

SENATE BILL NO. 22

BY SENATOR HEWITT

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AN ACT

To amend and reenact R.S. 18:423(J), and 1315(B) and to enact R.S. 18:1313.2, relative to elections impaired as the result of a declared disaster or emergency; to provide for the powers, functions, duties, processes, and compensation of parish boards of election supervisors relative to the preparation, verification, tabulation, and counting of absentee by mail and early voting ballots for elections impaired as a result of a declared state of disaster or emergency; to provide relative to effectiveness and documentation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:423(J), and 1315(B) are hereby amended and reenacted and R.S. 18:1313.2 is hereby enacted to read as follows:

§423. Parish boards of election supervisors

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J.(1) Notwithstanding Subsection E of this Section, in a parish where the parish board of election supervisors tabulates and counts absentee by mail and early voting ballots in accordance with R.S. 18:1313.1, a member of the board may be compensated not more than eight days for a presidential or regularly scheduled congressional general election or seven days for any other primary or general election.

(2) Notwithstanding any provision of this Section to the contrary, in a parish where the parish board of election supervisors tabulates and counts absentee by mail and early voting ballots in accordance with R.S. 18:1313.2, a member of the board may be compensated not more than eleven days for a presidential or regularly scheduled congressional general election or ten days for any other primary or general election if any such election is impaired as the result of a declared emergency or disaster.

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1           **§1313.2. Preparation, verification, tabulation, and counting of absentee by mail**  
2                                   **and early voting ballots; parishes with one thousand or more**  
3                                   **absentee by mail ballots for elections impaired as the result of a**  
4                                   **declared disaster or emergency**

5           **A. Notwithstanding any contrary provision of this Code to the contrary,**  
6                                   **parishes with one thousand or more absentee by mail ballots returned to the**  
7                                   **registrar of voters for a primary or general election impaired as a result of a**  
8                                   **declared disaster or emergency may conduct the preparation and verification**  
9                                   **process for the tabulation and counting of absentee by mail and early voting**  
10                                   **ballots beginning four days before the election and conduct the tabulation and**  
11                                   **counting of absentee by mail and early voting ballots on election day in the**  
12                                   **manner provided by this Section.**

13           **B. The parish board of election supervisors shall be responsible for the**  
14                                   **preparation, verification, counting, and tabulation of all absentee by mail and**  
15                                   **early voting ballots in the parish. The board may utilize parish board**  
16                                   **commissioners to count the absentee by mail and early voting ballots in the**  
17                                   **parish. If the board determines that parish board commissioners are necessary**  
18                                   **for the preparation and verification process to count and tabulate the absentee**  
19                                   **by mail and early voting ballots beginning four days before the election and to**  
20                                   **count and tabulate the absentee by mail and early voting ballots on election day,**  
21                                   **it shall select parish board commissioners in accordance with the provisions of**  
22                                   **R.S. 18:1314. If a majority of the members of the board are not present for the**  
23                                   **preparation and verification process to count the absentee by mail and early**  
24                                   **voting ballots or to count the absentee by mail and early voting ballots and no**  
25                                   **parish board commissioners were previously selected, the members present may**  
26                                   **select a sufficient number of parish board commissioners four days before the**  
27                                   **election or on election day, as applicable, to assist in the preparation and**  
28                                   **verification process for the tabulation and counting of absentee by mail and**  
29                                   **early voting ballots and the tabulation and counting of the ballots.**

30           **C.(1) The preparation and verification process for the counting of the**

1 absentee by mail and early voting ballots may begin four days before the  
2 election at a public facility within the parish designated by the registrar of  
3 voters at a time fixed by the parish board of election supervisors.

4 (2) Absentee by mail and early voting ballots shall be counted at a public  
5 facility within the parish designated by the registrar of voters at a time fixed by  
6 the parish board of election supervisors, which time shall be on election day no  
7 later than 8:00 p.m.

8 (3) Prior to the counting of absentee by mail and early voting ballots on  
9 election day, any person authorized by the secretary of state may assist the  
10 registrar of voters in the challenge removal process on the early voting  
11 machines, in the reading of the early voting machine results cartridges on the  
12 secretary of state's equipment, and in producing the early voting machine  
13 results report. All early voting machine results reports shall be placed in the  
14 special absentee by mail and early voting envelope or container.

15 D.(1) If the counting and tabulation of absentee by mail and early voting  
16 ballots begins on election day prior to the closing of the polls, such counting and  
17 tabulation shall be conducted in a location and manner to prevent disclosure of  
18 the results prior to the closing of the polls. Each person except a person  
19 providing security to the parish board of election supervisors; a representative  
20 of the attorney general, with written approval of the secretary of state; the clerk  
21 of court; the registrar of voters; or a person providing technical assistance  
22 pursuant to Paragraph (2) of this Subsection who enters the location in which  
23 the absentee by mail and early voting ballots are being counted and tabulated  
24 on election day shall remain in that location and shall not be allowed to leave  
25 except temporarily, and then only when accompanied by a law enforcement  
26 officer, and shall not communicate with any person outside until the polls are  
27 closed. The parish board of election supervisors may take any action necessary  
28 to ensure that no information with respect to the counting and tabulation of  
29 absentee by mail and early voting ballots is transmitted from the location where  
30 the absentee by mail and early voting ballots are being counted and tabulated

1 on election day prior to the close of the polls on election day.

2 (2) Any person authorized by the secretary of state may provide security  
3 or technical assistance including advice, analysis, diagnosis, or repair for voting  
4 machines at the location where absentee by mail and early voting votes are  
5 being counted and tabulated. Such security or technical assistance shall be  
6 provided only upon the request of the parish board of election supervisors or a  
7 team of parish board commissioners, and may be made in person at the location  
8 where absentee by mail and early voting votes are being counted and tabulated,  
9 or by telephone, or both. Any authorized person providing such security or  
10 technical assistance may enter and leave the location where absentee by mail  
11 and early voting votes are being counted and tabulated on election day before  
12 the closing of the polls and during the process of counting and tabulation. No  
13 such person shall disclose any information with respect to the counting and  
14 tabulation of absentee by mail and early voting ballots prior to the close of the  
15 polls on election day.

16 E. Candidates, their representatives, and qualified electors may be  
17 present during the preparation and verification process and for the counting  
18 and tabulation of absentee by mail and early voting ballots. The board shall  
19 give notice reasonably calculated to inform any person who wants to be present  
20 during the counting and tabulation of absentee by mail and early voting ballots  
21 that no person will be allowed to leave or to communicate with any other person  
22 outside, until such time as the polls are closed, nor shall any person who is  
23 present during the counting and tabulation of absentee by mail and early voting  
24 ballots on election day possess a cellular telephone or electronic communication  
25 device.

26 F. The board shall count the absentee by mail and early voting ballots  
27 and announce the results after the closing of the polls on election day as the total  
28 number of absentee by mail and early voting votes cast in the election for each  
29 candidate and the total number cast for and against each proposition.

30 G. The procedure for the preparation and verification process for the

1 tabulation and counting of absentee by mail ballots and early voting paper  
2 ballots beginning four days before the election shall be as follows:

3 (1)(a) A member of the board shall remove the certificates, early voting  
4 verification forms, early voting machine public counter logs, early voting  
5 confirmation sheets, absentee by mail ballots, early voting paper ballots, and  
6 envelopes containing the absentee by mail ballots and early voting paper ballots  
7 from the special absentee by mail and early voting ballot envelope or container.

8 (b) The board shall review the early voting verification forms and early  
9 voting machine public counter logs and, if found to be acceptable to the board,  
10 sign each early voting verification form. If the board does not find an early  
11 voting verification form to be acceptable, it may review any early voting  
12 confirmation sheet and shall document its correction to the early voting  
13 verification form and then sign it.

14 (2) The board shall announce the name of each absentee by mail voter,  
15 each voter who voted a paper ballot during early voting and the ward and  
16 precinct where he is registered to vote, and shall compare the name on the  
17 certificate or on the flap of the envelope containing the absentee by mail ballot  
18 or early voting paper ballot with the names on the absentee by mail voter report  
19 or early voter report, as applicable.

20 (3) The board shall separate any ballots that are challenged in  
21 accordance with R.S. 18:1315(A) or (B) from the ballots that are not challenged.

22 (4)(a) If an absentee by mail ballot has not been challenged and is  
23 determined by the board to be valid, a member of the board shall make a check  
24 mark on the absentee by mail voter report beside the name of the voter as it  
25 appears on the report and write his initials on each page of the report. If  
26 applicable, a member of the board shall tear the flap from the envelope  
27 containing the absentee by mail ballot and leave the envelope sealed.

28 (b) If an early voting paper ballot has not been challenged and is  
29 determined by the board to be valid, a member of the board shall write the  
30 words "voted early" and his initials on the early voter report beside the name

1 of the voter as it appears on the report. A member of the board shall tear the  
2 flap from the envelope containing the paper ballot voted during early voting  
3 and leave the envelope sealed.

4 (5) If an absentee by mail ballot or early voting paper ballot has been  
5 challenged, the members shall leave the flap on the envelope, if applicable,  
6 containing the absentee by mail ballot or early voting paper ballot and leave the  
7 envelope sealed.

8 (6) A member of the board shall place the absentee by mail ballots and  
9 early voting paper ballots that have been challenged and the ballots that have  
10 not been challenged in the special absentee by mail envelope or container  
11 provided for that purpose and seal the envelope or container. Two members of  
12 the board shall execute the first certificate on the envelope or container and  
13 date the certificate with the date on which it was executed before the election.

14 (7) The members of the board shall place the certificates of the absentee  
15 by mail ballots and early voting paper ballots that have not been challenged and  
16 the flaps removed from those ballots in the envelope or container provided for  
17 that purpose and seal the envelope or container. Two of the members shall  
18 execute the first certificate on the envelope and date the certificate with the date  
19 on which it was executed before the election.

20 (8) Absentee by mail ballots that are received by the registrar of voters  
21 after the preparation and verification process is completed but before the  
22 deadline to return absentee by mail ballots shall be prepared, verified, counted,  
23 and tabulated on election day.

24 H. The procedure for counting absentee by mail ballots and early voting  
25 paper ballots on election day shall be as follows:

26 (1) A member of the board shall break the seal on the special absentee  
27 by mail and early voting ballot envelope or container, remove the certificates,  
28 absentee by mail ballots and early voting paper ballots that have been  
29 challenged, and the absentee by mail ballots and early voting paper ballots that  
30 have not been challenged from the envelope or container.

1           (2) The board shall determine the validity of challenges filed in  
2           accordance with R.S. 18:1315(A) and (B).

3           (3)(a) If the board determines that an absentee by mail ballot is valid,  
4           a member of the board shall make a check mark on the absentee by mail voter  
5           report beside the name of the voter as it appears on the report and write his  
6           initials on each page of the report. If applicable, a member of the board shall  
7           tear the flap from the envelope containing the absentee by mail ballot and leave  
8           the envelope sealed.

9           (b) If the board determines that a paper ballot voted during early voting  
10           is valid, a member of the board shall write the words "voted early" and his  
11           initials on the early voter report beside the name of the voter as it appears on  
12           the report. A member of the board shall tear the flap from the envelope  
13           containing the paper ballot voted during early voting and leave the envelope  
14           sealed.

15           (4) If a majority of the members of the board determine that an absentee  
16           by mail ballot or early voting paper ballot is invalid, the members shall leave  
17           the flap on the envelope containing the ballot, leave the envelope sealed, and a  
18           member of the board shall write the word "rejected", together with the reasons  
19           for rejecting the ballot, across the envelope containing the ballot or across the  
20           certificate attached to the special absentee by mail ballot or early voting paper  
21           ballot. He shall also write the word "rejected" and his initials on the absentee  
22           by mail voter report or early voter report, as applicable, beside the name of the  
23           voter as it appears in the report. The rejected absentee by mail ballots and  
24           early voting paper ballots and certificates shall be replaced in the special  
25           absentee by mail and early voting ballot envelope or container. No rejected  
26           absentee by mail ballot or early voting paper ballot shall be counted.

27           (5) After the validity of all absentee by mail ballots and early voting  
28           paper ballots have been determined, the members of the board shall break the  
29           seal on the envelope or container and place the valid certificates and the flaps  
30           removed from the valid absentee by mail ballots and early voting paper ballots

1 in the envelope or container provided for that purpose and seal the envelope or  
2 container. Two of the members shall execute the second certificate on the  
3 envelope and date the certificate the day of the election.

4 (6) The members shall open the envelopes containing the valid absentee  
5 by mail ballots and early voting paper ballots and remove the ballots.

6 (7) The board shall, in accordance with the requirements of R.S.  
7 18:1316, reject any ballot which contains a distinguishing mark or feature  
8 making the ballot susceptible of identification. However, a ballot shall not be  
9 rejected as containing a distinguishing mark if the ballot was transmitted  
10 electronically to a member of the United States Service, as defined in R.S.  
11 18:1302, or a person residing outside the United States.

12 (8) If a ballot is physically damaged or cannot properly be counted by  
13 the counting equipment and the vote cast by the voter is clearly discernible from  
14 a physical inspection of the defective ballot, the ballot may be counted by hand  
15 or a true duplicate may be made of the defective ballot in the presence of  
16 witnesses and substituted for the ballot. Any duplicate ballot shall be clearly  
17 labeled "duplicate", bear a ballot number which shall be recorded on the  
18 defective ballot, and be counted in lieu of the defective ballot. After a ballot has  
19 been duplicated, the defective ballot shall be placed in the special absentee by  
20 mail and early voting ballot envelope or container, and the duplicate ballot shall  
21 be counted with the other valid ballots.

22 (9) The special absentee ballots cast by members of the United States  
23 Service or persons who reside outside of the United States may be counted by  
24 hand or counted as a true duplicate.

25 I. The procedure for counting early voting machine ballots on election  
26 day shall be as follows:

27 (1) A member of the board shall remove the early voting machine results  
28 reports from the special absentee by mail and early voting ballot envelope or  
29 container.

30 (2) The board shall announce the results from each early voting machine

1 results report for the early voting ballots.

2 (3) The board shall determine the validity of challenges made in  
3 accordance with R.S. 18:1315(A) and (B).

4 (4)(a) Prior to utilizing any absentee by mail and early voting counting  
5 equipment, the parish board of election supervisors shall generate a zero tally  
6 to ensure that the equipment's candidate and question counters are set at zero  
7 and that no votes have been cast for any candidate or for or against any  
8 proposition.

9 (b) The board shall sign and certify to the correctness of each zero proof  
10 sheet and place all zero proof sheets in the special absentee by mail and early  
11 voting envelope or container.

12 (5) The absentee by mail and early voting votes cast for a candidate and  
13 those cast for and against a proposition shall be counted and the total number  
14 of absentee by mail and early voting votes cast for a candidate and those cast for  
15 and against a proposition shall be announced in the order the offices and  
16 candidates and propositions are listed on the ballot. The members of the board  
17 shall enter the total number of votes on the final absentee by mail and early  
18 voting vote report and shall certify the results.

19 J. The final absentee by mail and early voting vote report prepared by  
20 the parish board of election supervisors shall be transmitted to the clerk of  
21 court immediately upon completion of the tabulation of the absentee by mail  
22 and early voting ballots on election night. A copy of the record shall be  
23 transmitted immediately to the secretary of state, and a copy of the record shall  
24 be placed in the special absentee by mail and early voting envelope or container.

25 K. When the absentee by mail and early voter reports have been  
26 returned to the registrar of voters, the registrar, based on the information  
27 contained in the reports, shall confirm that the words "voted by mail" or "voted  
28 early" are written in the proper space on the precinct register for each voter  
29 who voted early or absentee by mail.

30 L.(1) Upon completion of the tabulation and counting of the absentee by

1 mail and early voting ballots on election day, the parish board of election  
2 supervisors shall return the absentee by mail and early voting ballots and  
3 electronic results report to the special absentee by mail and early voting ballot  
4 envelope or container, shall seal the envelope or container, and shall deliver the  
5 envelope or container to the registrar of voters. The registrar shall preserve the  
6 envelope or container and its contents inviolate and, except upon order of a  
7 court of competent jurisdiction, shall not allow the absentee by mail and early  
8 voting documents to be inspected by anyone until the delay for filing an action  
9 contesting the election has lapsed. If an action contesting the election is  
10 commenced timely, the registrar shall continue to preserve the envelope or  
11 container and its contents inviolate, subject to the orders of the court, until the  
12 final judgment in the action has become definitive.

13 (2)(a)(i) Notwithstanding the provisions of Paragraph (1) of this  
14 Subsection, if the number of absentee by mail and early voting ballots cast for  
15 all candidates for an office could make a difference in the outcome of the  
16 election for such office, upon the written request of a candidate for such office,  
17 the board shall recount the absentee by mail ballots by hand or scanning  
18 equipment and early voting ballots electronically, unless paper ballots were  
19 used for early voting and in such case, the ballots shall be recounted by hand for  
20 such office.

21 (ii) Notwithstanding the provisions of Paragraph (1) of this Subsection,  
22 if the number of absentee by mail and early voting ballots cast for and against  
23 a proposition could make a difference in the outcome of the election, upon the  
24 written request of a person who voted in the proposition election, the board  
25 shall recount the absentee by mail ballots by hand or scanning equipment and  
26 early voting ballots electronically, unless paper ballots were used for early  
27 voting and in such case, the ballots shall be recounted by hand for such election.

28 (b) All recounts of absentee by mail and early voting ballots shall be held  
29 at 10:00 a.m. or following the reinspection of voting machines on the fifth day  
30 after the election and at any time ordered by a court of competent jurisdiction.

1 If the fifth day after the election falls on a holiday or weekend, such recount  
2 shall be held on the next working day at 10:00 a.m. or following the reinspection  
3 of voting machines. Any written request for recount of absentee by mail and  
4 early voting ballots shall be filed with the clerk of court. The deadline for filing  
5 a request for recount of absentee by mail and early voting ballots shall be 4:30  
6 p.m. on the last working day prior to the date of the recount. Immediately upon  
7 receiving any request, the clerk of court shall prominently post in his office a  
8 notice of the time and place where the absentee by mail and early voting ballots  
9 will be recounted and the name of the candidate or the voter in the proposition  
10 election requesting the recount.

11 (c) Upon completion of the recount of the absentee by mail and early  
12 voting ballots, the board shall return the absentee by mail and early voting  
13 documents to the special absentee by mail and early voting ballot envelope or  
14 container, shall reseal the envelope or container, and shall deliver the envelope  
15 or container and its contents to the registrar of voters who shall preserve the  
16 envelope or container and its contents in the manner provided for in Paragraph  
17 (1) of this Subsection.

18 (d)(i) The candidate or the voter in the proposition election requesting  
19 the recount shall be responsible for all reasonable costs associated with such  
20 recount, which shall be payable to the clerk of court. The costs shall be paid at  
21 the time the written request for the recount is filed with the clerk of court and  
22 shall be paid in cash or by certified or cashier's check on a state or national  
23 bank or credit union, United States postal money order, or money order issued  
24 by a state or national bank or credit union.

25 (ii) If the recount changes the outcome of the election, the costs paid by  
26 the candidate or voter in the proposition election shall be refunded by the clerk  
27 of court, and the costs of the recount shall be a reimbursable election expense  
28 as provided in Chapter 8-A of this Title.

29 (3) A candidate or his representative, in the presence of a majority of the  
30 parish board of election supervisors, shall be allowed to inspect the flaps

1 removed from the valid absentee by mail ballots and the flaps removed from the  
2 valid early voting ballots when paper ballots are used for early voting. All such  
3 inspections shall be held at 10:00 a.m. or following the recount of absentee by  
4 mail and early voting ballots on the fifth day after the election and at any time  
5 ordered by a court of competent jurisdiction. If the fifth day after the election  
6 falls on a holiday or weekend, such inspection shall be held on the next working  
7 day at 10:00 a.m. or following the recount of absentee by mail and early voting  
8 ballots. Any written request for inspection shall be filed with the clerk of court.  
9 The deadline for filing a request for inspection shall be the last working day  
10 prior to the date of the inspection. Immediately upon receiving any request, the  
11 clerk of court shall prominently post in his office a notice of the time and place  
12 where the inspection will occur and the name of the candidate requesting the  
13 inspection. The candidate requesting the inspection shall be responsible for all  
14 reasonable costs associated with such inspection, which shall be payable to the  
15 clerk of court. The costs shall be paid at the time the written request for the  
16 inspection is filed with the clerk of court and shall be paid in cash or by certified  
17 or cashier's check on a state or national bank or credit union, United States  
18 postal money order, or money order issued by a state or national bank or credit  
19 union.

20 (4) The parish board of election supervisors shall be entitled to  
21 reimbursement at the rate established in R.S. 18:423(E) for attending the  
22 recount of absentee by mail and early voting ballots and inspection, but not both  
23 if they are conducted on the same day. However, such reimbursement shall not  
24 be counted toward the limitation provided in R.S. 18:423(J). No member of the  
25 parish board of election supervisors shall be reimbursed for attending a recount  
26 of absentee by mail an early voting ballots or inspection if such member  
27 received reimbursement for attending the reinspection of voting machines  
28 which was conducted on the same day as the recount of the absentee by mail  
29 and early voting ballots or inspection.

30 M. The provisions of this Section shall be void and of no effect on

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August 1, 2021.

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§1315. Challenge of absentee by mail or early voting ballot

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B.(1) During the preparation and verification process for the counting of absentee by mail and early voting ballots on the day before the election, as applicable, or the counting of absentee by mail and early voting ballots on election day, any candidate or his representative, member of the board, or qualified elector may challenge an absentee by mail or early voting ballot for cause, other than those grounds specified in R.S. 18:565(A).

(2) Notwithstanding Paragraph (1) of this Subsection, for elections impaired as a result of a declared disaster or emergency, during the preparation and verification process for the counting of absentee by mail and early voting ballots before an election in accordance with R.S. 18:1313.2, or the counting of absentee by mail and early voting ballots on election day in accordance with R.S. 18:1313.2, any candidate or his representative, member of the board, or qualified elector may challenge an absentee by mail or early voting ballot for cause, other than those grounds specified in R.S. 18:565(A).

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Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_