

HOUSE COMMITTEE AMENDMENTS

2020 Second Extraordinary Session

Amendments proposed by House Committee on House and Governmental Affairs to Reengrossed Senate Bill No. 22 by Senator Hewitt

1 AMENDMENT NO. 1

2 On page 1, line 2, after "R.S. 18:423(J)," delete the remainder of the line and delete lines 3
 3 through 6 and insert "and 1315(B) and to enact R.S. 18:1313.2, relative to elections impaired
 4 as the result of declared disaster or emergency; to provide for the powers, functions, duties,
 5 processes, and compensation of parish boards of election supervisors relative to the
 6 preparation, verification, tabulation, and counting of absentee by mail and early voting
 7 ballots for elections impaired as a result of a declared state of disaster or emergency to
 8 provide relative to effectiveness and"

9 AMENDMENT NO. 2

10 On page 1, line 9, after "R.S. 18:423(J)," delete the remainder of the line and at the
 11 beginning of line 10, delete "of (G), (G)(6) and (7),"

12 AMENDMENT NO. 3

13 On page 1, line 10, after "reenacted" insert "and R.S. 18:1313.2 is hereby enacted"

14 AMENDMENT NO. 4

15 On page 1, delete lines 13 through 17 and delete pages 2 and 3 and on page 4 delete lines 1
 16 through 13 and insert the following:

17 "J.(1) Notwithstanding Subsection E of this Section, in a parish where the
 18 parish board of election supervisors tabulates and counts absentee by mail and early
 19 voting ballots in accordance with R.S. 18:1313.1, a member of the board may be
 20 compensated not more than eight days for a presidential or regularly scheduled
 21 congressional general election or seven days for any other primary or general
 22 election.

23 **(2) Notwithstanding any provision of this Section to the contrary, in a**
 24 **parish where the parish board of election supervisors tabulates and counts**
 25 **absentee by mail and early voting ballots in accordance with R.S. 18:1313.2, a**
 26 **member of the board may be compensated not more than eleven days for a**
 27 **presidential or regularly scheduled congressional general election or ten days**
 28 **for any other primary or general election if any such election is impaired as the**
 29 **result of a declared emergency or disaster.**

30 * * *

31 **§1313.2. Preparation, verification, tabulation, and counting of absentee by mail**
 32 **and early voting ballots; parishes with one thousand or more absentee by mail**
 33 **ballots for elections impaired as the result of a declared disaster or emergency**

34 **A. Notwithstanding any contrary provision of this Code to the contrary,**
 35 **parishes with one thousand or more absentee by mail ballots returned to the**
 36 **registrar of voters for a primary or general election impaired as a result of a**
 37 **declared disaster or emergency may conduct the preparation and verification**
 38 **process for the tabulation and counting of absentee by mail and early voting**
 39 **ballots beginning four days before the election and conduct the tabulation and**
 40 **counting of absentee by mail and early voting ballots on election day in the**
 41 **manner provided by this Section.**

42 **B. The parish board of election supervisors shall be responsible for the**
 43 **preparation, verification, counting, and tabulation of all absentee by mail and**
 44 **early voting ballots in the parish. The board may utilize parish board**

1 commissioners to count the absentee by mail and early voting ballots in the
 2 parish. If the board determines that parish board commissioners are necessary
 3 for the preparation and verification process to count and tabulate the absentee
 4 by mail and early voting ballots beginning four days before the election and to
 5 count and tabulate the absentee by mail and early voting ballots on election day,
 6 it shall select parish board commissioners in accordance with the provisions of
 7 R.S. 18:1314. If a majority of the members of the board are not present for the
 8 preparation and verification process to count the absentee by mail and early
 9 voting ballots or to count the absentee by mail and early voting ballots and no
 10 parish board commissioners were previously selected, the members present may
 11 select a sufficient number of parish board commissioners four days before the
 12 election or on election day, as applicable, to assist in the preparation and
 13 verification process for the tabulation and counting of absentee by mail and
 14 early voting ballots and the tabulation and counting of the ballots.

15 C.(1) The preparation and verification process for the counting of the
 16 absentee by mail and early voting ballots may begin four days before the
 17 election at a public facility within the parish designated by the registrar of
 18 voters at a time fixed by the parish board of election supervisors.

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

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

30 D.(1) If the counting and tabulation of absentee by mail and early voting
 31 ballots begins on election day prior to the closing of the polls, such counting and
 32 tabulation shall be conducted in a location and manner to prevent disclosure of
 33 the results prior to the closing of the polls. Each person except a person
 34 providing security to the parish board of election supervisors; a representative
 35 of the attorney general, with written approval of the secretary of state; the clerk
 36 of court; the registrar of voters; or a person providing technical assistance
 37 pursuant to Paragraph (2) of this Subsection who enters the location in which
 38 the absentee by mail and early voting ballots are being counted and tabulated
 39 on election day shall remain in that location and shall not be allowed to leave
 40 except temporarily, and then only when accompanied by a law enforcement
 41 officer, and shall not communicate with any person outside until the polls are
 42 closed. The parish board of election supervisors may take any action necessary
 43 to ensure that no information with respect to the counting and tabulation of
 44 absentee by mail and early voting ballots is transmitted from the location where
 45 the absentee by mail and early voting ballots are being counted and tabulated
 46 on election day prior to the close of the polls on election day.

47 (2) Any person authorized by the secretary of state may provide security
 48 or technical assistance including advice, analysis, diagnosis, or repair for voting
 49 machines at the location where absentee by mail and early voting votes are
 50 being counted and tabulated. Such security or technical assistance shall be
 51 provided only upon the request of the parish board of election supervisors or a
 52 team of parish board commissioners, and may be made in person at the location
 53 where absentee by mail and early voting votes are being counted and tabulated,
 54 or by telephone, or both. Any authorized person providing such security or
 55 technical assistance may enter and leave the location where absentee by mail
 56 and early voting votes are being counted and tabulated on election day before
 57 the closing of the polls and during the process of counting and tabulation. No
 58 such person shall disclose any information with respect to the counting and

1 tabulation of absentee by mail and early voting ballots prior to the close of the
 2 polls on election day.

3 E. Candidates, their representatives, and qualified electors may be
 4 present during the preparation and verification process and for the counting
 5 and tabulation of absentee by mail and early voting ballots. The board shall
 6 give notice reasonably calculated to inform any person who wants to be present
 7 during the counting and tabulation of absentee by mail and early voting ballots
 8 that no person will be allowed to leave or to communicate with any other person
 9 outside, until such time as the polls are closed, nor shall any person who is
 10 present during the counting and tabulation of absentee by mail and early voting
 11 ballots on election day possess a cellular telephone or electronic communication
 12 device.

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

17 G. The procedure for the preparation and verification process for the
 18 tabulation and counting of absentee by mail ballots and early voting paper
 19 ballots beginning four days before the election shall be as follows:

20 (1)(a) A member of the board shall remove the certificates, early voting
 21 verification forms, early voting machine public counter logs, early voting
 22 confirmation sheets, absentee by mail ballots, early voting paper ballots, and
 23 envelopes containing the absentee by mail ballots and early voting paper ballots
 24 from the special absentee by mail and early voting ballot envelope or container.

25 (b) 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,
 27 sign each early voting verification form. If the board does not find an early
 28 voting verification form to be acceptable, it may review any early voting
 29 confirmation sheet and shall document its correction to the early voting
 30 verification form and then sign it.

31 (2) The board shall announce the name of each absentee by mail voter,
 32 each voter who voted a paper ballot during early voting and the ward and
 33 precinct where he is registered to vote, and shall compare the name on the
 34 certificate or on the flap of the envelope containing the absentee by mail ballot
 35 or early voting paper ballot with the names on the absentee by mail voter report
 36 or early voter report, as applicable.

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

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

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

51 (5) If an absentee by mail ballot or early voting paper ballot has been
 52 challenged, the members shall leave the flap on the envelope, if applicable,
 53 containing the absentee by mail ballot or early voting paper ballot and leave the
 54 envelope sealed.

55 (6) A member of the board shall place the absentee by mail ballots and
 56 early voting paper ballots that have been challenged and the ballots that have
 57 not been challenged in the special absentee by mail envelope or container
 58 provided for that purpose and seal the envelope or container. Two members of

1 the board shall execute the first certificate on the envelope or container and
 2 date the certificate with the date on which it was executed before the election.

3 (7) The members of the board shall place the certificates of the absentee
 4 by mail ballots and early voting paper ballots that have not been challenged and
 5 the flaps removed from those ballots in the envelope or container provided for
 6 that purpose and seal the envelope or container. Two of the members shall
 7 execute the first certificate on the envelope and date the certificate with the date
 8 on which it was executed before the election.

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

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

15 (1) A member of the board shall break the seal on the special absentee
 16 by mail and early voting ballot envelope or container, remove the certificates,
 17 absentee by mail ballots and early voting paper ballots that have been
 18 challenged, and the absentee by mail ballots and early voting paper ballots that
 19 have not been challenged from the envelope or container.

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

22 (3)(a) If the board determines that an absentee by mail ballot is valid, a
 23 member of the board shall make a check mark on the absentee by mail voter
 24 report beside the name of the voter as it appears on the report and write his
 25 initials on each page of the report. If applicable, a member of the board shall
 26 tear the flap from the envelope containing the absentee by mail ballot and leave
 27 the envelope sealed.

28 (b) If the board determines that a paper ballot voted during early voting
 29 is valid, a member of the board shall write the words "voted early" and his
 30 initials on the early voter report beside the name of the voter as it appears on
 31 the report. A member of the board shall tear the flap from the envelope
 32 containing the paper ballot voted during early voting and leave the envelope
 33 sealed.

34 (4) If a majority of the members of the board determine that an absentee
 35 by mail ballot or early voting paper ballot is invalid, the members shall leave
 36 the flap on the envelope containing the ballot, leave the envelope sealed, and a
 37 member of the board shall write the word "rejected", together with the reasons
 38 for rejecting the ballot, across the envelope containing the ballot or across the
 39 certificate attached to the special absentee by mail ballot or early voting paper
 40 ballot. He shall also write the word "rejected" and his initials on the absentee
 41 by mail voter report or early voter report, as applicable, beside the name of the
 42 voter as it appears in the report. The rejected absentee by mail ballots and
 43 early voting paper ballots and certificates shall be replaced in the special
 44 absentee by mail and early voting ballot envelope or container. No rejected
 45 absentee by mail ballot or early voting paper ballot shall be counted.

46 (5) After the validity of all absentee by mail ballots and early voting
 47 paper ballots have been determined, the members of the board shall break the
 48 seal on the envelope or container and place the valid certificates and the flaps
 49 removed from the valid absentee by mail ballots and early voting paper ballots
 50 in the envelope or container provided for that purpose and seal the envelope or
 51 container. Two of the members shall execute the second certificate on the
 52 envelope and date the certificate the day of the election.

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

55 (7) The board shall, in accordance with the requirements of R.S. 18:1316,
 56 reject any ballot which contains a distinguishing mark or feature making the
 57 ballot susceptible of identification. However, a ballot shall not be rejected as
 58 containing a distinguishing mark if the ballot was transmitted electronically to

1 a member of the United States Service, as defined in R.S. 18:1302, or a person
 2 residing outside the United States.

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

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

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

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

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

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

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

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

33 (5) The absentee by mail and early voting votes cast for a candidate and
 34 those cast for and against a proposition shall be counted and the total number
 35 of absentee by mail and early voting votes cast for a candidate and those cast for
 36 and against a proposition shall be announced in the order the offices and
 37 candidates and propositions are listed on the ballot. The members of the board
 38 shall enter the total number of votes on the final absentee by mail and early
 39 voting vote report and shall certify the results.

40 J. The final absentee by mail and early voting vote report prepared by
 41 the parish board of election supervisors shall be transmitted to the clerk of
 42 court immediately upon completion of the tabulation of the absentee by mail
 43 and early voting ballots on election night. A copy of the record shall be
 44 transmitted immediately to the secretary of state, and a copy of the record shall
 45 be placed in the special absentee by mail and early voting envelope or container.

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

51 L.(1) Upon completion of the tabulation and counting of the absentee by
 52 mail and early voting ballots on election day, the parish board of election
 53 supervisors shall return the absentee by mail and early voting ballots and
 54 electronic results report to the special absentee by mail and early voting ballot
 55 envelope or container, shall seal the envelope or container, and shall deliver the
 56 envelope or container to the registrar of voters. The registrar shall preserve the
 57 envelope or container and its contents inviolate and, except upon order of a
 58 court of competent jurisdiction, shall not allow the absentee by mail and early
 59 voting documents to be inspected by anyone until the delay for filing an action

1 contesting the election has lapsed. If an action contesting the election is
 2 commenced timely, the registrar shall continue to preserve the envelope or
 3 container and its contents inviolate, subject to the orders of the court, until the
 4 final judgment in the action has become definitive.

5 (2)(a)(i) Notwithstanding the provisions of Paragraph (1) of this
 6 Subsection, if the number of absentee by mail and early voting ballots cast for
 7 all candidates for an office could make a difference in the outcome of the
 8 election for such office, upon the written request of a candidate for such office,
 9 the board shall recount the absentee by mail ballots by hand or scanning
 10 equipment and early voting ballots electronically, unless paper ballots were
 11 used for early voting and in such case, the ballots shall be recounted by hand for
 12 such office.

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

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

33 (c) Upon completion of the recount of the absentee by mail and early
 34 voting ballots, the board shall return the absentee by mail and early voting
 35 documents to the special absentee by mail and early voting ballot envelope or
 36 container, shall reseal the envelope or container, and shall deliver the envelope
 37 or container and its contents to the registrar of voters who shall preserve the
 38 envelope or container and its contents in the manner provided for in Paragraph
 39 (1) of this Subsection.

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

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

51 (3) A candidate or his representative, in the presence of a majority of the
 52 parish board of election supervisors, shall be allowed to inspect the flaps
 53 removed from the valid absentee by mail ballots and the flaps removed from the
 54 valid early voting ballots when paper ballots are used for early voting. All such
 55 inspections shall be held at 10:00 a.m. or following the recount of absentee by
 56 mail and early voting ballots on the fifth day after the election and at any time
 57 ordered by a court of competent jurisdiction. If the fifth day after the election
 58 falls on a holiday or weekend, such inspection shall be held on the next working
 59 day at 10:00 a.m. or following the recount of absentee by mail and early voting

1 ballots. Any written request for inspection shall be filed with the clerk of court.
2 The deadline for filing a request for inspection shall be the last working day
3 prior to the date of the inspection. Immediately upon receiving any request, the
4 clerk of court shall prominently post in his office a notice of the time and place
5 where the inspection will occur and the name of the candidate requesting the
6 inspection. The candidate requesting the inspection shall be responsible for all
7 reasonable costs associated with such inspection, which shall be payable to the
8 clerk of court. The costs shall be paid at the time the written request for the
9 inspection is filed with the clerk of court and shall be paid in cash or by certified
10 or cashier's check on a state or national bank or credit union, United States
11 postal money order, or money order issued by a state or national bank or credit
12 union.

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

23 M. The provisions of this Section shall be void and of no effect on
24 August 1, 2021.

25 * * *
26 §1315. Challenge of absentee by mail or early voting ballot
27 * * *

28 B.(1) During the preparation and verification process for the counting of
29 absentee by mail and early voting ballots on the day before the election, as
30 applicable, or the counting of absentee by mail and early voting ballots on election
31 day, any candidate or his representative, member of the board, or qualified elector
32 may challenge an absentee by mail or early voting ballot for cause, other than those
33 grounds specified in R.S. 18:565(A).

34 (2) Notwithstanding Paragraph (1) of this Subsection, for elections
35 impaired as a result of a declared disaster or emergency, during the preparation
36 and verification process for the counting of absentee by mail and early voting
37 ballots before an election in accordance with R.S. 18:1313.2, or the counting of
38 absentee by mail and early voting ballots on election day in accordance with
39 R.S. 18:1313.2, any candidate or his representative, member of the board, or
40 qualified elector may challenge an absentee by mail or early voting ballot for
41 cause, other than those grounds specified in R.S. 18:565(A).