
DIGEST

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HB 890 Engrossed

2016 Regular Session

Danahay

Abstract: Revises the system of laws comprising the La. Election Code.

Present law (R.S. 18:18) provides for the powers and duties of the secretary of state and provides specific responsibilities.

Proposed law retains present law and additionally authorizes the secretary of state to develop and implement a pilot program for new voting technology and equipment. Requires the secretary of state to work with two members each from the legislative governmental affairs committees in developing the program. Requires the secretary of state to submit a description of the program and any changes to the committees.

Present law (R.S. 18:116) requires voter registration services to be provided at certain listed agencies, including public assistance agencies, offices that provide services to persons with disabilities, and armed services recruitment offices.

Present law requires that among the services that must be offered at agencies is distribution of mail voter registration application forms.

Proposed law retains present law.

Present law requires application forms to be distributed only to applicants who are qualified to register.

Proposed law repeals present law.

Proposed law adds to the list of public assistance agencies the Kinship Care Subsidy Program (KCSP) and the Child Care Assistance Program (CCAP). Specifies that services at armed services recruitment offices shall be provided according to the procedures established by the Federal Voting Assistance Program.

Present law requires a form to accompany the mail voter registration application. Provides for the content of the form, including a statement informing the person that he may file a complaint with the secretary of state if a person has interfered with his right to register or decline to register to vote or his right to privacy.

Proposed law retains present law and additionally requires the form to include interference with the

person's right to choose his own political party or other political preference as causes for a complaint.

Present law (R.S. 18:193) provides for a challenge procedure to be used by the registrar when he has reason to believe that a registrant no longer is qualified to be registered, or that a registrant has changed his residence. Requires the registrar to send the person an address confirmation card. Provides that if the voter responds to the address confirmation card and has permanently moved outside the parish, the registrar shall cancel the voter's registration.

Proposed law provides that if the voter responds and has moved to a different parish, the registrar shall transfer the voter's registration information to the new parish of residence. Provides that if the voter responds to the address confirmation card and has permanently moved outside the state, the registrar shall cancel the voter's registration. Otherwise retains present law.

Present law (R.S. 18:424) provides qualifications for a person to serve as a commissioner-in-charge. Present law (R.S. 18:425) provides qualifications for a person to serve as a commissioner. Qualifications include being a qualified voter, not being a candidate in the election, and subject to certain exceptions, having completed certain training.

Proposed law retains present law.

Present law also provides that a person who is entitled to assistance in voting cannot serve as a commissioner or a commissioner-in-charge.

Proposed law repeals present law. Provides instead that the person must be able to perform the essential duties of a commissioner-in-charge or commissioner, as applicable, as described in the informational pamphlet developed by the secretary of state pursuant to present law (R.S. 18:421(C)).

Present law provides that a person who is 17 years of age and is not a qualified voter but is otherwise qualified to serve as a commissioner pursuant to present law may be selected to serve as a commissioner in any precinct of the ward where he may register to vote, provided that the person is enrolled in the 12th grade of any La. public high school or state-approved nonpublic high school, is participating at the 12th grade level in a home study program approved by the State Board of Elementary and Secondary Education (BESE), has received a diploma from any La. public high school or state-approved nonpublic high school, has received a diploma for completion of a home study program approved by BESE, or has been issued a high school equivalency diploma after successfully completing the test of General Educational Development.

Proposed law retains present law and additionally provides that a qualified voter of this state or a person who is registered to vote in another state who is able to perform the essential duties of a commissioner as described in the informational pamphlet developed by the secretary of state pursuant to present law (R.S. 18:421(C)), who is not a candidate in the election, and who is a student at an institution of higher learning located in this state may be selected as a commissioner in any precinct in the parish where the institution of higher learning is located if the student submits to the clerk a copy of his student identification or fee bill showing current enrollment and a copy of his proof of voter registration.

Present law (R.S. 18:461) provides that, subject to certain limited exceptions, a person who desires to become a candidate in a primary election qualifies as a candidate by timely filing notice of his candidacy, accompanied either by a nominating petition or by the qualifying fee and any additional fee imposed.

Present law (R.S. 18:463) provides for the content of the notice of candidacy, including certification that the statements therein are true and correct and acknowledging a number of specific requirements of present law relative to qualifications, the Code of Governmental Ethics, the Campaign Finance Disclosure Act, and the filing of his tax returns. Requires the certificate to be executed before a notary public, be witnessed by two persons, or if the candidate is serving outside of the state in the armed forces of the U.S., be witnessed by a commissioned officer.

Proposed law retains present law.

Present law provides that if the execution of the certificate is witnessed by two persons, the two persons must be registered to vote for the office that the candidate seeks.

Proposed law repeals present law.

Proposed law removes obsolete references to refunds of qualifying fees and a related escrow account in provisions of present law (R.S. 18:470) relative to the delivery of such fees to the state treasury.

Present law (R.S. 18:532.1) authorizes parish governing authorities to change the configuration, boundaries, or designation of election precincts by ordinance, subject to certain limitations and requirements. However, provides that no election precinct shall be created, divided, abolished, or merged, or the boundaries thereof otherwise changed between Jan. first of any year of which the last digit is nine and Dec. thirty-first of any year of which the last digit is three. Provides a limited exception for merger of precincts if certain requirements are met.

Proposed law retains present law.

Present law provides an additional limited exception. Provides that if after the release of the federal decennial census data a parish governing authority is unable to comply with applicable law regarding redistricting and reapportionment, including adherence to traditional redistricting principles, in the creation of its redistricting or reapportionment plan using the whole precincts submitted to the U.S. Bureau of the Census, the parish governing authority may divide a precinct into two or more precincts according to a visible feature which is a census tabulation boundary.

Proposed law retains present law. Additionally requires the parish governing authority to notify the secretary of state of any such precinct division in writing.

Present law provides a period of time prior to an election during which no precinct shall be established or changed in any way, including alphabetical division by voter surname, and during which no annexation shall be implemented. Provides that the period of time ends on the date of the general election.

Proposed law retains present law.

Present law provides that the period commences on the fifth business day prior to the date the qualifying period opens.

Proposed law provides instead that the period commences on the tenth business day prior to the date the qualifying period opens.

Present law provides that no change to a precinct or annexation that is made prior to the commencement of this period shall become effective for the election unless certain required information is submitted to and received by the secretary of state no later than the date that the period commences.

Proposed law specifies that the information must be received by the secretary of state prior to 4:30 p.m. on the date the period commences. Otherwise retains present law.

Present law (R.S. 18:583) provides procedures for the filing of anticipated vacancies for elected offices. Requires the appropriate authority to call a special election to fill a vacancy in an office to issue a proclamation ordering a special election to be held to elect a person to fill the full term of an office when it becomes certain, after the election for the term but prior to its commencement, that a vacancy will exist on the day when the term of the office commences as provided by the constitution or by law. Provides that the proclamation ordering the special election shall state the dates, in accordance with present law (R.S. 18:402), on which the primary and general elections will be held. Provides that it shall become certain that a vacancy will exist on the day the term of office commences when the person elected to the office dies or makes a declaration to the secretary of state that he will not accept the office.

Proposed law retains present law and additionally provides that an anticipated vacancy shall become certain when the person elected to office is disqualified by a court of competent jurisdiction.

Present law (R.S. 18:1285 and 1300) provide relative to bond, debt, and tax elections and elections at which a proposition is to be submitted to the voters. Requires notice of such an election to be provided to the secretary of state. Provides requirements for such notice.

Proposed law retains present law.

Present law provides that if the election is to be held on a primary election date, the notice must be received by the 46th day prior to the election. Proposed law requires the notice to be received by the 54th day prior to the election instead of the 46th day. Otherwise retains present law.

Present law (Ch. 7 of the La. Election Code—R.S. 18:1301 et seq.) provides for voting absentee by mail. Provides that certain specified persons may vote by mail by making application to the registrar.

Present law (R.S. 18:1306) provides procedures and requirements for the preparation and distribution of absentee by mail and early voting ballots. Requires such ballots to include instructions printed

on the face of the ballots to inform the voter of how to mark the ballot.

Proposed law retains present law. Additionally requires that the instructions inform the voter concerning how to change or correct his vote on the ballot before it is cast and counted, including through the use of a replacement ballot if the voter is otherwise unable to change or correct his vote on the ballot.

Present law (R.S. 18:563 and 1309) provide procedures for casting a vote using a paper ballot. Proposed law retains present law and additionally provides procedures for using a replacement ballot. Provides that if a voter determines that his ballot is spoiled because he wants to change or correct his vote on the ballot before it is cast and counted but is unable to do so, he may obtain a replacement ballot upon returning the spoiled ballot to the appropriate election official. Provides that the voter shall cast his vote as provided in present law using the replacement ballot. Requires the election official to write the words "spoiled and replaced" on the ballot and retain the spoiled ballot.

Present law (R.S. 18:1310) provides procedures for casting a vote using an absentee by mail ballot. Proposed law retains present law and additionally provides procedures for using a replacement ballot. Provides that if a voter determines that his ballot is spoiled because he wants to change or correct his vote on the ballot before it is cast and counted but is unable to do so, he may obtain a replacement ballot from the registrar of voters in his parish. Provides that upon receiving the replacement ballot, the voter shall mark the ballot and return it to the registrar as provided in present law. Provides that the voter shall not return the spoiled ballot to the registrar, but shall destroy it. Provides that if the voter sends both the spoiled ballot and the replacement ballot to the registrar, each of such ballots shall be void.

Present law (R.S. 18:1307) provides for the content of absentee by mail applications. Provides for the form of an application. Provides methods for returning applications to the registrar, including mail, commercial delivery service, hand delivery, and facsimile.

Proposed law retains present law. However, provides that if an application is sent by facsimile, the person sending the application by facsimile shall sign the application to indicate that he is the sender and shall include the facsimile number from where the facsimile was sent.

Present law additionally provides that no person except the immediate family member of a voter may hand deliver more than one voter's application to vote by mail to the registrar. Proposed law retains present law and applies this limitation to applications sent by facsimile.

Present law (R.S. 18:1313) provides procedures and requirements for the tabulation and counting of absentee by mail ballots by the parish board of election supervisors. Provides that upon written request by certain specified persons, a recount must be conducted if the number of absentee by mail and early voting ballots cast could make a difference in the outcome of the election. Provides that all recounts of absentee by mail and early voting ballots shall be held at 10:00 a.m. or following the reinspection of voting machines on the fifth day after the election and at any time ordered by a court of competent jurisdiction. Provides that if the fifth day after the election falls on a holiday or

weekend, such recount shall be held on the next working day at 10:00 a.m. or following the reinspection of voting machines. Present law requires a written request for recount of absentee by mail and early voting ballots to be filed with the clerk of court no later than the last working day prior to the date of the recount.

Proposed law retains present law but requires a request for recount to be filed by 4:30 p.m. on the last day for filing the request.

Present law provides that the parish board of election supervisors is responsible for counting and tabulation of absentee by mail and early voting ballots. Provides procedures and requirements.

Proposed law retains present law and additionally provides that if a voter sends two or more absentee by mail ballots for the same election in the same envelope the parish board shall reject all such ballots.

Effective upon signature of governor or lapse of time for gubernatorial action; except that provisions relative to changes to challenge and cancellation of registration, the deadline for notice of election, replacement ballots, and instructions on absentee by mail ballots become effective on January 1, 2017.

(Amends R.S. 18:18(A)(7), 116(A)(1)(intro. para.) and (a), (B)(1)(a) and (d) and (2)(a) and (b), and (C), 193(D), 424(B)(1), 425(B), 444(D), 463(A)(2)(b), 470(B), 532.1(D)(2)(a) and (E), 563(D)(2), 583(A)(2), 1285(B)(1)(a), 1300(C)(1), 1306(A)(3), 1307(B)(1)(a), and 1313(J)(2)(b); Adds R.S. 18:18(A)(10), 116(A)(3), 1309(E)(5)(b)(iii), 1310(D), and 1313(F)(11); Repeals R.S. 18:116(A)(1)(c))

Summary of Amendments Adopted by House

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

1. Add procedures for using a replacement paper ballot to change or correct a vote before the vote is cast and counted when voting during early voting, absentee by mail, and on election day.
2. Remove provisions requiring a parish governing authority to send certain documents to the secretary of state prior to adopting a precinct division and requiring the secretary of state to provide the parish governing authority with a report concerning the proposed precinct division.
3. Add provisions requiring the parish governing authority to notify the secretary of state in writing when a precinct division is adopted.
4. Make technical changes.