

2019 Regular Session

HOUSE BILL NO. 328

BY REPRESENTATIVE JAY MORRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ELECTIONS: Provides for restitution as part of the penalties for a person convicted of bribery of voters

1 AN ACT

2 To enact R.S. 18:1461(D), relative to election offenses; to provide relative to bribery of
3 voters; to provide for penalties; to allow for certain restitution as part of the penalties
4 for a person convicted of bribery of voters; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 18:1461(D) is hereby enacted to read as follows:

7 §1461. Bribery of voters; penalties

8 * * *

9 D. In addition to any other penalty imposed pursuant to this Section, the
10 court may order restitution as a part of the sentence. Restitution may include
11 payment for any costs incurred, including reasonable attorney fees, by a candidate
12 who brought an action contesting an election wherein the court found that one or
13 more of the votes cast in the contested election were illegal based on the actions of
14 the defendant and the court changed the result of the election or ordered a new
15 election to be held.

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 328 Engrossed

2019 Regular Session

Jay Morris

Abstract: Provides for restitution as part of the penalties for a person convicted of bribery of voters.

Present law (R.S. 18:1401) provides that a candidate who alleges that, except for substantial irregularities or error or except for fraud or other unlawful activities in the conduct of the election, he would have qualified for a general election or would have been elected, may bring an action contesting the election. Provides procedures and requirements.

Present law (R.S. 18:1431) provides that when the court finds that one or more of the votes cast in a contested election are illegal or fraudulent, the judge shall subtract such vote or votes from the total votes cast for the candidate who received them if the contest involves election to office, from the total vote for or against a proposition if the contest is of an election upon a proposition, or from the total vote for or against the recall of a public officer if the contest involves an election for the recall of a public officer. Provides that if the court determines that legal votes cast in the election were excluded in the total votes cast on a candidate, proposition, or recall, then these excluded legal votes shall be added to the total votes on the candidate, proposition, or recall to which they are attributable. Provides that thereafter, and after considering all the evidence, the court shall determine the result of the election.

Present law (R.S. 18:1461) provides that bribery of voters is:

- (1) The giving or offering to give any money or anything of value to any voter at any election or at any convention of a recognized political party, with the intent to influence the voter in the casting of his ballot. The acceptance of, or the offer to accept any money or anything of value by any such voter under such circumstances is also bribery of voters.
- (2) The giving or offering to give any money or anything of value to secure or influence registration of a person or to secure or influence a person to sign or not sign a recall or other election petition.

Present law provides that whoever violates any provision of present law shall be fined not more than \$4,000 or be imprisoned, with or without hard labor, for not more than two years, or both, for the first offense. Provides that for any subsequent offense, the penalty shall be a fine of not more than \$10,000 or imprisonment at hard labor for not more than five years, or both.

Present law provides that in the trial of persons charged with bribery of voters either the bribe-giver or the bribe-taker may give evidence, or make affidavit against the other, and may receive immunity from prosecution in favor of the first informer, except for perjury in giving such testimony.

Proposed law retains present law. Additionally provides that the court may order restitution as a part of the sentence. Provides that restitution may include payment for any costs incurred, including reasonable attorney fees, by a candidate who brought an action contesting an election wherein the court found that one or more of the votes cast in the contested election were illegal based on the actions of the defendant and the court changed the result of the election or ordered a new election to be held.

(Adds R.S. 18:1461(D))

Summary of Amendments Adopted by House

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

1. Specify that attorney fees must be reasonable to be included as part of restitution.