

2021 Regular Session

HOUSE BILL NO. 704 (Substitute for House Bill No. 599 by Representative Hodges)

BY REPRESENTATIVE HODGES

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

ELECTIONS: Provides relative to elections

1 AN ACT

2 To amend and reenact R.S. 18:18(A)(7), 435(A)(4) and (B)(2), and 1351 and to enact R.S.
3 18:435(A)(5) and (B)(1)(c), 1309(N) and 1366, relative to elections; to provide
4 relative to the powers and duties of the secretary of state; to provide for the
5 appointment of poll watchers; to provide for definitions relative to voting, voting
6 machines, and vote counting equipment; to provide requirements for voting systems;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 18:18(A)(7), 435(A)(4) and (B)(2), and 1351 are hereby amended
10 and reenacted and 18:435(A)(5) and (B)(1)(c), 1309(N) and 1366 are hereby enacted to read
11 as follows:

12 §18. Secretary of state; powers and duties

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

15 * * *

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

20 * * *

1 §435. Watchers; appointment and commission

2 A.

3 * * *

4 (4)(a) The state central committee of a recognized political party having at
5 least twenty-five percent of the registered voters in the state registered as being
6 affiliated with such political party is entitled to have political party super watchers
7 in each parish in which a candidate affiliated with such political party is on the
8 ballot. The designation of political party super watchers shall be made in accordance
9 with this Section and as provided in Subparagraph (b) of this Paragraph.

10 (b)(i) In a parish with fewer than fifty thousand registered voters, the state
11 central committee of such a recognized political party may designate one political
12 party super watcher.

13 (ii) In a parish with fifty thousand or more but fewer than one hundred
14 thousand registered voters, the state central committee of such a recognized political
15 party may designate two political party super watchers.

16 (iii) In a parish with one hundred thousand or more but fewer than one
17 hundred-fifty thousand registered voters, the state central committee of such a
18 recognized political party may designate three political party super watchers.

19 (iv) In a parish with one hundred-fifty thousand or more but fewer than two
20 hundred thousand registered voters, the state central committee of such a recognized
21 political party may designate four political party super watchers.

22 (v) In a parish with two hundred thousand or more registered voters, the state
23 central committee of such a recognized political party may designate five political
24 party super watchers.

25 (c) Each political party super watcher shall have the qualifications, powers,
26 and duties of watchers provided for by R.S. 18:427 and shall be admitted as a
27 watcher in every precinct in the designated parish where a candidate affiliated with
28 his political party is on the ballot, except that not more than one political party super
29 watcher may serve at a single precinct at the same time.

1 (d) The chairman of the state central committee of the political party shall
2 sign and be responsible for filing the list of political party super watchers.

3 (5) The commissioners shall regulate the number of watchers inside the
4 polling place as provided in R.S. 18:427.

5 B.(1)

6 * * *

7 (c) A list of political party super watchers submitted by a party for the
8 primary election may be used for the general election only if the chairman of the
9 state central committee of the party notifies the clerk of court in writing by 4:30 p.m.
10 on the tenth business day before the general election that he wants to use the same
11 list of political party super watchers.

12 (2) Except for a candidate, ~~state central committee of a recognized political~~
13 ~~party filing a list of political party super watchers, or recognized political party filing~~
14 ~~for a slate of candidates for presidential elector, any person filing a list of watchers~~
15 ~~must attach a certified statement that the report required by R.S. 18:1486 has been~~
16 ~~filed with the supervisory committee in compliance with the Campaign Finance~~
17 ~~Disclosure Act.~~

18 * * *

19 §1309. Early voting; verification

20 * * *

21 N.(1) The state central committee of a recognized political party having at
22 least twenty-five percent of the registered voters in the state registered as being
23 affiliated with such political party is entitled to have an early voting watcher at each
24 early voting location, as space permits, at which a candidate affiliated with the
25 political party is on the ballot.

26 (2) A qualified voter of the state who is not entitled to assistance in voting
27 and is not a candidate in the election may serve as an early voting watcher.

28 (3) A watcher shall be admitted within the designated early voting location
29 during the conduct of early voting where a candidate affiliated with such political

1 party is on the ballot and shall call any infraction of the law to the attention of the
2 registrar of voters or deputy registrar. An early voting watcher may keep notes on
3 the conduct of early voting, but he shall not take part in performing the procedures
4 of Subsections D, E, and F of this Section. An early voting watcher shall not
5 electioneer, engage in political discussions, or unnecessarily delay a voter at the
6 polling place. An early voting watcher is subject to the authority of the registrar of
7 voters or deputy registrar and shall not interfere with the registrar or deputy registrar
8 in the performance of their duties. A state central committee of a political party shall
9 be entitled to have both a watcher and alternate watcher serve at the same early
10 voting location, except that the early voting watcher and alternate watcher may not
11 serve at a single voting location at the same time.

12 (4) The registrar of voters or deputy registrar shall regulate the number of
13 watchers inside the early voting location as provided in R.S. 18:427.

14 (5) A list of early voting watchers shall be filed with the registrar of voters
15 by hand delivery, facsimile, mail, or commercial courier before 4:30 p.m. on the
16 fourteenth business day before the first day of early voting for the primary or general
17 election; however, if the fourteenth business day before the first day of early voting
18 for the primary or general election falls on a Saturday, Sunday, or other legal
19 holiday, the list shall be filed on the next day which is not a Saturday, Sunday, or
20 other legal holiday. For purposes of this Paragraph, "commercial courier" shall have
21 the same meaning as provided in R.S. 13:3204(D).

22 (6) The chairman of the state central committee of the political party shall
23 sign and be responsible for filing the list of early voting watchers. If candidates
24 affiliated with the political party are on the ballot in more than one parish, a list of
25 watchers shall be filed with the registrar of voters in each parish where the political
26 party will have early voting watchers.

27 (7) A list of early voting watchers submitted for the primary election may
28 be used for the general election only if the chairman of the state central committee
29 of the political party notifies the registrar of voters in writing by 4:30 p.m. on the

1 tenth business day before the start of early voting for the general election that he
2 wants to use the same list of early voting watchers.

3 (8) A list of early voting watchers shall contain only one early voting
4 watcher and one alternate watcher for each early voting location where the state
5 central committee of the political party is entitled to have an early voting watcher.
6 The list shall be typed or legibly written, and it shall contain the name and mailing
7 address of each early voting watcher and alternate watcher and a designation of the
8 early voting location where each is to serve.

9 * * *

10 §1351. Definitions

11 As used in this Chapter, unless otherwise specified, the following terms shall
12 have the meanings herein ascribed to each:

13 (1) "Absentee by mail and early voting counting equipment" means a device
14 capable of counting and producing results of votes cast on paper absentee by mail
15 and early voting ballots.

16 ~~(4)~~(2) "Election" means and includes all elections held in Louisiana, whether
17 primary, general, or special.

18 ~~(5)~~ "Electronic voting machine" means a voting machine that displays a
19 full-face ballot, whereby votes are cast by pushing a vote indicator button on the face
20 of the machine or a voting machine that displays a paging ballot, whereby votes are
21 cast by selecting a vote indicator by touching the screen or using available tools on
22 the voting system.

23 ~~(7)~~(3) "Official ballot" means the list of candidates, offices, amendments,
24 questions, or propositions ~~prominently displayed on the front of~~ on the voting
25 machine or paper ballot as certified by the secretary of state.

26 ~~(8)~~(4) "Parish custodian" refers to the parish custodian of voting machines
27 and means the persons designated as such by R.S. 18:1354.

1 ~~(9)~~(5) "Protective counter" means a counter, tabulator, or protective device
2 that will register each time the machine is ~~operated~~ voted during the life of the
3 machine.

4 ~~(10)~~(6) "Public counter" means a counter, tabulator, or ~~other~~ protective
5 device on the outside or on the face of the machine, which shall at all times that
6 incrementally records and indicate the number of times indicates each time votes
7 have been cast on a machine at during an election.

8 ~~(11)~~(7) "Question" means an amendment, proposition, or like matter to be
9 voted on in an election.

10 (8) "Vote-capture device" means a component of a voting system including
11 hardware, software, and firmware, that captures and counts voter selections from
12 paper or electronic ballots that meet the security requirements of R.S. 18:1366.

13 ~~(12)~~(9) "Vote indicator" means the device on a voting machine with which
14 votes upon a candidate or question are indicated.

15 (10) "Voter verified paper record" means a paper document that the voter can
16 review and verify before officially casting his ballot.

17 ~~(13)~~(11) "Voting machine" means the enclosure occupied by the voter when
18 voting, as formed by the ~~machine~~ vote-capture device, its screen and privacy shield;
19 ~~which shall include electronic voting machines.~~ The voting machine may also
20 include voter-facing optical scanners or any other vote-capture device or technology
21 used to secure the vote.

22 ~~(14)~~(12) "Voting system" means the total combination of equipment,
23 materials, and documentation, including voting machines, voter verified paper
24 records and paper ballots, hardware, software, and firmware for which the secretary
25 of state controls the source code for every election, used to:

26 (a) ~~define ballots~~ Define elections and ballot styles.

27 (b) Configure voting equipment.

28 (c) Identify and validate voting equipment configurations.

29 (d) Perform logic and accuracy tests.

- 1 (e) Activate ballots for voters.
- 2 (f) Scan paper ballots.
- 3 (g) ~~cast~~ Cast and count votes.
- 4 (h) Generate reports.
- 5 (i) Export election data including election results.
- 6 (j) Archive election data.
- 7 (k) Produce records in support of audits, ~~report or display election results,~~
8 ~~and maintain and produce any auditable data and the software, firmware, hardware,~~
9 ~~and documentation required to program, control, and support such equipment.~~
10 ~~"Voting system" also includes the vendor's practices and documentation used to~~
11 ~~identify system components and versions of such components, test the system during~~
12 ~~its development and maintenance, maintain records of system errors and defects,~~
13 ~~determine specific system changes made after initial certification, and make~~
14 ~~available any materials to the voter.~~

* * *

§1366. Requirements for voting systems

Any new voting system procured by the secretary of state according to the provisions of R.S. 18:1362 after January 1, 2022, shall comply with all of the following:

- 20 (1) Voting machines shall not be capable of establishing a wireless
21 connection or connecting to the internet.
- 22 (2) Access to physical ports on any voting machine shall be restricted and
23 sealed during an election, with the exception of port used to activate the voting
24 machine for each voter's voting session.
- 25 (3) Software or firmware updates shall be loaded onto voting machines using
26 a non-network connection.
- 27 (4) Tabulation of fractional votes shall be prohibited.
- 28 (5) The voting system shall produce an auditable voter-verifiable paper
29 record of the voter's ballot selections, presented in a human-readable format.

1 (6) The voting system shall deploy procedures for the secretary of state to
 2 verify that the software and firmware, including any updates, installed on each voting
 3 machine was not altered after it was installed on the voting machine.

4 (7) The voting system shall maintain an internal record of the number of
 5 ballots tabulated, including any ballots that are rescanned.

6 (8) The voting system servers shall be located within the state. No voting
 7 system server shall be located in another state or country.

8 (9) Paper ballots shall have counterfeit protection.

9 (10) The voting system vendor shall provide documentation to the secretary
 10 of state regarding financial disclosures, equity holdings, and ownership structure.

11 Section 2. This Act shall become effective on January 1, 2022.

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 704 Engrossed

2021 Regular Session

Hodges

Abstract: Provides relative to elections.

Present law provides that the secretary of state shall administer the laws relating to custody of voting machines and voter registration and shall prescribe uniform rules, regulations, forms, and instructions as to the use of electronic voting machines in the conduct of early voting.

Proposed law removes the reference to "electronic" relative to voting machines.

Present law provides that a candidate may designate watchers to serve at every precinct on election day where the office he seeks is voted on in an election. Further provides for the procedure of designating such watchers. Authorizes a candidate to appoint a super watcher who shall be admitted to every precinct in the parish where the candidate is on the ballot.

Proposed law provides that each recognized political party having at least 25% of the registered voters in the state may designate super watchers in each parish in which a candidate affiliated with the party is on the ballot. Further provides for the number of super watchers that may be designated by a recognized political party based on the number of registered voters in the parish.

Proposed law retains present law and adds a provision allowing the state central committee of a political party having at least 25% of the registered voters in the state to have an early voting watcher at each early voting location, as space permits, at which a candidate affiliated with such political party is on the ballot. Further provides for the qualifications, powers, and duties of such watcher. Also provides for the procedure for nominating such watcher.

Present law provides definitions relative to voting, voting machines, and vote counting equipment; to provide requirements for voting systems.

Proposed law removes the definition of "electronic voting machine"; defines "vote-capture device" and "voter verified paper record"; modifies the definitions of "voting machine", "voting system", and "official ballot".

Proposed law provides for requirements for voting systems as follows:

- (1) Voting machines shall not be capable of establishing a wireless connection or connecting to the internet.
- (2) Access to physical ports shall be restricted and sealed during an election.
- (3) Software or firmware updates shall be loaded using a non-network connection.
- (4) Tabulation of fractional votes shall be prohibited.
- (5) The voting system shall produce an auditable voter-verifiable paper record of the voter's ballot selections, presented in a human-readable format.
- (6) The voting system shall deploy procedures for the secretary of state to verify that the software and firmware, was not altered after it was installed.
- (7) The voting system shall maintain an internal record of the number of ballots tabulated.
- (8) The voting system servers shall be located within the state.
- (9) Paper ballots shall have counterfeit protection.
- (10) The voting system vendor shall provide documentation to the secretary of state regarding financial disclosures, equity holdings, and ownership structure.

Effective January 1, 2022.

(Amends R.S. 18:18(A)(7), 435(A)(4) and (B)(2), and 1351; Adds 18:435(A)(5) and (B)(1)(c), 1309(N) and 1366)