

Regular Session, 2010

SENATE BILL NO. 608

BY SENATOR CLAITOR

ELECTION CODE. Provides relative to major recognized political parties in congressional elections. (1/1/11)

1 AN ACT

2 To amend and reenact R.S. 18:401(B)(2)(a)(i), 402(B)(1) and (2), 1275.1(A), 1275.3(B),
3 1275.11(D)(1), 1275.13, 1275.14(A) and (A)(1) and (2) and (B)(1), 1275.15,
4 1275.16, 1275.17(A), and 1275.19, and to enact R.S. 18:2(4.1), relative to
5 congressional elections; to provide relative to major recognized political parties in
6 primary elections; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:401(B)(2)(a)(i), 402(B)(1) and (2), 1275.1(A), 1275.3(B),
9 1275.11(D)(1), 1275.13, 1275.14(A) and (A)(1) and (2) and (B)(1), 1275.15, 1275.16,
10 1275.17(A), and 1275.19 are hereby amended and reenacted, and R.S. 18:2(4.1) is hereby
11 enacted, to read as follows:

12 §2. Definitions

13 As used in this Code, the following words and terms shall have the meanings
14 hereinafter ascribed to each, unless the context clearly indicates another meaning:

15 * * *

16 **(4.1) "Major recognized political party" means a political party that has**
17 **been recognized in this state pursuant to R.S. 18:441, and forty thousand or**

1 more registered voters in the state are registered as being affiliated with such
2 political party.

3 * * *

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

5 * * *

6 B. Nature. (1)

* * *

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

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

16 * * *

17 §402. Dates of primary and general elections

18 * * *

19 B. Congressional elections. Elections for members of Congress and officers
20 elected at the same time as members of Congress shall be held every two years,
21 beginning in 1982.

22 * * *

23 (1) Congressional first **party** primary elections for **major** recognized
24 political parties shall be held on the first Saturday in September of an election year.

25 (2) Congressional second **party** primary elections for **major** recognized
26 political parties and primary elections for officers elected at the same time as
27 members of Congress shall be held on the first Saturday in October of an election
28 year.

29 * * *

1 §1275.1. Purpose and nature of congressional primary and general elections

2 A. Nature of primary elections. All major recognized political parties shall
3 make all nominations of candidates for United States senator or United States
4 representative by direct primary elections held under the provisions of this Part and
5 applicable general election law. In congressional primary elections, each qualified
6 voter of this state may vote only on the candidates for public office who are affiliated
7 with the same political party with which the voter is affiliated. In congressional
8 primary elections, each qualified voter of this state who is not affiliated with a
9 recognized political party may choose to vote in a major recognized political party's
10 primary elections, unless the state central committee of such political party in its
11 rules and regulations prohibits unaffiliated voters from participating in its primary
12 elections. If a major recognized political party prohibits unaffiliated voters from
13 participating in its primary elections, the state central committee of such party shall
14 give written notice to the secretary of state of such prohibition, including a copy of
15 the rules and regulations containing such prohibition, no later than January first of
16 the year in which regularly scheduled congressional elections are to be held, or no
17 later than the forty-sixth day prior to a special first party primary election. The
18 notice, once filed with the secretary of state, shall be effective until the major
19 recognized political party notifies the secretary of state in writing of a change. Any
20 such notice of a change shall be filed with the secretary of state no later than January
21 first of the year in which regularly scheduled congressional elections are to be held,
22 or no later than the forty-sixth day prior to a special first party primary election.
23 Should more than one political party not prohibit nonaffiliated voters ~~to participate~~
24 **from participating** in the party primary, the participating voter shall select only one
25 party ballot to vote on in the primary election.

26 * * *

27 §1275.3. Manner of qualifying for the first party primary election

28 * * *

29 B. A person who desires to become a candidate in the first party primary

1 election must be affiliated with a **major** recognized political party. A person may
2 qualify as a candidate only in the first party primary election of the party with which
3 he is affiliated as shown on his voter registration.

4 * * *

5 §1275.11. Reopening of qualifying period; effect

6 * * *

7 D. Effect on primary election. (1) If the qualifying period for candidates
8 reopens for any **major** recognized political party within thirty days before a first
9 party primary election, all the votes cast in the first party primary election for that
10 public office are void, unless the qualifying period for the office reopened and closed
11 without additional candidates qualifying for the office. If additional candidates
12 qualify for the office and the votes for the first party primary will be void for that
13 reason, the secretary of state shall immediately publish in the official journal of the
14 state a notice to the electorate that the election for that office has been voided
15 because new candidates qualified. Such notice shall include the dates for the
16 rescheduled first party primary, second party primary, and general elections.

17 * * *

18 §1275.13. Majority vote required; second primary

19 No candidate for office shall be declared nominated to the office he seeks if
20 such candidate has received less than a majority of the votes cast in a first party
21 primary, and a second party primary shall be held for those offices for which no
22 candidate received a majority of the votes cast in the first party primary. The second
23 party primary shall be held in accordance with the provisions of this Part. If only one
24 candidate from a **major** recognized political party qualifies for the office, that
25 candidate shall be declared the nominee of such party.

26 §1275.14. Second primary; effect of tie vote, withdrawal or death of a candidate

27 A. In the event that no candidate receives a majority vote in the first party
28 primary, the two candidates from each **major recognized** political party, who
29 received the greatest number of votes in the first party primary shall be voted on in

1 the second party primary.

2 (1) In the case of a tie vote for first place in the first party primary of a **major**
3 recognized political party, all candidates affiliated with the same political party who
4 received the same highest number of votes qualify for the second party primary.

5 (2) In the case of a tie vote for second place in the first party primary of a
6 **major** recognized political party, all of the candidates affiliated with the same
7 political party who received the same second highest number of votes and the
8 candidate affiliated with the same political party who received the highest number
9 of votes qualify for the second party primary.

10 * * *

11 B.(1) The state central committee of a **major** recognized political party may
12 provide for the selection of a nominee in either of the following situations:

13 (a) When a candidate withdraws after the close of the qualifying period and
14 before the time for closing the polls on the day of the second party primary election,
15 thereby leaving the **major** recognized political party with no nominee.

16 (b) When a candidate dies after the first party primary election and before the
17 time for closing the polls on the day of the second party primary election, thereby
18 leaving the **major** recognized political party with no nominee.

19 * * *

20 §1275.15. Candidates who qualify for a general election

21 All nominations by **major** recognized political parties for the general election
22 shall be in accordance with the provisions relative to primary elections. If a
23 candidate from a **major** recognized political party receives a majority of the votes
24 cast in the first party primary, he shall be the party nominee and qualify for the
25 general election. If there is only one candidate remaining after the death or
26 withdrawal of a candidate after the first party primary, the remaining candidate from
27 the **major** recognized political party shall be the party nominee and qualify for the
28 general election. A nominee selected in accordance with R.S. 18:1275.14(B) or (C)
29 shall qualify for the general election. If no candidate from a **major** recognized

1 political party receives a majority in the first party primary, the candidate from the
2 major recognized political party who receives the highest number of votes in the
3 second party primary shall be the party nominee and qualify for the general election.

4 §1275.16. Number of candidates who may qualify for a general election

5 The number of candidates for an office who may qualify for the general
6 election by party nomination is one candidate from each major recognized political
7 party.

8 §1275.17. Candidates not affiliated with a major recognized political party;
9 qualifying for the general election

10 A. Any person desiring to become a candidate in a general election who is
11 not registered as being affiliated with a major recognized political party shall file his
12 notice of candidacy which shall be accompanied by either a ballot access petition or
13 by the qualifying fee required for state candidates as provided in R.S. 18:464. The
14 number of signatures required on a ballot access petition shall be the same as the
15 number required for candidates seeking the same office in the first party primary
16 election as set forth in this Part.

17 * * *

18 §1275.19. Nomination of candidates in a party primary election; general election;
19 unopposed candidate

20 A. If, after the close of the qualifying period for candidates in a first party
21 primary election, only one candidate qualifies for nomination by a major recognized
22 political party for an office or only one candidate for nomination by a major
23 recognized political party for an office remains after the withdrawal of one or more
24 candidates, such candidate shall be declared the nominee of the party, and his name
25 shall not appear on the ballot in the second party primary election but shall be on the
26 ballot for the general election. If the first or second party primary election ballot was
27 printed with the name of a candidate who withdrew on it, any votes received by a
28 candidate who withdrew shall be void and shall not be counted for any purpose
29 whatsoever.

1 B. If, after the close of the qualifying period for candidates for the public
2 office of United States senator or representative in congress and, if applicable, after
3 the expiration of the time period for a **major** recognized political party to select a
4 nominee pursuant to R.S. 18:1275.14(B) only one candidate qualifies for the first
5 party primary election or general election or only one candidate remains after the
6 withdrawal of one or more candidates, such candidate shall be declared elected by
7 the people at the close of the polls on the day of the general election, and his name
8 shall not appear on the ballot in a first party primary or second party primary, if
9 applicable, and such candidate's name shall not appear on the general election ballot.
10 Section 2. This Act shall become effective on January 1, 2011.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement, Jr.

DIGEST

Present law provides relative to the election of U.S. senators and representatives in Congress.

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

Proposed law retains present law but adds provisions relative to party primaries and major recognized political parties.

Proposed law provides that "major recognized political party" means a political party that has been recognized in this state pursuant to present law and 40,000 or more registered voters in the state are registered as being affiliated with such political party.

Proposed law provides that in party primary elections, major recognized political parties make all nominations of candidates by direct primary elections held under the provisions of present law. Proposed law provides that in party primary elections, each qualified voter may vote only on the candidates for public office who are affiliated with the same political party with which the voter is affiliated. Proposed law provides that in primary elections, each qualified voter who is not affiliated with a recognized political party may choose to vote in one major recognized political party's primary elections, except as otherwise provided by present law.

Proposed law provides that congressional first party primary elections for major recognized political parties will be held on the 1st Saturday in September of an election year, and congressional second party primary elections for major recognized political parties and primary elections for officers elected at the same time as members of Congress will be held on the 1st Saturday in October of an election year.

Proposed law provides that all major recognized political parties will make all nominations of candidates for United States senator or United States representative by direct primary elections and general election law. Proposed law provides that in congressional primary elections, each qualified voter of this state may vote only on the candidates for public office who are affiliated with the same political party with which the voter is affiliated. Proposed

law provides that in congressional primary elections, each qualified voter of this state who is not affiliated with a recognized political party may choose to vote in a major recognized political party's primary elections, unless the state central committee of such political party in its rules and regulations prohibits unaffiliated voters from participating in its primary elections. Proposed law provides that if a major recognized political party prohibits unaffiliated voters from participating in its primary elections, the state central committee of such party must give written notice to the secretary of state of such prohibition, including a copy of the rules and regulations containing such prohibition, no later than January 1st of the year in which regularly scheduled congressional elections are to be held, or no later than the 46th day prior to a special first party primary election, which notice, once filed with the secretary of state, is effective until the major recognized political party notifies the secretary of state in writing of a change. Proposed law provides that any such notice of a change is to be filed with the secretary of state no later than January 1st of the year in which regularly scheduled congressional elections are to be held, or no later than the 46th day prior to a special first party primary election. Proposed law provides that should more than one political party not prohibit nonaffiliated voters from participating in the party primary, the participating voter is to select only one party ballot to vote on in the primary election.

Proposed law provides that a person who desires to become a candidate in the first party primary election must be affiliated with a major recognized political party. A person may qualify as a candidate only in the first party primary election of the party with which he is affiliated as shown on his voter registration.

Proposed law provides that if the qualifying period for candidates reopens for any major recognized political party within 30 days before a first party primary election, all the votes cast in the first party primary election for that public office are void, unless the qualifying period for the office reopened and closed without additional candidates qualifying for the office.

Proposed law provides that the second party primary will be held in accordance with the provisions of present law, and if only one candidate from a major recognized political party qualifies for the office, that candidate is to be declared the nominee of such party.

Proposed law provides that in the event that no candidate receives a majority vote in the first party primary, the two candidates from each major recognized political party, who received the greatest number of votes in the first party primary is to be voted on in the second party primary.

Proposed law provides that in the case of a tie vote for first place in the first party primary of a major recognized political party, all candidates affiliated with the same political party who received the same highest number of votes qualify for the second party primary. Proposed law provides that in the case of a tie vote for second place in the first party primary of a major recognized political party, all of the candidates affiliated with the same political party who received the same second highest number of votes and the candidate affiliated with the same political party who received the highest number of votes qualify for the second party primary.

Proposed law provides that the state central committee of a major recognized political party may provide for the selection of a nominee in either of the following situations:

- (1) When a candidate withdraws after the close of the qualifying period and before the time for closing the polls on the day of the second party primary election, thereby leaving the major recognized political party with no nominee.
- (2) When a candidate dies after the first party primary election and before the time for closing the polls on the day of the second party primary election, thereby leaving the major recognized political party with no nominee.

Proposed law provides that all nominations by major recognized political parties for the general election will be in accordance with the provisions relative to primary elections. Proposed law provides that if a candidate from a major recognized political party receives a majority of the votes cast in the first party primary, he is the party nominee and qualifies for the general election. Proposed law provides that if there is only one candidate remaining after the death or withdrawal of a candidate after the first party primary, the remaining candidate from the major recognized political party is to be the party nominee and qualifies for the general election. Proposed law provides that a nominee selected in accordance with present law qualifies for the general election. Proposed law provides that if no candidate from a major recognized political party receives a majority in the first party primary, the candidate from the major recognized political party who receives the highest number of votes in the second party primary is to be the party nominee and qualifies for the general election.

Proposed law provides that the number of candidates for an office who may qualify for the general election by party nomination is one candidate from each major recognized political party.

Proposed law provides that any person desiring to become a candidate in a general election who is not registered as being affiliated with a major recognized political party must file his notice of candidacy which must be accompanied by either a ballot access petition or by the qualifying fee required for state candidates as provided in present law. Proposed law provides that the number of signatures required on a ballot access petition must be the same as the number required for candidates seeking the same office in the first party primary election as set forth in present law and proposed law.

Proposed law provides that if after the close of the qualifying period for candidates in a first party primary election, only one candidate qualifies for nomination by a major recognized political party for an office or only one candidate for nomination by a major recognized political party for an office remains after the withdrawal of one or more candidates, such candidate is to be declared the nominee of the party, and his name will not appear on the ballot in the second party primary election but will be on the ballot for the general election.

Proposed law provides that if after the close of the qualifying period for candidates for the public office of United States senator or representative in congress and, if applicable, after the expiration of the time period for a major recognized political party to select a nominee pursuant to proposed law, only one candidate qualifies for the first party primary election or general election or only one candidate remains after the withdrawal of one or more candidates, such candidate is to be declared elected by the people at the close of the polls on the day of the general election, and his name will not appear on the ballot in a first party primary or second party primary, if applicable, and such candidate's name will not appear on the general election ballot.

Effective January 1, 2011.

(Amends R.S. 18:401(B)(2)(a)(i), 402(B)(1) and (2), 1275.1(A), 1275.3(B), 1275.11(D)(1), 1275.13, 1275.14(A) and (A)(1) and (2) and (B)(1), 1275.15, 1275.16, 1275.17(A), and 1275.19; adds R.S. 18:2(4.1))