

2021 Regular Session

SENATE BILL NO. 220

BY SENATOR CLOUD

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

LEGISLATIVE AUDITOR. Provides relative to the legislative auditor. (8/1/21)

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AN ACT

To amend and reenact R.S. 18:158, 403, 1311(D)(4)(b), and 1312(D) and to enact R.S. 24:513(D)(7), relative to the legislative auditor; to provide relative to examinations, audits, and reviews of elections; to provide for the submission and presentation of reports to certain legislative committees; to provide for the retention of election records subject to examination by the legislative auditor; to provide for terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:158, 403, 1311(D)(4)(b), and 1312(D) are hereby amended and reenacted to read as follows:

§158. Retention of absentee by mail and early voting ballots and records; retention of registration records for federal elections

A. The registrar of voters in each parish shall keep and maintain all records relating to absentee by mail and early voting ~~as provided in Chapter 7 of this Title~~ **for a period of at least two years from the date of the election.**

B. The registrar of voters in each parish shall keep and maintain for a period of ~~twenty-two months~~ **at least two years** from the date of the election all

1 applications for registration and registration records received for purposes of voting
 2 in an election involving the office of President of the United States, Vice President
 3 of the United States, presidential elector, United States Senator, or United States
 4 Representative.

5 * * *

6 §403. Election records and papers; preservation; public record

7 ~~A. Except as otherwise provided by law, every~~ **Each** election official shall
 8 retain and preserve, for at least ~~six months~~ **two years** after the date of a primary or
 9 general election, all records and papers which come into his possession relating to
 10 the qualifying of candidates, the selection of commissioners, alternate
 11 commissioners, and watchers, ~~and~~ the conduct or results of a primary or general
 12 election, **and any application, registration, or other act requisite to voting in an**
 13 **election.** ~~These records and papers shall be public records open to inspection by~~
 14 ~~anyone.~~

15 ~~B. In an election involving the office of the president of the United States,~~
 16 ~~vice president of the United States, presidential elector, United States senator, or~~
 17 ~~United States representative, all records and papers which come into the possession~~
 18 ~~of an election official relating to any application, registration, or other act requisite~~
 19 ~~to voting in such election shall be kept and maintained for a period of twenty-two~~
 20 ~~months from the date of the election.~~

21 * * *

22 §1311. List of absentee by mail and early voters; posting; delivery of alphabetized
 23 list to precincts; supplements; absentee by mail voter report

24 * * *

25 D. * * *

26 (4) * * *

27 (b) If the voter has voted in person at the precinct, the registrar shall write
 28 across the ballot the words "rejected, voted at precinct" and shall include such ballot
 29 with all other mail ballots received on or after election day, to be kept unopened for

1 ~~six months, and destroyed~~ **at least two years from the date of the election.**

2 * * *

3 §1312. Retention of ballots at registrar's office

4 * * *

5 D. Except as otherwise provided in R.S. 18:1308.1(C) and 1311(D)(1) and
6 (5), all mail ballots received on or after election day shall not be counted, but shall
7 be endorsed with the day and hour of receipt, shall be kept unopened for ~~six months,~~
8 ~~and then shall be destroyed~~ **at least two years from the date of the election.** Any
9 absentee ballot received by mail or facsimile not the first received from the voter
10 shall be treated as provided in this Subsection.

11 * * *

12 Section 2. R.S. 24:513(D)(7) is hereby enacted to read as follows:

13 §513. Powers and duties of legislative auditor; audit reports as public records;
14 assistance and opinions of attorney general; frequency of audits;
15 subpoena power

16 * * *

17 D. In addition, the legislative auditor shall perform the following duties and
18 functions:

19 * * *

20 **(7)(a) The legislative auditor shall examine, audit, or review local, state,**
21 **and federal elections that are held pursuant to the provisions of the Louisiana**
22 **Election Code, R.S. 18:1 et seq., and shall prescribe the scope, frequency, and**
23 **methodology of the examinations in accordance with his authority provided in**
24 **R.S. 24:511 et seq. The scope of the examinations may include an overview of**
25 **the election processes and controls, election best practices, fraud prevention,**
26 **ballot security, and signature matching.**

27 **(b) For the purposes of this Paragraph, the legislative auditor may**
28 **utilize a performance-based or risk-based approach in accordance with**
29 **appropriate auditing standards for the examinations of elections.**

- 1 **(c) The legislative auditor shall submit an annual report to the Senate**
2 **Committee on Senate and Governmental Affairs and the House Committee on**
3 **House and Governmental Affairs on or before May first of each year. The**
4 **report shall contain an overview of the election processes and controls and a**
5 **summary of the election reports completed by the legislative auditor during the**
6 **previous calendar year along with copies of those reports. The legislative**
7 **auditor shall present the annual report to the Senate Committee on Senate and**
8 **Governmental Affairs and the House Committee on House and Governmental**
9 **Affairs, meeting separately or jointly, not later than May thirty-first of each**
10 **year.**
- 11 **(d) Notwithstanding any provision of law to the contrary, no local**
12 **government shall be assessed actual expenses incurred by the legislative auditor**
13 **as a result of an election audit conducted in accordance with the provisions of**
14 **this Paragraph.**
- 15 * * *

The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by Matt DeVille.

DIGEST

SB 220 Reengrossed 2021 Regular Session Cloud

Present law provides that parish registrars of voters shall keep and maintain all records relating to absentee by mail and early voting for at least six months from the date of a primary or general election, unless otherwise directed by a court order from pending litigation relative to the election, for offices other than President of the United States, Vice President of the United States, presidential elector, United States Senator, or United States Representative.

Proposed law provides for these records to be retained for at least two years from the date of the election.

Present law provides that parish registrars of voters shall keep and maintain all applications for registration and registration records received for purposes of voting in an election for the offices of President of the United States, Vice President of the United States, presidential elector, United States Senator, or United States Representative for at least twenty-two months from the date of the election.

Proposed law provides for these records be kept for at least two years from the date of the election.

Present law provides every election official shall retain all records and papers in his

possession relating to the qualifying of candidates, selection of commissioners, alternate commissioners, and watchers, and the conduct or results of a primary or general election for at least six months after the date of the election, unless otherwise provided by present law.

Proposed law retains present law relative to retention of the enumerated types of materials and additionally requires the retention of records and papers relating to any application, registration, or other act requisite to voting in an election.

Proposed law requires that all records and papers required to be retained by an election official be kept for at least two years after the date of the election.

Present law provides all records and papers in the possession of an election official relating to any application, registration, or other act requisite to voting in an election involving the offices of President of the United States, Vice President of the United States, United States Senator, United States Representative, or presidential elector shall be maintained for a period of twenty-two months from the date of the election.

Proposed law provides records shall be maintained for at least two years from the date of the election.

Present law provides that election records and papers required to be preserved shall be public records open to inspection by anyone.

Proposed law deletes present law.

Present law provides that absentee by mail and early voting ballots submitted by a voter who casts a vote in person at the precinct shall be marked as rejected, kept unopened for six months, and destroyed.

Proposed law retains present law and provides for these records to be kept unopened for at least two years from the date of the election.

Present law provides that all mail ballots received on or after election day shall not be counted and shall be endorsed with the day and hour of receipt, kept unopened for six months, then destroyed.

Proposed law retains present law and provides that these ballots be kept unopened for at least two years from the date of the election.

Present law provides relative to the powers, functions, and duties of the legislative auditor.

Proposed law requires the legislative auditor to examine, audit, or review local, state, and federal elections that are held pursuant to the La. Election Code.

Proposed law allows the auditor to set the scope, frequency, and methodology of the examinations and provides that the auditor may utilize a performance-based or risk-based approach for the examinations of elections.

Proposed law requires the legislative auditor to submit an annual report to the Senate Committee on Senate and Governmental Affairs and the House Committee on House and Governmental Affairs on or before May 1st of each year and to present the report to those committees, meeting separately or jointly, not later than May 31st of each year.

Proposed law provides that, notwithstanding any contrary provision of law, no local government shall be assessed actual expenses incurred by the legislative auditor as a result of an election audit.

Effective August 1, 2021.

(Amends R.S. 18:158, 403, 1311(D)(4)(b), and 1312(D); adds R.S. 24:513(D)(7))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Makes technical changes to title and enacting clause.
2. Requires parish registrars of voters to preserve all records relative to absentee by mail and early voting ballots for a period of at least two years from the date of the election.
3. Requires each election official to preserve all records and papers relating to candidate qualifying, the selection of commissioners, alternate commissioners, and watchers, and any application, registration, or other act requisite to voting for at least two years from the date of the election.

Senate Floor Amendments to engrossed bill

1. Remove requirement that retained election materials be public records open to inspection by anyone.
2. Provides that no local government shall be assessed actual expenses incurred by the legislative auditor as a result of an election audit.