

Regular Session, 2011

HOUSE BILL NO. 533

BY REPRESENTATIVE GALLOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ELECTION CODE: Makes revisions to the Election Code

1 AN ACT

2 To amend and reenact R.S. 18:103(B)(3)(b) and (C)(3)(b), 109, 152(C)(2)(a), 154(C),

3 427(B), 431(A)(1)(a), 435(A)(1), 463(A)(1)(a), 551(D), 591, 602(A), (B), (C), (D),

4 (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1259(A) and (B), 1284(F)(1)

5 and (2), 1299.1, 1300.13, 1306(E)(2), 1307(B)(2) and (H), 1308(A)(1)(a), 1308.1(A),

6 1309.1, 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1406(B), 1415(B),

7 (C), (D), (E), and (F), 1431, 1432(A), and 1433(A) and (B), to enact R.S. 18:1307(I),

8 1401(F), 1404(E), 1405(H), and 1415(G), and to repeal R.S. 18:1259(D), relative to

9 the Louisiana Election Code; to revise the system of laws comprising the Louisiana

10 Election Code; to provide for the return of voter registration materials to the registrar

11 of voters; to provide for the content of notices of registration; to provide relative to

12 precinct registers used by the registrar of voters; to provide relative to disclosure of

13 voter information; to provide relative to watchers; to provide relative to courses of

14 instruction for commissioners; to provide for information required on a notice of

1 (3) Upon receipt of the document, the applicant shall:

2 * * *

3 (b) Return the document by mail, facsimile, or other means of transmission
4 to the registrar.

5 * * *

6 C. A person who meets the qualifications set forth in R.S. 18:101(E) who is
7 unable to appear in person to register because he is residing outside the United States
8 may register by mail using the state mail voter registration form in accordance with
9 the following provisions:

10 * * *

11 (3) Upon receipt of the document, the applicant shall:

12 * * *

13 (b) Return the document by mail, facsimile, or other means of transmission
14 to the registrar.

15 * * *

16 §109. Notice of registration and change in registration

17 After receiving from the registrar the information concerning a new registrant
18 or the information concerning a change made with respect to the registration of any
19 person, the Department of State promptly shall mail a notice to the appropriate
20 registrar that the person is registered or that his registration has been changed. The
21 registrar shall then mail a ~~notice~~, postage prepaid, to each new registrant and to each
22 person whose registration was changed in any manner a notice that he is registered
23 or that his registration has been changed. The notice shall show the parish, ward,
24 precinct, and registration address, ~~and party affiliation~~ of the registrant. The notice
25 shall list an abbreviation of the name of the political party if the registrant is
26 registered as being affiliated with a recognized political party, "other" if the
27 registrant is registered as being affiliated with a political party that is not recognized,
28 or "none" if the registrant is registered with no political party affiliation. However,
29 the registrar shall not be required to send such a notice to any voter who has been on

1 the inactive list of voters for at least two years unless the change in registration
 2 involves a change in the voter's address. The secretary of state shall prescribe the
 3 form to be used on the notice; however, "Return Service Requested" shall be printed
 4 on the front of the notice ~~shall contain directions to the postmaster to "deliver only~~
 5 ~~as addressed; otherwise return to sender; address correction requested"~~, and the
 6 return address shall be that of the registrar. When a notice is returned by the
 7 postmaster, the registrar shall proceed in accordance with the applicable provisions
 8 of Part V of this Chapter.

9 * * *

10 §152. Required records

11 * * *

12 C.

13 * * *

14 (2)(a) Prior to each election, the registrar shall ~~request a~~ obtain one current
 15 precinct register ~~and duplicate precinct register~~ for each precinct in the parish where
 16 an election is to be held. The Department of State shall provide the registrar with
 17 one duplicate precinct register in electronic form. Such registers shall contain both
 18 the official list of voters and the inactive list of voters. Each precinct register shall
 19 contain information for identification of the voter at the polls, a space which the
 20 voter shall sign at the time he votes, a space for the initials of the commissioner at
 21 the polls, a space for the date of the election, and space for such other information
 22 as is deemed necessary.

23 * * *

24 §154. Records open to inspection; copying; exceptions

25 * * *

26 C.(1) Notwithstanding the provisions of this Section, neither the registrar nor
 27 the Department of State shall disclose the fact that a registered voter is entitled to
 28 assistance in voting or the social security number, driver's license number, day and
 29 month of the date of birth, mother's maiden name, or electronic mail address of a

1 registered voter or circulate the fact that registered voters are entitled to assistance
 2 in voting or the social security numbers, driver's license numbers, day and month of
 3 the dates of birth, mother's maiden names, or electronic mail addresses of registered
 4 voters on commercial lists, except when voter registration data is transmitted to the
 5 office of motor vehicles of the Department of Public Safety and Corrections, for the
 6 purposes of verifying the accuracy and authenticity of the social security number,
 7 driver's license number, or full date of birth provided by the voter or when the full
 8 date of birth of a registered voter is transmitted to the Board of Ethics to verify the
 9 identity of a candidate for purposes of campaign finance reporting.

10 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, the
 11 Board of Ethics shall not disclose the full date of birth of a registered voter
 12 transmitted to the board by the Department of State.

13 * * *

14 §427. Watchers

15 * * *

16 B. Powers and duties. A watcher shall be admitted within all parts of the
 17 polling place during the election day and the counting and tabulation of votes, and
 18 shall call any infraction of the law to the attention of the commissioners. A watcher
 19 may keep notes on the conduct of the election, but he shall not take part in the
 20 counting and tabulation of votes. A watcher shall not electioneer, engage in political
 21 discussions, or unnecessarily delay a voter at the polling place. A watcher shall be
 22 subject to the authority of the commissioners and shall not interfere with the
 23 commissioners in the performance of their duties.

24 * * *

25 §431. Commissioners; courses of instruction; certificates; reports; list of certified
 26 persons furnished by parish board of election supervisors

27 A.(1)(a) At least ~~semiannually~~ annually the clerk of court shall conduct a
 28 general course of instruction for commissioners. ~~These courses~~ Each such course of
 29 instruction shall be open to the public, and the clerk shall publicize ~~the courses~~ each

1 course in a manner reasonably calculated to encourage maximum attendance and
2 participation. For informational purposes, the registrar may assist the clerk of court
3 in conducting the course.

4 * * *

5 §435. Watchers; appointment and commission

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

21 * * *

22 §463. Notice of candidacy; financial disclosure; political advertising; penalties

23 A.(1)(a) A notice of candidacy shall be in writing and shall state the
24 candidate's name, the office he seeks, the address of his domicile, and the parish,
25 ward, and precinct where he is registered to vote, ~~and the political party, if any, with~~
26 ~~which he is registered as being affiliated.~~ The candidate shall list on the notice of
27 candidacy the name of the political party if he is registered as being affiliated with
28 a recognized political party, "other" if he is registered as being affiliated with a
29 political party that is not a recognized political party, or "no party" if he is registered

1 or parishes in which the vacancy occurred. The governor may appoint a person to
2 fill a vacancy and issue a proclamation ordering a special election when he learns of
3 a vacancy, whether or not he has received notice thereof from a state board or
4 commission member. Whenever a special election is required, the governor's
5 appointee shall serve only until the successor is elected and takes office.

6 * * *

7 §602. Vacancies in certain local and municipal offices; exceptions

8 A. When a vacancy occurs in the office of a member of a parish or municipal
9 governing authority or a combination thereof, a mayor, or any other local or
10 municipal office, except an office covered by Subsections B and C ~~hereof~~ of this
11 Section and except the office of judge, state legislator, or marshal of a city or
12 municipal court, and the office is filled by election wholly within the boundaries of
13 a local governmental subdivision, the governing authority of the local governmental
14 subdivision where the vacancy occurs shall; within ~~ten~~ twenty days; appoint a person
15 to fill the vacancy who meets the qualifications of the office. However, if the
16 deadline for making the appointment falls on a Saturday, Sunday, or other legal
17 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
18 deemed to be the final day for making such appointment. The presiding officer of
19 the governing authority shall not be required to vote on such an appointment to be
20 made by the governing authority of a local governmental subdivision unless a tie
21 vote occurs thereon, in which case he shall vote to break the tie; however, in no case
22 shall the presiding officer vote more than once on the appointment.

23 B. When a vacancy occurs in the membership of a city or parish school
24 board, the remaining members of the board shall; within ~~ten~~ twenty days; declare that
25 the vacancy has occurred and proceed to appoint a person who meets the
26 qualifications of the office to fill the vacancy. However, if the deadline for making
27 the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day
28 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
29 for making such appointment. For the purposes of this Subsection, in addition to the

1 definition of "vacancy" provided in R.S. 18:581, a "vacancy" in a city or parish
2 school board office shall be deemed to have occurred when, in the case of a city
3 school board, a member's residence no longer lies within the jurisdiction of the board
4 or when, in the case of a parish school board, a member changes his domicile from
5 the district he represents or, if elected after reapportionment, is domiciled outside the
6 district he represents at the time he is sworn into office, any declaration of retention
7 of domicile to the contrary notwithstanding.

8 C. When a vacancy occurs in any of the following offices, the duties of the
9 office shall be assumed by the person hereinafter designated: (1) district attorney, by
10 the first assistant; (2) clerk of a district court, by the chief deputy; (3) coroner, by the
11 chief deputy; (4) sheriff, by the chief criminal deputy, except that in a parish that has
12 both a civil sheriff and a criminal sheriff, the civil sheriff by the chief civil deputy,
13 and the criminal sheriff, by the chief criminal deputy, respectively; and (5) tax
14 assessor, by the chief deputy assessor. If there is no such person to assume the duties
15 when the vacancy occurs, the governing authority or authorities of the parish or
16 parishes affected shall, within ~~ten~~ twenty days, appoint a person having the
17 qualifications of the office to assume the duties of the office. However, if the
18 deadline for making the appointment falls on a Saturday, Sunday, or other legal
19 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
20 deemed to be the final day for making such appointment.

21 D. If a vacancy is not filled within the time specified in Subsections A, B,
22 or C ~~herein~~ of this Section, the governor shall fill the vacancy.

23 E.(1)(a) If the unexpired term of an office covered by Subsection A, B, or
24 C ~~above~~ of this Section is one year or less, the person appointed to fill the vacancy
25 or designated to assume the duties of the office shall serve for the remainder of the
26 unexpired term.

27 * * *

28 (2)(a) If the unexpired term exceeds one year, the governing authority of the
29 local governmental subdivision in which the vacancy occurs, or the school board

1 when the vacancy occurs in its membership, or the governor when a vacancy occurs
2 in the office of district attorney or in an office for which there is not a single
3 governing authority or as provided in Subsection F of this Section, within ~~ten~~ twenty
4 days after the vacancy occurs, shall issue a proclamation ordering a special election
5 to fill the vacancy and shall specify in the proclamation, in accordance with R.S.
6 18:402, the dates on which the primary and general elections shall be held and, in
7 accordance with R.S. 18:467, 467.1, and 468, the dates of the qualifying period for
8 candidates in the special election. However, if the deadline for issuing the
9 proclamation falls on a Saturday, Sunday, or other legal holiday, then the next day
10 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
11 for issuing such proclamation. In selecting the dates for such special elections, the
12 governing authority or school board as the case may be, may choose a gubernatorial
13 or congressional election date, if such date is available within a year of the
14 occurrence of the vacancy or may select an election date in accordance with R.S.
15 18:402. In the cases in which the governor has the authority to select the date for
16 such special elections, the governor shall first choose a gubernatorial or
17 congressional election date. If no such date is available within a year of the
18 occurrence of the vacancy, the governor shall then select an election date in
19 accordance with R.S. 18:402. If the governing authority or school board fails to
20 issue the proclamation within ~~ten~~ twenty days after the vacancy occurs, the governor
21 shall issue the proclamation.

* * *

22
23 (4) If the unexpired term of a parish or municipal office covered by
24 Subsection A of this Section is one year or more, but the vacancy occurs within one
25 year of the ~~regular municipal~~ regularly scheduled primary election for that office, no
26 special election will be called and the appointee shall serve for the remainder of the
27 term of office.

28 F. Whenever multiple vacancies in a local or municipal governing authority
29 or in a school board covered by Subsection A or B of this Section reduce the

1 membership of such governing authority or board below the number of total
 2 members required to constitute a quorum to conduct official business, the remaining
 3 members shall immediately inform the governor of the existence of the vacancies.
 4 Within ~~ten~~ twenty days after he receives this notice, the governor shall make
 5 appointments to fill all the vacancies and shall issue a proclamation calling special
 6 elections to fill such vacancies if special elections are required under the provisions
 7 of this Section. However, if the deadline for making the appointment or issuing the
 8 proclamation, if applicable, falls on a Saturday, Sunday, or other legal holiday, then
 9 the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be
 10 the final day for making such appointment or issuing such proclamation.

11 * * *

12 §604. Marshal of city or municipal court; temporary absence; vacancy

13 * * *

14 B.(1) When a vacancy occurs in the office of constable or marshal of a city
 15 or municipal court and the unexpired term of the office is one year or less, the chief
 16 deputy shall assume such duties and position and shall serve for the remainder of the
 17 expired term. However, in those cases where there is no such person to assume the
 18 duties when the vacancy occurs, the appropriate governing authority shall within ~~ten~~
 19 twenty days appoint a person having the qualifications of the office to assume the
 20 duties of the office for the remainder of the unexpired term. However, if the
 21 deadline for making the appointment falls on a Saturday, Sunday, or other legal
 22 holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be
 23 deemed to be the final day for making such appointment. The appointment shall be
 24 made by the governing authority of the parish, unless the jurisdiction of the city or
 25 municipal court is wholly within the municipal city limits, in which case, such
 26 appointment shall be made within ~~ten~~ twenty days by the municipal governing
 27 authority. However, if the deadline for making the appointment falls on a Saturday,
 28 Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday,
 29 or legal holiday shall be deemed to be the final day for making such appointment.

1 If the appropriate governing authority fails to fill the vacancy within ~~ten~~ twenty days,
2 the governor shall fill the vacancy. The judge of the city or municipal court which
3 he serves shall fix the amount of the bond.

4 (2)(a) When the unexpired term exceeds one year, the chief deputy shall
5 assume such duties and position and shall serve until the successor is elected and
6 takes office. If there is no such person to assume the duties when the vacancy
7 occurs, the appropriate governing authority shall within ~~ten~~ twenty days appoint a
8 person having the qualifications of the office to assume the duties of the office until
9 the successor is elected and takes office. However, if the deadline for making the
10 appointment falls on a Saturday, Sunday, or other legal holiday, then the next day
11 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
12 for making such appointment. If the appropriate governing authority fails to fill the
13 vacancy within ~~ten~~ twenty days, the governor shall fill the vacancy. The appropriate
14 governing authority shall, within ~~ten~~ twenty days after the vacancy occurs, issue a
15 proclamation ordering a special election to fill the vacancy and shall specify in the
16 proclamation, in accordance with R.S. 18:402, the dates on which the primary and
17 general elections shall be held and, in accordance with R.S. 18:467, 467.1, and 468,
18 the dates of the qualifying period for candidates in the special election. However,
19 if the deadline for issuing the proclamation falls on a Saturday, Sunday, or other
20 legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday
21 shall be deemed to be the final day for issuing such proclamation. If the appropriate
22 governing authority fails to issue the proclamation within ~~ten~~ twenty days after the
23 vacancy occurs, the governor shall issue the proclamation.

24 * * *

25 §1259. Arrangement of ballot; designation of party candidates

26 A. In any year in which presidential electors are to be elected, the secretary
27 of state shall arrange the voting machine ballot in such manner that the names of
28 candidates for president and vice president shall appear on the ballot in the first
29 column, beginning at the top and proceeding downward. If necessary, the listing of

1 the names of candidates for president and vice president may continue in the second
2 and succeeding columns. The names of the presidential electors shall not appear on
3 the ballot ~~in the manner as provided for in Subsection B of this Section.~~

4 B.(1) The ballot shall be so arranged that the names of the candidate for
5 president and the candidate for vice president nominated by each recognized political
6 party, by nominating petition, or by filing of notices of candidacy accompanied by
7 a qualifying fee shall appear prominently together with the name of the presidential
8 candidate on top and the name of the vice presidential candidate directly underneath.

9 (2) Directly to the left of the names of the presidential and vice presidential
10 candidates shall appear:

11 (a) If nominated by a recognized political party, the name of the party and
12 such national party emblem, if any, or state party device, if any, as the state central
13 committee of the party shall direct, and

14 (b) If nominated by a nominating petition or by the filing of notices of
15 candidacy, the political principal which the candidates support, as stated on the
16 nominating petition or on the notices of candidacy, if any, and the words
17 "Nominating Petition" or the abbreviation "Nom. Petition" shall appear if nominated
18 by petition.

19 (3) ~~Immediately below the name of the party, or, if nominated by a~~
20 ~~nominating petition, the words "Nominating Petition" or the abbreviation "Nom.~~
21 ~~Petition" shall appear the word "Electors".~~

22 (4) ~~Immediately below the word "Electors" the names of the presidential~~
23 ~~electors nominated in support of the nominees for president and vice president of that~~
24 ~~party or political principal shall appear.~~

25 (5) On a voting machine, there shall be a button or candidate selection button
26 with which to mark the ballot opposite each pair of names. On paper ballots, there
27 shall be a single box within which to mark the ballot opposite each pair of names.

28 (6) (4) In preparing the ballots, the secretary of state shall arrange the names
29 of the candidates of recognized political parties alphabetically, according to the

1 names of the parties, followed by the names of the candidates nominated by
2 nominating petitions and by the filing of notices of candidacy, listed alphabetically
3 by designation of political principal.

4 * * *

5 §1300.13. Declaration of vacancy

6 When the majority is in favor of the recall, the public officer is, ipso facto,
7 recalled and removed from office, and the office shall be vacated upon receipt by the
8 ~~secretary of state of certified returns from all of the parish boards of election~~
9 ~~supervisors within the jurisdiction~~ expiration of the time period for contesting the
10 recall election set forth in R.S. 18:1405(H) if an action contesting the recall election
11 is not commenced timely or when the final judgment becomes definitive if an action
12 contesting the recall election is commenced timely, and the office shall be filled as
13 in the case of ordinary vacancies and according to the constitution and laws of the
14 state. A public officer who has been recalled and removed from office shall not be
15 appointed to succeed himself in the office from which he was recalled and removed.

16 * * *

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

18 * * *

19 E.

20 * * *

21 (2) An absentee by mail or early voting ballot envelope flap shall also
22 contain lines for the handwritten signature of two witnesses. The voter may sign the
23 certificate in the presence of two witnesses, or one witness if the voter is voting
24 absentee by mail as authorized by R.S. 18:1303(F), ~~or (I), or (J)~~, and in such a case,
25 the voter shall not be required to obtain the signature of a notary public, but his
26 certificate shall be made under penalty of perjury for providing false or fraudulent
27 information. Above the perforation and along the seal line, the words "DO NOT
28 DETACH FLAP" shall be printed.

29 * * *

1 §1307. Application by mail

2 * * *

3 B.

4 * * *

5 (2) Except as provided in Subsections C and D of this Section and R.S.
6 ~~18:1333(D)(2)~~ 18:1333(D)(1), an application must be received by the registrar not
7 earlier than sixty days or later than 4:30 p.m. on the fourth day prior to the election
8 for which it is requested, and the date received shall be noted thereon. However, if
9 the deadline falls on a Saturday, Sunday, or other legal holiday, then the next day
10 which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day
11 of the deadline.

12 * * *

13 H. If the applicant is eligible to vote absentee by mail pursuant to
14 R.S. 18:1303(H), his application, if such application meets the requirements of this
15 Section, shall remain valid as long as the applicant is a program participant in the
16 Department of State Address Confidentiality Program pursuant to Part III of Chapter
17 1 of Title 44 of the Louisiana Revised Statutes of 1950. When the applicant ceases
18 participation in the program, the Department of State shall notify the registrar of the
19 parish where the applicant is registered to vote that the applicant is no longer a
20 participant in the program. Upon receipt of the notification from the Department of
21 State, the registrar shall send notice by forwardable mail to the applicant that his
22 application will no longer be valid, and the applicant shall be required to submit a
23 new application to the registrar that meets the requirements of this Section and
24 provide a current address before the applicant will be eligible to vote absentee by
25 mail again pursuant to this Section.

26 I. If the registrar of voters has reason to believe that the eligibility of a voter
27 to vote absentee by mail pursuant to R.S. 18:1303(I) is based upon false or fraudulent
28 information, he shall immediately notify the parish board of election supervisors.
29 If, after appropriate hearing and opportunity for the voter to be heard, the parish

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1 board of election supervisors finds that the voter's eligibility to vote absentee by mail
2 was based upon false or fraudulent information, the board shall inform the
3 appropriate district attorney and the registrar of voters who shall not allow the voter
4 to vote absentee by mail pursuant to R.S. 18:1303(I).

5 * * *

6 §1308. Absentee voting by mail

7 A.(1)(a) Beginning with the date on which the registrar receives the absentee
8 by mail ballots and other necessary paraphernalia from the secretary of state, and
9 thereafter, immediately upon receipt of an application by mail, the registrar shall
10 mail the necessary instructions, certificates, ballots, and envelopes to the applicant
11 at the address furnished by the applicant. ~~The registrar shall detach the perforated~~
12 ~~slip from the absentee by mail ballot before mailing it to the voter and shall retain~~
13 ~~the slip in the records of his office for six months.~~

14 * * *

15 §1308.1. Absentee voting by person serving on sequestered jury

16 A. Immediately upon receipt of an application, the registrar shall
17 deliver the necessary instructions, certificates, ballots, and envelopes to the
18 officer of the court in charge of the sequestered jury on which the applicant
19 is serving, at the address furnished by the applicant. ~~The registrar shall~~
20 ~~detach the perforated slip from each absentee ballot before delivering it to the~~
21 ~~officer, shall retain the slip from each absentee ballot before delivering it to~~
22 ~~the officer, and shall retain the slip in the records of his office for six months.~~

23 Each envelope delivered to the officer shall contain two envelopes, one of
24 which shall be the ballot envelope and the other shall be a return envelope
25 bearing the official title and mailing address of the registrar and the name,
26 return address, and precinct or district number of the voter. This latter
27 envelope shall be used by each voter to return his ballot.

28 * * *

1 proposition. The ~~parish custodian~~ registrar of voters shall then seal the voting
2 machine.

3 * * *

4 §1314. Absentee by mail and early voting commissioners

5 * * *

6 B. Selection for primary election. (1) The parish board of election
7 supervisors shall determine the number of absentee by mail and early voting
8 commissioners necessary to count the absentee by mail and early voting ballots in
9 the parish. The parish board of election supervisors shall select a ~~minimum~~
10 maximum of ~~three~~ six such commissioners. If the parish board of election
11 supervisors determines that the number of absentee by mail and early voting
12 commissioners should be increased to more than six such commissioners, the parish
13 board shall make a request to the secretary of state for the additional absentee by
14 mail and early voting commissioners. If the secretary of state or his designee
15 determines that there is a need for the additional absentee by mail and early voting
16 commissioners, the parish board shall select the additional absentee by mail and
17 early voting commissioners.

18 * * *

19 C. Selection for general election. (1)

20 * * *

21 (b) If it determines that the number cannot be reduced or should be
22 increased, those persons who served as absentee by mail and early voting
23 commissioners and alternate absentee by mail and early voting commissioners for
24 the parish in the primary election shall serve in the general election, unless replaced
25 or disqualified in the manner provided by law for commissioners and alternate
26 commissioners. ~~The number of absentee by mail and early voting commissioners for~~
27 ~~a general election shall not be less than three.~~ If the parish board of election
28 supervisors determines that the number of absentee by mail and early voting
29 commissioners should be increased to more than the number of such commissioners

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1 §1404. Venue

2 * * *

3 E. An action contesting an election for the recall of a public officer shall be
4 instituted in the district court for a parish included in whole or in part in the voting
5 area wherein the recall election is held; however if the public officer recalled is a
6 statewide elected official, an action contesting the election shall be instituted in the
7 district court for the parish where the state capitol is situated.

8 §1405. Time for commencement of action

9 * * *

10 H. An action contesting any election involving the recall of a public officer
11 shall be instituted on or before 4:30 p.m. of the ninth day after the date of the
12 election.

13 §1406. Petition; answer; notification

14 * * *

15 B. The petition shall set forth in specific detail the facts upon which the
16 objection or contest is based. If the action contests an election involving election to
17 office, the petition shall allege that except for substantial irregularities or error, fraud,
18 or other unlawful activities in the conduct of the election, the petitioner would have
19 qualified for a general election or would have been elected. If the action contests an
20 election involving the recall of a public officer, the petition shall allege that except
21 for substantial irregularities or error, fraud, or other unlawful activities in the conduct
22 of the election, the petitioner would not have been recalled. The trial judge may
23 allow the filing of amended pleadings for good cause shown and in the interest of
24 justice.

25 * * *

26 §1415. Discovery prior to filing a suit contesting an election

27 * * *

28 B. Provided an action contesting an election involving the recall of a public
29 officer has not been filed pursuant to R.S. 18:1405(H), the recalled public officer

1 may conduct limited discovery as provided herein during the period of time after the
2 close of the polls on election day and prior to the expiration of time to file a suit
3 contesting such election.

4 C. Such discovery may be conducted only after execution of an affidavit by
5 a poll watcher, commissioner, or any other election official that he has personal
6 knowledge of an irregularity in the election and only after such affidavit has been
7 filed with a court of competent jurisdiction. The nature of the irregularity shall be
8 specified in the affidavit. The clerk of court shall immediately notify the secretary
9 of state by telephone and by written notice when such affidavit has been filed, and
10 shall notify the opponents of the candidate of the filing of the affidavit. The clerk
11 shall also supply a copy of the affidavit to each opponent of the candidate.

12 ~~E.~~ D. Discovery shall be limited to the taking of the deposition of any
13 election official, including his employees, having responsibilities regarding the
14 conduct of such election and the inspection and copying of documents and other
15 records in the custody and control of any such election official, but shall not include
16 access to voting machines prior to the date such machines are opened in accordance
17 with R.S. 18:573. The deposition of a statewide elected official or his employee
18 shall be conducted at the office of such official.

19 ~~D.~~ E. Upon the request of the candidate or recalled public officer, after the
20 filing of the affidavit as provided in Subsection B of this Section, the clerk of any
21 district court shall issue subpoenas and subpoenas duces tecum in aid of the taking
22 of depositions and the production of documentary evidence for inspection or
23 copying, or both.

24 ~~E.~~ F. The authority for a candidate or recalled public officer to conduct
25 discovery under the provisions of this Section shall cease when an action contesting
26 such election is filed pursuant to R.S. 18:1405(B) or (H).

1 of the election, the appropriate candidates for the election, the office or other position
2 for which the election shall be held, and indicating which voters will be eligible to
3 vote.

4 (2) If the trial judge in an action contesting an election for the recall of a
5 public officer determines that: (a) it is impossible to determine the result of election,
6 or (b) the number of qualified voters who were denied the right to vote by the
7 election officials was sufficient to change the result in the election, if they had been
8 allowed to vote, or (c) the number of unqualified voters who were allowed to vote
9 by the election officials was sufficient to change the result of the election if they had
10 not been allowed to vote, or (d) a combination of the factors referred to in (b) and (c)
11 in this Paragraph would have been sufficient to change the result had they not
12 occurred, the judge may render a final judgment declaring the election void and
13 ordering a new recall election, or, if the judge determines that the appropriate remedy
14 is the calling of a restricted election, the judge may render a final judgment ordering
15 a restricted election, specifying the date of the election, and indicating which voters
16 will be eligible to vote.

17 * * *

18 §1433. Revote in precincts where voting machine malfunctions if result cannot be
19 otherwise ascertained

20 A. Notwithstanding the provisions of R.S. 18:1432, if a discrepancy
21 sufficient to change the result of the election between the total votes cast at an
22 election and the votes counted for the candidates in the election or for or against the
23 recall of a public officer occurs as a result of a voting machine malfunction, and an
24 accurate count of the votes cast on the malfunctioning machine cannot be determined
25 by the offering of circumstantial evidence or any other evidence, the court shall order
26 a revote in the precinct where the voting machine malfunctioned, which shall be
27 limited to those persons listed on the poll list as having cast their ballots in person
28 at the polls in the election in which the machine malfunctioned.

1 B. Notwithstanding the provisions of R.S. 18:1432, if a discrepancy
2 sufficient to change the result of the election between the total votes cast at an
3 election and the votes counted for the candidates in the election or for or against the
4 recall of a public officer occurs as a result of the malfunction of a voting machine
5 used for early voting, and an accurate count of the votes cast on the malfunctioning
6 machine cannot be determined by the offering of circumstantial evidence or any
7 other evidence, the court shall order a revote of electronic early voting ballots in the
8 parish where the voting machine used for early voting malfunctioned, which shall
9 be limited to those persons who voted during early voting in the election.

* * *

11 Section 2. R.S. 18:463(A)(1)(a), 551(D), 1284(F)(1) and (2), and 1299.1 are hereby
12 amended and reenacted to read as follows:

13 §463. Notice of candidacy; financial disclosure; political advertising; penalties

14 A.(1)(a) A notice of candidacy shall be in writing and shall state the
15 candidate's name, the office he seeks, the address of his domicile, and the parish,
16 ward, and precinct where he is registered to vote. The candidate shall list on the
17 notice of candidacy the name of the political party if he is registered as being
18 affiliated with a recognized political party, "other" if he is registered as being
19 affiliated with a political party that is not a recognized political party, or ~~"no party"~~
20 "independent" if he is registered with no political party affiliation. No candidate
21 shall change or add his political party designation, for purposes of printing on the
22 election ballot as required by R.S. 18:551(D), after he has qualified for the election.

* * *

24 §551. Ballots

* * *

26 D. Political party designation. The political party designation of a candidate
27 who is registered as being affiliated with a recognized political party shall be listed
28 on the primary or general election ballot on the same line and immediately after or
29 below the candidate's name. If a candidate is affiliated with a political party, but

1 such party is not a recognized political party, the space after his name shall be left
2 blank. If a candidate is not affiliated with any political party, the ~~words "no party"~~
3 word "independent" or an abbreviation thereof shall be placed after his name. The
4 secretary of state shall promulgate and adopt rules as necessary to effectuate the
5 provisions and purposes of this Subsection.

6 * * *

7 §1284. Resolution calling election; proposition

8 * * *

9 F.(1) The preparation of ~~the statement~~ of the proposition to be submitted to
10 the voters at an election shall be the responsibility of the governing authority of the
11 political subdivision ordering the election. ~~The statement of the proposition shall~~
12 ~~also include a simple and unbiased concise summary in easily understood language~~
13 ~~which sets forth the substance of the proposition~~ include the information required by
14 this Section in simple, unbiased, concise, and easily understood language and be in
15 the form of a question. ~~The statement of the proposition, including the summary,~~
16 ~~shall not exceed four~~ two hundred words in length. ~~Such summary shall be placed~~
17 ~~at the beginning of the statement of the proposition.~~

18 (2) The secretary of state shall be responsible for ensuring that ~~the statement~~
19 ~~of the proposition contains the summary as provided in Paragraph (1) of this~~
20 Subsection complies with the requirements of this Section.

21 * * *

22 §1299.1. ~~Statement of question~~ Question or proposition to be voted on; ~~statement~~
23 length

24 A. The preparation of ~~the statement of any~~ a question or proposition to be
25 submitted to the voters at an election shall be the responsibility of the governing
26 authority or other entity calling the election or submitting the question or
27 proposition. ~~The statement of the proposition shall also include a simple and~~
28 ~~unbiased concise summary in easily understood language which sets forth the~~
29 ~~substance of the proposition~~ be comprised of simple, unbiased, concise, and easily

1 understood language and be in the form of a question. The ~~statement of the~~
2 proposition, ~~including the summary~~, shall not exceed ~~four~~ two hundred words in
3 length. ~~Such summary shall be placed at the beginning of the statement of the~~
4 ~~proposition.~~

5 B. The secretary of state shall be responsible for ensuring that the ~~statement~~
6 ~~of the proposition contains the summary as provided in Subsection A~~ complies with
7 the requirements of this Section.

8 Section 3. R.S. 18:1259(D) is hereby repealed in its entirety.

9 Section 4.(A) This Section and Sections 1 and 3 of this Act shall become effective
10 upon signature of this Act by the governor or, if not signed by the governor, upon expiration
11 of the time for bills to become law without signature by the governor, as provided by Article
12 III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and
13 subsequently approved by the legislature, this Section and Sections 1 and 3 of this Act shall
14 become effective on the day following such approval.

15 (B) Section 2 of this Act shall become effective on January 1, 2012.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Gallot

HB No. 533

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

Present law (R.S. 18:103) provides for voter registration. Provides requirements and procedures for registering to vote by mail, including procedures for persons who are unable to register in person because they are in the U.S. Service or because they reside outside of the U.S. Provides that such a person must return registration documents by mail to the registrar. Proposed law allows for the transmission of registration documents by facsimile or other means of transmission in addition to mailing. Otherwise retains present law.

Present law (R.S. 18:152) provides that prior to each election, the registrar shall "request" a current precinct register and duplicate precinct register for each precinct in the parish where an election is to be held. Proposed law requires the registrar to "obtain" one current copy of the precinct register and repeals the requirement for a hard copy duplicate precinct register. Provides that the Dept. of State will provide the registrar with a duplicate precinct register in electronic form instead.

Present law (R.S. 18:154) prohibits the registrar and the Dept. of State from disclosing certain voter information, including the day and month of the date of birth of a voter. Proposed law retains present law, but provides an exception for transmitting the full date of

birth of a voter to the Board of Ethics to verify the identity of a candidate for purposes of campaign finance reporting.

Present law (R.S. 18:431) requires the clerk of court to conduct a general course of instruction for commissioners at least semiannually. Proposed law changes this requirement to provide that the course of instruction be conducted at least annually instead of semiannually.

Present law (R.S. 18:427 and 435) provides for poll watchers. Provides for qualifications, powers, duties, appointment, and commission of watchers. Provides that each candidate is entitled to have one watcher at every precinct where the office he seeks is voted on in a primary or general election. Provides that a watcher shall be admitted within all parts of the polling place during the election and the counting and tabulation of votes, and shall call any infraction of the law to the attention of the commissioners. Proposed law specifies that watcher's responsibilities are limited to election day voting. Otherwise retains present law.

Present law (R.S. 18:463) requires a candidate to file a notice of candidacy. Requires that certain information be in the notice, including the political party, if any, with which the candidate is registered as being affiliated. Proposed law requires the candidate to list on the notice of candidacy the name of the political party if he is registered as being affiliated with a recognized political party, "other" if he is registered as being affiliated with a political party that is not a recognized political party, or "independent" if he is registered with no political party affiliation. Otherwise retains present law.

Present law (R.S. 18:109) requires the registrar to mail a notice of registration to a person who has sent information to the registrar concerning a new registration or change in registration. Requires that the notice contain certain information, including the party affiliation of the registrant. Proposed law requires the notice to contain an abbreviation of the name of the political party if the registrant is registered as being affiliated with a recognized political party, "other" if the registrant is registered as being affiliated with a political party that is not recognized, or "none" if the registrant is registered with no political party affiliation.

Present law (R.S. 18:551) provides requirements for ballots. Provides that the political party designation of a candidate who is registered as being affiliated with a recognized political party shall be listed on the primary or general election ballot on the same line and immediately after or below the candidate's name. Provides that if a candidate is affiliated with a political party, but such party is not a recognized political party, the space after his name shall be left blank. Proposed law retains present law.

Present law provides that if a candidate is not affiliated with any political party, the words "no party" or an abbreviation thereof shall be placed after his name. Proposed law provides that "independent" instead of "no party" shall be placed on the ballot for a candidate who is not affiliated with any political party.

Present law (R.S. 18:591, 602, and 604) provides a 10-day deadline for making an appointment to fill a vacancy in the offices of elective members of state boards and commissions and certain local and municipal offices. Provides a 10-day deadline for issuing a proclamation calling a special election for certain offices. Proposed law extends the deadlines to 20 days.

Present law (R.S. 18:602) provides for vacancies in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other local or municipal office, except member of a city or parish school board, district attorney, clerk of a district court, coroner, sheriff, tax assessor, judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision. Provides that if the unexpired term of such a municipal office is one year or more, but the vacancy occurs within one year of the regular municipal primary

election for that office, no special election will be called and the appointee shall serve for the remainder of the term of office. Proposed law applies provisions of present law relative to the holding of a special election based on the timing of the regular primary election to parish offices covered by present law. Otherwise retains present law.

Present law (R.S. 19:1284 and 1299.1) provides relative to bond, debt, and tax elections and other elections where a proposition or question is put to the voters. Provides requirements for a statement of a proposition to be submitted to the voters. Provides that the statement is the responsibility of the governing authority, political subdivision, or other entity calling the election. Requires certain information to be included, including a simple, unbiased, and concise summary of the proposition. Provides that the statement of the proposition shall not exceed 400 words. Provides that the secretary of state is responsible for ensuring that the statement of the proposition contains a summary as required by present law.

Proposed law repeals references to a "statement of a proposition" and applies requirements to the proposition itself. Provides that the proposition shall not exceed 200 words, instead of 400. Requires the proposition to be stated in the form of a question. Provides that the secretary of state shall ensure that the proposition complies with proposed law. Otherwise retains present law.

Present law (R.S. 44:52 et seq.) provides for the Dept. of State Address Confidentiality Program. Provides for the confidentiality of the physical addresses of program participants who are victims of abuse, sexual assault, or stalking.

Present law (R.S. 18:1303) provides eligibility requirements for voting absentee by mail. Provides that a program participant in the Address Confidentiality Program is eligible to vote absentee by mail. Present law (R.S. 18:1308) provides procedures and requirements for applying to vote absentee by mail. Requires the submission within certain deadlines of an application containing certain required information.

Proposed law (R.S. 18:1307) retains present law. Additionally provides that if a person applying to vote absentee by mail is a program participant in the Address Confidentiality Program pursuant to present law his application, if it meets the requirements of present law, shall remain valid as long as the applicant is a program participant in the Address Confidentiality Program. Provides that when the applicant ceases participation in the program, the registrar shall send notice by forwardable mail to the applicant that his application will no longer be valid, and the applicant shall be required to submit a new application to the registrar that meets the requirements of present law and provide a current address before the applicant will be eligible to vote absentee by mail again.

Present law (R.S. 18:1306) additionally allows persons who are 65 years old or older, to vote absentee by mail.

Present law (R.S. 18:1306) provides procedures and requirements for voting absentee by mail. Requires a voter to execute a certificate stating that the statements made by him are true and correct and that the voter is aware of the penalties for knowingly making a false statement. In signing the certificate, requires the voter to obtain the signature of a notary public unless he signs the certificate in the presence of two witnesses who also sign the certificate. Allows certain disabled voters to execute the certificate in the presence of one witness. Proposed law allows persons who are 65 years old or older to sign the certificate in the presence of one witness, instead of two witnesses. Otherwise retains present law.

Present law (R.S. 18:1308 and 1308.1) requires the registrar to detach a perforated slip from an absentee by mail ballot before mailing or delivering the ballot and to retain the slip in his records for six months. Proposed law repeals present law.

Present law (R.S. 18:1309.1) requires the parish custodian, prior to the conduct of absentee

voting, to provide notice to each candidate of the time and place at which the voting machines will be sealed for absentee voting in person; that each candidate or his representative may be present to observe the preparation of the machines; and that each candidate or his representative will have the opportunity to inspect and test vote the machines to see that they are in proper condition for the election. Provides that the notice shall state the time and place at which the parish custodian of voting machines will begin preparation of the machines for sealing and provides that the reasonable opportunity to inspect the machines shall not be less than 30 minutes beginning at the time designated by the parish custodian to begin preparation of the machines for sealing. Prohibits a candidate, his representative, or citizen from interfering with the registrar of voters, parish custodian, or any employee or technician or assuming any of their duties.

Proposed law requires each candidate to be notified at the time of qualifying instead of prior to the conduct of early voting. Provides that a candidate shall be notified to contact the registrar of voters concerning the time and place at which the voting machines will be prepared. Repeals provisions requiring the notice to contain the time and place for sealing. Provides that machines are prepared, tested, and sealed by the registrar in the presence of the parish board of election supervisors. Provides that a candidate may view the test vote tape for each machine instead of actually inspecting and testing the machines.

Present law (R.S. 18:1314) provides relative to absentee by mail and early voting commissioners. Provides for qualifications and selection. Provides that the parish board of election supervisors shall determine the number of absentee by mail and early voting commissioners necessary for an election. Requires the board to select at least three commissioners for the primary or first party primary election. Allows the board to increase or decrease the number of absentee by mail and early voting commissioners for a second party primary or general election.

Proposed law repeals the minimum number of absentee by mail and early voting commissioners that must be selected and provides for a maximum of six such commissioners. Requires approval of the secretary of state or his designee if the board seeks to use more than six absentee by mail and early voting commissioners for an election. Requires approval of the secretary of state or his designee to increase the number of commissioners to be used at the second party primary or general election. Provides that a designee of the secretary of state may approve the number of absentee by mail and early voting commissioners used to count and tabulate provisional ballots. Otherwise retains present law.

Present law (R.S. 18:1352) provides that voting machines shall be used throughout the state in all elections, provided that nothing in present law prohibits absentee by mail and early voting. Proposed law provides that paper ballots may be used when voting machines fail. Otherwise retains present law.

Present law provides procedures and time limits for contesting elections. Proposed law (R.S. 18:1401 and 1402) retains present law and additionally provides procedures and time limits for contesting recall elections. Provides that a public officer who alleges that, except for substantial irregularities or error, or except for fraud or other unlawful activities in the conduct of the election, he would not have been recalled may bring an action contesting the election. Provides that the secretary of state, in his official capacity, shall be made a party defendant to any action contesting an election for the recall of a public officer.

Proposed law (R.S. 18:1404, 1405, 1406, 1415) provides that an action contesting an election for the recall of a public officer shall be instituted in the district court for a parish included in whole or in part in the voting area wherein the recall election is held; however, if the public officer recalled is a statewide elected official, an action contesting the election shall be instituted in the district court for the parish where the state capitol is situated. Provides that an action contesting an election involving the recall of a public officer shall be instituted on or before 4:30 p.m. of the ninth day after the date of the election. Requires

the petition in such an action to contain allegations that except for substantial irregularities or error, fraud, or other unlawful activities in the conduct of the election, the petitioner would not have been recalled. Provides further that if an action contesting an election involving the recall of a public officer has not been filed, the recalled public officer may conduct limited discovery as provided pursuant to present law during the period of time after the close of the polls on election day and prior to the expiration of time to file a suit contesting such election.

Present law (R.S. 18:1431) provides that when the court finds that one or more of the votes cast in a contested election are illegal or fraudulent, the judge shall subtract such vote or votes from the total votes cast for the candidate who received them if the contest involves election to office, or from the total vote for or against a proposition, if the contest is of an election upon a proposition. Provides that if the court determines that legal votes cast in the election were excluded in the total votes cast on a candidate or proposition, then these excluded legal votes shall be added to the total votes on the candidate or the proposition to which they are attributable. Provides that thereafter, and after considering all the evidence, the court shall determine the result of the election. Proposed law applies present law to votes cast in a recall election.

Present law (R.S. 18:1432) provides if the trial judge in an action contesting an election determines that: (1) it is impossible to determine the result of election, or (2) the number of qualified voters who were denied the right to vote by the election officials was sufficient to change the result in the election, if they had been allowed to vote, or (3) the number of unqualified voters who were allowed to vote by the election officials was sufficient to change the result of the election if they had not been allowed to vote, or (4) a combination of the factors referred to in (2) and (3) would have been sufficient to change the result had they not occurred, the judge may render a final judgment declaring the election void and ordering a new primary or general election for all the candidates, or, if the judge determines that the appropriate remedy is the calling of a restricted election, the judge may render a final judgment ordering a restricted election, specifying the date of the election, the appropriate candidates for the election, the office or other position for which the election shall be held, and indicating which voters will be eligible to vote. Proposed law applies present law to actions contesting recall elections.

Present law (R.S. 18:1433) provides for a revote at a precinct when a discrepancy sufficient to change the result of the election is caused because of a voting machine malfunction. Proposed law applies present law to recall elections.

Present law (R.S. 18:1300.13) provides that when a majority votes in favor of the recall, the public officer is, ipso facto, recalled and removed from office, and the office shall be vacated upon receipt by the secretary of state of certified returns from all of the parish boards of election supervisors within the jurisdiction. Proposed law provides instead that the office shall be vacated upon expiration of the time period for contesting the recall election set forth in proposed law if an action contesting the recall election is not commenced timely or when the final judgment becomes definitive if an action contesting the recall election is commenced timely.

Present law (R.S. 18:1259) provides for the arrangement of the ballot in elections for presidential electors. Includes the names of the presidential electors on the ballot. Proposed law provides that the names of the presidential electors shall not be on the ballot.

Proposed law makes various technical changes.

Effective upon signature of governor or lapse of time for gubernatorial action, except that provisions of proposed law relative to propositions submitted to voters and to candidates who are not affiliated with any political party become effective Jan. 1, 2012.

(Amends R.S. 18:103(B)(3)(b) and (C)(3)(b), 109, 152(C)(2)(a), 154(C), 427(B), 431(A)(1)(a), 435(A)(1), 463(A)(1)(a), 551(D), 591, 602(A), (B), (C), (D), (E)(1)(a), (2)(a), and (4), and (F), 604(B)(1) and (2)(a), 1259(A) and (B), 1284(F)(1) and (2), 1299.1, 1300.13, 1306(E)(2), 1307(B)(2) and (H), 1308(A)(1)(a), 1308.1(A), 1309.1, 1314(B)(1), (C)(1)(b) and (3), and (D)(2), 1352, 1402(C), 1406(B), 1415(B), (C), (D), (E), and (F), 1431, 1432(A), and 1433(A) and (B); Adds R.S. 18:1307(I), 1401(F), 1404(E), 1405(H), and 1415(G); Repeals R.S. 18:1259(D))

Summary of Amendments Adopted by House

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

1. Adds provisions to allow absentee by mail voters who are 65 or older to execute the required ballot certificate in the presence of one witness instead of two witnesses.
2. Removes provisions in present law relative to perforated slips on absentee by mail ballots.
3. Adds provisions requiring a candidate to list "independent" on a notice of candidacy instead of "no party" if he is not affiliated with any political party.
4. Adds provisions requiring "independent" to be listed on the ballot instead of "no party" in connection with a candidate who is not affiliated with any political party.
5. Makes technical changes.