

Regular Session, 2012
HOUSE BILL NO. 852

ACT No. 138

BY REPRESENTATIVE TIM BURNS AND SENATOR DONAHUE

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AN ACT

To amend and reenact 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), to enact 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), and to repeal R.S. 18:1317, relative to the Louisiana Election Code; to revise the system of laws comprising the Louisiana Election Code; to provide relative to the authority and duties of the State Board of Election Supervisors and the secretary of state; to provide relative to voter registration; to provide relative to application for voter registration; to provide relative to notice of registration and change in 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 reinstatement of voter registration after suspension; to provide for election dates; to provide relative to watchers; to provide relative to courses of instruction for commissioners; to provide relative to qualifying for an election; to provide relative to nominating petitions; to provide relative to changing of precinct boundaries by parish governing authorities; to provide relative to procedures for voting during early voting and on election day; to provide relative to identification of voters; to provide for the time limits for making appointments to fill vacancies in certain offices; to

1 provide for the time limits for issuing proclamations for special elections to fill
 2 vacancies in certain offices; to provide relative to the requirements for special
 3 elections for certain offices; to provide relative to propositions submitted to voters
 4 at certain elections; to provide relative to recall elections; to provide relative to
 5 applying to vote absentee by mail; to provide relative to procedures and requirements
 6 for voting absentee by mail; to provide relative to the transmission of absentee by
 7 mail materials; to provide relative to absentee by mail ballots; to provide relative to
 8 the counting and tabulation and recounting of absentee by mail and early voting
 9 ballots; to provide relative to the preparation of voting machines; to provide relative
 10 to absentee by mail and early voting commissioners; to provide for the use of paper
 11 ballots; to provide relative to submission of certain changes in voting practice and
 12 procedure by political subdivisions; to provide for effectiveness; and to provide for
 13 related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 18:25(B), 104(A)(3), 109, 152(C)(2)(a), 154(C), 177(A), 402(F)(2),
 16 and (G), 427(B), 431(A)(1)(a) and (3)(a) and (B)(3), 435(A)(1), 465(E)(1)(a), 532.1(F),
 17 562(A)(2), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and
 18 (2)(a), 1300.13, 1302(2), 1307(B)(2) and (H), 1308(A)(1) and (2)(d), (e), (f), and (g),
 19 1308.1(A), 1309(D)(1) and (E)(4), 1309.1, 1313(F)(9) and (10) and (I)(2)(a), 1314(B)(1),
 20 (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1405(B), 1406(B), 1415(B), (C), (D), (E), and
 21 (F), 1431, 1432(A), 1433(A) and (B), and 1941(A) and (B) are hereby amended and
 22 reenacted and R.S. 18:1307(B)(1)(d) and (I), 1308(A)(2)(h), (i), and (j), 1309(E)(5),
 23 1313(F)(11), 1401(F), 1404(E), 1405(H), and 1415(G) are hereby enacted to read as follows:

24 §25. Annual reports

25 * * *

26 B. The board shall annually report to the House and Governmental Affairs
 27 Committee of the House of Representatives and the Senate and Governmental
 28 Affairs Committee of the Senate its findings, observations, and recommendations
 29 concerning all aspects of elections in this state. The report shall be submitted ~~prior~~
 30 ~~to the ninetieth day before each legislative session~~ no later than January fifteenth

1 each year and shall include but shall not be limited to the following subjects: election
2 laws in general, registration procedures, election procedures, election officials,
3 voting machines, tabulation and transmission of election returns, procedures used for
4 casting and counting absentee by mail and early voting ballots, and any other aspect
5 of elections the board deems appropriate.

6 * * *

7 §104. Application for registration; form

8 A. The secretary of state, subject to approval by the attorney general as to
9 content, shall prescribe the form that shall be used uniformly by each registrar in the
10 state and any person authorized to accept voter registration applications in registering
11 qualified citizens to vote. The form shall contain spaces for at least the following
12 information with respect to the applicant:

13 * * *

14 (3) ~~Sex, present age,~~ and date of birth.

15 * * *

16 §109. Notice of registration and change in registration

17 After receiving from the registrar the information concerning a new registrant
18 ~~or the information concerning~~ a change in name, address, or polling place made with
19 respect to the registration of any person, the Department of State promptly shall ~~mail~~
20 deliver a notice to the appropriate registrar that the person is registered or that his
21 registration has been changed. The registrar shall then mail a the notice, postage
22 prepaid, to each new registrant and to each person whose registration was changed
23 ~~in any manner a notice that he is registered or that his registration has been changed.~~
24 The notice shall show the parish, ward, precinct, registration address, and party
25 affiliation of the registrant. However, the registrar shall not be required to send such
26 a notice to any voter who ~~has been~~ is on the inactive list of voters ~~for at least two~~
27 ~~years~~ unless the change in registration involves a change in the voter's address. The
28 secretary of state shall prescribe the form to be used on the notice; however, "Return
29 Service Requested" shall be printed on the front of the notice ~~shall contain directions~~
30 ~~to the postmaster to "deliver only as addressed; otherwise return to sender; address~~

1 ~~driver's license numbers, day and month of the dates of birth, mother's maiden~~
2 ~~names, or electronic mail addresses of registered voters on commercial lists, except~~
3 ~~when~~

4 (2)(a) The provisions of Paragraph (1) of this Subsection shall not apply to
5 voter registration data is transmitted to the office of motor vehicles of the
6 Department of Public Safety and Corrections, for the purposes of verifying the
7 accuracy and authenticity of the social security number, driver's license number, or
8 full date of birth provided by the voter. The office of motor vehicles shall not
9 disclose information concerning a registered voter transmitted pursuant to this
10 Subparagraph, except that it may transmit such information to the United States
11 Social Security Administration for the purposes of verifying the accuracy and
12 authenticity of the social security number provided by the voter.

13 (b) Notwithstanding the provisions of Paragraph (1) of this Subsection, the
14 Department of State or registrar of voters may transmit the full date of birth of a
15 registered voter to the Supervisory Committee on Campaign Finance Disclosure to
16 verify the identity of a candidate for purposes of campaign finance reporting. The
17 supervisory committee shall not disclose the full date of birth of a registered voter
18 transmitted pursuant to this Subparagraph.

19 (c) Notwithstanding the provisions of Paragraph (1) of this Subsection, the
20 Department of State or registrar of voters may provide to a clerk of court the full date
21 of birth of a registered voter for the preparation of a general venire selection in
22 accordance with R.S. 18:175. The clerk of court shall not disclose the full date of
23 birth of a registered voter provided pursuant to this Subparagraph.

24 * * *

25 §177. Reinstatement of registration after suspension

26 A.(1) The registration of a person whose registration has been suspended by
27 the registrar of voters pursuant to R.S. 18:176 for conviction of a felony shall be
28 reinstated when the person appears in the office of the registrar and provides
29 documentation from the appropriate correction official showing that such person is
30 no longer under an order of imprisonment. ~~, provided that any person who qualifies~~

1 ~~to vote under the special program for physically handicapped voters pursuant to~~
2 ~~Chapter 7-A of this Title may provide such documentation in the manner provided~~
3 ~~for such voters to vote absentee pursuant to R.S. 18:1332 and 1333.~~

4 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, such
5 documentation may be provided by mail, facsimile, commercial carrier, or hand
6 delivery for the following:

7 (a) A person who has been approved by the parish board of election
8 supervisors as being eligible to participate in the Special Program for Handicapped
9 Voters as such program existed prior to January 1, 2010.

10 (b) A person who has submitted to the registrar current proof of disability
11 from a physician along with a certification from the physician indicating that by
12 reason of the person's disability the person is unable to appear in person to vote
13 either during early voting or at the polling place on election day.

14 * * *

15 §402. Dates of primary and general elections

16 * * *

17 F. Bond, tax, or other elections. Every bond, tax, or other election at which
18 a proposition or question is to be submitted to the voters shall be held only on one
19 of the following dates:

20 * * *

21 ~~(2) The first Saturday in October or Tuesday after the first Monday in~~
22 ~~November of even-numbered years. On the date of a congressional primary or~~
23 ~~general election as provided in Subsection B of this Section.~~

24 * * *

25 G.(1) Prohibited days. No election of any kind shall be held in this state on
26 any of the days of Rosh Hashana, Yom Kippur, Sukkot, Shemini Atzeret, Simchat
27 Torah, the first two days and the last two days of Passover, Shavuot, Tish'a B'Av, the
28 two days preceding Labor Day or the three days preceding Easter. If the date of any
29 election falls on any of the above-named days, the election shall be held on the same
30 weekday of the preceding week.

1 (2) If the date for the general election is advanced in accordance with the
 2 provisions of Paragraph (1) of this Subsection, the primary election shall be
 3 advanced the same number of weeks as the general election.

4 * * *

5 §427. Watchers

6 * * *

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

15 * * *

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

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

24 * * *

25 (3)(a) After each course of instruction for commissioners is completed, the
 26 clerk of court shall promptly file a report with the parish board of election
 27 supervisors ~~and the secretary of state~~ stating the time and place the course of
 28 instruction was held, the number of persons who attended the course, the manner in
 29 which the course was publicized, and the name, social security number, party
 30 affiliation, if any, and mailing address of each person who attended the course to

1 §465. Nominating petitions

2 * * *

3 E. Certification. (1)(a) A nominating petition shall be submitted to the
4 registrars of voters in the parishes where the signers reside. A nominating petition
5 shall be submitted to the registrars in such parishes not less than thirty days before
6 the qualifying period ends for candidates in the primary election or special election
7 called pursuant to R.S. 18:402(E) or, in the case of presidential electors, in the
8 presidential election, except that in a special election called pursuant to R.S.
9 18:601(A)(2) or 1279, a nominating petition shall be submitted by the candidate to
10 the registrars of voters in such parishes ~~prior to the opening of the qualifying period.~~
11 not less than fourteen days before the qualifying period ends for candidates in the
12 special election.

13 * * *

14 §532.1. Changing boundaries

15 * * *

16 F. Within fifteen days after the adoption of the ordinance as provided in this
17 Section, the parish governing authority shall send to the secretary of the Senate and
18 the clerk of the House of Representatives, ~~as well as the secretary of state, the clerk~~
19 of court, and the registrar of voters a certified copy of the ordinance and a copy of
20 a map showing the new precinct boundaries together with a written description of
21 such boundaries.

22 * * *

23 §562. Prerequisites to voting

24 A. Identification of voters.

25 * * *

26 (2) Each applicant shall identify himself, in the presence and view of the
27 bystanders, and present to the commissioners a Louisiana driver's license, a
28 Louisiana special identification card issued pursuant to R.S. 40:1321, or other
29 generally recognized picture identification card that contains the name and signature
30 of the applicant. If the applicant does not have a Louisiana driver's license, a

1 Louisiana special identification card, or other generally recognized picture
 2 identification card that contains the name and signature of the applicant, the
 3 applicant shall complete and sign an affidavit, which is supplied by the secretary of
 4 state, to that effect before the commissioners, which affidavit shall include the
 5 applicant's date of birth and mother's maiden name. If the applicant is unable to read
 6 or write or is otherwise unable to complete the affidavit due to disability, the
 7 applicant may receive assistance in completing the affidavit and the commissioner
 8 shall make a notation on the affidavit. The applicant may receive the assistance of
 9 any person of his choice, including a commissioner, except a candidate,
 10 commissioner-in-charge, the applicant's employer or employer's agent, or the
 11 applicant's union agent. The commissioners ~~who~~ shall place the affidavit in the
 12 envelope marked "Registrar of Voters" and attach the envelope to the precinct
 13 register, ~~and the applicant shall provide further identification by presenting his~~
 14 ~~current registration certificate, giving his date of birth, or providing other~~
 15 ~~information stated in the precinct register that is requested by the commissioners.~~
 16 However, an applicant who is allowed to vote without the picture identification
 17 required by this Paragraph is subject to challenge as provided in R.S. 18:565.

18 * * *

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

20 Within twenty-four hours after any member of a state board or commission
 21 has knowledge of a vacancy in an elective office on that state board or commission,
 22 he shall notify the governor by certified mail of the vacancy, the date on which it
 23 occurred, and the cause thereof. Within ~~ten~~ twenty days after he is notified of the
 24 vacancy, the governor shall appoint a person to fill the vacancy who has the
 25 qualifications for the office. However, if the deadline for making the appointment
 26 falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a
 27 Saturday, Sunday, or legal holiday shall be deemed to be the final day for making
 28 such appointment. If the unexpired term is one year or less, the member so
 29 appointed shall serve for the remainder thereof. If the unexpired term exceeds one
 30 year, the governor, within ~~ten~~ twenty days after he is notified of the vacancy, shall

1 issue his proclamation ordering a special election to fill the vacancy, which shall
 2 specify, in accordance with R.S. 18:402, the dates on which the primary and general
 3 elections shall be held, and in accordance with R.S. 18:467, 467.1, and 468, the dates
 4 of the qualifying period for the candidates in the special election. However, if the
 5 deadline for issuing the proclamation falls on a Saturday, Sunday, or other legal
 6 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
 7 deemed to be the final day for issuing such proclamation. Immediately thereafter the
 8 governor shall publish the proclamation in the official journal of each parish in
 9 which the election is to be held. Within twenty-four hours after issuing the
 10 proclamation, the governor shall send a copy of the proclamation to the secretary of
 11 state who shall within twenty-four hours after receipt of the information notify all
 12 election officials having any duty to perform in connection with the special election
 13 to fill such vacancy, including the parish boards of election supervisors for the parish
 14 or parishes in which the vacancy occurred. The governor may appoint a person to
 15 fill a vacancy and issue a proclamation ordering a special election when he learns of
 16 a vacancy, whether or not he has received notice thereof from a state board or
 17 commission member. Whenever a special election is required, the governor's
 18 appointee shall serve only until the successor is elected and takes office.

19 * * *

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

21 A. When a vacancy occurs in the office of a member of a parish or municipal
 22 governing authority or a combination thereof, a mayor, or any other local or
 23 municipal office, except an office covered by Subsections B and C ~~hereof~~ of this
 24 Section and except the office of judge, state legislator, or marshal of a city or
 25 municipal court, and the office is filled by election wholly within the boundaries of
 26 a local governmental subdivision, the governing authority of the local governmental
 27 subdivision where the vacancy occurs shall; within ~~ten~~ twenty days; appoint a person
 28 to fill the vacancy who meets the qualifications of the office. However, if the
 29 deadline for making the appointment falls on a Saturday, Sunday, or other legal
 30 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be

1 deemed to be the final day for making such appointment. The presiding officer of
 2 the governing authority shall not be required to vote on such an appointment to be
 3 made by the governing authority of a local governmental subdivision unless a tie
 4 vote occurs thereon, in which case he shall vote to break the tie; however, in no case
 5 shall the presiding officer vote more than once on the appointment.

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

20 C. When a vacancy occurs in any of the following offices, the duties of the
 21 office shall be assumed by the person hereinafter designated: (1) district attorney, by
 22 the first assistant; (2) clerk of a district court, by the chief deputy; (3) coroner, by the
 23 chief deputy; (4) sheriff, by the chief criminal deputy, except that in a parish that has
 24 both a civil sheriff and a criminal sheriff, the civil sheriff by the chief civil deputy,
 25 and the criminal sheriff, by the chief criminal deputy, respectively; and (5) tax
 26 assessor, by the chief deputy assessor. If there is no such person to assume the duties
 27 when the vacancy occurs, the governing authority or authorities of the parish or
 28 parishes affected shall; within ~~ten~~ twenty days; appoint a person having the
 29 qualifications of the office to assume the duties of the office. However, if the
 30 deadline for making the appointment falls on a Saturday, Sunday, or other legal

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

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

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

9 * * *

10 (2)(a) If the unexpired term exceeds one year, the governing authority of the
 11 local governmental subdivision in which the vacancy occurs, or the school board
 12 when the vacancy occurs in its membership, or the governor when a vacancy occurs
 13 in the office of district attorney or in an office for which there is not a single
 14 governing authority or as provided in Subsection F of this Section, within ~~ten~~ twenty
 15 days after the vacancy occurs, shall issue a proclamation ordering a special election
 16 to fill the vacancy and shall specify in the proclamation, in accordance with R.S.
 17 18:402, the dates on which the primary and general elections shall be held and, in
 18 accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for
 19 candidates in the special election. However, if the deadline for issuing the
 20 proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day
 21 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
 22 for issuing such proclamation. In selecting the dates for such special elections, the
 23 governing authority or school board as the case may be, may choose a gubernatorial
 24 or congressional election date, if such date is available within a year of the
 25 occurrence of the vacancy or may select an election date in accordance with R.S.
 26 18:402. In the cases in which the governor has the authority to select the date for
 27 such special elections, the governor shall first choose a gubernatorial or
 28 congressional election date. If no such date is available within a year of the
 29 occurrence of the vacancy, the governor shall then select an election date in
 30 accordance with R.S. 18:402. If the governing authority or school board fails to

1 issue the proclamation within ~~ten~~ twenty days after the vacancy occurs, the governor
2 shall issue the proclamation.

3 * * *

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

9 F. Whenever multiple vacancies in a local or municipal governing authority
10 or in a school board covered by Subsection A or B of this Section reduce the
11 membership of such governing authority or board below the number of total
12 members required to constitute a quorum to conduct official business, the remaining
13 members shall immediately inform the governor of the existence of the vacancies.
14 Within ~~ten~~ twenty days after he receives this notice, the governor shall make
15 appointments to fill all the vacancies and shall issue a proclamation calling special
16 elections to fill such vacancies if special elections are required under the provisions
17 of this Section. However, if the deadline for making the appointment or issuing the
18 proclamation, if applicable, falls on a Saturday, Sunday, or other legal holiday, then
19 the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be
20 the final day for making such appointment or issuing such proclamation.

21 * * *

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

23 * * *

24 B.(1) When a vacancy occurs in the office of constable or marshal of a city
25 or municipal court and the unexpired term of the office is one year or less, the chief
26 deputy shall assume such duties and position and shall serve for the remainder of the
27 expired term. However, in those cases where there is no such person to assume the
28 duties when the vacancy occurs, the appropriate governing authority shall within ~~ten~~
29 twenty days appoint a person having the qualifications of the office to assume the
30 duties of the office for the remainder of the unexpired term. However, if the

1 deadline for making the appointment falls on a Saturday, Sunday, or other legal
2 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
3 deemed to be the final day for making such appointment. The appointment shall be
4 made by the governing authority of the parish, unless the jurisdiction of the city or
5 municipal court is wholly within the municipal city limits, in which case, such
6 appointment shall be made within ~~ten~~ twenty days by the municipal governing
7 authority. However, if the deadline for making the appointment falls on a Saturday,
8 Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday,
9 or legal holiday shall be deemed to be the final day for making such appointment.
10 If the appropriate governing authority fails to fill the vacancy within ~~ten~~ twenty days,
11 the governor shall fill the vacancy. The judge of the city or municipal court which
12 he serves shall fix the amount of the bond.

13 (2)(a) When the unexpired term exceeds one year, the chief deputy shall
14 assume such duties and position and shall serve until the successor is elected and
15 takes office. If there is no such person to assume the duties when the vacancy
16 occurs, the appropriate governing authority shall within ~~ten~~ twenty days appoint a
17 person having the qualifications of the office to assume the duties of the office until
18 the successor is elected and takes office. However, if the deadline for making the
19 appointment falls on a Saturday, Sunday, or other legal holiday, then the next day
20 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
21 for making such appointment. If the appropriate governing authority fails to fill the
22 vacancy within ~~ten~~ twenty days, the governor shall fill the vacancy. The appropriate
23 governing authority shall, within ~~ten~~ twenty days after the vacancy occurs, issue a
24 proclamation ordering a special election to fill the vacancy and shall specify in the
25 proclamation, in accordance with R.S. 18:402, the dates on which the primary and
26 general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468,
27 the dates of the qualifying period for candidates in the special election. However,
28 if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other
29 legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday
30 shall be deemed to be the final day for issuing such proclamation. If the appropriate

1 governing authority fails to issue the proclamation within ~~ten~~ twenty days after the
2 vacancy occurs, the governor shall issue the proclamation.

3 * * *

4 §1300.13. Declaration of vacancy

5 When the majority is in favor of the recall, the public officer is, ipso facto,
6 recalled and removed from office, and the office shall be vacated upon ~~receipt by the~~
7 ~~secretary of state of certified returns from all of the parish boards of election~~
8 ~~supervisors within the jurisdiction,~~ expiration of the time period for contesting the
9 recall election set forth in R.S. 18:1405(H) if an action contesting the recall election
10 is not commenced timely or when the final judgment becomes definitive if an action
11 contesting the recall election is commenced timely, and the office shall be filled as
12 in the case of ordinary vacancies and according to the constitution and laws of the
13 state. A public officer who has been recalled and removed from office shall not be
14 appointed to succeed himself in the office from which he was recalled and removed.

15 * * *

16 §1302. Definitions

17 As used in this Chapter, unless the context clearly indicates otherwise, the
18 following terms shall have the meanings hereafter ascribed to each:

19 * * *

20 (2) "Board" means the parish board of election supervisors of each parish.
21 If absentee by mail and early voting commissioners are utilized by the parish board
22 of election supervisors to count and tabulate absentee votes, the term "board" for the
23 purposes of R.S. 18:1306, 1311, 1312, 1313, 1315, and 1316, ~~and 1317~~ may also
24 mean absentee by mail and early voting commissioners.

25 * * *

26 §1307. Application by mail

27 * * *

28 B.(1)

29 * * *

1 the parish board of election supervisors finds that the voter's eligibility to vote
2 absentee by mail was based upon false or fraudulent information, the board shall
3 inform the appropriate district attorney and the registrar of voters who shall not allow
4 the voter to vote absentee by mail pursuant to R.S. 18:1303(I).

5 * * *

6 §1308. Absentee voting by mail

7 A.(1)(a) Beginning with the date on which the registrar receives the absentee
8 by mail ballots and other necessary paraphernalia from the secretary of state, and
9 thereafter, immediately upon receipt of an application by mail, the registrar shall
10 mail the necessary instructions, certificates, ballots, and envelopes to the applicant
11 at the address furnished by the applicant. ~~The registrar shall detach the perforated~~
12 ~~slip from the absentee by mail ballot before mailing it to the voter and shall retain~~
13 ~~the slip in the records of his office for six months.~~

14 (b) If the voter feels he will not have time to vote timely by mail, the voter
15 may request that the registrar transmit to him by facsimile a ballot, including the
16 affidavit, or a second ballot, as the case may be, and the registrar shall do so if he has
17 a facsimile machine in his office. However, the registrar shall not be required to
18 send a second ballot by facsimile if the voter received a ballot by mail. The voter
19 may then mail his voted ballot, including the affidavit, back to the registrar or
20 transmit it by facsimile if the registrar has a facsimile machine in his office. If the
21 voter transmits his voted ballot to the registrar by facsimile, the documents to be
22 transmitted shall contain the following statement: "I understand that by faxing my
23 voted ballot I am voluntarily waiving my right to a secret ballot." This statement
24 shall be followed by the voter's handwritten signature, date, and social security
25 number. Upon receipt of the transmittal, the registrar shall place the voted ballot
26 along with the signed statement and affidavit in an appropriately marked envelope
27 and seal it. The registrar and his staff shall take the steps necessary to keep the voted
28 ballots received by facsimile as confidential as practicable.

29 (2)

30 * * *

1 (d) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
2 with respect to members of the United States Service and persons residing outside
3 the United States who are registered to vote, these materials may be electronically
4 transmitted for candidates for state, local, and municipal offices and shall include the
5 special ballot or ballots as provided in R.S. 18:1306(A)(4) for the general election.

6 (e) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
7 with respect to members of the United States Service and persons residing outside
8 the United States who are registered to vote, these materials may be electronically
9 transmitted for candidates for political party offices.

10 (f) Notwithstanding the provisions of Subparagraph (a) of the Paragraph,
11 with respect to members of the United States Service and persons residing outside
12 the United States who are registered to vote, these materials may be electronically
13 transmitted for recall, proposed constitutional amendments, proposition, and question
14 elections.

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

28 ~~(e)~~(h)(i) For electronically transmitted presidential preference primary,
29 presidential, congressional primary, and congressional general election ballots, the
30 registrar shall transmit the ballot or ballots, certificate, and waiver of the right to a

1 secret ballot to the voter for each ballot mailing. The waiver of the right to a secret
2 ballot shall contain the following statement: "My ballot was transmitted
3 electronically to me and I am voluntarily waiving my right to a secret ballot." The
4 statement shall also contain a space for the voter's handwritten signature, the date,
5 and the voter's social security number. The voter shall return by mail his voted ballot
6 or ballots, completed certificate, and signed waiver of the right to a secret ballot for
7 each ballot mailing. The registrar and his staff shall take the steps necessary to keep
8 each voted ballot that was transmitted electronically as confidential as practicable.

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

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

1 effect provided by the secretary of state, which affidavit shall include the voter's date
 2 of birth and mother's maiden name. If the voter is unable to read or write or is
 3 otherwise unable to complete the affidavit due to disability, the voter may receive
 4 assistance in completing the affidavit, and the registrar or his deputy shall make a
 5 notation on the affidavit. The voter may receive the assistance of any person of his
 6 choice, including the registrar or his deputy, except a candidate, the voter's employer
 7 or employer's agent, or the voter's union agent. The registrar or his deputy shall
 8 retain the affidavit in the office of the registrar of voters, ~~and the voter shall provide~~
 9 ~~further identification by presenting his current registration certificate, giving his date~~
 10 ~~of birth, or providing to the registrar or his deputy, upon request, other information~~
 11 ~~regarding the voter contained in the precinct register. If satisfied that the voter has~~
 12 identified himself as the voter named on the precinct register or list kept by the
 13 registrar and that he is qualified to vote, the registrar or his deputy shall initial the
 14 precinct register or list kept by the registrar opposite the voter's signature or mark.
 15 The voter then shall be allowed to vote. A voter who votes without the picture
 16 identification required by this Paragraph is subject to challenge as provided in R.S.
 17 18:1315.

* * *

E.

* * *

21 (4)(a) A voter shall not remain in a voting machine longer than three
 22 minutes. If a voter fails to leave a voting machine promptly after the registrar or
 23 deputy registrar has notified him that three minutes have elapsed, the registrar or
 24 deputy registrar shall have the voter removed from the voting machine.

25 (b) Notwithstanding Subparagraph (a) of this Paragraph, a voter receiving
 26 assistance in voting pursuant to R.S. 18:1309.3 or a voter using the audio ballot shall
 27 be allowed to remain in a voting machine for up to twenty minutes. If such a voter
 28 fails to leave a voting machine promptly after the registrar or deputy registrar has
 29 notified him that twenty minutes have elapsed, the registrar or deputy registrar shall
 30 have the voter removed from the voting machine.

1 the parish. The parish board of election supervisors shall select a ~~minimum~~
 2 maximum of ~~three~~ six such commissioners. If the parish board of election
 3 supervisors determines that the number of absentee by mail and early voting
 4 commissioners should be increased to more than six, the parish board shall make a
 5 request to the secretary of state for the additional absentee by mail and early voting
 6 commissioners. If the secretary of state or his designee determines that there is a
 7 need for the additional absentee by mail and early voting commissioners, the parish
 8 board shall select the additional absentee by mail and early voting commissioners.

9 * * *

10 C. Selection for general election. (1)

11 * * *

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

26 * * *

27 (3) If the parish board ~~determines~~ and the secretary of state or his designee
 28 determine that the number of absentee by mail and early voting commissioners
 29 should be increased, the parish board shall meet at 10:00 a.m. on the fifth day before
 30 a general election and shall select the additional absentee by mail and early voting

1 commissioners and alternate absentee by mail and early voting commissioners to
 2 serve in the general election for that parish from the list of certified commissioners
 3 who have not been chosen to serve in the general election as a
 4 commissioner-in-charge, commissioner, or, if applicable, absentee by mail and early
 5 voting commissioner in the manner provided by law for the selection of
 6 commissioners and alternate commissioners. If there are not enough certified
 7 commissioners to select the appropriate number of absentee by mail and early voting
 8 commissioners and alternate absentee by mail and early voting commissioners, the
 9 board of election supervisors may select a qualified elector of the parish to serve;
 10 however, no such elector shall serve as an absentee by mail and early voting
 11 commissioner if a certified commissioner has been selected as an alternate absentee
 12 by mail and early voting commissioner.

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

14 * * *

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

19 * * *

20 §1352. Use of voting machines throughout state; exception for failure of voting
 21 equipment, absentee by mail and early voting

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

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

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

28 * * *

1 §1401. Objections to candidacy, contests of elections, contests of certification of
2 recall petition; parties authorized to institute actions

3 * * *

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

7 §1402. Proper parties

8 * * *

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

19 * * *

20 §1404. Venue

21 * * *

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

27 §1405. Time for commencement of action

28 * * *

29 B. An action contesting any election involving election to office shall be
30 instituted ~~on or before~~ not later than 4:30 p.m. of the ninth day after the date of the

1 election, and no such contest shall be declared moot because of the performance or
2 nonperformance of a ministerial function including but not limited to matters relating
3 to the printing of ballots for the general election.

4 * * *

5 H. An action contesting any election involving the recall of a public officer
6 shall be instituted not later than 4:30 p.m. of the ninth day after the date of the
7 election.

8 §1406. Petition; answer; notification

9 * * *

10 B. The petition shall set forth in specific detail the facts upon which the
11 objection or contest is based. If the action contests an election involving election to
12 office, the petition shall allege that except for substantial irregularities or error, fraud,
13 or other unlawful activities in the conduct of the election, the petitioner would have
14 qualified for a general election or would have been elected. If the action contests an
15 election involving the recall of a public officer, the petition shall allege that except
16 for substantial irregularities or error, fraud, or other unlawful activities in the conduct
17 of the election, the petitioner would not have been recalled. The trial judge may
18 allow the filing of amended pleadings for good cause shown and in the interest of
19 justice.

20 * * *

21 §1415. Discovery prior to filing a suit contesting an election

22 * * *

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

28 C. Such discovery may be conducted only after execution of an affidavit by
29 a poll watcher, commissioner, or any other election official that he has personal
30 knowledge of an irregularity in the election and only after such affidavit has been

1 filed with a court of competent jurisdiction. The nature of the irregularity shall be
 2 specified in the affidavit. The clerk of court shall immediately notify the secretary
 3 of state by telephone and by written notice when such affidavit has been filed, and
 4 shall notify the opponents of the candidate of the filing of the affidavit. The clerk
 5 shall also supply a copy of the affidavit to each opponent of the candidate.

6 ~~C~~: D. Discovery shall be limited to the taking of the deposition of any
 7 election official, including his employees, having responsibilities regarding the
 8 conduct of such election and the inspection and copying of documents and other
 9 records in the custody and control of any such election official, but shall not include
 10 access to voting machines prior to the date such machines are opened in accordance
 11 with R.S. 18:573. The deposition of a statewide elected official or his employee
 12 shall be conducted at the office of such official.

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

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

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

24 * * *

25 §1431. Fraudulent or illegal votes; uncounted votes; determination of election result
 26 When the court finds that one or more of the votes cast in a contested election
 27 are illegal or fraudulent, the judge shall subtract such vote or votes from the total
 28 votes cast for the candidate who received them if the contest involves election to
 29 office, ~~or~~ from the total vote for or against a proposition; if the contest is of an
 30 election upon a proposition, or from the total vote for or against the recall of a public

1 officer if the contest involves an election for the recall of a public officer. If the
 2 court determines that legal votes cast in the election were excluded in the total votes
 3 cast on a candidate, ~~or~~ proposition, or recall, then these excluded legal votes shall be
 4 added to the total votes on the candidate, ~~or the~~ proposition, or recall to which they
 5 are attributable. Thereafter, and after considering all the evidence, the court shall
 6 determine the result of the election.

7 §1432. Remedies

8 A.(1) If the trial judge in an action contesting an election determines that:
 9 ~~(1)~~ it is impossible to determine the result of election, or ~~(2)~~ the number of qualified
 10 voters who were denied the right to vote by the election officials was sufficient to
 11 change the result in the election, if they had been allowed to vote, or ~~(3)~~ the number
 12 of unqualified voters who were allowed to vote by the election officials was
 13 sufficient to change the result of the election if they had not been allowed to vote, or
 14 ~~(4)~~ a combination of ~~the~~ these factors referred to in ~~(2)~~ and ~~(3)~~ in this Subsection
 15 would have been sufficient to change the result had they not occurred, the judge may
 16 render a final judgment declaring the election void and ordering a new primary or
 17 general election for all the candidates, or, if the judge determines that the appropriate
 18 remedy is the calling of a restricted election, the judge may render a final judgment
 19 ordering a restricted election, specifying the date of the election, the appropriate
 20 candidates for the election, the office or other position for which the election shall
 21 be held, and indicating which voters will be eligible to vote.

22 (2) If the trial judge in an action contesting an election for the recall of a
 23 public officer determines that: it is impossible to determine the result of election,
 24 or the number of qualified voters who were denied the right to vote by the election
 25 officials was sufficient to change the result in the election, if they had been allowed
 26 to vote, or the number of unqualified voters who were allowed to vote by the election
 27 officials was sufficient to change the result of the election if they had not been
 28 allowed to vote, or a combination of these factors would have been sufficient to
 29 change the result had they not occurred, the judge may render a final judgment
 30 declaring the election void and ordering a new recall election, or, if the judge

1 determines that the appropriate remedy is the calling of a restricted election, the
2 judge may render a final judgment ordering a restricted election, specifying the date
3 of the election, and indicating which voters will be eligible to vote.

4 * * *

5 §1433. Revote in precincts where voting machine malfunctions if result cannot be
6 otherwise ascertained

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

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

25 * * *

26 §1941. Voting Rights Act submission by political subdivisions; copy to secretary
27 of state

28 A. Each political subdivision of this state which submits for preclearance any
29 proposed change in voting practice or procedure pursuant to Section 5 of the Voting
30 Rights Act of 1965 shall, at the same time as the submission, send a copy of its

1 submission, by certified mail, to the secretary of state, clerk of court, and registrar
2 of voters. The political subdivision shall also send to the secretary of state, clerk of
3 court, and registrar of voters, by certified mail, a copy of any response to the
4 submission.

5 B. The entity responsible for sending a copy of the submission and any
6 response thereto to the secretary of state, clerk of court, and registrar of voters, as
7 required pursuant to this Section, is the submitting authority as defined in the Voting
8 Rights Act of 1965.

9 * * *

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

12 §1284. Resolution calling election; proposition

13 * * *

14 F.(1) The preparation of ~~the statement~~ of the proposition to be submitted to
15 the voters at an election shall be the responsibility of the governing authority of the
16 political subdivision ordering the election. ~~The statement of the proposition shall~~
17 ~~also include a simple and unbiased concise summary in easily understood language~~
18 ~~which sets forth the substance of the proposition~~ include the information required by
19 this Section in simple, unbiased, concise, and easily understood language and be in
20 the form of a question. ~~The statement of the proposition, including the summary,~~
21 ~~shall not exceed four two hundred words in length. Such summary shall be placed~~
22 ~~at the beginning of the statement of the proposition.~~

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

26 * * *

27 §1299.1. ~~Statement of question~~ Question or proposition to be voted on; ~~statement~~
28 length

29 A. The preparation of ~~the statement of any~~ a question or proposition to be
30 submitted to the voters at an election shall be the responsibility of the governing

1 authority or other entity calling the election or submitting the question or
 2 proposition. ~~The statement of the proposition shall also include a simple and~~
 3 ~~unbiased concise summary in easily understood language which sets forth the~~
 4 ~~substance of the proposition~~ be comprised of simple, unbiased, concise, and easily
 5 understood language and be in the form of a question. ~~The statement of the~~
 6 ~~proposition, including the summary,~~ shall not exceed ~~four~~ two hundred words in
 7 length. ~~Such summary shall be placed at the beginning of the statement of the~~
 8 ~~proposition.~~

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

12 Section 3. R.S. 18:1317 is hereby repealed in its entirety.

13 Section 4.(A) This Section, Section 1, and Section 3 of this Act shall become
 14 effective upon signature of this Act by the governor or, if not signed by the governor, upon
 15 expiration of the time for bills to become law without signature by the governor, as provided
 16 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the
 17 governor and subsequently approved by the legislature, this Section, Section 1, and Section
 18 3 of this Act shall become effective on the day following such approval.

19 (B) Section 2 of this Act shall become effective on January 1, 2013.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____