

Regular Session, 2010

HOUSE BILL NO. 292

BY REPRESENTATIVE GREENE

ELECTIONS: Provides for an open primary system of elections for congressional offices

1 AN ACT

2 To amend and reenact R.S. 18:44(A) and (B)(5)(b), 110(B), 193(F), 197, 401(B), 402(B),
3 (C)(introductory paragraph), (E), and (G), 433(G)(1) and (H)(1)(introductory
4 paragraph), 434(A)(1), (C)(introductory paragraph), and (D)(1) and (2), 435(A)(1)
5 and (B), 436, 453(A) and (B), 467(introductory paragraph) and (2), 468(A), 481,
6 491(A) and (C), 511(A) and (B), 512(B), 535(B), 552(A)(introductory paragraph),
7 1272(A), 1278(B), 1279, 1285(B)(1)(a), 1300(C)(1), 1300.7(A), 1306(A)(4) and
8 (C)(2), 1307(A)(8) and (E), 1308(A)(2)(a), 1314(B) and (C), 1355(6), 1401(B),
9 1402(B)(1)(c), 1405(A), 1406(B), 1407, 1409(B)(1) and (2), 1432(A), and
10 1461(A)(17) and to repeal R.S. 18:1275.1 through 1275.24, relative to elections; to
11 provide for an open primary system of elections for congressional offices; to provide
12 relative to objections to candidacy and contests of elections; to provide relative to
13 changes to and challenge and cancellation of voter registration; to provide relative
14 to procedures for voting; to provide for election dates; to provide relative to courses
15 of instruction for commissioners; to provide relative to selection and replacement of
16 commissioners; to provide relative to alternate commissioners; to provide relative
17 to watchers; to provide relative to dual candidacy; to provide relative to qualification
18 of candidates; to provide relative to the election of candidates in a primary and
19 general election; to provide relative to notice of location of precincts and polling
20 places; to provide relative to election materials; to provide relative to filling

1 vacancies in federal offices; to provide relative to recall elections; to provide relative
2 to absentee by mail and early voting; to provide relative to voting machines; to
3 provide relative to election offenses; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 18:44(A) and (B)(5)(b), 110(B), 193(F), 197, 401(B), 402(B),
6 (C)(introductory paragraph), (E), and (G), 433(G)(1) and (H)(1)(introductory paragraph),
7 434(A)(1), (C)(introductory paragraph), and (D)(1) and (2), 435(A)(1) and (B), 436, 453(A)
8 and (B), 467(introductory paragraph) and (2), 468(A), 481, 491(A) and (C), 511(A) and (B),
9 512(B), 535(B), 552(A)(introductory paragraph), 1272(A), 1278(B), 1279, 1285(B)(1)(a),
10 1300(C)(1), 1300.7(A), 1306(A)(4) and (C)(2), 1307(A)(8) and (E), 1308(A)(2)(a), 1314(B)
11 and (C), 1355(6), 1401(B), 1402(B)(1)(c), 1405(A), 1406(B), 1407, 1409(B)(1) and (2),
12 1432(A), and 1461(A)(17) are hereby amended and reenacted to read as follows:

13 §44. Contesting election; referral for prosecution

14 A. Whenever the board determines as a result of an investigation that
15 violations of law, irregularities, error, or fraud have occurred in the conduct of an
16 election which in the judgment of the board has resulted in the apparent qualification
17 for the ~~second party primary election or for the~~ general election or the apparent
18 election of a candidate not entitled to be so qualified or elected, the board, upon the
19 favorable vote of three members, may institute suit to contest the election in order
20 to protect the interest and rights of the state in fair and honest elections. In addition,
21 for the same cause and upon the same vote, the board may intervene in any suit
22 instituted by any other party to contest an election.

23 B. In any suit instituted by the board to contest an election, the provisions
24 of Chapter 9 of this Title shall apply, except that:

25 * * *

26 (5) The petition shall contain, but shall not be limited to, the following:

27 * * *

28 (b) The allegation that except for substantial irregularities or error, fraud, or
29 other unlawful activities in the conduct of the election, a different candidate would

1 have qualified for a ~~second party primary election or a~~ general election or would
2 have been elected.

3 * * *

4 §110. Removal from precinct; removal from parish

5 * * *

6 B.(1) A change of registration based upon a change of residence within a
7 parish received after the closing of registration for a primary election shall become
8 effective the day after the general election or special general election when a special
9 primary election is held in conjunction with a general election except as follows:

10 (a) A person whose registration has been canceled pursuant to R.S.
11 18:193(G).

12 (b) A person whose registration has been canceled or whose address has been
13 corrected pursuant to R.S. 18:196(C).

14 ~~(2) A change of registration based upon a change of residence within a parish~~
15 ~~received after the closing of registration for a first party primary election or special~~
16 ~~first party primary election and prior to the closing of registration for the second~~
17 ~~party primary election or special second party primary election shall become~~
18 ~~effective prior to the second party primary election or special second party primary~~
19 ~~election, except as follows:~~

20 ~~(a) A person whose registration has been canceled pursuant to R.S.~~
21 ~~18:193(G).~~

22 ~~(b) A person whose registration has been canceled pursuant to R.S.~~
23 ~~18:196(C).~~

24 ~~(3)~~ (2) The change of residence of a registrant from one precinct to another
25 in the same parish does not deprive him of the right to remain as a legal registrant,
26 as to all issues upon which he was entitled to vote prior to his change of residence,
27 in the precinct from which he has removed until he changes his registration as

1 provided in Subsection A of this Section and has the right to vote in the precinct to
2 which he has moved.

3 ~~(4)~~ (3) However, in a regularly scheduled general election where the only
4 candidate's election appearing on any ballot in the parish is a special primary
5 election, then in such instance, the change shall become effective prior to the special
6 primary election. In a regularly scheduled or special general election, where the
7 change of registration does not change any issues or candidate offices upon which
8 the voter was entitled to vote prior to the change, the change shall become effective
9 prior to the regularly scheduled or special general election.

10 * * *

11 §193. Challenge and cancellation of registration; notice; procedures

12 * * *

13 F. A list of names and addresses to whom address confirmation notices are
14 sent and whether or not each person responded to the confirmation notice shall be
15 maintained for a period of two years and shall be open to inspection and copying as
16 provided in R.S. 18:154. Ninety days prior to a regularly scheduled ~~first party~~
17 federal primary election, the names and addresses of those persons on the inactive
18 list shall be published for one day in the official journal of the parish governing
19 authority or in a newspaper calculated to provide maximum notice in the parish.

20 * * *

21 §197. Registration; cancellation

22 No registrar of voters shall cancel the registration of any voter in his parish
23 between any primary ~~or first party primary~~ election, ~~as the case may be~~, and the
24 subsequent general election occurring in that parish as a result of any of the
25 processes authorized by this Part, except in the case of a person who has been
26 fraudulently placed upon the registration records or in the case of a person whose
27 registration is canceled pursuant to the annual canvass conducted by the registrar.

28 * * *

1 §401. Purpose and nature of primary and general elections

2 * * *

3 B. Nature. ~~(1) Except for the election of persons to congress, all~~ All
4 qualified voters of this state may vote on candidates for public office in primary and
5 general elections without regard to the voter's party affiliation or lack of it, and all
6 candidates for public office who qualify for a primary or general election may be
7 voted on without regard to the candidate's party affiliation or lack of it.

8 ~~(2)(a) In the election of persons to congress, the following shall apply:~~

9 ~~(i) In primary elections, recognized political parties shall make all~~
10 ~~nominations of candidates by direct primary elections held under the provisions of~~
11 ~~this Chapter. In primary elections, each qualified voter may vote only on the~~
12 ~~candidates for public office who are affiliated with the same political party with~~
13 ~~which the voter is affiliated. In primary elections, each qualified voter who is not~~
14 ~~affiliated with a recognized political party may choose to vote in one recognized~~
15 ~~political party's primary elections, except as otherwise provided by R.S. 18:1275.1.~~

16 ~~(ii) In general elections, each qualified voter of this state may vote for~~
17 ~~candidates for public office in general elections without regard to the voter's party~~
18 ~~affiliation or lack thereof, and all candidates for public office who qualify for a~~
19 ~~general election may be voted for without regard to the candidates' party affiliation~~
20 ~~or lack thereof.~~

21 * * *

22 §402. Dates of primary and general elections

23 * * *

24 B. Congressional elections. Elections for members of ~~Congress~~ congress and
25 officers elected at the same time as members of ~~Congress~~ congress shall be held
26 every two years, beginning in 1982.

27 (1) ~~Congressional first primary elections for recognized political parties shall~~
28 ~~be held on the first Saturday in September of an election year.~~

1 ~~(b)~~(c) The first Saturday in April, when the special general election is held
2 on the fourth Saturday after the first Saturday in April or on the second or third
3 Saturday in February during the presidential election year, if the statewide
4 presidential preference primary election is scheduled on the second or third Saturday
5 in February of the presidential election year; however, commencing in 1986 and
6 every fourth year thereafter, this date shall not be applicable in a parish containing
7 a municipality with a population of four hundred seventy-five thousand or more.

8 ~~(c)~~(d) The third Saturday in October, when the special general election is
9 held on the fourth Saturday after the third Saturday in October of 1985 and every
10 fourth year thereafter.

11 ~~(d)~~(e)(i) The first Saturday in February of an election year for parish and
12 municipal officers in a parish containing a municipality with a population of four
13 hundred seventy-five thousand or more.

14 (ii) The first Saturday in February of 1995, except in parishes and
15 municipalities where an election on bonds, taxes, and other propositions or questions
16 has been called and held in January of 1995. Notwithstanding the provisions
17 contained in R.S. 18:467 and 468, the qualifying period for primary elections held
18 on the first Saturday in February of 1995 shall open on the third Monday in
19 December of 1994 and shall close at 5:00 p.m. on the Wednesday following the third
20 Monday in December of 1994.

21 ~~(2) A special primary election shall be held on the first of the following days
22 which is not less than fifteen weeks after the date on which the proclamation calling
23 the special primary election was issued: the first Saturday in October, when the
24 special general election is held on the first Tuesday after the first Monday in
25 November.~~

26 ~~(3)~~(2) A special general election shall be held on one of the following days:

27 (a) The fourth Saturday after the second to last Saturday in October of 1983
28 and every fourth year thereafter.

1 (b) The first ~~Tuesday after the first Monday in November~~ Saturday in
2 December of even-numbered years.

3 (c) The fourth Saturday after the first Saturday in April of any year unless
4 the primary election is held on the second or third Saturday in February; in such case
5 the general election shall be held on the fourth Saturday after the second or third
6 Saturday in February, as the case may be; however commencing in 1986 and every
7 fourth year thereafter, this date shall not be applicable in a parish containing a
8 municipality with a population of four hundred seventy-five thousand or more.

9 (d) The fourth Saturday after the third Saturday in October of 1985 and every
10 fourth year thereafter.

11 (e)(i) The fourth Saturday after the first Saturday in February in a parish
12 containing a municipality with a population of four hundred seventy-five thousand
13 or more, when the special primary election in such parish and municipality is held
14 on the first Saturday in February of an election year for parish and municipal
15 officers.

16 (ii) The fourth Saturday after the first Saturday in February of 1995, when
17 the special primary election is held as authorized in ~~R.S. 18:402(E)(1)(e)(ii)~~ Item
18 (1)(e)(ii) of this Subsection on the first Saturday in February of 1995.

19 ~~(4)~~ (3) The secretary of state shall not include the name of any candidate on
20 any ballot for a special election to fill a vacancy in any office to which this
21 Subsection is applicable unless such special election has been called in accordance
22 with the provisions of this Subsection and scheduled on one of the dates provided
23 herein. Any elector who is eligible to vote in any such special election may apply
24 for injunctive relief to prohibit the placing of the name of any candidate in an
25 improperly called election on the ballot. Venue for such application shall be in any
26 parish in which the election is called, and the secretary of state shall be the proper
27 party defendant.

28 * * *

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1 notify the clerk of court of the absence. Immediately upon receipt of the notice, the
 2 clerk of court shall select a replacement commissioner-in-charge for that precinct.
 3 Subject to the provisions of Subsection G of this Section, a replacement
 4 commissioner-in-charge selected for a primary ~~or first party primary~~ election also
 5 shall serve for the ~~second party primary and the~~ general election. The replacement
 6 commissioner-in-charge shall be selected from the following categories in the order
 7 of priority listed:

8 * * *

9 §434. Commissioners and alternate commissioners; selection; commission;
 10 disqualification; replacement

11 A. Time and place of selection. (1) The parish board of election supervisors
 12 shall meet at 10:00 a.m. on the twenty-ninth day before a primary ~~or first party~~
 13 ~~primary~~ election to select the commissioners and alternate commissioners for each
 14 precinct. The meeting shall be open to the public. The board shall have previously
 15 posted a notice on the front courthouse door designating the location within the
 16 courthouse where the meeting is to be held.

17 * * *

18 C. Commission. Once the commissioners and alternate commissioners are
 19 selected for a primary, ~~first party primary, second party primary,~~ and general
 20 election, the parish board of election supervisors shall immediately:

21 * * *

22 D. Replacement of a commissioner. (1) If prior to the day of the election
 23 a commissioner notifies the parish board of election supervisors that he is unable to
 24 serve as commissioner, the parish board of election supervisors shall select an
 25 alternate commissioner to serve in place of the absent commissioner. An alternate
 26 commissioner who replaces an absent commissioner in a ~~primary or first party~~
 27 ~~primary~~ election shall replace the absent commissioner in the ~~second party primary~~
 28 ~~and in the~~ general election. ~~An alternate commissioner who replaces an absent~~
 29 ~~commissioner in a second party primary election shall replace the absent~~

1 §435. Watchers; appointment and commission

2 A. Right to have watchers. (1) Each candidate is entitled to have one
3 watcher at every precinct where the office he seeks is voted on in ~~any~~ a primary or
4 general election. The candidate or his authorized representative shall file one list of
5 watchers on a form provided by the secretary of state or on a form which contains
6 the same information as required by the form provided by the secretary of state.
7 When a candidate's list of watchers is filed by the candidate's authorized
8 representative, a letter of authorization from the candidate shall accompany the list
9 of watchers; ~~However~~ however, in the case of a presidential election, each slate of
10 candidates for presidential elector is entitled to have one watcher at every precinct.
11 The state central committee of each recognized political party shall be responsible
12 for filing the list of watchers for its slate of candidates for presidential elector. The
13 list of watchers for an independent or other party slate of candidates for presidential
14 elector shall be filed by any person so authorized by the presidential candidate
15 supported by the slate of electors. A letter of authorization from the presidential
16 candidate, or an authorized agent of his campaign, shall accompany the list of
17 watchers.

18 * * *

19 B. Lists of watchers. A list of watchers shall be filed with the clerk of court
20 before 5:00 p.m. on the tenth day before ~~any~~ the primary or general election;
21 ~~However~~ however, if the tenth day before ~~any~~ the primary or general election falls
22 on a Saturday, Sunday, or other legal holiday, the list shall be filed on the next day
23 which is not a Saturday, Sunday, or other legal holiday. Except for a candidate or
24 recognized political party filing for a slate of candidates for presidential elector, any
25 person filing a list of watchers must attach a certified statement that the report
26 required by R.S. 18:1486 has been filed with the supervisory committee in
27 compliance with the Campaign Finance Disclosure Act. If any candidate submits a
28 list for the ~~primary or first party~~ primary election and does not submit a list for the
29 ~~second party primary or the~~ general election, the list submitted in the ~~primary or first~~

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1 ~~party~~ primary election shall be treated as his list submitted for the ~~second party~~
2 ~~primary election and the~~ general election. ~~If any candidate submits a list for the~~
3 ~~second party primary election and does not submit a list for the general election, the~~
4 ~~list submitted in the second party primary election shall be treated as his list~~
5 ~~submitted for the general election.~~ A list of watchers shall contain only one watcher
6 and one alternate watcher for each precinct where the candidate or person submitting
7 the list is entitled to have a watcher. The list shall be typed or legibly written, and
8 it shall contain the name and mailing address of each watcher and a designation of
9 the precinct where he is to serve.

* * *

§436. Election officials at certain special elections

A. When a special primary election to fill a vacancy or an anticipated
vacancy in elective public office is called to be held at the same time as a previously
scheduled general election, or if a previously scheduled election is delayed for any
reason, the commissioners who were selected to serve at the previously scheduled
~~primary or first party and second party primary~~ and general election also shall be the
commissioners for the special primary and general elections and any such delayed
~~primary or general election,~~ and the compensation for each shall be only that amount
provided for in R.S. 18:426.1 for a day of service as a commissioner or
commissioner-in-charge. Each candidate to be voted on in the special primary
election or delayed primary election may appoint one watcher for each precinct in
which that candidate is to be voted on. Notwithstanding the provisions of R.S.
18:427(C) or of any other law to the contrary, the watchers so appointed shall be
allowed to remain in the polling place at all times.

B. When a special general election to fill a vacancy or an anticipated
vacancy in elective public office is called to be held at the same time as a previously
scheduled primary election, the commissioners who were selected to serve at the
special primary election for which the special general election is to be held shall also
be the commissioners for both the previously scheduled primary, ~~and including any~~

1 ~~first party or second party primary~~ and general elections. In such case the
2 compensation for each shall be only that amount provided for in R.S. 18:426.1 for
3 a day of service as a commissioner or commissioner-in-charge.

4 * * *

5 §453. Dual candidacy

6 A. General prohibitions. A person shall not become a candidate in any a
7 ~~primary, first party or second party primary~~ or general election for more than one
8 office unless one of the offices is membership on a political party committee, nor
9 shall a person be a candidate at the same time for two or more different offices to be
10 filled at separate elections.

11 B. Unexpired and succeeding term of office. A person may become a
12 candidate in a primary ~~or first or second party primary election~~ or general election
13 for the unexpired and the succeeding term of an office when both terms are to be
14 filled at the same election.

15 * * *

16 §467. Opening of qualifying period

17 The qualifying period for candidates in ~~the first party primary~~ or a primary
18 election shall open:

19 * * *

20 (2) For candidates in a ~~primary or congressional first party~~ primary election
21 and those in any special primary ~~or first party primary~~ election to be held at the same
22 time, on the ~~second~~ third Wednesday in ~~July~~ August of the year of the election.

23 * * *

24 §468. Close of the qualifying period

25 A. The qualifying period for candidates in a primary ~~or first party primary~~
26 election shall close at 5:00 p.m. on the Friday after the opening of the qualifying
27 period for candidates in the primary ~~or first party primary~~ election or, if that Friday
28 is a legal holiday, at 5:00 p.m. on the next day which is not a legal holiday.

29 * * *

1 §481. Candidates who qualify for a general election

2 ~~Except for candidates for the public office of United States senator or~~
3 ~~representative in Congress, The~~ candidates who qualify for each office remaining to
4 be filled in the general election are those who received the two highest numbers of
5 votes, the four highest number of votes, and so on among those not elected in the
6 primary election, until the maximum number of candidates for each office on the
7 general election ballot is reached.

8 * * *

9 §491. Standing to object to candidacy

10 A. A registered voter may bring an action objecting to the candidacy of a
11 person who qualified as a candidate in a ~~primary or first party~~ primary election for
12 an office for which the plaintiff is qualified to vote.

13 * * *

14 C. In addition to the persons with standing to bring an action objecting to
15 candidacy as provided in Subsections A and B of this Section:

16 (1) The Supervisory Committee on Campaign Finance Disclosure shall bring
17 or join in an action objecting to the candidacy of a person who qualified as a
18 candidate in a ~~primary or first party primary~~ election for an office on the grounds
19 provided in R.S. 18:492(A)(5).

20 (2) The Board of Ethics shall bring or join in an action objecting to the
21 candidacy of a person who qualified as a candidate in a ~~primary or first party primary~~
22 election for an office on the grounds provided in R.S. 18:492(A)(6).

23 * * *

24 §511. Election of candidates in a primary election; ~~exception, congressional~~
25 ~~candidates~~

26 A. Majority vote. A candidate, ~~other than a candidate for United States~~
27 ~~senator or representative in congress,~~ who receives a majority of the votes cast for
28 an office in a primary election is elected. If there are two or more offices of the same
29 character to be filled, the number of votes necessary to constitute a majority shall be

1 greater than the result obtained by dividing the total votes cast for all of the
 2 candidates by the number of offices to be filled and dividing the result so obtained
 3 by two. If more candidates receive a majority than there are offices to be filled,
 4 those of such candidates receiving the highest total of votes shall be elected, to the
 5 number required to fill all of the offices. Any votes received by a withdrawn
 6 candidate or a deceased candidate shall be void and shall not be counted for any
 7 purpose whatsoever.

8 B. Election of unopposed candidates for public office. If, after the close of
 9 the qualifying period for candidates in a primary election, ~~other than a primary~~
 10 ~~election for United States senator or representative in congress,~~ the number of
 11 candidates for a public office does not exceed the number of persons to be elected
 12 to the office, the candidates for that office, or those remaining after the withdrawal
 13 of one or more candidates, are declared elected by the people, and their names shall
 14 not appear on the ballot in either the primary or the general election.

15 * * *

16 §512. Election of candidates in a general election

17 * * *

18 B. Election of unopposed candidates. If, as a result of the death or
 19 withdrawal of one or more candidates, the number of candidates for an office in a
 20 general election does not exceed the number of persons to be elected to the office;
 21 ~~other than the office of United States senator or representative in congress,~~ the
 22 remaining candidates are declared elected by the people, and their names shall not
 23 appear on the ballot in the general election.

24 * * *

25 §535. Notice of location of precincts and polling places

26 * * *

27 B. Before primary elections. The parish board of election supervisors shall
 28 publish the location of the polling places in the parish at least once before each
 29 primary ~~or first party primary~~ election. The publication shall be in the official

1 journal of the parish during the third week before the primary ~~or first party primary~~
2 election.

3 * * *

4 §552. Election materials

5 A. Materials furnished. At least twenty-two days before a primary ~~or first~~
6 ~~party primary~~ election and as soon as possible for a ~~second party primary and a~~
7 general election:

8 * * *

9 §1272. United States senators; representatives in ~~Congress~~ congress; time of
10 electing

11 A. All general elections for representatives in ~~Congress~~ congress shall be
12 held on the first ~~Tuesday next following the first Monday in November~~ Saturday in
13 December, 1982, and every two years thereafter, in even-numbered years. The ~~first~~
14 ~~party and second party primary elections~~ election shall be held ~~in accordance with~~
15 ~~the provisions of Chapter 5 of this Title~~ on the first Tuesday after the first Monday
16 in November of an election year.

17 * * *

18 §1278. Vacancies; United States senator

19 * * *

20 B. If a vacancy occurs in the office of United States senator and the
21 unexpired term is more than one year, an appointment to fill the vacancy shall be
22 temporary. Any senator so appointed shall serve until his successor is elected at a
23 special election and takes office. Within ten days after receiving official notice of
24 the vacancy, the governor shall issue ~~his~~ a proclamation for special election to fill the
25 vacancy for the unexpired term. The date of the special election shall be established
26 by the governor in accordance with the provisions of R.S. 18:402(E). ~~The special~~
27 ~~first primary election shall be held four weeks prior to the dates for special primary~~
28 ~~elections as provided in R.S. 18:402(E)(1) or (E)(2), the special second primary~~
29 ~~election shall be held on the dates as provided for special primary elections in R.S.~~

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1 ~~18:402(E)(1) or (E)(2), and the special general election shall be held on the dates as~~
2 ~~provided in R.S. 18:402(E)(3).~~ The dates of the qualifying period shall be established
3 by the governor in accordance with ~~this Part~~ R.S. 18:467, 467.1, and 468.
4 Immediately after issuance of the proclamation, which shall include the dates of the
5 ~~first and second party~~ primary and general elections and the dates of the qualifying
6 period, the governor shall publish the proclamation in the official journal of each
7 parish in which the election is to be held. Within twenty-four hours after its
8 issuance, the governor shall send a copy of the proclamation to the secretary of state.
9 Within twenty-four hours after he receives the copy, the secretary of state shall
10 notify all election officials having any duty to perform in connection with a special
11 election to fill such vacancy, including the parish boards of election supervisors for
12 the parish or parishes in which the vacancy occurred. The election shall be
13 conducted and the returns shall be certified as in regular elections for United States
14 senator.

* * *

16 §1279. Vacancies; representatives in congress

17 When a vacancy occurs in the office of representative in congress, the
18 governor shall determine the dates on which the special elections shall be held and
19 the dates of the qualifying period and shall issue ~~his~~ a proclamation ordering a
20 special election and specifying the dates on which the ~~first and second party~~ primary
21 and general elections will be held and the dates of the qualifying period for the
22 election. Immediately thereafter he shall publish the proclamation in the official
23 journal of each parish in which the election is to be held. Within twenty-four hours
24 after issuing the proclamation, the governor shall send a copy of the proclamation
25 to the secretary of state, who shall within twenty-four hours of receipt of the
26 information notify all election officials having any duty to perform in connection
27 with a special election to fill such vacancy, including the parish boards of election
28 supervisors for the parish or parishes in which the vacancy occurred. The election
29 shall be conducted in the same manner and at the same places and the returns shall

1 be certified as in regular congressional elections. If at a ~~first or second party~~ primary
2 or general election in a congressional district one representative in congress is to be
3 elected for a full term and another to fill a vacancy, the ballots containing the names
4 of the candidates shall, as a part of the title of the office, designate the term for which
5 the candidates are respectively nominated.

6 * * *

7 §1285. Notice of election

8 * * *

9 B.(1)(a) Written notice of the election and the certificate required by
10 Subparagraph ~~(1)(b)~~ (b) of this ~~Subsection~~ Paragraph shall be transmitted to the
11 secretary of state and each clerk of court and registrar of voters in the area affected
12 by the election. If the election is to be held on a primary ~~or second party primary~~
13 election date, then such notice and certificate shall be received by the secretary of
14 state on or before the seventy-first day prior to the primary ~~or second party primary~~
15 election. If the election is not to be held on a primary ~~or second party primary~~
16 election date, then the notice and certificate shall be received by the secretary of state
17 on or before the forty-sixth day prior to the election. The secretary of state shall not
18 accept any revisions to propositions, including but not limited to changes in title,
19 text, or numerical designations, after the last day for submission of the notice and
20 certificate to the secretary of state.

21 * * *

22 §1300. Procedures; notice of election; expenses

23 * * *

24 C.(1) When an election is called under the provisions of this Chapter, written
25 notice of the election shall be transmitted to the secretary of state, the commissioner
26 of elections, and each clerk of court and registrar of voters in the area affected by the
27 election. If the election is to be held on a primary ~~or second party primary~~ election
28 date, then such notice shall be received by the secretary of state on or before the
29 seventy-first day prior to the primary ~~or second party primary~~ election. If the

1 election is not to be held on a primary ~~or second party~~ primary election date, then
2 such notice shall be received by the secretary of state on or before the forty-sixth day
3 prior to the election.

4 * * *

5 §1300.7. Governor to order election; proclamation; publication

6 A. If the required number of qualified electors of the voting area sign the
7 petition for recall, the governor shall issue a proclamation ordering an election to be
8 held for the purpose of voting on the question of the recall of the officer. The total
9 number of registered voters in the voting area and the total number of registered
10 voters in the voting area signing the petition shall be calculated from the totals on the
11 certificates of all of the registrars of voters received by the governor. The governor
12 shall issue such proclamation within fifteen days after he receives the certified
13 petitions from all of the registrars of voters in the voting area who have received
14 petitions for certification. The proclamation shall order the election to be held on the
15 next available date specified in R.S. 18:402(F). If the election is to be held on a
16 ~~primary or second party~~ primary election date, the proclamation shall be issued on
17 or before the last day for candidates to qualify in the election. If the election is not
18 to be held on a ~~primary or second party~~ primary election date, then the proclamation
19 shall be issued on or before the forty-sixth day prior to the election.

20 * * *

21 §1306. Preparation and distribution of absentee by mail and early voting ballots

22 A.

23 * * *

24 (4) The secretary of state shall prepare a special absentee ballot for
25 candidates and constitutional amendments to be voted on in ~~second party primary or~~
26 general elections, subject to approval as to content by the attorney general. This
27 special ballot shall only be for use by a qualified voter who is either a member of the
28 United States Service or who resides outside of the United States. Such special
29 ballot shall contain a list of the titles of all offices being contested at the primary ~~or~~

1 ~~first party primary~~ election and the candidates qualifying for the primary ~~or first~~
2 ~~party primary~~ election for each office, and shall permit the elector to vote in the
3 ~~second party primary or~~ general election by indicating his order of preference for
4 each candidate for each office. On the special ballot shall also be printed each
5 constitutional amendment to be voted on in the ~~second party primary or~~ general
6 election. To indicate his order of preference for each candidate for each office to be
7 voted on in the election, the voter shall put the number one next to the name of the
8 candidate who is the voter's first choice, the number two for his second choice and
9 so forth so that, in consecutive numerical order, a number indicating the voter's
10 preference is written by the voter next to each candidate's name on the ballot. A
11 space shall be provided for the voter to indicate his preference for or against each
12 constitutional amendment contained on the ballot. The voter shall not be required
13 to indicate his preference for more than one candidate on the ballot if the voter so
14 chooses. The secretary of state shall also prepare instructions for use of the special
15 ballot.

* * *

C.

* * *

19 (2) At least twenty days before each ~~primary or first party~~ primary election
20 the secretary of state shall deliver to the registrar in each parish in which the election
21 is to be held the special absentee ballot for qualified voters who are either members
22 of the United States Service or persons residing outside of the United States. The
23 number of special ballots and other necessary paraphernalia, including instructions
24 for the use of the special ballot, to be so delivered shall be up to one percent of the
25 registered voters within each parish.

* * *

§1307. Application by mail

28 A. A person qualified to vote absentee by mail under this Chapter may make
29 application therefor to the registrar by letter; over his signature; or mark if the voter

1 is unable to sign his name, signed by two witnesses who witnessed the applicant's
2 mark; setting forth:

3 * * *

4 (8) If the person requests that a ballot for a general election ~~or the second~~
5 ~~party primary election, or both,~~ be sent in addition to a ballot for the primary ~~or first~~
6 ~~party primary,~~ he shall declare in writing to the registrar that he will be eligible to
7 vote absentee by mail in the general election ~~or the second party primary, or both,~~
8 ~~as the case may be.~~

9 * * *

10 E. A person entitled to vote absentee by mail may request in his application
11 for an absentee ballot for a ~~primary or first party~~ primary election that an absentee
12 ballot for the succeeding general election ~~or the second party primary election, or~~
13 ~~both,~~ be sent to him when such ballots become available for distribution; ~~However~~
14 however, in such case, the applicant shall declare in writing to the registrar that he
15 will be eligible to vote absentee by mail in the general election ~~or the second party~~
16 ~~primary election, or both, as the case may be.~~

17 * * *

18 §1308. Absentee voting by mail

19 A.

20 * * *

21 (2)(a) With respect to persons on active duty in the United States military
22 service or outside the continental boundaries of the United States, these materials
23 shall be mailed as provided by the Uniformed and Overseas Citizens Absentee
24 Voting Act (39 ~~USC~~ U.S.C. 3406 and 42 ~~USC~~ U.S.C. 1973ff et seq.) and shall
25 include both the ~~primary or first party~~ primary election ballot and the special ~~ballots~~
26 ballot for the ~~general election or the second party primary election and the general~~
27 election. The envelope mailed to the voter shall contain ~~six~~ four envelopes, ~~three~~
28 two of which shall be the ballot envelopes and ~~three~~ two of which shall be return
29 envelopes. Each return envelope shall bear the official title and mailing address of

1 the registrar, whether it contains a ~~primary, first party primary, second party primary~~
2 or general election ballot, and the name, return address, and precinct or district
3 number of the voter. The voter shall return his voted ~~primary or first party primary~~
4 election ballot and special ~~ballots~~ ballot for the ~~general election or the second party~~
5 ~~primary and the~~ general election to the registrar in the appropriate envelopes. The
6 registrar of voters shall not mail a regular ~~general election or the second party~~
7 ~~primary and~~ general election absentee ballot to a member of the United States
8 Service or to persons residing overseas if the registrar has mailed a ~~the~~ special ballot,
9 as provided herein, to such voter. The ~~envelopes~~ envelope for the special ~~ballots~~
10 ballot shall contain language on the outside of the envelope which will clearly
11 designate which envelope is to be used for return of the ~~second primary election~~
12 ~~ballot and which envelope is to be used for return of the~~ general election ballot.

* * *

§1314. Absentee by mail and early voting commissioners

* * *

16 B. Selection for a ~~primary or first party primary~~ election. (1) The parish
17 board of election supervisors shall determine the number of absentee by mail and
18 early voting commissioners necessary to count the absentee by mail and early voting
19 ballots in the parish. The parish board of election supervisors shall select a minimum
20 of three such commissioners.

21 (2) The parish board of election supervisors shall meet at 10:00 a.m. on the
22 fifth day before a ~~primary or first party primary~~ election and shall select the absentee
23 by mail and early voting commissioners and alternate absentee by mail and early
24 voting commissioners for the parish in the manner provided by law for the selection
25 of commissioners and alternate commissioners. If there are not enough certified
26 commissioners to select the appropriate number of absentee by mail and early voting
27 commissioners and alternate absentee by mail and early voting commissioners, the
28 board of election supervisors may select a qualified elector of the parish to serve;
29 however, no such elector shall serve as an absentee by mail and early voting

1 commissioner if a certified commissioner has been selected as an alternate absentee
2 by mail and early voting commissioner.

3 (3) Absentee by mail and early voting commissioners and alternate absentee
4 by mail and early voting commissioners shall be issued commissions, take the oath
5 of office, be replaced, and be disqualified, all in the manner provided by law for
6 commissioners and alternate commissioners.

7 C. Selection for ~~second party primary~~ or general election. (1)(a) The parish
8 board of election supervisors shall determine if the number of absentee by mail and
9 early voting commissioners necessary to count the absentee by mail and early voting
10 ballots in the ~~second party primary~~ or general election can be reduced or should be
11 increased from the number which counted absentee by mail and early voting ballots
12 in the ~~previous~~ primary election.

13 (b) If it determines that the number cannot be reduced or should be
14 increased, those persons who served as absentee by mail and early voting
15 commissioners and alternate absentee by mail and early voting commissioners for
16 the parish in the primary ~~or first party primary~~ election shall serve in the ~~second~~
17 ~~party primary~~ and general election, unless replaced or disqualified in the manner
18 provided by law for commissioners and alternate commissioners. The number of
19 absentee by mail and early voting commissioners for a ~~second party primary~~ and
20 general election shall not be less than three.

21 (2)(a) If the parish board determines that the number of absentee by mail and
22 early voting commissioners can be reduced, it shall notify each person who served
23 as an absentee by mail and early voting commissioner or alternate absentee by mail
24 and early voting commissioner in the primary ~~or first party primary~~ election of its
25 decision to reduce the number of absentee by mail and early voting commissioners
26 and of the date and time of the meeting to select the absentee by mail and early
27 voting commissioners for the ~~second party primary~~ or general election. The parish
28 board shall meet at 10:00 a.m. on the fifth day before a ~~second party primary~~ and a
29 general election and shall select the absentee by mail and early voting commissioners

1 ~~or~~ and alternate absentee by mail and early voting commissioners to serve in ~~such~~
2 elections the general election for the parish.

3 (b)(i) The parish board shall prepare a list containing the names of all
4 persons who served as absentee by mail and early voting commissioners in the
5 ~~primary or first party~~ primary election. The absentee by mail and early voting
6 commissioners and alternate absentee by mail and early voting commissioners for
7 ~~the second party primary election and for~~ the general election shall be selected from
8 that list in the manner provided by law for the selection of commissioners ~~or~~ and
9 alternate commissioners. The absentee by mail and early voting commissioners so
10 chosen shall then serve as needed for the ~~second party primary election and the~~
11 general election.

12 (ii) If the list does not contain sufficient names to select the number of
13 absentee by mail and early voting commissioners ~~or~~ and alternate absentee by mail
14 and early voting commissioners determined by the board to be needed for the ~~second~~
15 ~~party primary election and the~~ general election, the board shall fill any remaining
16 alternate commissioner positions from a list of those persons who were selected as
17 alternate absentee by mail and early voting commissioners for the primary or ~~first~~
18 ~~party~~ primary election, such list to be prepared and the selection made in the same
19 manner provided herein for selection of absentee by mail and early voting
20 commissioners for the ~~second party primary election and the~~ general election.

21 (3) If the parish board determines that the number of absentee by mail and
22 early voting commissioners should be increased, the parish board shall meet at 10:00
23 a.m. on the fifth day before a ~~the second party primary election and the~~ general
24 election and shall select the additional absentee by mail and early voting
25 commissioners and alternate absentee by mail and early voting commissioners to
26 serve in the ~~second party primary election and the~~ general election for that parish
27 from the list of certified commissioners who have not been chosen to serve in the
28 ~~second party primary and the~~ general election as a commissioner-in-charge,
29 commissioner, or, if applicable, absentee by mail and early voting commissioner in

1 the manner provided by law for the selection of commissioners and alternate
2 commissioners. If there are not enough certified commissioners to select the
3 appropriate number of absentee by mail and early voting commissioners and
4 alternate absentee by mail and early voting commissioners, the board of election
5 supervisors may select a qualified elector of the parish to serve; however, no such
6 elector shall serve as an absentee by mail and early voting commissioner if a
7 certified commissioner has been selected as an alternate absentee by mail and early
8 voting commissioner.

9 * * *

10 §1355. Construction and equipment of machines; requirements

11 Each voting machine used in an election shall be so constructed and equipped
12 as to:

13 * * *

14 (6) When used in a ~~first or second primary or a primary~~ election at which
15 members of a political party committee are to be voted on, allow election officials
16 to lock out all candidate counters except those of the party with which the voter is
17 affiliated ~~or those of the party for which a voter unaffiliated with a recognized~~
18 ~~political party may vote in accordance with law.~~

19 * * *

20 §1401. Objections to candidacy and contests of elections; parties authorized to
21 institute actions

22 * * *

23 B. A candidate who alleges that, except for substantial irregularities or error,
24 or except for fraud or other unlawful activities in the conduct of the election, he
25 would have qualified for a ~~second party primary election or for a general election~~ or
26 would have been elected may bring an action contesting the election.

27 * * *

1 §1402. Proper parties

2 * * *

3 B.(1) The following persons are the proper parties against whom election
4 contests shall be instituted:

5 * * *

6 (c) The person or persons whose eligibility to be a candidate in a ~~second~~
7 ~~party primary election or in a~~ general election or whose election to office is
8 contested.

9 * * *

10 §1405. Time for commencement of action

11 A. An action objecting to candidacy shall be instituted not later than 4:30
12 p.m. of the seventh day after the close of qualifications for candidates in the ~~primary~~
13 ~~or first party~~ primary election. After the expiration of the time period set forth in this
14 Section, no further action shall be commenced objecting to candidacy based on the
15 grounds for objections to candidacy contained in R.S. 18:492.

16 * * *

17 §1406. Petition; answer; notification

18 * * *

19 B. The petition shall set forth in specific detail the facts upon which the
20 objection or contest is based. If the action contests an election, the petition shall
21 allege that except for substantial irregularities or error, fraud, or other unlawful
22 activities in the conduct of the election, the petitioner would have qualified for a
23 ~~second party primary election or for a~~ general election or would have been elected.
24 The trial judge may allow the filing of amended pleadings for good cause shown and
25 in the interest of justice.

26 * * *

27 §1407. Appointment of agent for service of process

28 By filing notice of candidacy a candidate appoints the clerk of court for each
29 parish in which he is to be voted on as his agent for service of process in any action

1 a final judgment declaring the election void and ordering a new ~~primary or first and~~
 2 ~~second party~~ primary or ~~second party primary or~~ general election for all the
 3 candidates, or, if the judge determines that the appropriate remedy is the calling of
 4 a restricted election, the judge may render a final judgment ordering a restricted
 5 election, specifying the date of the election, the appropriate candidates for the
 6 election, the office or other position for which the election shall be held, and
 7 indicating which voters will be eligible to vote.

8 * * *

9 §1461. Election offenses; penalties

10 A. No person shall knowingly, willfully, or intentionally:

11 * * *

12 (17) Give or offer to give, directly or indirectly, any money or thing of
 13 present or prospective value to any person who has withdrawn or who was
 14 eliminated prior or subsequent to the primary ~~or first or second primary~~ election as
 15 a candidate for public office, for the purpose of securing or giving his political
 16 support to any remaining candidates or to candidates for public office in the primary
 17 or ~~first or second primary or~~ general election.

18 * * *

19 Section 2. R.S. 18:1275.1 through 1275.24 are hereby repealed in their entirety.

20 Section 3. This Act shall become effective January 1, 2011.

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)]

Greene

HB No. 292

Abstract: Provides for an open primary system of elections for congressional offices.

Present law provides for a closed primary system for the election of members of congress, which includes first party primary, second party primary, and general elections.

Present law provides that all recognized political parties shall make nominations of all congressional candidates by direct party primary elections. Provides that in such party primary elections, all qualified voters of the state may vote on the candidates for public office who are affiliated with the same political party with which the voter is affiliated;

however, present law allows voters unaffiliated with a recognized political party to vote in a party primary election of a party which chooses to allow such voters to vote by party rules and regulations, but permits such a voter to cast a vote in only one such primary related to each election.

Present law provides that a candidate in a congressional first primary election must be affiliated with a recognized political party and may qualify as a candidate only in the party primary of the party with which he is affiliated as shown in his voter registration.

Present law provides that if after the close of qualifying, the number of persons to be nominated by a recognized political party for a congressional office does not exceed the number of persons to be nominated by that party, those persons are declared nominated and their names shall appear on the general election ballot, but not on the ballot in the second primary.

Present law provides that a majority vote is required in the congressional first party primary election for a candidate to be nominated by his party as a congressional candidate in the general election to the office he seeks. Further provides that absent such majority vote the two candidates from the same party receiving the highest number of votes in the first party primary shall be voted on in the second party primary.

Present law provides relative to tie votes in the first party primary and death, withdrawal, and disqualification of a candidate. Provides further that there shall be no third party primary and further that the state central committee shall provide for the selection of a nominee of their party in any situation not specifically provided for by statute.

Present law provides that the congressional candidate from each political party who received the highest number of votes in the second party primary shall qualify for the general election as well as any candidate who received a majority in the first party primary. Provides that the number of candidates that may qualify for the general election by party nomination is one candidate from each recognized political party.

Present law provides that a person who is not affiliated with a recognized political party may become a candidate in a general election by filing his notice of candidacy, which shall be accompanied by either the qualifying fee or a ballot access petition with the same number of signatures required for candidates in the first party primary, in the same manner and during the same time period as is provided for candidates in the first party primary who are affiliated with a recognized political party.

Present law provides that all qualified voters may vote on candidates for public office in general elections without regard to the voter's party affiliation or lack thereof, and all candidates for public office who qualify for a general election may be voted on without regard to the candidate's party affiliation or lack thereof. Present law specifies that in a general election, the candidate with the most votes is elected whether or not he receives a majority of the total votes cast.

Present law provides that congressional first party primary elections be held on the first Saturday in Sept. and congressional second party primary elections and primary elections for officers elected at the same time as members of congress on the first Saturday in Oct. in even-numbered years.

Present law provides that the general election date for members of congress and officers elected at the same time as members of congress is the first Tuesday after the first Monday in Nov.

Proposed law repeals present law. Provides that all qualified voters of this state may vote on candidates for public office in both primary and general elections, including congressional elections, without regard to the voter's party affiliation or lack thereof, and that

all candidates for public office who qualify for a primary or general election may be voted on without regard to the candidate's party affiliation or lack thereof.

Proposed law provides that all candidates, including congressional candidates, run in a single primary, and that, unless a candidate receives a majority vote in the primary and is elected, the top two candidates are the candidates in the general election.

Proposed law provides that a candidate, including a congressional candidate, who receives a majority of the votes cast for an office in a primary election is elected.

Proposed law provides that the candidate who receives the most votes cast for an office in a general election is elected.

Proposed law provides that primary elections for members of congress and for officers elected at the same time as members of congress shall be held on the first Tuesday after the first Monday in Nov. of an election year. Provides that general elections for members of congress and for officers elected at the same time as members of congress shall be held on the first Saturday in Dec. of an election year.

Proposed law establishes procedures for carrying out the provisions of the election system established by proposed law.

Proposed law deletes all provisions relative to a closed primary system for congressional candidates, and deletes from present law all references and provisions applicable to the closed primary system for congressional elections contained in present law, including references to first party primary and second party primary.

Proposed law otherwise retains present law.

Effective Jan. 1, 2011.

(Amends R.S. 18:44(A) and (B)(5)(b), 110(B), 193(F), 197, 401(B), 402(B), (C)(intro. para.), (E), and (G), 433(G)(1) and (H)(1)(intro. para.), 434(A)(1), (C)(intro. para.), and (D)(1) and (2), 435(A)(1) and (B), 436, 453(A) and (B), 467(intro. para.) and (2), 468(A), 481, 491(A) and (C), 511(A) and (B), 512(B), 535(B), 552(A)(intro. para.), 1272(A), 1278(B), 1279, 1285(B)(1)(a), 1300(C)(1), 1300.7(A), 1306(A)(4) and (C)(2), 1307(A)(8) and (E), 1308(A)(2)(a), 1314(B) and (C), 1355(6), 1401(B), 1402(B)(1)(c), 1405(A), 1406(B), 1407, 1409(B)(1) and (2), 1432(A), and 1461(A)(17); Repeals R.S. 18:1275.1-1275.24)