DIGEST

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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 shall 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 "independent" if he is registered with no political party affiliation. Otherwise retains present law.

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. 18:551) provides requirements for ballots. Provides that the political party designation of a candidate who is registered as being affiliated with a recognized political party shall be listed on the primary or general election ballot on the same line and immediately after or below the candidate's name. Provides that if a candidate is affiliated with a political party, but such party is not a recognized political party, the space after his name shall be left blank. Proposed law retains present law.

Present law provides that if a candidate is not affiliated with any political party, the words "no party" or an abbreviation thereof shall be placed after his name. Proposed law provides that "independent" instead of "no party" shall be placed on the ballot for a candidate who is not affiliated with any political party.

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 both 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 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. 18:1306) additionally allows persons who are 65 years old or older to vote absentee by mail.

Present law (R.S. 18:1306) provides procedures and requirements for voting absentee by mail. Requires a voter to execute a certificate stating that his statements are true and correct and that he 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 allows persons who are 65 years old or older to sign the certificate in the presence of one witness, instead of two witnesses. Otherwise retains present law.

Present law (R.S. 18:1308 and 1308.1) requires the registrar to detach a perforated slip from an absentee by mail ballot before mailing or delivering the ballot and to retain the slip in his records for six months. Proposed law repeals present law.

Present law (R.S. 18:1309.1) requires the parish custodian, prior to the conduct of early 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 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.

Proposed law makes various technical changes.

Effective upon signature of governor or lapse of time for gubernatorial action, except that provisions of proposed law relative to propositions submitted to voters and to candidates who are not affiliated with any political party 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), 551(D), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1284(F)(1) and (2), 1299.1, 1300.13, 1306(E)(2), 1307(B)(2) and (H), 1308(A)(1)(a), 1308.1(A), 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))

Summary of Amendments Adopted by House

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

1. Adds provisions to allow absentee by mail voters who are 65 or older to execute the required ballot certificate in the presence of one witness instead of two witnesses.

2. Removes provisions in present law relative to perforated slips on absentee by mail ballots.

3. Adds provisions requiring a candidate to list "independent" on a notice of candidacy instead of "no party" if he is not affiliated with any political party.

4. Adds provisions requiring "independent" to be listed on the ballot instead of "no party" in connection with a candidate who is not affiliated with any political party.

5. Makes technical changes.

House Floor Amendments to the engrossed bill.

1. Removes provisions in proposed law relative to the arrangement of the ballot in elections for presidential elector.

2. Makes technical changes.