. The waiver of the right to a secret ballot shall contain the following statement: "My ballot was transmitted electronically to me and I am voluntarily waiving my right to a secret ballot." The statement shall also contain a space for the voter's handwritten signature, the date, and the voter's social security number. The voter shall return by mail his voted ballot or ballots, completed certificate, and signed waiver of the right to a secret ballot for

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each ballot mailing. The registrar and his staff shall take the steps necessary to keep each voted ballot that was transmitted electronically as confidential as practicable.

(ii) The voter may use ~~the~~ a separate "Security Envelope" and ballot transmittal envelope from the Federal Write-in Absentee Ballot to mail the electronically transmitted ~~federal~~ presidential preference primary, presidential, congressional primary, or congressional general election ballot or ballots, ~~and~~ certificate, and waiver of the right to a secret ballot to the parish registrar of voters for each ballot mailing.

~~(e)~~ (f) Notwithstanding the provisions of Subparagraphs (a), (b), ~~and~~ (c), and (d) of this Paragraph, a voter who is ~~on active duty in the United States military service or residing outside the United States continental boundaries~~ a member of the United States Service or who resides outside the United States and who feels he will not have time to vote timely by mail, may request that the registrar transmit to him by facsimile a ballot, including the certificate, or a second ballot, as the case may be, and the registrar shall do so. The voter may then either mail or transmit by facsimile his voted ballot and certificate back to the registrar at the facsimile machine number designated by the registrar. If the voter chooses to transmit his voted ballot to the registrar by facsimile, the documents to be transmitted shall contain the following statement: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's handwritten signature, date, and social security number. Upon receipt of the transmittal, the registrar shall place the voted ballot along with the signed statement and certificate in an appropriately marked envelope and seal it. The registrar and his staff shall take the steps necessary to keep the voted ballots received by facsimile as confidential as practicable.

~~(f)~~ (g) The secretary of state as the chief election officer of the state shall take all actions reasonably necessary to allow ~~persons residing outside the continental boundaries and persons on active duty in the armed forces~~ members of the United States Service and persons residing outside the United States to vote

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according to the Uniformed and Overseas Citizens Absentee Voting Act or otherwise during a period of declared emergency, whether by mail, facsimile, or other means of transmission of the ballot, notwithstanding any provision of this Code to the contrary.

* * *

§1308.2. Voting absentee by mail for candidates for presidential nominee, presidential candidates, and congressional candidates

A.(1) At least ~~forty-five~~ forty-six days before each presidential election, the secretary of state shall deliver to each registrar a sufficient quantity of absentee by mail ballots, envelopes, certificates, and instructions, including those to be electronically transmitted, for the election of the president of the United States to be used only by members of the United States Service~~, as defined in R.S. 18:1302,~~ and persons residing outside the United States who are registered to vote ~~pursuant to R.S. 18:103(C), for the election of the president of the United States, including ballots, certificates, and instructions to be electronically transmitted to the voters~~. The absentee by mail ballot shall be prepared according to law and shall contain only presidential candidates. The absentee by mail ballot envelope shall be marked "Presidential Ballot Only".

(2) At least ~~forty-five~~ forty-six days before each congressional primary and general election, the secretary of state shall deliver to each registrar a sufficient quantity of primary election absentee by mail ballots for congressional candidates and special absentee by mail ballots for congressional candidates as provided in R.S. 18:1306(A)(4), envelopes, certificates, and instructions, including those to be electronically transmitted, to be used only by members of the United States Service~~,~~ ~~as defined in R.S. 18:1302,~~ and persons residing outside the United States who are registered to vote. ~~pursuant to R.S. 18:103(C), for the election of the members of congress, including special ballots, certificates, and instructions to be electronically transmitted to the voters.~~

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(3) At least forty-six days before each presidential preference primary election, the secretary of state shall deliver to each registrar a sufficient quantity of absentee by mail ballots, envelopes, certificates, and instructions, including those to be electronically transmitted, for candidates for presidential nominee to be used only by members of the United States Service and persons residing outside the United States who are registered to vote.

B. Voting absentee by mail for candidates for presidential nominee, presidential candidates, and congressional candidates as provided in Subsection A ~~hereof~~ of this Section shall be conducted pursuant to the provisions of this Chapter governing absentee by mail voting generally.

* * *

§1310. Execution of certificate; marking of ballot; casting vote; assistance

A.

* * *

(2) When a member of the United States Service~~, as defined in R.S. 18:1302,~~ or a person residing outside the United States who is registered to vote receives the absentee voting materials by electronic transmission, he first shall print all documents and fill in all blanks on the certificate and the waiver of the right to a secret ballot for each ballot mailing. The voter then shall mark the ballot or ballots according to the printed instructions on its face. The voter shall then place the voted ballot or ballots, completed certificate, and waiver of the right to a secret ballot ~~in an~~ for each ballot mailing in a separate envelope, seal the envelope, mark "Absentee Ballot Enclosed" on the envelope, and mail the envelope and its contents to the registrar of voters.

* * *

§1319. Use of Federal Write-In Absentee Ballot; presidential preference primary, presidential, and congressional elections

A member of the United States Service~~, as defined in R.S. 18:1302,~~ or a person residing outside the United States who made a timely application to vote

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absentee by mail as provided in R.S. 18:1307(C) and who did not receive absentee by mail ballots may use the Federal Write-In Absentee Ballot to vote ~~in~~ for candidates for presidential nominee, presidential ~~elections~~ candidates, and congressional ~~elections~~ candidates. The Federal Write-In Absentee Ballot shall be submitted, processed, and counted in the manner provided in this Chapter.

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

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)]

Jane Smith HB No. 524

Abstract: Provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

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.

Present law (R.S. 18:1306) provides procedures and requirements for voting absentee by mail. Requires a voter to execute a certificate stating that the statements made by him are true and correct and that the voter is aware of the penalties for knowingly making a false statement. In signing the certificate, requires the voter to obtain the signature of a notary public unless he signs the certificate in the presence of two witnesses who also sign the certificate. Allows certain disabled voters to execute the certificate in the presence of one witness. Proposed law provides that a voter in the U.S. Service or residing outside of the U.S. is not required to obtain the signature of a notary or to execute the certificate in the presence of two witnesses. Otherwise retains present law.

Present law (R.S. 18:1307) provides procedures and requirements for applying to vote absentee by mail. Requires an application to include certain specified information. Requires the application to be delivered to the registrar by any means, including the U.S.P.S., commercial delivery service, hand delivery, or facsimile. Proposed law provides that with respect to members of the U.S. Service and persons residing outside the U.S. who are registered to vote, an application to vote by mail may be delivered to the registrar by electronic transmission.

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Present law provides that an applicant who is a member of the U.S. Service or who resides outside the U.S. may use the federal postcard application and that the application shall be received by the registrar no later than 4:30 p.m. on the day before the election. Provides for the continuing validity of such an application. Proposed law provides that such an applicant may also use an application electronically transmitted by the registrar or the secretary of state.

Present law (R.S. 18:1308) provides procedures for voting absentee by mail. Requires the registrar to mail the necessary instructions, certificates, ballots, and envelopes to the applicant. Provides specific procedures for mailing materials to registered voters on active duty in the United States military service or outside the continental boundaries of the United States. Provides that materials may be electronically transmitted for a federal general election.

Proposed law specifies that materials may be electronically transmitted for federal candidates in congressional elections, presidential preference primary elections, and presidential elections. Requires the registrar to mail or electronically transmit materials for federal candidates in a federal election 45 days prior to the election for voters who have made application and requested such transmission prior to such time.

Present law requires that the ballots mailed to military and overseas voters must include both the primary election ballot and the special ballot for the general election. Provides that the registrar of voters shall not mail a regular general election absentee ballot to a member of the United States Service or to persons residing overseas if the registrar has mailed the special ballot to such voter. Proposed law provides that the registrar shall mail the voter a regular general election absentee ballot if it includes one or more elections that were not included on the special ballot sent to the voter.

Present law provides that military and overseas voters may use the ballot transmittal envelope from the Federal Write-In Absentee Ballot to mail electronically transmitted federal general election voting materials. Proposed law specifies that present law additionally applies to voting materials for congressional elections, presidential preference primary elections, and presidential elections.

Present law (R.S. 18:1308.2) provides that at least 45 days before each presidential election and congressional general election, the secretary of state must deliver absentee by mail materials to the registrar, including special ballots, certificates, and instructions to be electronically transmitted to voters. Proposed law changes the deadline from 45 days before the election to 46 days before the election. Specifies that present law additionally applies to presidential preference primary elections and congressional primary elections.

Present law provides that voting absentee by mail for presidential and congressional candidates is conducted pursuant to present law provisions relative to absentee by mail voting generally. Proposed law specifies that present law applies additionally to presidential preference primary elections.

Present law (R.S. 18:1319) provides that a military or overseas voter who made a timely application to vote absentee by mail as provided in present law (R.S. 18:1307(C)) and who did not receive absentee by mail ballots may use the Federal Write-In Absentee Ballot to vote in presidential elections and congressional elections. Proposed law provides that such ballot may be used to vote for candidates for presidential nominee, presidential candidates, and congressional candidates.

Proposed law makes various technical changes.

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Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 18:103(B)(3)(b) and (C)(3)(b), 1306(E)(2), 1307(C), 1308(A)(2), 1308.2, 1310(A)(2), and 1319; Adds R.S. 18:1307(B)(1)(c))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Makes technical changes.

2. Removes the requirement that a member of the U.S. Service or person residing outside of the U.S. who votes absentee by mail have two witnesses attest to his certification certifying that the statements made by him are true and correct and that the voter is aware of the penalties for knowingly making a false statement.

3. Adds requirement that for voters in the U.S. Service and voters residing outside of the U.S., the registrar mail at least 45 days prior to the election the materials for certain candidates if application to vote absentee by mail has been made by that time, and to transmit such materials electronically if a request for such transmission has been made by such time.

4. Changes present law to require the secretary of state to deliver, at least 46 days before each presidential election, to each registrar a sufficient number of absentee by mail ballots, envelopes, certificates, and instructions, including those to be electronically transmitted, for federal candidates to be used by voters in the U.S. Service and voters residing outside of the U.S.

5. Adds requirement that each absentee by mail ballot returned, with accompanying required documentation, shall be in a separate envelope.

House Floor Amendments to the engrossed bill.

1. Makes technical changes.

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