DECLARATION OF EMERGENCY

Department of State
Elections Division

Emergency Election Day Paper Ballot Procedures

(LAC 31:I.Chapter 11)

The Department of State, pursuant to the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 18:1353 and R.S. 36:742, has adopted LAC 31:I.Chapter 11 on an emergency basis to establish guidelines for paper ballot procedures to be used on election day in the event that the secretary of state or his designee declares an emergency. Prior to the 2010 census, all precincts in Louisiana had a minimum of two voting machines in each precinct. If one voting machine became inoperable, voters were still capable of voting on the other voting machine in the precinct. As a result of reapportionment, Louisiana now has many split precincts where only one voting machine is available for drayage and placement in the polling place for election day. Louisiana continues to maintain a five percent backup for election day failures and has the authorization to provide for the use of paper ballots on an emergency basis pursuant to R.S. 18:1352. The Department of State has found an imminent need to address paper ballot procedures for the fall 2012 elections for all the precincts in the state that have only one voting machine in the event that the voting machine in the precinct becomes inoperable on election day. Without this Rule, voting may be interrupted for voters in Louisiana who vote at a one voting machine precinct. These rules shall become effective September 17, 2012, and shall remain in effect for the maximum period allowed under the Administrative Procedures Act or until final rules are promulgated in accordance with law, whichever occurs first.

Title 31

ELECTIONS

Part I. Election Process

Chapter 11. Emergency Election Day Paper Ballot Voting Procedures

§1101. Emergency Declaration

A. The Department of State is establishing emergency election day paper ballot voting procedures to be followed if a precinct does not have a voting machine that is operable and the precinct is not located in a consolidated precinct which has the ballot for which the voters are eligible to vote on a voting machine and the secretary of state or his designee declares an emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1352, R.S. 18:1353, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 38:

§1103. Preparation and Supplies for Implementation of Emergency Election Day Paper Ballot Voting Procedures

A. Emergency Declaration – Preparation Prior To Election Day

1. The secretary of state or his designee shall review all voting machine allocation reports and provide supplies for implementation of the emergency election day paper ballot voting procedures for any precinct which has only one voting machine allocated for the election and is not located in a consolidated polling place which has the ballot for which the voters are eligible to vote on a voting machine. Supplies shall be provided in the back of the voting machine for immediate implementation upon a written declared emergency.

2. The clerk of court shall provide training to the commissioners for each one voting machine precinct on the implementation of the emergency election day paper ballot voting procedures as provided for herein.

3. The clerk of court shall inform the parish board of election supervisors or the absentee commissioners appointed to count the mail and early voting ballots of the possibility of having to implement the emergency election day paper ballot voting procedures due to the one machine precinct(s) in the parish.

B. Emergency Declaration – Supplies and Implementation Procedures

1. The commissioner-in-charge shall follow the directions in his parish for notifying the clerk of court and the Department of State when a precinct does not have a voting machine that is operable. The clerk of court, registrar of voters, and the secretary of state, or his designee, shall consult on the matter before an emergency is declared.

2. If the secretary of state, or his designee, declares an emergency, the secretary, or his designee, shall notify the clerk of court in writing, who shall notify the commissioners to implement the emergency election day paper ballot voting procedures provided for herein. The clerk of court shall also notify either the parish board of election supervisors or the appointed absentee commissioners of the declared emergency, so that they will be available to count the paper ballots on election night.

3. The secretary of state will provide all ballots and supplies to be used for the emergency election day paper ballot voting procedures. Supplies shall include: paper ballots identified by the corresponding button number of the machine lockout for the precinct and secrecy envelopes; a notice to the voters to be posted; instructions for the commissioners; a paper ballot audit form (in duplicate) to be used by the commissioners; a large return envelope labeled election day voted paper ballots; and any other supplies as determined necessary by the secretary or his designee.

4. The commissioner-in-charge shall post a notice at the entrance to the polling place notifying the voters that they will be allowed to vote on paper ballots. The commissioner-in-charge shall remove the notice when the precinct has a voting machine that is operable and voting resumes on the voting machine.

5. The commissioners shall use the instructions provided to follow the proper procedures in implementing the emergency election day paper ballot voting procedures.

6. The commissioner-in-charge shall complete the relevant parts of the paper ballot audit form prior to distribution of any paper ballot, such as the parish/ward/precinct information, time of implementation of procedures, lockout button number on ballot envelope, and total number of ballots per lockout button received in the lead machine. The commissioner-in-charge shall use this form to account for the number of voted paper ballots sealed in secrecy envelopes per button number, the number of spoiled ballots sealed in secrecy envelopes per button number, and the

number of unused ballots per button number. This information will provide an accurate accounting of the paper ballots supplied to the precinct per button number. At the end of the election day, the original paper ballot audit form shall be placed in the large return envelope labeled election day voted paper ballots for delivery to the clerk of court and a duplicate copy shall be posted at the precinct.

7. Paper ballots shall only be used during the time when the precinct does not have a voting machine that is operable and the secretary of state or his designee has declared an emergency in writing for implementation of the emergency election day paper ballot voting procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:551, R.S. 18:1352, R.S. 18:1353, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 38:

§1105. Procedures for Voting and Termination of Voting for Paper Ballots

A. Allowing the Voters to Vote Paper Ballots

1. The commissioner shall continue to follow the normal procedures of verifying the voter and having the voter sign the precinct register as provided in the "Election Day Procedures" provided in Part 3 of the *Informational Pamphlet for Election Day Voting*.

2. Additionally, the commissioner shall initial the precinct register opposite the voter's signature or mark and write "Paper Ballot" in the "Lockout Districts" column on the line in the precinct register where the voter is listed.

3. After the commissioner initials the precinct register and writes "Paper Ballot" in the precinct register, the commissioner shall:

a. remove a ballot and secrecy envelope from the large ballot envelope labeled with the button number for the voter that is listed in the precinct register and account for the distribution of that specific ballot number on the paper ballot audit form. (Hash marks or similar counting marks may be used and then totaled at the end of voting to report a final total for each column on the paper ballot audit form.);

b. give the voter the ballot, the secrecy envelope and a pencil or pen;

c. instruct the voter to read and follow the instructions at the top of the ballot to mark the ballot according to those instructions and to seal the ballot in the secrecy envelope after he has completed voting;

d. the commissioner shall allow the voter to go to an area inside the polling place where he can mark his ballot in private and seal his voted ballot in the secrecy envelope; and

e. instruct the voter to return the sealed voted ballot in the secrecy envelope to the commissioner.

4. If the voter spoils his ballot and requests a new ballot, the commissioner shall:

a. instruct the voter to seal his spoiled ballot in the secrecy envelope before collecting the spoiled ballot;

b. write "Spoiled" across the ballot envelope and initial;

c. give the voter a new ballot; and

d. account for the distribution of the new ballot and the spoiled ballot on the paper ballot audit form and place the spoiled ballot envelope in the large return envelope labeled election day voted paper ballots.

5. Upon receipt of the voted ballot in the secrecy envelope from the voter, the commissioner shall account for the voted ballot on the paper ballot audit form and place the

secrecy envelope in the large return envelope labeled election day voted paper ballots. The secrecy envelopes with the voted paper ballots shall be retained in the election day voted paper ballots envelope.

B. Termination of Voting Paper Ballots

1. Paper ballots shall only be used during the time when the precinct does not have a voting machine that is operable and the secretary of state, or his designee, has declared an emergency in writing for implementation of the emergency election day paper ballot voting procedures.

2. The commissioner-in-charge shall notify the clerk of court when the voting of paper ballots is terminated due to an operable voting machine and shall indicate the time on the paper ballot audit form. The clerk of court shall then notify the secretary of state, or his designee.

C. Closing the Polling Place

1. After the closing of the polling place, the commissioners shall follow the instructions to complete the paper ballot audit form and certify to its accuracy and place the original paper ballot audit form, all sealed secrecy envelopes containing voted ballots, all spoiled ballot envelopes, and all unused paper ballots and secrecy envelopes in the large return envelope labeled election day voted paper ballots.

2. The commissioner-in-charge shall post a duplicate copy of the paper ballot audit form next to the posted voting machine results tape.

3. The commissioner-in-charge shall place the large return envelope labeled election day voted paper ballots in the clear plastic zipper bag along with the election results cartridges and deliver the bag to the clerk of court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:49.1, R.S. 18:564, R.S. 18:565, R.S. 18:1352, R.S. 18:1353, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 38:

§1107. Delivery of "Election Day Voted Paper Ballots" Envelope and Tabulation and Counting of Paper Ballots

A. Election Day Voted Paper Ballots Envelope

1. Upon receipt of the "election day voted paper ballots" envelope on election night, the clerk of court or his designee shall deliver the envelope to the parish board of election supervisors or absentee commissioners for tabulation of the election day voted paper ballots.

B. Counting and Tabulating the Votes

1. The paper ballots cast at the polling place shall be counted by the parish board of election supervisors or the absentee commissioners on election night according to the procedures for counting absentee by mail ballots in R.S. 18:1313, R.S. 18:1315, R.S. 18:1316, and the specific procedures provided for herein.

2. A member of the parish board or an absentee commissioner shall remove the paper ballots audit form, the sealed secrecy envelopes containing the voted ballots, the spoiled ballot envelopes, and the unused paper ballots from the election day voted paper ballots envelope and check to confirm that the paper ballots audit form is correct and matches what is delivered in the election day voted paper ballots envelope. If there are any discrepancies, the board or absentee commissioners shall make a notation of the discrepancy on the original paper ballots audit form and certify by their signature to the accuracy of their notation.

3. Each voted ballot shall be removed from the secrecy envelope and a member of the parish board or an absentee commissioner shall write "ED" for election day and his initials in the

space on the ballot directly below the secretary of state's signature so as not to mark on the dark black timing marks on the sides of the ballots and to distinguish the election day paper ballots from the absentee by mail paper ballots.

4. The election day paper ballots shall be segregated from the absentee by mail paper ballots and shall be kept segregated by precinct to be counted and reported by precinct.

5. The parish board of election supervisors or the absentee commissioners may elect to count the election day paper ballots manually or they may use the scanning equipment. The election day paper ballots shall be counted separately from the absentee by mail paper ballots and shall be counted and reported by precinct. The secretary of state shall provide written instructions to assist with the counting of paper ballots by precinct.

6. Upon completion of the counting of the election day paper ballots, a member of the parish board of election supervisors or absentee commissioner shall enter the vote totals from the election day paper ballots for each precinct on a worksheet which shall be signed by the board or absentee commissioners and delivered to the clerk of court for entering of the results.

7. The clerk of court or his designee on election night shall add the vote totals for the election day paper ballots from the worksheet to the vote totals for each precinct in the Department of State's Elections and Registration Information Network (ERIN). The secretary of state shall provide written instructions to assist with the entering of these vote totals.

8. Upon completion of the counting of the election day paper ballots, the voted ballots and secrecy envelopes, the original paper ballots audit form, the spoiled ballot envelopes, and all unused ballots and secrecy envelopes shall be returned to the election day voted ballots envelope and the envelope shall be retained by the registrar of voters in accordance with the procedures for retention of absentee by mail ballots in R.S. 18:1312.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1312, R.S. 18:1313, R.S. 18:1315, R.S. 18:1316, R.S. 18:1352, R.S. 18:1353, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 38:

Tom Schedler
Secretary of State