

Regular Session, 2010

SENATE BILL NO. 796

(Substitute of Senate Bill No. 690 by Senator Adley)

BY SENATORS ADLEY AND THOMPSON

CONGRESS. Provides for an open primary system of elections for congressional offices.
(1/1/11)

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 the introductory paragraph of (C), (E), and (G), 433(G)(1) and the introductory

4 paragraph of (H)(1), 434(A)(1), the introductory paragraph of (C), and (D)(1) and

5 (2), 435(A)(1) and (B), 436, 453(A) and (B), the introductory paragraph of 467 and

6 (2), 468(A), 481, 491(A) and (C), 511(A) and (B), 512(B), 535(B), the introductory

7 paragraph of 552(A), 1272(A), 1278(B), 1279, 1285(B)(1)(a), 1300(C)(1),

8 1300.7(A), 1306(A)(4) and (C)(2), 1307(A)(8) and (E), 1308(A)(2)(a), 1314(B) and

9 (C), 1355(6), 1401(B), 1402(B)(1)(c), 1405(A), 1406(B), 1407, 1409(B)(1) and (2),

10 1432(A), and 1461(A)(17), and to repeal R.S. 18:1275.1 through 1275.24, relative

11 to elections; to provide for an open primary system of elections for congressional

12 offices; to provide relative to objections to candidacy and contests of elections; to

13 provide relative to changes to and challenge and cancellation of voter registration;

14 to provide relative to procedures for voting; to provide for election dates; to provide

15 relative to courses of instruction for commissioners; to provide relative to selection

16 and replacement of commissioners; to provide relative to alternate commissioners;

17 to provide relative to watchers; to provide relative to dual candidacy; to provide

1 relative to qualification of candidates; to provide relative to the election of
 2 candidates in a primary and general election; to provide relative to notice of location
 3 of precincts and polling places; to provide relative to election materials; to provide
 4 relative to filling vacancies in federal offices; to provide relative to recall elections;
 5 to provide relative to absentee by mail and early voting; to provide relative to voting
 6 machines; to provide relative to election offenses; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:44(A) and (B)(5)(b), 110(B), 193(F), 197, 401(B), 402(B), the
 9 introductory paragraph of (C), (E), and (G), 433(G)(1) and the introductory paragraph of
 10 (H)(1), 434(A)(1), the introductory paragraph of (C), and (D)(1) and (2), 435(A)(1) and (B),
 11 436, 453(A) and (B), the introductory paragraph of 467 and (2), 468(A), 481, 491(A) and
 12 (C), 511(A) and (B), 512(B), 535(B), the introductory paragraph of 552(A), 1272(A),
 13 1278(B), 1279, 1285(B)(1)(a), 1300(C)(1), 1300.7(A), 1306(A)(4) and (C)(2), 1307(A)(8)
 14 and (E), 1308(A)(2)(a), 1314(B) and (C), 1355(6), 1401(B), 1402(B)(1)(c), 1405(A),
 15 1406(B), 1407, 1409(B)(1) and (2), 1432(A), and 1461(A)(17) are hereby amended and
 16 reenacted to read as follows:

17 §44. Contesting election; referral for prosecution

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

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

29 * * *

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

2 * * *

3 (b) The allegation that except for substantial irregularities or error, fraud, or
4 other unlawful activities in the conduct of the election, a different candidate would
5 have qualified for a ~~second party primary election or a~~ general election or would
6 have been elected.

7 * * *

8 §110. Removal from precinct; removal from parish

9 * * *

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

14 (a) A person whose registration has been canceled pursuant to R.S.
15 18:193(G).

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

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

24 ~~(a) A person whose registration has been canceled pursuant to R.S.
25 18:193(G).~~

26 ~~(b) A person whose registration has been canceled pursuant to R.S.
27 18:196(C).~~

28 ~~(3)~~ **(2)** The change of residence of a registrant from one precinct to another
29 in the same parish does not deprive him of the right to remain as a legal registrant,

1 as to all issues upon which he was entitled to vote prior to his change of residence,
 2 in the precinct from which he has removed until he changes his registration as
 3 provided in Subsection A of this Section and has the right to vote in the precinct to
 4 which he has moved.

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

12 * * *

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

14 * * *

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

22 * * *

23 §197. Registration; cancellation

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

* * *

§401. Purpose and nature of primary and general elections

* * *

B. Nature. ~~(1) Except for the election of persons to congress, all~~ **All** qualified voters of this state may vote on candidates for public office in primary and general elections without regard to the voter's party affiliation or lack of it, and 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 of it.

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

~~(i) In primary elections, recognized political parties shall make all nominations of candidates by direct primary elections held under the provisions of this Chapter. In 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. In primary elections, each qualified voter who is not affiliated with a recognized political party may choose to vote in one recognized political party's primary elections, except as otherwise provided by R.S. 18:1275.1.~~

~~(ii) In general elections, each qualified voter of this state may vote for 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 for without regard to the candidates' party affiliation or lack thereof.~~

* * *

§402. Dates of primary and general elections

* * *

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

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

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

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

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

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

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

25 ~~(3)~~ (2) A special general election shall be held on one of the following days:

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

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

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

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

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

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

17 (~~4~~) **(3)** The secretary of state shall not include the name of any candidate on
 18 any ballot for a special election to fill a vacancy in any office to which this
 19 Subsection is applicable unless such special election has been called in accordance
 20 with the provisions of this Subsection and scheduled on one of the dates provided
 21 herein. Any elector who is eligible to vote in any such special election may apply
 22 for injunctive relief to prohibit the placing of the name of any candidate in an
 23 improperly called election on the ballot. Venue for such application shall be in any
 24 parish in which the election is called, and the secretary of state shall be the proper
 25 party defendant.

26 * * *

27 G. Prohibited days. No election of any kind shall be held in this state on any
 28 of the days of Rosh Hashanah **Hashana**, Yom Kippur, Sukkoth **Sukkot**, **Shimini**
 29 **Atzereth Shemini Atzeret**, Simchas Torah **Simchat Torah**, the first two days and

1 the last two days of Passover, ~~Shavuoth~~ **Shavuot**, ~~Fast of AV~~ **Tish'a B'Av**, the two
 2 days preceding Labor Day or the three days preceding Easter. If the date of any
 3 election falls on any of the ~~above-named~~ **above-named** days, the election shall be
 4 held on the same weekday of the preceding week. ~~If the date of the election for a~~
 5 ~~second party primary is advanced pursuant to this Subsection, the first party primary~~
 6 ~~shall also be advanced by the same number of weeks.~~

7 * * *

8 §433. Commissioners-in-charge; course of instruction; selection; commission;
 9 disqualification; replacement

10 * * *

11 G. Replacement. (1) Except as provided in Subsection H of this Section, if
 12 it becomes certain that a commissioner-in-charge will not be able to serve for a
 13 primary ~~or first party primary~~ election, or if a commissioner-in-charge fails to attend
 14 a course of instruction held immediately prior to a primary ~~or first party primary~~
 15 election as provided in R.S. 18:431(B), the parish board of election supervisors shall
 16 select a replacement commissioner-in-charge who shall serve for both the primary
 17 ~~or first party primary~~ and general elections. Except as provided in Subsection H of
 18 this Section, if it becomes certain that a commissioner-in-charge will not be able to
 19 serve for a ~~second party primary or a~~ general election, or if a commissioner-in-
 20 charge fails to attend the course of instruction held prior to a ~~second party primary~~
 21 ~~or a~~ general election, the parish board of election supervisors shall select a
 22 replacement commissioner-in-charge who shall serve for ~~both the second party~~
 23 ~~primary and~~ the general election.

24 * * *

25 H. Replacement. (1) If a commissioner-in-charge fails to appear at the
 26 polling place at least thirty minutes before the time when the polls are to open on
 27 election day, the commissioners in attendance at the polling place shall immediately
 28 notify the clerk of court of the absence. Immediately upon receipt of the notice, the
 29 clerk of court shall select a replacement commissioner-in-charge for that precinct.

1 Subject to the provisions of Subsection G of this Section, a replacement
 2 commissioner-in-charge selected for a primary ~~or first party primary~~ election also
 3 shall serve for the ~~second party primary and the~~ general election. The replacement
 4 commissioner-in-charge shall be selected from the following categories in the order
 5 of priority listed:

6 * * *

7 §434. Commissioners and alternate commissioners; selection; commission;
 8 disqualification; replacement

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

15 * * *

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

19 * * *

20 D. Replacement of a commissioner. (1) If prior to the day of the election
 21 a commissioner notifies the parish board of election supervisors that he is unable to
 22 serve as commissioner, the parish board of election supervisors shall select an
 23 alternate commissioner to serve in place of the absent commissioner. An alternate
 24 commissioner who replaces an absent commissioner in a ~~primary or first party~~
 25 **primary** election shall replace the absent commissioner in the ~~second party primary~~
 26 **and in the** general election. ~~An alternate commissioner who replaces an absent~~
 27 ~~commissioner in a second party primary election shall replace the absent~~
 28 ~~commissioner in the general election.~~ If there are no alternate commissioners or an
 29 insufficient number of alternate commissioners available, the parish board of election

1 supervisors shall select a person to serve as commissioner from the list containing
 2 the names of persons within that ward who have received certificates of instruction
 3 from the clerk of court pursuant to R.S. 18:431(A)(1). If no person on that list is
 4 available to serve as commissioner, the parish board of election supervisors shall
 5 select any person within the parish who has received a certificate of instruction from
 6 the clerk of court pursuant to R.S. 18:431(A)(1). If there is no such qualified person
 7 available, the parish board of election supervisors shall select a watcher.

8 (2) If a commissioner fails to appear at the polling place at least thirty
 9 minutes before the time when the polls are to open on election day, or if a
 10 commissioner is selected as commissioner-in-charge, the commissioner-in-charge
 11 shall select an alternate commissioner to serve in place of the absent commissioner.
 12 An alternate commissioner who replaces an absent commissioner in a ~~primary or~~
 13 ~~first party~~ primary election shall replace the absent commissioner in the ~~second party~~
 14 ~~primary and in the~~ general election. ~~An alternate commissioner who replaces an~~
 15 ~~absent commissioner in a second party primary election shall replace the absent~~
 16 ~~commissioner in the general election.~~ If there are no alternate commissioners or an
 17 insufficient number of alternate commissioners available, the commissioner-in-
 18 charge shall select a person to serve as commissioner from the list containing the
 19 names of those who have received certificates of instruction that was furnished him
 20 by the parish board of election supervisors pursuant to R.S. 18:431(A)(5). If no
 21 person on that list is available to serve as commissioner, the commissioner-in-charge
 22 shall select any person present at the polls who possesses the qualifications of a
 23 commissioner as set forth in R.S. 18:425(B). If there is no such qualified person
 24 available, the commissioner-in-charge shall select a watcher.

25 * * *

26 §435. Watchers; appointment and commission

27 A. Right to have watchers. (1) Each candidate is entitled to have one
 28 watcher at every precinct where the office he seeks is voted on in ~~any a~~ primary or
 29 general election. The candidate or his authorized representative shall file one list of

1 §453. Dual candidacy

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

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

11 * * *

12 §467. Opening of qualifying period

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

15 * * *

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

19 * * *

20 §468. Close of the qualifying period

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

25 * * *

26 §481. Candidates who qualify for a general election

27 ~~Except for candidates for the public office of United States senator or~~
28 ~~representative in Congress, **The**~~ candidates who qualify for each office remaining to
29 be filled in the general election are those who received the two highest numbers of

1 votes, the four highest number of votes, and so on among those not elected in the
2 primary election, until the maximum number of candidates for each office on the
3 general election ballot is reached.

4 * * *

5 §491. Standing to object to candidacy

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

9 * * *

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

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

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

19 * * *

20 §511. Election of candidates in a primary election; ~~exception, congressional~~
21 **candidates**

22 A. Majority vote. A candidate, ~~other than a candidate for United States~~
23 ~~senator or representative in congress~~, who receives a majority of the votes cast for
24 an office in a primary election is elected. If there are two or more offices of the same
25 character to be filled, the number of votes necessary to constitute a majority shall be
26 greater than the result obtained by dividing the total votes cast for all of the
27 candidates by the number of offices to be filled and dividing the result so obtained
28 by two. If more candidates receive a majority than there are offices to be filled,
29 those of such candidates receiving the highest total of votes shall be elected, to the

1 number required to fill all of the offices. Any votes received by a withdrawn
2 candidate or a deceased candidate shall be void and shall not be counted for any
3 purpose whatsoever.

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

11 * * *

12 §512. Election of candidates in a general election

13 * * *

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

20 * * *

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

22 * * *

23 B. Before primary elections. The parish board of election supervisors shall
24 publish the location of the polling places in the parish at least once before each
25 primary ~~or first party primary~~ election. The publication shall be in the official
26 journal of the parish during the third week before the primary ~~or first party primary~~
27 election.

28 * * *

29 §552. Election materials

1 the candidates are respectively nominated.

2 * * *

3 §1285. Notice of election

4 * * *

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

17 * * *

18 §1300. Procedures; notice of election; expenses

19 * * *

20 C.(1) When an election is called under the provisions of this Chapter, written
21 notice of the election shall be transmitted to the secretary of state, the commissioner
22 of elections, and each clerk of court and registrar of voters in the area affected by the
23 election. If the election is to be held on a primary ~~or second party primary~~ election
24 date, then such notice shall be received by the secretary of state on or before the
25 seventy-first day prior to the primary ~~or second party primary~~ election. If the
26 election is not to be held on a primary ~~or second party primary~~ election date, then
27 such notice shall be received by the secretary of state on or before the forty-sixth day
28 prior to the election.

29 * * *

1 §1300.7. Governor to order election; proclamation; publication

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

16 * * *

17 §1306. Preparation and distribution of absentee by mail and early voting ballots

18 A.

19 * * *

20 (4) The secretary of state shall prepare a special absentee ballot for
21 candidates and constitutional amendments to be voted on in ~~second party primary or~~
22 general elections, subject to approval as to content by the attorney general. This
23 special ballot shall only be for use by a qualified voter who is either a member of the
24 United States Service or who resides outside of the United States. Such special
25 ballot shall contain a list of the titles of all offices being contested at the primary ~~or~~
26 ~~first party primary~~ election and the candidates qualifying for the primary ~~or first~~
27 ~~party primary~~ election for each office, and shall permit the elector to vote in the
28 ~~second party primary or~~ general election by indicating his order of preference for
29 each candidate for each office. On the special ballot shall also be printed each

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

* * *

C.

* * *

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

* * *

§1307. Application by mail

24 A. A person qualified to vote absentee by mail under this Chapter may make
 25 application therefor to the registrar by letter; over his signature; or mark if the voter
 26 is unable to sign his name, signed by two witnesses who witnessed the applicant's
 27 mark; setting forth:

* * *

(8) If the person requests that a ballot for a general election ~~or the second~~

1 ~~party primary election, or both,~~ be sent in addition to a ballot for the primary ~~or first~~
 2 ~~party primary,~~ he shall declare in writing to the registrar that he will be eligible to
 3 vote absentee by mail in the general election ~~or the second party primary, or both,~~
 4 as the case may be.

5 * * *

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

13 * * *

14 §1308. Absentee voting by mail

15 A.

16 * * *

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

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

* * *

10 §1314. Absentee by mail and early voting commissioners

* * *

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

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

28 (3) Absentee by mail and early voting commissioners and alternate absentee
 29 by mail and early voting commissioners shall be issued commissions, take the oath

1 of office, be replaced, and be disqualified, all in the manner provided by law for
2 commissioners and alternate commissioners.

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

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

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

28 (b)(i) The parish board shall prepare a list containing the names of all
29 persons who served as absentee by mail and early voting commissioners in the

1 ~~primary or first party~~ primary election. The absentee by mail and early voting
2 commissioners and alternate absentee by mail and early voting commissioners for
3 ~~the second party primary election and for~~ the general election shall be selected from
4 that list in the manner provided by law for the selection of commissioners ~~or~~ **and**
5 alternate commissioners. The absentee by mail and early voting commissioners so
6 chosen shall then serve as needed for the ~~second party primary election and the~~
7 general election.

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

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

1 supervisors may select a qualified elector of the parish to serve; however, no such
 2 elector shall serve as an absentee by mail and early voting commissioner if a
 3 certified commissioner has been selected as an alternate absentee by mail and early
 4 voting commissioner.

5 * * *

6 §1355. Construction and equipment of machines; requirements

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

9 * * *

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

15 * * *

16 §1401. Objections to candidacy and contests of elections; parties authorized to
 17 institute actions

18 * * *

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

23 * * *

24 §1402. Proper parties

25 * * *

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

28 * * *

29 (c) The person or persons whose eligibility to be a candidate in a ~~second~~

1 ~~party primary election or in a~~ general election or whose election to office is
2 contested.

3 * * *

4 §1405. Time for commencement of action

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

10 * * *

11 §1406. Petition; answer; notification

12 * * *

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

20 * * *

21 §1407. Appointment of agent for service of process

22 By filing notice of candidacy a candidate appoints the clerk of court for each
23 parish in which he is to be voted on as his agent for service of process in any action
24 objecting to his candidacy, contesting his qualification as a candidate in a ~~second~~
25 ~~party primary election or in a~~ general election, or contesting his election to office.

26 * * *

27 §1409. Trial; decision; appeal

28 * * *

29 B.(1) If the action involves the contest of a ~~primary or first party~~ primary

1 election for a major office, the trial judge, for good cause shown, may postpone the
 2 date of the ~~second party primary election or the~~ general election for the office as to
 3 which the contest was filed for a period not to exceed five weeks. ~~If the action~~
 4 ~~involves the contest of a second party primary for a major office, the trial judge may,~~
 5 ~~for good cause shown, so postpone the general election.~~

6 (2) Whenever the trial of an action contesting a ~~primary or first or second~~
 7 ~~party primary election for a major office, extends past 5:00 p.m. on the fourteenth~~
 8 ~~day after the day of the election, the trial judge shall order the second party primary~~
 9 ~~election and the general election, or the general election, as the case may be, for the~~
 10 ~~affected office postponed to a Saturday specified by him which, for a second party~~
 11 ~~primary election is at least thirty days after the date on which the trial court renders~~
 12 ~~judgment and which for a general election is at least thirty days after the second~~
 13 ~~party primary election.~~

14 * * *

15 §1432. Remedies

16 A. If the trial judge in an action contesting an election determines that: (1)
 17 it is impossible to determine the result of election, or (2) the number of qualified
 18 voters who were denied the right to vote by the election officials was sufficient to
 19 change the result in the election, if they had been allowed to vote, or (3) the number
 20 of unqualified voters who were allowed to vote by the election officials was
 21 sufficient to change the result of the election if they had not been allowed to vote, or
 22 (4) a combination of the factors referred to in (2) and (3) in this Subsection would
 23 have been sufficient to change the result had they not occurred, the judge may render
 24 a final judgment declaring the election void and ordering a new ~~primary or first and~~
 25 ~~second party primary or second party primary or~~ general election for all the
 26 candidates, or, if the judge determines that the appropriate remedy is the calling of
 27 a restricted election, the judge may render a final judgment ordering a restricted
 28 election, specifying the date of the election, the appropriate candidates for the
 29 election, the office or other position for which the election shall be held, and

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. Present law 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 are to 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. Present law provides that there can be no third party primary and further that the state central committee is to provide for the selection of a nominee of their party in any situation not specifically provided for by present law.

Present law provides that the congressional candidate from each political party who received the highest number of votes in the second party primary qualifies for the general election as well as any candidate who received a majority in the first party primary. Present law 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 must 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 are to be held on the first Saturday in September 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 October 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 November.

Proposed law repeals present law.

Proposed law provides that all qualified voters 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 are to be held on the first Tuesday after the first Monday in November of an election year. Proposed law provides that general elections for members of congress and for officers elected at the same time as members of congress are to be held on the first Saturday in December 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 January 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)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Removes provisions in present law that relate specifically to 1995 election.