

2016 Regular Session

HOUSE BILL NO. 890

BY REPRESENTATIVE DANAHAAY

ELECTION CODE: Makes revisions to the La. Election Code

1 AN ACT

2 To amend and reenact R.S. 18:18(A)(7), 116(A)(1)(introductory paragraph) and (a),
3 (B)(1)(a) and (d) and (2)(a) and (b), and (C), 193(D), 424(B)(1), 425(B), 444(D),
4 463(A)(2)(b), 470(B), 532.1(D)(2)(a) and (E), 583(A)(2), 1285(B)(1)(a), 1300(C)(1),
5 1306(A)(3), 1307(B)(1)(a), and 1313(J)(2)(b), to enact R.S. 18:18(A)(10) and
6 116(A)(3), and to repeal R.S. 18:116(A)(1)(c), relative to the Louisiana Election
7 Code; to revise the system of laws comprising the Louisiana Election Code; to
8 provide relative to the powers, duties, and authority of the secretary of state; to
9 authorize the secretary of state to develop and implement a pilot program for new
10 voting technology and equipment; to provide relative to voter registration agencies;
11 to provide relative to the duty to provide voter registration services at such agencies;
12 to prohibit certain conduct at such agencies; to provide relative to qualifications to
13 serve as a commissioner or commissioner-in-charge; to allow certain students at
14 institutions of higher learning in the state to serve as commissioners under certain
15 circumstances; to require certain notice of the officers of parish executive
16 committees; to provide relative to the notice of candidacy; to provide relative to the
17 execution of a the certificate on a notice of candidacy; to provide relative to
18 qualifying fees; to provide relative to changes in precinct boundaries; to require the
19 parish governing authority to provide certain information prior to adopting any such
20 change; to require the secretary of state to report certain information relative to such

1 changes; to provide relative to absentee by mail voting; to provide deadlines for
 2 making such changes; to provide for the effectiveness of such changes; to provide
 3 relative to anticipated vacancies; to provide relative to procedures for applying to
 4 vote absentee by mail; to provide for the deadline for filing a request for recount of
 5 absentee by mail ballots; to provide relative to voter registration; to require the
 6 registrar to transfer registration information under certain circumstances; to provide
 7 for the cancellation of a registration under certain circumstances; to provide
 8 deadlines for notice of certain elections; to require certain information concerning
 9 correction procedures to appear on the ballot; to provide for effectiveness; and to
 10 provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 18:18(A)(7), 116(A)(1)(introductory paragraph) and (a), (B)(1)(a)
 13 and (d) and (2)(a) and (b), and (C), 424(B)(1), 425(B), 444(D), 463(A)(2)(b), 470(B),
 14 532.1(D)(2)(a) and (E), 583(A)(2), 1307(B)(1)(a), and 1313(J)(2)(b) are hereby amended
 15 and reenacted and R.S. 18:18(A)(10) and 116(A)(3) are hereby enacted to read as follows:

16 §18. Secretary of state; powers and duties

17 A. The secretary of state shall administer the laws relating to custody of
 18 voting machines and voter registration, and for the purpose he shall:

19 * * *

20 (7) Prescribe uniform rules, regulations, forms, and instructions as to the use
 21 of electronic voting machines, as defined by R.S. ~~18:1351(12)(b)~~ 18:1351, in the
 22 conduct of early voting, which shall be approved by the attorney general and
 23 thereafter shall be applied uniformly by each registrar of voters in the state.

24 * * *

25 (10)(a) Develop and implement a pilot program for new voting technology
 26 and equipment.

27 (b) The secretary of state shall work with two members from the House
 28 Committee on House and Governmental Affairs designated by the chairman of that
 29 committee and two members from the Senate Committee on Senate and

1 transmittal procedure shall be handled in the same manner as voter registration
2 applications.

3 (2) Persons providing the services described in this Subsection shall not:

4 (a) Seek to influence an applicant's political preference or party registration.

5 (b) Display any such political preference or ~~political party or body~~
6 allegiance.

7 * * *

8 C.(1) A designated voter registration agency as provided in ~~Subsection A~~
9 Paragraph (A)(1) of this Section shall:

10 (a) Distribute a mail voter registration application form with each application
11 for ~~such~~ service or assistance and with each recertification, renewal, or change of
12 address form relating to such service or assistance unless the applicant declines in
13 writing to register to vote.

14 (b) ~~Distribute~~ Provide a form to accompany the mail voter registration
15 application form which includes:

16 (i) A statement of voter registration eligibility requirements.

17 (ii) The question "If you are not registered to vote where you live now, would
18 you like to apply to register to vote here today?":

19 (iii) If the agency provides public assistance, the statement "Applying to
20 register or declining to register to vote will not affect the amount of assistance that
21 you will be provided by this agency."

22 (iv) Boxes for the applicant to check to indicate whether the applicant ~~is~~
23 ~~presently registered~~, would like to register, or declines to register to vote with the
24 statement "IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED
25 TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME." in close
26 proximity to the boxes and in prominent type.

27 (v) ~~(iv)~~ (v) The statements "If you would like help in filling out the voter
28 registration form, we will help you. The decision whether to seek or accept help is
29 yours. You may fill out the application form in private."

1 conducted the school, and has provided his correct party affiliation to the clerk. A
2 commissioner who has received this certificate shall be classified as a certified
3 commissioner. A commissioner selected pursuant to R.S. 18:434(D), who has not
4 been issued such a certificate, shall be classified as an uncertified commissioner.

5 ~~(4)~~ (5) A person who is at least seventeen years of age, under the age of
6 eighteen, and is not a qualified voter but is otherwise qualified to serve as a
7 commissioner pursuant to this Subsection may be selected to serve as a
8 commissioner in any precinct of the ward where he may register to vote pursuant to
9 R.S. 18:101(A), provided that the person is enrolled in the twelfth grade of any
10 Louisiana public high school or state-approved nonpublic high school, is
11 participating at the twelfth grade level in a home study program approved by the
12 State Board of Elementary and Secondary Education, has received a diploma from
13 any Louisiana public high school or state-approved nonpublic high school, has
14 received a diploma for completion of a home study program approved by the State
15 Board of Elementary and Secondary Education, or has been issued a high school
16 equivalency diploma after successfully completing the test of General Educational
17 Development.

18 (6) Notwithstanding the provisions of Paragraph (2) of this Subsection, a
19 qualified voter of this state or a person who is registered to vote in another state who
20 is able to perform the essential duties of a commissioner as described in the
21 informational pamphlet developed by the secretary of state pursuant to R.S.
22 18:421(C), who is not a candidate in the election, and who is a student at an
23 institution of higher learning located in this state may be selected as a commissioner
24 in any precinct in the parish where the institution of higher learning is located if the
25 student submits to the clerk a copy of his student identification or fee bill showing
26 current enrollment and a copy of his proof of voter registration.

27 * * *

28 §444. Parish executive committees

29 * * *

1 §532.1. Changing boundaries

2 * * *

3 D.

4 * * *

5 (2)(a)(i) Notwithstanding the provisions of Paragraph (1) of this Subsection
6 or R.S. 18:1903 to the contrary, if after the release of the federal decennial census
7 data a parish governing authority is unable to comply with applicable law regarding
8 redistricting and reapportionment, including adherence to traditional redistricting
9 principles, in the creation of its redistricting or reapportionment plan using the whole
10 precincts submitted to the United States Bureau of the Census, the parish governing
11 authority may divide a precinct into two or more precincts if the parish governing
12 authority notifies the secretary of state as provided in Item (ii) of this Subparagraph;
13 any such division shall be by a visible feature which is a census tabulation boundary.

14 (ii) Prior to the adoption of any proposed precinct division, the parish
15 governing authority shall send to the secretary of state a copy of the proposed
16 redistricting or reapportionment plan containing a division of precincts, a written
17 description of proposed new precinct boundaries and the number of registered voters
18 in each precinct, and a copy of a map clearly detailing the new precinct boundaries
19 within the parish. The secretary of state shall review the proposed precinct divisions
20 and send a report of the findings resulting from the review to the parish governing
21 authority within thirty days after the receipt of the proposed precinct changes. The
22 report shall include an estimate of the increase in election expenses that will result
23 from the proposed precinct divisions, including expenses for additional voting
24 machines and commissioners. The report shall also include an estimate of the
25 amount of expenses that the parish will be responsible for pursuant to R.S.
26 18:1400.7.

27 * * *

28 E.(1) A precinct shall not be changed, and no precinct shall be established
29 or altered in any way, including alphabetical division by voter surname, and no

1 annexation shall be implemented during the period commencing on the ~~fourth~~ tenth
2 business day prior to the date the qualifying period opens and ending on the date of
3 the general election.

4 (2) No precinct change or annexation that is made prior to the ~~fourth~~ tenth
5 business day prior to the date the qualifying period opens shall become effective for
6 the election unless the information required in Subsection A of this Section,
7 including notice of preclearance if required pursuant to the Voting Rights Act of
8 1965, is received by the secretary of state prior to 4:30 p.m. on the fifth tenth
9 business day prior to the date the qualifying period opens.

10 * * *

11 §583. Procedure for anticipated vacancies

12 A.

13 * * *

14 (2) It shall become certain that a vacancy will exist on the day the term of
15 office commences when the person elected to the office dies, ~~or~~ makes a declaration
16 to the secretary of state that he will not accept the office, or is disqualified by a court
17 of competent jurisdiction.

18 * * *

19 §1307. Application by mail

20 * * *

21 B.(1)(a) An application to vote by mail may be delivered to the registrar by
22 any means, including the United States Postal Service, commercial delivery service,
23 hand delivery, or facsimile. If hand delivered by other than a commercial delivery
24 service or the United States Postal Service, the registrar shall require that the person
25 making such delivery sign the application. If sent by facsimile, the person sending
26 the application by facsimile shall sign the application to indicate that he is the sender
27 and shall include the facsimile number from where the facsimile was sent. No
28 person, except the immediate family of any voter, as defined in this code, shall hand

1 deliver or fax more than one voter's application to vote by mail to the registrar of
2 voters.

3 * * *

4 §1313. Tabulation and counting of absentee by mail and early voting ballots

5 * * *

6 J.

7 * * *

8 (2)

9 * * *

10 (b) All recounts of absentee by mail and early voting ballots shall be held at
11 10:00 a.m. or following the reinspection of voting machines on the fifth day after the
12 election and at any time ordered by a court of competent jurisdiction. If the fifth day
13 after the election falls on a holiday or weekend, such recount shall be held on the
14 next working day at 10:00 a.m. or following the reinspection of voting machines.
15 Any written request for recount of absentee by mail and early voting ballots shall be
16 filed with the clerk of court. The deadline for filing a request for recount of absentee
17 by mail and early voting ballots shall be 4:30 p.m. on the last working day prior to
18 the date of the recount. Immediately upon receiving any request, the clerk of court
19 shall prominently post in his office a notice of the time and place where the absentee
20 by mail and early voting ballots will be recounted and the name of the candidate or
21 the voter in the proposition election requesting the recount.

22 * * *

23 Section 2. R.S. 18:193(D), 1285(B)(1)(a), 1300(C)(1), and 1306(A)(3) are hereby
24 amended and reenacted to read as follows:

25 §193. Challenge and cancellation of registration; notice; procedures

26 * * *

27 D.(1) If the voter responds to the address confirmation card and has
28 permanently moved ~~outside the~~ to a different parish, the registrar shall ~~cancel~~
29 transfer the voter's registration information to the new parish of residence.

1 §1306. Preparation and distribution of absentee by mail and early voting ballots

2 A.

3 * * *

4 (3) A ballot shall be marked by the voter with a pencil containing black lead
5 or a pen containing black or blue ink, and the instructions printed on the face of the
6 ballot shall inform the voter of this requirement. The instructions printed on the face
7 of the ballot shall also inform the voter on how to correct the ballot before it is cast
8 and counted, including how to correct the error through the issuance of a replacement
9 ballot if the voter is unable to change the ballot or correct any error.

10 * * *

11 Section 3. R.S. 18:116(A)(1)(c) is hereby repealed in its entirety.

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

18 (B) Section 2 of this Act shall become effective January 1, 2017.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 890 Original

2016 Regular Session

Danahay

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

Present law (R.S. 18:18) provides for the powers and duties of the secretary of state and provides specific responsibilities.

Proposed law retains present law and additionally authorizes the secretary of state to develop and implement a pilot program for new voting technology and equipment. Requires the secretary of state to work with two members each from the legislative governmental affairs committees in developing the program. Requires the secretary of state to submit the a description of the program and changes to the committees.

Present law (R.S. 18:116) requires voter registration services to be provided at certain listed agencies, including public assistance agencies, offices that provide services to persons with disabilities, and armed services recruitment offices.

Present law requires that among the services that must be offered at agencies is distribution of a mail voter registration application forms.

Proposed law retains present law.

Present law requires application forms to be distributed only to applicants who are qualified to register.

Proposed law repeals present law.

Proposed law adds to the list of public assistance agencies the Kinship Care Subsidy Program (KCSP) and the Child Care Assistance Program (CCAP). Specifies that services at armed services recruitment offices shall be provided according to the procedures established by the Federal Voting Assistance Program.

Present law requires a form to accompany the mail voter registration application. Provides for the content of the form, including a statement informing the person that he may file a complaint with the secretary of state if a person has interfered with his right to register or decline to register to vote or his right to privacy.

Proposed law retains present law and additionally requires the form to include interference with the person's right to choose his own political party or other political preference as causes for a complaint.

Present law (R.S. 18:193) provides for a challenge procedure to be used by the registrar when he has reason to believe that a registrant no longer is qualified to be registered, or that a registrant has changed his residence. Requires the registrar to send the person an address confirmation card. Provides that if the voter responds to the address confirmation card and has permanently moved outside the parish, the registrar shall cancel the voter's registration.

Proposed law provides that if the voter responds and has moved to a different parish, the registrar shall transfer the voter's registration information to the new parish of residence. Provides that if the voter responds to the address confirmation card and has permanently moved outside the state, the registrar shall cancel the voter's registration.

Present law (R.S. 18:424) provides qualifications for a person to serve as a commissioner-in-charge. Present law (R.S. 18:425) provides qualifications for a person to serve as a commissioner. Qualifications include being a qualified voter, not being a candidate in the election, and, subject to certain exceptions, having completed certain training.

Proposed law retains present law.

Present law also provides that a person who is entitled to assistance in voting cannot serve as a commissioner or a commissioner-in-charge.

Proposed law repeals present law. Provides instead that the person must be able to perform the essential duties of a commissioner-in-charge or commissioner, as applicable, as described in the informational pamphlet developed by the secretary of state pursuant to present law (R.S. 18:421(C)).

Present law provides that a person who is 17 years of age and is not a qualified voter but is otherwise qualified to serve as a commissioner pursuant to present law may be selected to serve as a commissioner in any precinct of the ward where he may register to vote, provided that the person is enrolled in the 12th grade of any La. public high school or state-approved

nonpublic high school, is participating at the 12th grade level in a home study program approved by the State Board of Elementary and Secondary Education (BESE), has received a diploma from any La. public high school or state-approved nonpublic high school, has received a diploma for completion of a home study program approved by BESE, or has been issued a high school equivalency diploma after successfully completing the test of General Educational Development.

Proposed law retains present law and additionally provides that a qualified voter of this state or a person who is registered to vote in another state who is able to perform the essential duties of a commissioner as described in the informational pamphlet developed by the secretary of state pursuant to present law (R.S. 18:421(C)), who is not a candidate in the election, and who is a student at an institution of higher learning located in this state may be selected as a commissioner in any precinct in the parish where the institution of higher learning is located if the student submits to the clerk a copy of his student identification or fee bill showing current enrollment and a copy of his proof of voter registration.

Present law (R.S. 18:461) provides that, subject to certain limited exceptions, a person who desires to become a candidate in a primary election qualifies as a candidate by timely filing notice of his candidacy, accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed.

Present law (R.S. 18:463) provides for the content of the notice of candidacy, including certification that the statements therein are true and correct and acknowledging a number of specific requirements of present law relative to qualifications, the Code of Governmental Ethics, the Campaign Finance Disclosure Act, and the filing of his tax returns. Requires the certificate to be executed before a notary public, be witnessed by two persons, or if the candidate is serving outside of the state in the armed forces of the U.S., be witnessed by a commissioned officer.

Proposed law retains present law.

Present law provides that if the execution of the certificate is witnessed by two persons, the two persons must be registered to vote for the office that the candidate seeks.

Proposed law repeals present law.

Proposed law removes obsolete references to refunds of qualifying fees and a related escrow account in provisions of present law (R.S. 18:470) relative to the delivery of such fees to the state treasury.

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. However, provides that no election precinct shall be created, divided, abolished, or merged, or the boundaries thereof otherwise changed between Jan. first of any year of which the last digit is nine and Dec. thirty-first of any year of which the last digit is three. Provides a limited exception for merger of precincts if certain requirements are met.

Proposed law retains present law.

Present law provides an additional limited exception. Provides that if after the release of the federal decennial census data a parish governing authority is unable to comply with applicable law regarding redistricting and reapportionment, including adherence to traditional redistricting principles, in the creation of its redistricting or reapportionment plan using the whole precincts submitted to the U.S. Bureau of the Census, the parish governing authority may divide a precinct into two or more precincts according to a visible feature which is a census tabulation boundary.

Proposed law provides that prior to the adoption of any proposed precinct division, the parish governing authority shall send to the secretary of state a copy of the proposed redistricting or reapportionment plan containing a division of precincts, a written description of proposed new precinct boundaries and the number of registered voters in each precinct, and a copy of a map clearly detailing the new precinct boundaries within the parish. Requires the secretary of state to review the proposed precinct divisions and send a report of the findings resulting from the review to the parish governing authority within 30 days after the receipt of the proposed precinct changes. Provides that the report shall include an estimate of the increase in election expenses that will result from the proposed precinct divisions, including expenses for additional voting machines and commissioners and an estimate of the amount of expenses that the parish will be responsible for pursuant to present law (R.S. 18:1400.7) relative to the payment of election expenses by the parish governing authority. Prohibits the governing authority from dividing precincts unless the governing authority complies with proposed law.

Present law provides for a period of time prior to an election during which no precinct shall be established or changed in any way, including alphabetical division by voter surname, and no annexation shall be implemented. Provides that the period of time ends on the date of the general election.

Proposed law retains present law.

Present law provides that the period commences on the fifth business day prior to the date the qualifying period opens.

Proposed law provides instead that the period commences on the tenth business day prior to the date the qualifying period opens.

Present law provides that no change to a precinct or annexation that is made prior to the commencement of this period shall become effective for the election unless certain required information is submitted to and received by the secretary of state no later than the date that the period commences.

Proposed law specifies that the information must be received by the secretary of state prior to 4:30 p.m. on the date the period commences. Otherwise retains present law.

Present law (R.S. 18:583) provides procedures for the filing of anticipated vacancies for elected offices. Requires the appropriate authority to call a special election to fill a vacancy in an office to issue a proclamation ordering a special election to be held to elect a person to fill the full term of an office when it becomes certain, after the election for the term but prior to its commencement, that a vacancy will exist on the day when the term of the office commences as provided by the constitution or by law. Provides that the proclamation ordering the special election shall state the dates, in accordance with present law (R.S. 18:402), on which the primary and general elections will be held. Provides that it shall become certain that a vacancy will exist on the day the term of office commences when the person elected to the office dies or makes a declaration to the secretary of state that he will not accept the office.

Proposed law retains present law and additionally provides that an anticipated vacancy shall become certain when the person elected to office is disqualified by a court of competent jurisdiction.

Present law (R.S. 18:1285 and 1300) provide relative to bond, debt, and tax elections and elections at which a proposition is to be submitted to the voters. Requires notice of such an election to be provided to the secretary of state. Provides requirements for such notice.

Proposed law retains present law.

Present law provides that if the election is to be held on a primary election date, the notice must be received by the 46th day prior to the election. Proposed law requires the notice to be received by the 54th day prior to the election instead of the 46th day. Otherwise retains present law.

Present law (Ch. 7 of the La. Election Code—R.S. 18:1301 et seq.) provides for voting absentee by mail. Provides that certain specified persons may vote by mail by making application to the registrar.

Present law (R.S. 18:1306) provides procedures and requirements for the preparation and distribution of absentee by mail and early voting ballots. Requires such ballots to include instructions printed on the face of the ballots to inform the voter of how to mark the ballot.

Proposed law retains present law. Additionally provides that the instructions inform the voter on how to correct the ballot before it is cast and counted, including how to correct the error through the issuance of a replacement ballot if the voter is unable to change the ballot or correct any error.

Present law (R.S. 18:1307) provides for the content of absentee by mail applications. Provides for the form of an application. Provides methods for returning applications to the registrar, including mail, commercial delivery service, hand delivery, and facsimile.

Proposed law retains present law. However, provides that if an application is sent by facsimile, the person sending the application by facsimile shall sign the application to indicate that he is the sender and shall include the facsimile number from where the facsimile was sent.

Present law (R.S. 18:1313) provides procedures and requirements for the tabulation and counting of absentee by mail ballots by the parish board of election supervisors. Provides that upon written request by certain specified persons, a recount must be conducted if the number of absentee by mail and early voting ballots cast could make a difference in the outcome of the election. Provides that all recounts of absentee by mail and early voting ballots shall be held at 10:00 a.m. or following the reinspection of voting machines on the fifth day after the election and at any time ordered by a court of competent jurisdiction. Provides that if the fifth day after the election falls on a holiday or weekend, such recount shall be held on the next working day at 10:00 a.m. or following the reinspection of voting machines. Present law requires a written request for recount of absentee by mail and early voting ballots to be filed with the clerk of court no later than the last working day prior to the date of the recount.

Proposed law retains present law but requires a request for recount to be filed by 4:30 p.m. on the last day for filing the request.

Effective upon signature of governor or lapse of time for gubernatorial action; except that provisions relative changes to challenge and cancellation of registration, changes to the deadline for notice of election, and changes relative to the instructions on absentee by mail ballots become effective on Jan. 1, 2017.

(Amends R.S. 18:18(A)(7), 116(A)(1)(intro. para.) and (a), (B)(1)(a) and (d) and (2)(a) and (b), and (C), 193(D), 424(B)(1), 425(B), 444(D), 463(A)(2)(b), 470(B), 532.1(D)(2)(a) and (E), 583(A)(2), 1285(B)(1)(a), 1300(C)(1), 1306(A)(3), 1307(B)(1)(a), and 1313(J)(2)(b); Adds R.S. 18:18(A)(10) and 116(A)(3); Repeals R.S. 18:116(A)(1)(c))