
DIGEST

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Tim Burns

HB No. 852

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

Present law (R.S. 18:25) requires the State Board of Election Supervisors to report annually to the governmental affairs committees of the legislature its findings, observations, and recommendations concerning all aspects of elections in the state. Requires the report to be submitted prior to the 90th day before each legislative session. Proposed law instead requires the report to be submitted by Jan. 15 each year. Otherwise retains present law.

Present law (R.S. 18:104) authorizes the secretary of state to prescribe a form to be used uniformly by registration officials in registering citizens to vote. Requires certain information to be included on the form, including the present age and date of birth of the applicant. Proposed law removes the present age of the applicant from the information required to be included on the registration application form. Otherwise retains present law.

Present law (R.S. 18:109) requires the Dept. of State to send a notice to the appropriate registrar and the registrar to mail a notice to the person when the Dept. of State receives information from a person concerning a new registration or any change in the person's registration. Proposed law provides that the notices shall be sent when the Dept. of State receives information concerning a change in name, address, or polling place, not other changes.

Present law provides that the registrar is not required to send the notice to a voter who has been on the inactive list of voters for at least two years unless the change in registration involves a change in address. Proposed law removes language regarding being on the inactive list for two years. Otherwise retains present law.

Present law requires certain information to be printed on the face of a notice of change in registration, including directions to the postmaster to "deliver only as addressed; otherwise return to sender; address correction requested". Proposed law provides instead that "Return Service Requested" be printed on the face of the notice.

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. Provides an exception for the transmission of voter registration data to the office of motor vehicles of the Dept. 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. Proposed law retains present law, but prohibits the office of motor vehicles from disclosing voter registration data except to transmit such information to the U.S. Social Security Administration for the purposes of verifying the accuracy and authenticity of the social security number provided by the voter.

Proposed law additionally provides exceptions for transmitting the full date of birth of a voter to the Supervisory Committee on Campaign Finance Disclosure to verify the identity of a candidate for purposes of campaign finance reporting and for providing a clerk of court the full date of birth of a registered voter for the preparation of a general venire selection in accordance with present law (R.S. 18:175). Prohibits the supervisory committee and a clerk of court from disclosing such information.

Present constitution (Art. 1, §10) provides that a person's right to vote may be suspended while he is under an order of imprisonment for conviction of a felony. Present law (R.S. 18:177) provides procedures and requirements for reinstating a voter registration that has been suspended because of conviction of a felony. Generally requires the person to appear in the office of the registrar and provide documentation from the appropriate correction official showing the person is no longer under an order of imprisonment. Proposed law retains present law.

Present law provides an exception to the requirement to appear in person in the office of the registrar for certain disabled persons who qualify to vote under present law provisions regarding a special program for voters residing in nursing homes. Proposed law repeals present law and provides documentation may be provided by mail, facsimile, commercial carrier, or hand delivery for the following:

- (1) A person who has been approved by the parish board of election supervisors as being eligible to participate in the Special Program for Handicapped Voters as such program existed prior to Jan. 1, 2010.
- (2) A person who has submitted to the registrar current proof of disability from a physician along with a certification from the physician indicating that by reason of the person's disability the person is unable to appear in person to vote either during early voting or at the polling place on election day.

Present law provides that elections may not be held on certain prohibited days, including certain religious holidays. Provides that if the date of any election falls on any of the prohibited days, the election shall be held on the same weekday of the preceding week. Proposed law retains present law and additionally provides that if the date for the general election is advanced in accordance with present law, the primary election shall be advanced the same number of weeks as the general election.

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. 18:431) 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 requires the clerk of court to file a report with the parish board of election supervisors and to the secretary of state following each course of instruction detailing certain information about the course and about the persons who attended the course. Proposed law removes the requirement that the clerk "file" the report with the secretary of state and provides instead that the clerk shall provide such report in the manner required by the secretary. Otherwise retains present law.

Present law (R.S. 18:461) provides that a person who desires to become a candidate in a primary election shall qualify by timely filing notice of his candidacy, which shall be accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed. Provides requirements for nominating petitions. Proposed law retains present law.

Present law (R.S. 18:465) provides requirements for nominating petitions, including the number of qualified voters that must sign a petition. Provides that the registrars of voters in the parishes where signers reside certify that the petition was signed by a sufficient number of qualified voters. Requires petitions to be submitted to the registrars for such purposes. Proposed law retains present law.

Present law provides that a nominating petition shall be submitted to the appropriate registrars not less than 30 days before the qualifying period ends for candidates in the primary election or, in the case of presidential electors, in the presidential election, except that in a special election a nominating petition shall be submitted by the candidate to the registrars of voters in such parishes prior to the opening of the qualifying period.

Proposed law provides that for a special election to fill a vacancy in the office of state legislator or U.S. representative, the nominating petition must be submitted to the registrars not less than 14 days before the end of the qualifying period. Provides that for other special elections, the nominating petition must be submitted not less than 30 days before the end of the qualifying period. Otherwise retains present law.

Present law (R.S. 18:532.1) authorizes parish governing authorities to change the configuration, boundaries, or designation of election precincts by ordinance, subject to certain limitations and requirements. Requires a parish governing authority to, within 15 days after the adoption of such

an ordinance, send to the secretary of the Senate and the clerk of the House of Representatives as well as the secretary of state a certified copy of the ordinance and a copy of a map showing the new precinct boundaries together with a written description of such boundaries. Proposed law retains present law and additionally provides that such information shall also be sent to the clerk of court and registrar of voters.

Present law (R.S. 18:562 and 1309) provides prerequisites to voting on election day and during early voting. Provides procedures for identifying a potential voter. Requires each such person to present to the election officials a La. driver's license, a La. special identification card issued pursuant to present law (R.S. 40:1321), or other generally recognized picture identification card that contains the name and signature of the person. Provides, however, that if the person does not have such an identification card, the person shall sign an affidavit, which is supplied by the secretary of state, to that effect before the election officials who shall place the affidavit in the envelope marked "Registrar of Voters" and attach the envelope to the precinct register. Requires the person to provide further identification by presenting his current registration certificate, giving his date of birth, or providing other information stated in the precinct register that is requested by the election officials. Provides that a person who is allowed to vote without the picture identification card required by present law is subject to challenge as provided in present law (R.S. 18:565).

Proposed law provides that the affidavit must be completed and signed by the person and that the affidavit contain the person's date of birth and mother's maiden name. Provides that if the person is unable to read or write or is otherwise unable to complete the affidavit due to disability, the person may receive assistance in completing the affidavit and the election official shall make a notation on the affidavit. Provides that the person may choose who assists him, subject to certain specific restrictions. Removes provisions requiring the person to provide further identification. Otherwise retains present law.

Present law (R.S. 18:562) provides that a person who presents himself to vote on election day shall be allowed to do so when the commissioner is satisfied that the person has identified himself as the voter named on the precinct register and that he is qualified to vote. Proposed law retains present law and adds such language to provisions relative to early voting (R.S. 18:1309).

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. 18:1307) provides relative to voting absentee by mail. Provides procedures and requirements. Requires a person to make application to the registrar by letter, over his signature or mark, setting forth certain required information. Proposed law retains present law.

Present law provides that an application to vote absentee by mail must be received by the registrar not earlier than 60 days prior to the election. Proposed law repeals present law.

Proposed 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.

Proposed law provides further that an applicant who has a valid La. driver's license or La. special identification card issued pursuant to present law (R.S. 40:1321) who is registered to vote, may make application to vote by mail by completing and submitting an electronic application to vote by mail on the secretary of state's website.

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. 1308) provides procedures for voting absentee by mail. Provides relative to transmission of absentee by mail election materials. Provides that materials may be electronically transmitted to members of the U.S. Service and persons residing outside of the U.S. for federal candidates in congressional elections, presidential preference primary elections, and presidential elections. Proposed law retains present law and additionally provides that materials may be transmitted to members of the U.S. Service and persons residing outside the U.S. for all state and local elections.

Present law provides that if an absentee by mail voter feels he will not have time to vote timely by mail, the voter may request that the registrar transmit to him by facsimile a ballot. Proposed law retains present law, but provides that the registrar shall not be required to send a second ballot by facsimile if the voter received a ballot by mail.

Present law (R.S. 18:1309) provides relative to early voting. Provides procedures and requirements. Proposed law retains present law and provides that a voter shall not remain in a voting machine longer than three minutes, or 20 minutes if the voter is entitled to assistance in voting pursuant to present law (R.S. 18:1309.3) or is using the audio ballot. Provides that if a voter fails to leave a voting machine promptly after the registrar or deputy registrar has notified him that the applicable time period has elapsed, the registrar or deputy registrar shall have the voter removed from the voting machine.

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. 18:1313) relative to the counting and tabulation of absentee by mail and early voting ballots. Present law provides that the parish board of election supervisors shall be responsible for the counting and tabulation of all absentee by mail and early voting ballots in the parish and provides procedures therefor. Provides that the board first determine the validity of

the ballots. Provides that the board then count the ballots and announce the total number of absentee by mail and early voting votes cast for a candidate and those cast for and against a proposition in the order the offices and candidates and propositions are listed on the ballot. Provides that if counting equipment is used, the board must ensure that the equipment's counters are set to zero prior to use. Requires the members of the board to enter the total number of votes on the final absentee by mail and early voting vote report and shall certify the results.

Proposed law retains present law and additionally provides that if a ballot is physically damaged or cannot properly be counted by the counting equipment and the vote cast by the voter is clearly discernable from a physical inspection of the defective ballot, a true duplicate may be made of the defective ballot in the presence of witnesses and substituted for the ballot. Provides that the duplicate ballot shall be clearly labeled "duplicate", bear a ballot number which shall be recorded on the defective ballot and be counted in lieu of the defective ballot. Provides that after a ballot has been duplicated, the defective ballot shall be placed in the special absentee by mail and early voting ballot envelope and the duplicate ballot shall be counted with the other valid ballots.

Present law provides that upon completion of the tabulation and counting, the board shall deliver the absentee by mail and early voting ballots to the registrar. Provides, however, that if the number of absentee by mail and early voting ballots cast for all candidates for an office could make a difference in the outcome of the election for such office, upon the written request of a candidate for such office, the board shall recount the absentee by mail and early voting ballots for such office. Proposed law provides that the absentee by mail ballots shall be recounted by hand and that the early voting ballots shall be counted electronically unless paper ballots were used for early voting, in which case the ballots shall be counted by hand. Otherwise retains present law.

Present law (R.S. 18:1317) provides that when the members of the board determine by proof satisfactory to them that a voter who has voted by absentee by mail or early voting ballot has died prior to the opening of the polls on the day of the election, they shall return the ballot or early voting application of the voter in the same manner as is provided in present law provisions relative to the challenge of ballots (R.S. 18:1315). Provides, however, that the casting of an absentee by mail or early voting ballot by a voter who thereafter dies or the tabulation of such a ballot shall not invalidate the election.

Proposed law repeals present law.

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, and 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.

Present law (R.S. 18:1941) provides that each political subdivision of the state which submits for preclearance any proposed change in voting practice or procedure pursuant to federal law (Section 5 of the Voting Rights Act of 1965) shall, at the same time as the submission, send a copy of its submission, by certified mail, to the secretary of state. Provides that the political subdivision shall also send to the secretary of state, by certified mail, a copy of any response to the submission. Proposed law retains present law and additionally requires that such copies must be sent to the clerk of court and registrar of voters.

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 become effective Jan. 1, 2013.

(Amends R.S. 18:25(B), 104(A)(3), 109, 152(C)(2)(a), 154(C), 177(A), 402(F)(2) and (G), 427(B), 431(A)(1)(a) and (3)(a) and (B)(3), 435(A)(1), 465(E)(1)(a), 532.1(F), 562(A)(2), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1284(F), 1299.1, 1300.13, 1302(2), 1307(B)(2) and (H), 1308(A)(1) and (2)(d), (e), (f), and (g), 1308.1(A), 1309(D)(1) and (E)(4), 1309.1, 1313(F)(9) and (10) and (I)(2)(a), 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1405(B), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), 1433(A) and (B), and 1941(A) and (B); Adds R.S. 18:1307(B)(1)(d) and (I), 1308(A)(2)(h), (i),

and (j), 1309(E)(5), 1313(F)(11), 1401(F), 1404(E), 1405(H), and 1415(G); Repeals R.S. 18:1317)

Summary of Amendments Adopted by House

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

1. Adds a prohibition against the office of motor vehicles disclosing voter registration data except to transmit such information to the U.S. Social Security Administration for the purposes of verifying the accuracy and authenticity of the social security number provided by the voter.
2. Adds provisions authorizing the Dept. of State or registrar of voters to provide to a clerk of court the full date of birth of a registered voter for the preparation of a general venire selection and prohibiting the clerk of court from disclosing such information.
3. In provisions concerning the completion of voter identification affidavits, adds a candidate to the list of persons who are prohibited from assisting a voter in completing an affidavit during early voting and specifies that it is the applicant's or voter's employer or employer's agent and the applicant's or voter's union agent that are prohibited from assisting the applicant or voter in completing an affidavit during early voting or at the polls, respectively.
4. Makes technical changes.

House Floor Amendments to the engrossed bill.

1. Removes provisions of proposed law changing the congressional general election date.
2. In provisions of proposed law relative to physically damaged absentee by mail or early voting ballots, replaces language requiring that the board be able to tell the intent of the voter with the requirement that the vote cast by the voter be clearly discernable from a physical inspection of the ballot in order for a duplicate ballot to be made.
3. Makes technical changes.