

2020 Regular Session

SENATE BILL NO. 397

BY SENATOR BERNARD

VOTERS/VOTING. Provides relative to counting absentee and early voting ballots.
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 18:1313, 1314(B)(1) and (C)(1)(a), and 1315(B) and to enact
3 R.S. 18:423(J), and 1313.1, relative absentee and early voting ballots; to provide for
4 preparation, verification, tabulation and counting of such ballots; to provide for the
5 duties and responsibilities of parish board of election supervisors; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:1313, 1314(B)(1) and (C)(1)(a), and 1315(B) are hereby amended
9 and reenacted and R.S. 18:423(J) and 1313.1 are hereby enacted to read as follows:

10 §423. Parish boards of election supervisors

11 * * *

12 **J. Notwithstanding Paragraph (E) of this Section, in a parish where the**
13 **parish board of election supervisors tabulates and counts absentee by mail and**
14 **early voting ballots in accordance with R.S. 18:1313.1, a member of the board**
15 **may be compensated not more than eight days for a presidential or regularly**
16 **scheduled general election or seven days for any other primary or general**
17 **election.**

1 * * *

2 §1313. Tabulation and counting of absentee by mail and early voting ballots

3 **A.(1) The parish board of election supervisors in a parish that has less**
4 **than one thousand absentee by mail ballots returned to the registrar of voters**
5 **for a primary or general election shall conduct the tabulation and counting of**
6 **absentee by mail and early voting ballots in accordance with this Section.**

7 **(2) The parish board of election supervisors in a parish that has one**
8 **thousand or more absentee by mail ballots returned to the registrar of voters**
9 **for a primary or general election may conduct the tabulation and counting of**
10 **absentee by mail and early voting ballots in accordance with this Section. The**
11 **parish board shall notify the secretary of state in writing no later than five days**
12 **prior to a primary or general election that the tabulation and counting of**
13 **absentee by mail and early voting ballots will be conducted pursuant to this**
14 **Section or pursuant to R.S. 18:1313.1.**

15 **AB.** The parish board of election supervisors shall be responsible for the
16 **preparation, verification,** counting and tabulation of all absentee by mail and early
17 voting ballots in the parish. The board may utilize parish board commissioners to
18 count the absentee by mail and early voting ballots in the parish. If the board
19 determines that parish board commissioners are necessary to **prepare, verify,** count
20 and tabulate the absentee by mail and early voting ballots, it shall select parish board
21 commissioners in accordance with the provisions of R.S. 18:1314. If a majority of
22 the members of the board are not present to count the absentee by mail and early
23 voting ballots and no parish board commissioners were previously selected, the
24 members present may select a sufficient number of parish board commissioners on
25 election day to assist in the counting of absentee by mail and early voting ballots.

26 **BC.(1)** Absentee by mail and early voting ballots shall be counted at a public
27 facility within the parish designated by the registrar of voters at a time fixed by the
28 parish board of election supervisors, which time shall be on election day no later than
29 8:00 p.m.

1 (2) Prior to the counting of absentee by mail and early voting ballots on
2 election day, any person authorized by the secretary of state may assist the registrar
3 of voters in the challenge removal process on the early voting machines, in the
4 reading of the early voting machine results cartridges on the secretary of state's
5 equipment, and in producing the early voting machine results report. All early voting
6 machine results reports shall be placed in the special absentee by mail and early
7 voting envelope or container.

8 ~~ED~~(1) If the **preparation, verification**, counting and tabulation of absentee
9 by mail and early voting ballots begins prior to the closing of the polls, such
10 **preparation, verification**, counting and tabulation shall be conducted in a location
11 and manner to prevent disclosure of the results prior to the closing of the polls. Each
12 person except a person providing security to the parish board of election supervisors;
13 a representative of the attorney general, with written approval of the secretary of
14 state; the clerk of court; the registrar of voters; or a person providing technical
15 assistance pursuant to Paragraph (2) of this Subsection who enters the location in
16 which the absentee by mail and early voting ballots are being **prepared, verified**,
17 counted and tabulated shall remain in that location and shall not be allowed to leave
18 except temporarily, and then only when accompanied by a law enforcement officer,
19 and shall not communicate with any person outside until the polls are closed. The
20 parish board of election supervisors may take any action necessary to ensure that no
21 information with respect to the **preparation, verification**, counting and tabulation
22 of absentee by mail and early voting ballots is transmitted from the location where
23 the absentee by mail and early voting ballots are being counted and tabulated prior
24 to the close of the polls on election day.

25 (2) Any person authorized by the secretary of state may provide security or
26 technical assistance including advice, analysis, diagnosis, or repair for voting
27 machines at the location where absentee by mail and early voting votes are being
28 **prepared, verified**, counted and tabulated. Such security or technical assistance
29 shall be provided only upon the request of the parish board of election supervisors

1 or a team of parish board commissioners, and may be made in person at the location
2 where absentee by mail and early voting votes are being **prepared, verified,** counted
3 and tabulated, or by telephone, or both. Any authorized person providing such
4 security or technical assistance may enter and leave the location where absentee by
5 mail and early voting votes are being **prepared, verified,** counted and tabulated
6 before the closing of the polls and during the process of counting and tabulation. No
7 such person shall disclose any information with respect to the **preparation,**
8 **verification,** counting and tabulation of absentee by mail and early voting ballots
9 prior to the close of the polls on election day.

10 ~~D~~**E**. Candidates, their representatives, and qualified electors may be present
11 during the **preparation, verification,** counting and tabulation of absentee by mail
12 and early voting ballots. If the counting and tabulation of absentee by mail and early
13 voting ballots begin prior to the closing of the polls, the board shall give notice
14 reasonably calculated to inform any person who wants to be present during the
15 **preparation, verification,** counting and tabulation that no person will be allowed
16 to leave or to communicate with any other person outside, until such time as the polls
17 are closed, nor shall any person who is present during the **preparation, verification,**
18 counting and tabulation of absentee by mail and early voting ballots possess a
19 cellular telephone or electronic communication device.

20 ~~E~~**F**. The board shall count the absentee by mail and early voting ballots and
21 announce the results after the closing of the polls as the total number of absentee by
22 mail and early voting votes cast in the election for each candidate and the total
23 number cast for and against each proposition.

24 ~~F~~**G**. The procedure for **the preparation, verification,** counting **and**
25 **tabulation of** absentee by mail ballots shall be as follows:

26 (1) A member of the board shall remove the certificates and special absentee
27 by mail ballots and envelopes containing the absentee by mail ballots from the
28 special absentee by mail and early voting ballot envelope or container.

29 (2) The board shall announce the name of each absentee by mail voter and

1 the ward and precinct where he is registered to vote, and shall compare the name on
2 the certificate or on the flap of the envelope containing the absentee by mail ballot
3 with the names on the absentee by mail voter report.

4 (3) The board shall determine the validity of challenges filed in accordance
5 with R.S. 18:1315.

6 (4) If the board determines that an absentee by mail ballot is valid, a member
7 of the board shall make a check mark on the absentee by mail voter report beside the
8 name of the voter as it appears on the report and write his initials on each page of the
9 report. If applicable, a member of the board shall tear the flap from the envelope
10 containing the absentee by mail ballot and leave the envelope sealed.

11 (5) If a majority of the members of the board determine that an absentee by
12 mail ballot is invalid, the members shall leave the flap on the envelope containing
13 the absentee by mail ballot, leave the envelope sealed, and a member of the board
14 shall write the word "rejected", together with the reasons for rejecting the ballot,
15 across the envelope containing the ballot or across the certificate attached to the
16 special absentee by mail ballot. He shall also write the word "rejected" and his
17 initials on the absentee by mail voter report beside the name of the voter as it appears
18 in the report. The rejected absentee by mail ballots and certificates shall be replaced
19 in the special absentee by mail and early voting ballot envelope or container. No
20 rejected absentee by mail ballot shall be counted.

21 (6) After the validity of all absentee by mail ballots has been determined, the
22 members of the board shall place the valid certificates and the flaps removed from
23 the valid absentee by mail ballots in the envelope or container provided for that
24 purpose and seal the envelope or container. Two of the members shall execute the
25 certificate on the envelope.

26 (7) The members shall open the envelopes containing the valid absentee by
27 mail ballots and remove the ballots.

28 (8) The board shall, in accordance with the requirements of R.S. 18:1316,
29 reject any ballot which contains a distinguishing mark or feature making the ballot

1 susceptible of identification. However, a ballot shall not be rejected as containing a
2 distinguishing mark if the ballot was transmitted electronically to a member of the
3 United States Service, as defined in R.S. 18:1302, or a person residing outside the
4 United States.

5 (9) If a ballot is physically damaged or cannot properly be counted by the
6 counting equipment and the vote cast by the voter is clearly discernible from a
7 physical inspection of the defective ballot, the ballot may be counted by hand or a
8 true duplicate may be made of the defective ballot in the presence of witnesses and
9 substituted for the ballot. Any duplicate ballot shall be clearly labeled "duplicate",
10 bear a ballot number which shall be recorded on the defective ballot, and be counted
11 in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot
12 shall be placed in the special absentee by mail and early voting ballot envelope or
13 container, and the duplicate ballot shall be counted with the other valid ballots.

14 (10) The special absentee ballots cast by members of the United States
15 Service or persons who reside outside of the United States ~~shall~~ may be counted by
16 hand **or as a true duplicate**.

17 (11) Repealed by Acts 2017, No. 176, §5, eff. June 14, 2017.

18 ~~GH~~. The procedure for counting early voting machine ballots and paper
19 ballots voted during early voting shall be as follows:

20 (1) A member of the board shall remove the early voting verification forms,
21 early voting machine public counter logs, early voting confirmation sheets, paper
22 ballots voted during early voting, early voter report, and all early voting machine
23 results reports from the special absentee by mail and early voting ballot envelope or
24 container.

25 (2) The board shall review the early voting verification forms and early
26 voting machine public counter logs and, if found to be acceptable to the board, sign
27 each early voting verification form. If the board does not find an early voting
28 verification form to be acceptable, it may review any early voting confirmation sheet
29 and shall document its correction to the early voting verification form and then sign

1 it.

2 (3) The board shall announce the results from each early voting machine
3 results report for the early voting ballots.

4 (4) For each paper ballot voted during early voting, the board shall announce
5 the name of the person who voted by paper ballot during early voting and the ward
6 and precinct where he is registered to vote and shall compare the name on the flap
7 of the envelope containing the early voting ballot with the names on the early voter
8 report.

9 (5) The board shall determine the validity of challenges made in accordance
10 with R.S. 18:1315.

11 (6) If the board determines that a paper ballot voted during early voting is
12 valid, a member of the board shall write the words "voted early" and his initials on
13 the early voter report beside the name of the voter as it appears on the report. A
14 member of the board shall tear the flap from the envelope containing the paper ballot
15 voted during early voting and leave the envelope sealed.

16 (7) If a majority of the members of the board determine that a paper ballot
17 voted during early voting is invalid, the members shall leave the flap on the envelope
18 containing the ballot, leave the envelope sealed, and a member of the board shall
19 write the word "rejected" together with the reasons for rejecting the ballot across the
20 envelope containing the ballot. He shall also write the word "rejected" and his initials
21 on the early voter report beside the name of the voter as it appears on the report. The
22 rejected ballot shall be placed in the special absentee by mail and early voting ballot
23 envelope or container. No rejected paper ballot voted during early voting shall be
24 counted.

25 (8) After the validity of all paper ballots voted during early voting has been
26 determined, the members of the board shall place the valid early voting confirmation
27 sheets and flaps removed from the valid paper ballots voted during early voting in
28 the envelope or container provided for that purpose and seal the envelope or
29 container. Two of the members shall execute the certificate on the envelope or

1 container.

2 (9) The members shall open the envelopes containing the valid paper ballots
3 voted during early voting and remove the ballots.

4 (10) The board shall, in accordance with the requirements of R.S. 18:1316,
5 reject any ballot which contains a distinguishing mark or feature making the ballot
6 susceptible of identification.

7 (11) If a ballot is physically damaged or cannot properly be counted by the
8 counting equipment and the vote cast by the voter is clearly discernible from a
9 physical inspection of the defective ballot, the ballot may be counted by hand or a
10 true duplicate may be made of the defective ballot in the presence of witnesses and
11 substituted for the ballot. Any duplicate ballot shall be clearly labeled "duplicate",
12 bear a ballot number which shall be recorded on the defective ballot, and be counted
13 in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot
14 shall be placed in the special absentee by mail and early voting ballot envelope or
15 container, and the duplicate ballot shall be counted with the other valid ballots.

16 (12)(a) Prior to utilizing any absentee by mail and early voting counting
17 equipment, the parish board of election supervisors shall generate a zero tally to
18 ensure that the equipment's candidate and question counters are set at zero and that
19 no votes have been cast for any candidate or for or against any proposition.

20 (b) The board shall sign and certify to the correctness of each zero proof sheet
21 and place all zero proof sheets in the special absentee by mail and early voting
22 envelope or container.

23 (13) The absentee by mail and early voting votes cast for a candidate and
24 those cast for and against a proposition shall be counted and the total number of
25 absentee by mail and early voting votes cast for a candidate and those cast for and
26 against a proposition shall be announced in the order the offices and candidates and
27 propositions are listed on the ballot. The members of the board shall enter the total
28 number of votes on the final absentee by mail and early voting vote report and shall
29 certify the results.

1 H. The final absentee by mail and early voting vote report prepared by the
2 parish board of election supervisors shall be transmitted to the clerk of court
3 immediately upon completion of the tabulation of the absentee by mail and early
4 voting ballots on election night. A copy of the record shall be transmitted
5 immediately to the secretary of state, and a copy of the record shall be placed in the
6 special absentee by mail and early voting envelope or container.

7 I. When the absentee by mail and early voter reports have been returned to
8 the registrar of voters, the registrar, based on the information contained in the
9 reports, shall confirm that the words "voted by mail" or "voted early" are written in
10 the proper space on the precinct register for each voter who voted early or absentee
11 by mail.

12 J.(1) Upon completion of the tabulation and counting of the absentee by
13 mail and early voting ballots, the parish board of election supervisors shall return the
14 absentee by mail and early voting ballots and electronic results report to the special
15 absentee by mail and early voting ballot envelope or container, shall seal the
16 envelope or container, and shall deliver the envelope or container to the registrar of
17 voters. The registrar shall preserve the envelope or container and its contents
18 inviolate and, except upon order of a court of competent jurisdiction, shall not allow
19 the absentee by mail and early voting documents to be inspected by anyone until the
20 delay for filing an action contesting the election has lapsed. If an action contesting
21 the election is commenced timely, the registrar shall continue to preserve the
22 envelope or container and its contents inviolate, subject to the orders of the court,
23 until the final judgment in the action has become definitive.

24 (2)(a)(i) Notwithstanding the provisions of Paragraph (1) of this Subsection,
25 if the number of absentee by mail and early voting ballots cast for all candidates for
26 an office could make a difference in the outcome of the election for such office, upon
27 the written request of a candidate for such office, the board shall recount the absentee
28 by mail ballots by hand or scanning equipment and early voting ballots
29 electronically, unless paper ballots were used for early voting and in such case, the

1 ballots shall be recounted by hand for such office.

2 (ii) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the
3 number of absentee by mail and early voting ballots cast for and against a
4 proposition could make a difference in the outcome of the election, upon the written
5 request of a person who voted in the proposition election, the board shall recount the
6 absentee by mail ballots by hand or scanning equipment and early voting ballots
7 electronically, unless paper ballots were used for early voting and in such case, the
8 ballots shall be recounted by hand for such election.

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

21 (c) Upon completion of the recount of the absentee by mail and early voting
22 ballots, the board shall return the absentee by mail and early voting documents to the
23 special absentee by mail and early voting ballot envelope or container, shall reseal
24 the envelope or container, and shall deliver the envelope or container and its contents
25 to the registrar of voters who shall preserve the envelope or container and its contents
26 in the manner provided for in Paragraph (1) of this Subsection.

27 (d)(i) The candidate or the voter in the proposition election requesting the
28 recount shall be responsible for all reasonable costs associated with such recount
29 which shall be payable to the clerk of court. The costs shall be paid at the time the

1 written request for the recount is filed with the clerk of court and shall be paid in
2 cash or by certified or cashier's check on a state or national bank or credit union,
3 United States postal money order, or money order issued by a state or national bank
4 or credit union.

5 (ii) If the recount changes the outcome of the election, the costs paid by the
6 candidate or voter in the proposition election shall be refunded by the clerk of court,
7 and the costs of the recount shall be a reimbursable election expense as provided in
8 Chapter 8-A of this Title.

9 (3) A candidate or his representative, in the presence of a majority of the
10 parish board of election supervisors, shall be allowed to inspect the flaps removed
11 from the valid absentee by mail ballots and the flaps removed from the valid early
12 voting ballots when paper ballots are used for early voting. All such inspections shall
13 be held at 10:00 a.m. or following the recount of absentee by mail and early voting
14 ballots on the fifth day after the election and at any time ordered by a court of
15 competent jurisdiction. If the fifth day after the election falls on a holiday or
16 weekend, such inspection shall be held on the next working day at 10:00 a.m. or
17 following the recount of absentee by mail and early voting ballots. Any written
18 request for inspection shall be filed with the clerk of court. The deadline for filing
19 a request for inspection shall be the last working day prior to the date of the
20 inspection. Immediately upon receiving any request, the clerk of court shall
21 prominently post in his office a notice of the time and place where the inspection will
22 occur and the name of the candidate requesting the inspection. The candidate
23 requesting the inspection shall be responsible for all reasonable costs associated with
24 such inspection which shall be payable to the clerk of court. The costs shall be paid
25 at the time the written request for the inspection is filed with the clerk of court and
26 shall be paid in cash or by certified or cashier's check on a state or national bank or
27 credit union, United States postal money order, or money order issued by a state or
28 national bank or credit union.

29 (4) The parish board of election supervisors shall be entitled to

1 reimbursement at the rate established in R.S. 18:423(E) for attending the recount of
2 absentee by mail and early voting ballots and inspection, but not both if they are
3 conducted on the same day. However, such reimbursement shall not be counted
4 toward the six-day limitation provided in R.S. 18:423(E). No member of the parish
5 board of election supervisors shall be reimbursed for attending a recount of absentee
6 by mail and early voting ballots or inspection if such member received
7 reimbursement for attending the reinspection of voting machines which was
8 conducted on the same day as the recount of the absentee by mail and early voting
9 ballots or inspection.

10 **§1313.1. Preparation, verification, tabulation, and counting of absentee by mail**
11 **and early voting ballots; parishes with one thousand or more**
12 **absentee by mail ballots**

13 **A. Parishes with one thousand or more absentee by mail ballots returned**
14 **to the registrar of voters for a primary or general election may conduct the**
15 **preparation and verification process for the tabulation and counting of absentee**
16 **by mail and early voting ballots the day before the election and conduct the**
17 **tabulation and counting of absentee by mail and early voting ballots on election**
18 **day.**

19 **B. The parish board of election supervisors shall be responsible for the**
20 **preparation, verification, counting and tabulation of all absentee by mail and**
21 **early voting ballots in the parish. The board may utilize parish board**
22 **commissioners to count the absentee by mail and early voting ballots in the**
23 **parish. If the board determines that parish board commissioners are necessary**
24 **for the preparation and verification process to count and tabulate the absentee**
25 **by mail and early voting ballots the day before the election and to count and**
26 **tabulate the absentee by mail and early voting ballots on election day, it shall**
27 **select parish board commissioners in accordance with the provisions of R.S.**
28 **18:1314. If a majority of the members of the board are not present for the**
29 **preparation and verification process to count the absentee by mail and early**

1 voting ballots or to count the absentee by mail and early voting ballots and no
2 parish board commissioners were previously selected, the members present may
3 select a sufficient number of parish board commissioners on the day before the
4 election or on election day, as applicable, to assist in the preparation and
5 verification process for the tabulation and counting of absentee by mail and
6 early voting ballots and the tabulation and counting of the ballots.

7 C.(1) The preparation and verification process for the counting of the
8 absentee by mail and early voting ballots may be conducted the day before the
9 election at a public facility within the parish designated by the registrar of
10 voters at a time fixed by the parish board of election supervisors.

11 (2) Absentee by mail and early voting ballots shall be counted at a public
12 facility within the parish designated by the registrar of voters at a time fixed by
13 the parish board of election supervisors, which time shall be on election day no
14 later than 8:00 p.m.

15 (3) Prior to the counting of absentee by mail and early voting ballots on
16 election day, any person authorized by the secretary of state may assist the
17 registrar of voters in the challenge removal process on the early voting
18 machines, in the reading of the early voting machine results cartridges on the
19 secretary of state's equipment, and in producing the early voting machine
20 results report. All early voting machine results reports shall be placed in the
21 special absentee by mail and early voting envelope or container.

22 D.(1) If the counting and tabulation of absentee by mail and early voting
23 ballots begins on election day prior to the closing of the polls, such counting and
24 tabulation shall be conducted in a location and manner to prevent disclosure of
25 the results prior to the closing of the polls. Each person except a person
26 providing security to the parish board of election supervisors; a representative
27 of the attorney general, with written approval of the secretary of state; the clerk
28 of court; the registrar of voters; or a person providing technical assistance
29 pursuant to Paragraph (2) of this Subsection who enters the location in which

1 the absentee by mail and early voting ballots are being counted and tabulated
2 on election day shall remain in that location and shall not be allowed to leave
3 except temporarily, and then only when accompanied by a law enforcement
4 officer, and shall not communicate with any person outside until the polls are
5 closed. The parish board of election supervisors may take any action necessary
6 to ensure that no information with respect to the counting and tabulation of
7 absentee by mail and early voting ballots is transmitted from the location where
8 the absentee by mail and early voting ballots are being counted and tabulated
9 on election day prior to the close of the polls on election day.

10 (2) Any person authorized by the secretary of state may provide security
11 or technical assistance including advice, analysis, diagnosis, or repair for voting
12 machines at the location where absentee by mail and early voting votes are
13 being counted and tabulated. Such security or technical assistance shall be
14 provided only upon the request of the parish board of election supervisors or a
15 team of parish board commissioners, and may be made in person at the location
16 where absentee by mail and early voting votes are being counted and tabulated,
17 or by telephone, or both. Any authorized person providing such security or
18 technical assistance may enter and leave the location where absentee by mail
19 and early voting votes are being counted and tabulated on election day before
20 the closing of the polls and during the process of counting and tabulation. No
21 such person shall disclose any information with respect to the counting and
22 tabulation of absentee by mail and early voting ballots prior to the close of the
23 polls on election day.

24 E. Candidates, their representatives, and qualified electors may be
25 present during the preparation and verification process for the counting and
26 tabulation of absentee by mail and early voting ballots on the day before the
27 election and the counting and tabulation of absentee by mail and early voting
28 ballots on election day. If the counting and tabulation of absentee by mail and
29 early voting ballots begins prior to the closing of the polls on election day, the

1 board shall give notice reasonably calculated to inform any person who wants
2 to be present during the counting and tabulation that no person will be allowed
3 to leave or to communicate with any other person outside, until such time as the
4 polls are closed, nor shall any person who is present during the counting and
5 tabulation of absentee by mail and early voting ballots on election day possess
6 a cellular telephone or electronic communication device.

7 F. The board shall count the absentee by mail and early voting ballots
8 and announce the results after the closing of the polls on election day as the total
9 number of absentee by mail and early voting votes cast in the election for each
10 candidate and the total number cast for and against each proposition.

11 G. The procedure for the preparation and verification process for the
12 tabulation and counting of absentee by mail ballots and early voting paper
13 ballots on the day before the election shall be as follows:

14 (1)(a) A member of the board shall remove the certificates, early voting
15 verification forms, early voting machine public counter logs, early voting
16 confirmation sheets, absentee by mail ballots, early voting paper ballots and
17 envelopes containing the absentee by mail ballots and early voting paper ballots
18 from the special absentee by mail and early voting ballot envelope or container.

19 (b) The board shall review the early voting verification forms and early
20 voting machine public counter logs and, if found to be acceptable to the board,
21 sign each early voting verification form. If the board does not find an early
22 voting verification form to be acceptable, it may review any early voting
23 confirmation sheet and shall document its correction to the early voting
24 verification form and then sign it.

25 (2) The board shall announce the name of each absentee by mail voter,
26 each voter who voted a paper ballot during early voting and the ward and
27 precinct where he is registered to vote, and shall compare the name on the
28 certificate or on the flap of the envelope containing the absentee by mail ballot
29 or early voting paper ballot with the names on the absentee by mail voter report

1 or early voter report, as applicable.

2 (3) The board shall separate any ballots that are challenged in
3 accordance with R.S. 18:1315(A) or (B) from the ballots that are not challenged.

4 (4)(a) If an absentee by mail ballot has not been challenged and is
5 determined by the board to be valid, a member of the board shall make a check
6 mark on the absentee by mail voter report beside the name of the voter as it
7 appears on the report and write his initials on each page of the report. If
8 applicable, a member of the board shall tear the flap from the envelope
9 containing the absentee by mail ballot and leave the envelope sealed.

10 (b) If an early voting paper ballot has not been challenged and is
11 determined by the board to be valid, a member of the board shall write the
12 words "voted early" and his initials on the early voter report beside the name
13 of the voter as it appears on the report. A member of the board shall tear the
14 flap from the envelope containing the paper ballot voted during early voting
15 and leave the envelope sealed.

16 (5) If an absentee by mail ballot or early voting paper ballot has been
17 challenged, the members shall leave the flap on the envelope, if applicable,
18 containing the absentee by mail ballot or early voting paper ballot and leave the
19 envelope sealed.

20 (6) A member of the board shall place the absentee by mail ballots and
21 early voting paper ballots that have been challenged and the ballots that have
22 not been challenged in the special absentee by mail envelope or container
23 provided for that purpose and seal the envelope or container. Two members of
24 the board shall execute the first certificate on the envelope or container and
25 date the certificate the day before the election.

26 (7) The members of the board shall place the certificates of the absentee
27 by mail ballots and early voting paper ballots that have not been challenged and
28 the flaps removed from those ballots in the envelope or container provided for
29 that purpose and seal the envelope or container. Two of the members shall

1 execute the first certificate on the envelope and date the certificate the day
2 before the election.

3 (8) Absentee by mail ballots that are received by the registrar of voters
4 after the preparation and verification process is completed but before the
5 deadline to return absentee by mail ballots shall be prepared, verified, counted
6 and tabulated on election day.

7 H. The procedure for counting absentee by mail ballots and early voting
8 paper ballots on election day shall be as follows:

9 (1) A member of the board shall break the seal on the special absentee
10 by mail and early voting ballot envelope or container, remove the certificates,
11 absentee by mail ballots and early voting paper ballots that have been
12 challenged and the absentee by mail ballots and early voting paper ballots that
13 have not been challenged from the envelope or container.

14 (2) The board shall determine the validity of challenges filed in
15 accordance with R.S. 18:1315(A) and (B).

16 (3)(a) If the board determines that an absentee by mail ballot is valid, a
17 member of the board shall make a check mark on the absentee by mail voter
18 report beside the name of the voter as it appears on the report and write his
19 initials on each page of the report. If applicable, a member of the board shall
20 tear the flap from the envelope containing the absentee by mail ballot and leave
21 the envelope sealed.

22 (b) If the board determines that a paper ballot voted during early voting
23 is valid, a member of the board shall write the words "voted early" and his
24 initials on the early voter report beside the name of the voter as it appears on
25 the report. A member of the board shall tear the flap from the envelope
26 containing the paper ballot voted during early voting and leave the envelope
27 sealed.

28 (4) If a majority of the members of the board determine that an absentee
29 by mail ballot or early voting paper ballot is invalid, the members shall leave

1 the flap on the envelope containing the ballot, leave the envelope sealed, and a
2 member of the board shall write the word "rejected", together with the reasons
3 for rejecting the ballot, across the envelope containing the ballot or across the
4 certificate attached to the special absentee by mail ballot or early voting paper
5 ballot. He shall also write the word "rejected" and his initials on the absentee
6 by mail voter report or early voter report, as applicable, beside the name of the
7 voter as it appears in the report. The rejected absentee by mail ballots and early
8 voting paper ballots and certificates shall be replaced in the special absentee by
9 mail and early voting ballot envelope or container. No rejected absentee by mail
10 ballot or early voting paper ballot shall be counted.

11 (5) After the validity of all absentee by mail ballots and early voting
12 paper ballots have been determined, the members of the board shall break the
13 seal on the envelope or container and place the valid certificates and the flaps
14 removed from the valid absentee by mail ballots and early voting paper ballots
15 in the envelope or container provided for that purpose and seal the envelope or
16 container. Two of the members shall execute the second certificate on the
17 envelope and date the certificate the day of the election.

18 (6) The members shall open the envelopes containing the valid absentee
19 by mail ballots and early voting paper ballots and remove the ballots.

20 (7) The board shall, in accordance with the requirements of R.S. 18:1316,
21 reject any ballot which contains a distinguishing mark or feature making the
22 ballot susceptible of identification. However, a ballot shall not be rejected as
23 containing a distinguishing mark if the ballot was transmitted electronically to
24 a member of the United States Service, as defined in R.S. 18:1302, or a person
25 residing outside the United States.

26 (8) If a ballot is physically damaged or cannot properly be counted by the
27 counting equipment and the vote cast by the voter is clearly discernible from a
28 physical inspection of the defective ballot, the ballot may be counted by hand or
29 a true duplicate may be made of the defective ballot in the presence of witnesses

1 and substituted for the ballot. Any duplicate ballot shall be clearly labeled
2 "duplicate", bear a ballot number which shall be recorded on the defective
3 ballot, and be counted in lieu of the defective ballot. After a ballot has been
4 duplicated, the defective ballot shall be placed in the special absentee by mail
5 and early voting ballot envelope or container, and the duplicate ballot shall be
6 counted with the other valid ballots.

7 (9) The special absentee ballots cast by members of the United States
8 Service or persons who reside outside of the United States may be counted by
9 hand or counted as a true duplicate.

10 I. The procedure for counting early voting machine ballots on election
11 day shall be as follows:

12 (1) A member of the board shall remove the early voting machine results
13 reports from the special absentee by mail and early voting ballot envelope or
14 container.

15 (2) The board shall announce the results from each early voting machine
16 results report for the early voting ballots.

17 (3) The board shall determine the validity of challenges made in
18 accordance with R.S. 18:1315(A) and (B).

19 (4)(a) Prior to utilizing any absentee by mail and early voting counting
20 equipment, the parish board of election supervisors shall generate a zero tally
21 to ensure that the equipment's candidate and question counters are set at zero
22 and that no votes have been cast for any candidate or for or against any
23 proposition.

24 (b) The board shall sign and certify to the correctness of each zero proof
25 sheet and place all zero proof sheets in the special absentee by mail and early
26 voting envelope or container.

27 (5) The absentee by mail and early voting votes cast for a candidate and
28 those cast for and against a proposition shall be counted and the total number
29 of absentee by mail and early voting votes cast for a candidate and those cast for

1 and against a proposition shall be announced in the order the offices and
2 candidates and propositions are listed on the ballot. The members of the board
3 shall enter the total number of votes on the final absentee by mail and early
4 voting vote report and shall certify the results.

5 J. The final absentee by mail and early voting vote report prepared by
6 the parish board of election supervisors shall be transmitted to the clerk of
7 court immediately upon completion of the tabulation of the absentee by mail
8 and early voting ballots on election night. A copy of the record shall be
9 transmitted immediately to the secretary of state, and a copy of the record shall
10 be placed in the special absentee by mail and early voting envelope or container.

11 K. When the absentee by mail and early voter reports have been
12 returned to the registrar of voters, the registrar, based on the information
13 contained in the reports, shall confirm that the words "voted by mail" or "voted
14 early" are written in the proper space on the precinct register for each voter
15 who voted early or absentee by mail.

16 L.(1) Upon completion of the tabulation and counting of the absentee by
17 mail and early voting ballots on election day, the parish board of election
18 supervisors shall return the absentee by mail and early voting ballots and
19 electronic results report to the special absentee by mail and early voting ballot
20 envelope or container, shall seal the envelope or container, and shall deliver the
21 envelope or container to the registrar of voters. The registrar shall preserve the
22 envelope or container and its contents inviolate and, except upon order of a
23 court of competent jurisdiction, shall not allow the absentee by mail and early
24 voting documents to be inspected by anyone until the delay for filing an action
25 contesting the election has lapsed. If an action contesting the election is
26 commenced timely, the registrar shall continue to preserve the envelope or
27 container and its contents inviolate, subject to the orders of the court, until the
28 final judgment in the action has become definitive.

29 (2)(a)(i) Notwithstanding the provisions of Paragraph (1) of this

1 Subsection, if the number of absentee by mail and early voting ballots cast for
2 all candidates for an office could make a difference in the outcome of the
3 election for such office, upon the written request of a candidate for such office,
4 the board shall recount the absentee by mail ballots by hand or scanning
5 equipment and early voting ballots electronically, unless paper ballots were
6 used for early voting and in such case, the ballots shall be recounted by hand for
7 such office.

8 (ii) Notwithstanding the provisions of Paragraph (1) of this Subsection,
9 if the number of absentee by mail and early voting ballots cast for and against
10 a proposition could make a difference in the outcome of the election, upon the
11 written request of a person who voted in the proposition election, the board
12 shall recount the absentee by mail ballots by hand or scanning equipment and
13 early voting ballots electronically, unless paper ballots were used for early
14 voting and in such case, the ballots shall be recounted by hand for such election.

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

28 (c) Upon completion of the recount of the absentee by mail and early
29 voting ballots, the board shall return the absentee by mail and early voting

1 documents to the special absentee by mail and early voting ballot envelope or
2 container, shall reseal the envelope or container, and shall deliver the envelope
3 or container and its contents to the registrar of voters who shall preserve the
4 envelope or container and its contents in the manner provided for in Paragraph
5 (1) of this Subsection.

6 (d)(i) The candidate or the voter in the proposition election requesting
7 the recount shall be responsible for all reasonable costs associated with such
8 recount which shall be payable to the clerk of court. The costs shall be paid at
9 the time the written request for the recount is filed with the clerk of court and
10 shall be paid in cash or by certified or cashier's check on a state or national
11 bank or credit union, United States postal money order, or money order issued
12 by a state or national bank or credit union.

13 (ii) If the recount changes the outcome of the election, the costs paid by
14 the candidate or voter in the proposition election shall be refunded by the clerk
15 of court, and the costs of the recount shall be a reimbursable election expense
16 as provided in Chapter 8-A of this Title.

17 (3) A candidate or his representative, in the presence of a majority of the
18 parish board of election supervisors, shall be allowed to inspect the flaps
19 removed from the valid absentee by mail ballots and the flaps removed from the
20 valid early voting ballots when paper ballots are used for early voting. All such
21 inspections shall be held at 10:00 a.m. or following the recount of absentee by
22 mail and early voting ballots on the fifth day after the election and at any time
23 ordered by a court of competent jurisdiction. If the fifth day after the election
24 falls on a holiday or weekend, such inspection shall be held on the next working
25 day at 10:00 a.m. or following the recount of absentee by mail and early voting
26 ballots. Any written request for inspection shall be filed with the clerk of court.
27 The deadline for filing a request for inspection shall be the last working day
28 prior to the date of the inspection. Immediately upon receiving any request, the
29 clerk of court shall prominently post in his office a notice of the time and place

1 where the inspection will occur and the name of the candidate requesting the
 2 inspection. The candidate requesting the inspection shall be responsible for all
 3 reasonable costs associated with such inspection which shall be payable to the
 4 clerk of court. The costs shall be paid at the time the written request for the
 5 inspection is filed with the clerk of court and shall be paid in cash or by certified
 6 or cashier's check on a state or national bank or credit union, United States
 7 postal money order, or money order issued by a state or national bank or credit
 8 union.

9 (4) The parish board of election supervisors shall be entitled to
 10 reimbursement at the rate established in R.S. 18:423(E) for attending the
 11 recount of absentee by mail and early voting ballots and inspection, but not both
 12 if they are conducted on the same day. However, such reimbursement shall not
 13 be counted toward the limitation provided in R.S. 18:423(J). No member of the
 14 parish board of election supervisors shall be reimbursed for attending a recount
 15 of absentee by mail an early voting ballots or inspection if such member
 16 received reimbursement for attending the reinspection of voting machines
 17 which was conducted on the same day as the recount of the absentee by mail
 18 and early voting ballots or inspection.

19 §1314. Parish board commissioners

20 * * *

21 B. Selection for primary election. (1) The parish board of election supervisors
 22 shall determine the number of parish board commissioners necessary to count the
 23 absentee by mail and early voting ballots in the parish pursuant to R.S. 18:1313 or
 24 1313.1, as applicable. The parish board of election supervisors shall select a
 25 maximum of six such commissioners. If the parish board of election supervisors
 26 determines that the number of parish board commissioners should be increased to
 27 more than six, the parish board shall make a request to the secretary of state for the
 28 additional parish board commissioners. If the secretary of state or his designee
 29 determines that there is a need for the additional parish board commissioners, the

1 parish board shall select the parish board commissioners.

2 * * *

3 C. Selection for general election. (1)(a) The parish board of election
4 supervisors shall determine if the number of parish board commissioners necessary
5 to count the absentee by mail and early voting ballots in the general election
6 **pursuant to R.S. 18:1313 or 1313.1, as applicable,** can be reduced or should be
7 increased from the number which counted absentee by mail and early voting ballots
8 in the primary election.

9 * * *

10 §1315. Challenge of absentee by mail or early voting ballot

11 * * *

12 B. During the **preparation and verification process for the counting of**
13 **absentee by mail and early voting ballots on the day before the election, as**
14 **applicable, or the** counting of absentee by mail and early voting ballots **on election**
15 **day,** any candidate or his representative, member of the board, or qualified elector
16 may challenge an absentee by mail or early voting ballot for cause, other than those
17 grounds specified in R.S. 18:565(A).

18 * * *

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Matt DeVille.

SB 397 Original DIGEST 2020 Regular Session Bernard

Present law provides that a member of a parish board of election supervisors will receive compensation for not more than six days spent in the performance of his duties in preparing for and supervising each election held in the parish and for not more than seven days for a presidential or regularly scheduled congressional general election.

Proposed law provides for a member of a parish board of election supervisors in a parish where the parish board of election supervisors tabulates and counts absentee by mail and early voting ballots in accordance with proposed law to receive compensation for not more than seven days for a primary or general election and for not more than eight days for a presidential or regularly scheduled congressional general election.

Present law provides that a parish board of election supervisors will be responsible for the counting and tabulation of all absentee by mail and early voting ballots in the parish and may utilize parish board commissioners to assist with counting and tabulation if it determines they are necessary.

Proposed law provides that the parish board of election supervisors will be responsible for the preparation, verification, counting and tabulation of all absentee by mail and early voting ballots in the parish and may utilize parish board commissioners to assist with preparation, verification, counting, and tabulation if it determines they are necessary. In a parish that has less than 1,000 absentee by mail ballots returned to the registrar of voters for a primary or general election, the board will conduct the tabulation and counting. In a parish that has 1,000 or more absentee by mail ballots returned to the registrar of voters for a primary or general election, the board may conduct the counting of absentee by mail and early voting ballots and must notify the secretary of state in writing no later than five days prior to a primary or general election that they will conduct the tabulation and counting of absentee by mail and early voting ballots pursuant to proposed law.

Proposed law provides that parishes with 1,000 or more absentee by mail ballots returned to the registrar of voters for a primary or general election may conduct the preparation and verification process for the tabulation and counting of ballots, that the secretary of state may provide security and technical assistance, and for procedures to determine the validity, security, transportation and recounting of the ballots.

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

(Amends R.S. 18:1313, 1314(B)(1) and (C)(1)(a), and 1315(B); adds R.S. 18:423(J) and 1313.1)