LOUISIANA DEPARTMENT OF STATE
ELECTIONS DIVISION

LEGISLATIVE OVERSIGHT REPORT

NOTICE OF INTENT
(Intended Action)

TITLE 31

ELECTIONS
LAC 31:II.CHAPTER 1

MERIT EVALUATIONS FOR REGISTRARS OF VOTERS AND UNCLASSIFIED EMPLOYEES AND REPEAL OF APPEAL PROCESS FOR REGISTRAR OF VOTERS
(Brief Description)

INITIAL REPORT

COPY OF THE RULE AS IT IS PROPOSED FOR ADOPTION, AMENDMENT, OR REPEAL AND STATEMENT OF THE AMOUNT OF THE FEE TO BE ADOPTED OR THE AMOUNT OF THE PROPOSED INCREASE OR DECREASE ***(The rule shall be coded with any new rule or language that is to be added to an existing agency rule underscored and any language that is to be deleted from an existing agency rule in struck-through type.)***

Attached is a copy of the notice of intent requiring the department to provide a written explanation to any registrar of voters, chief deputy, or confidential assistant who does not receive an "excellent" rating. In addition, the department is proposing to repeal Section 108 regarding the appeal of merit evaluation for the registrar of voters. A copy of the coded rule is attached.

STATEMENT OF THE PROPOSED ACTION ***(Whether the rule is proposed for adoption, amendment, or repeal; a brief summary of the content of the rule if proposed for adoption or repeal; and a brief summary of the change in the rule if proposed for amendment.)***

In accordance with Act 358 of the 2016 Regular Session, the Department of State will no longer receive and evaluate appeals beginning with the 2017 merit evaluations. The proposed rule change repeals provisions associated with the Registrars of Voters Evaluation Appeals Committee consideration of appeals for registrars of voters who do not receive an "excellent" in the merit evaluation process conducted by the department. The same act now requires the State Board of Election Supervisors to conduct the appeals process.

In addition, there is a proposed rule change requiring the department to provide a written statement in the merit evaluations if a registrar of voters, chief deputy, or confidential assistant does not receive an "excellent" rating. Originally, this provision was included in Section 108, which is being repealed and is now being placed in Sections 107 and 109.

SPECIFIC CITATION OF THE ENABLING LEGISLATION PURPORTING TO AUTHORIZE THE ADOPTION, AMENDING, OR REPEAL OF THE RULE OR PURPORTING TO AUTHORIZE THE ADOPTION, INCREASING, OR DECREASING THE FEE

Under the authority of Act 358 of the 2016 Regular Session and R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, the proposed rule change repeals provisions associated with the Registrars of Voters Evaluation Appeals Committee's consideration of appeals for registrars of voters who do not receive an "excellent" in the merit evaluation process conducted by the department. The same act now requires the State Board of Election Supervisors to conduct the appeals process.

In addition, there is a proposed rule change requiring the department to provide a written statement in the merit evaluations if a registrar of voters, chief deputy, or confidential assistant does not receive an "excellent" rating. Based upon the recommendation of the House and Governmental Affairs Committee, this provision was included in Section 108; however, since this Section is being repealed, the department is placing this provision in Sections 107 and 109.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE ADOPTION, AMENDING, OR REPEAL OF THE RULE OR THE ADOPTION, INCREASING, OR DECREASING OF THE FEE

In accordance with Act 358 of the 2016 Regular Session, the Registrars of Voters Evaluation Appeals Committee will no longer receive and evaluate appeals beginning with the 2017 merit evaluations. The same act now requires the State Board of Election Supervisors to conduct the appeals process.

STATEMENT OF FISCAL IMPACT OF THE PROPOSED ACTION AND STATEMENT OF THE ECONOMIC IMPACT OF THE PROPOSED ACTION, BOTH APPROVED BY THE LEGISLATIVE FISCAL OFFICE

Attached is a copy of the approved Fiscal and Economic Impact Statement for Administrative Rules.

NOTICE OF INTENT

Department of State
Elections Division

Merit Evaluations and Appeals for the Registrar of Voters

(LAC 31:II.108)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, the Department of State is proposing to adopt amendments to the Rule to repeal the appeal process for merit evaluations of the registrars of voters. During the 2016 Regular Legislative Session, Act 358 was enacted authorizing the State Board of Election Supervisors to conduct appeals of merit evaluations of registrars of voters. In addition, the Department of State is proposing to amend merit evaluations for registrars of voters, chief deputies, and confidential assistants requiring a written explanation for those who do not receive an "excellent" rating based upon the recommendation of the House and Governmental Affairs Committee on March 4, 2015.

Title 31

ELECTIONS

Part II. Voter Registration

Chapter 1. Registrars of Voters

* * *

§107. Merit Evaluation for the Registrar of Voters

A-C. …

D. A written explanation shall be given to any registrar of voters who does not receive an "excellent" rating.

AUTHORITY NOTE: Promulgated in according with R.S 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), amended LR 43:

§108. Appeal of Merit Evaluation for the Registrar of Voters

Repealed.

AUTHORITY NOTE:Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:759 (April 2015), repealed LR 43:

§109. Merit Evaluations of the Chief Deputy and Confidential Assistant

A-C. . . .

D. A written explanation shall be given to any chief deputy and confidential assistant who does not receive an "excellent" rating.

AUTHORITY NOTE: Promulgated in according with R.S 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), amended LR 43:

* * *

Family Impact Statement

The proposed amendments to the Rule cited in LAC 31:II.107, 108, & 109 regarding the repeal of the appeal process of merit evaluation for registrars of voters and amendments to merit evaluations for registrars of voters, chief deputies, and confidential assistants should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed amendments to the Rule cited in LAC 31:II. 107, 108, & 109 regarding the repeal of the appeal of merit evaluation for registrars of voters and amendments to merit evaluations for registrars of voters, chief deputies, and confidential assistants should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed amendments to the Rule is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where

possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The proposed amendments to the Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

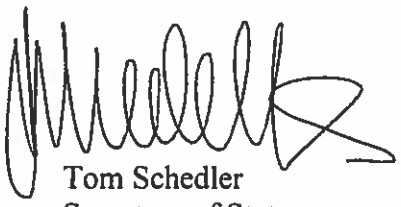
1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Lani Durio, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed repeal of Section 108 regarding appeal process for merit evaluations of registrars of voters and amendments to Rule to include a written explanation be given to any registrar of voters, chief deputy, and confidential assistant who does not receive an "excellent" rating. The deadline for the Department of State to receive written comments is 4:30 p.m. on Thursday, October 26, 2017 after the public hearing.

Public Hearing

A public hearing on the proposed repeal and amendments to the Rule is scheduled for Wednesday, October 25, 2017 at 1:30 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments, either orally or in writing.



Tom Schedler
Secretary of State

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Title 31

ELECTIONS

Part II. Voter Registration

Chapter 1. Registrars of Voters

§101. ERIN Manual

A. The Department of State operates a statewide voter registration computer system for the registration of voters throughout the state, the Elections and Registration Information Network, commonly referred to as "ERIN".

B. The Secretary of State shall provide all registrars of voters with an ERIN Manual to be utilized with respect to the statewide voter registration computer system. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. All registrars of voters shall utilize this manual to ensure the proper registration of voters. A uniform cost for the preparation of lists of registered voters shall be included in the manual. Any updates of the manual provided by the department to the registrars of voters shall be incorporated into the manual by each registrar of voters.

C. The ERIN Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for informational purposes. Both committees shall be kept informed of any changes to the manual.

D. Copies of the ERIN Manual can be viewed at the Department of State, Elections Program, XII United Plaza Building, First Floor, 8585 Archives Avenue, Baton Rouge, LA or at each office of the registrar of voters throughout the state, or at the Office of the State Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:704 (April 2008).

§103. Removal of Registrar of Voters for Cause

A. A proceeding for the removal of a registrar shall be commenced by the state board of election supervisors upon the receipt of a resolution from a parish governing authority which includes the following information:

1. accusations of willful misconduct relating to the registrar's official duty, willful and persistent failure to perform his duties, persistent public conduct prejudicial to the administration of the laws relative to the registration of voters that brings the office into disrepute, or conviction of a felony; and

2. favorable adoption of the resolution by at least two-thirds of the membership of the parish governing authority.

B. A proceeding for the removal of a registrar may be commenced by the state board of election supervisors upon the written complaint filed with the state board of election supervisors by one or more natural persons of legal age who reside within the

parish served by the registrar whose removal is sought, which complaint includes the following information:

1. the name and mailing address of each complainant;
2. the name of the registrar whose removal is sought and the parish he serves;
3. the reasons the removal is necessary;
4. a full statement of the facts, commissions or omissions upon which the complaint is based, including the names of persons, dates, places and circumstances, so as to fully inform the registrar as to the factual basis for the complaint. No evidence of any fact not alleged in the complaint shall be brought before the board during the hearing;
5. a clear statement that the complainant is seeking the removal of the registrar from office; and
6. signature of each complainant and verified under oath before a notary or two witnesses.

C. The original resolution or complaint shall be filed with the chairman of the state board of election supervisors by personal delivery to his office, or by regular or certified mail. The chairman of the state board of election supervisors shall provide notice of the resolution or complaint to the accused registrar by certified mail, return receipt requested with restricted delivery to addressee only.

D. Upon receipt of the resolution or complaint, the chairman of the board shall examine each resolution or complaint and may reject the resolution or complaint for filing if he finds that it fails to state a cause of action for removal pursuant to R.S. 18:53 or fails to comply with the filing requirements herein. If the chairman rejects the filing of the resolution or complaint, he shall notify the board, the parish governing authority or complainant and the registrar accordingly. If the chairman accepts the filing of the resolution or complaint, he shall notify the board, the registrar, and either the parish governing authority or the complainant of the scheduled hearing date, time and place, to be set no later than 30 days from receipt of the complaint. All notices to the registrar and parish governing authority or complainant shall be by certified mail return receipt requested with restricted delivery. The notice of hearing shall be in compliance with the provisions of R.S. 49:955.

E. If the chairman rejects the filing of the resolution or complaint, the parish governing authority or complainant may amend the resolution or complaint to state a claim within 10 days of the mailing date shown thereon of the rejection of the filing. If the parish governing authority or complainant fails to file an amended resolution or complaint within the time allowed, the chairman of the board shall dismiss the resolution or complaint.

F. The board may consolidate complaints if they relate to common issues or to the same actions or events.

G. The board shall compile and maintain an official record in connection with each resolution or complaint, containing at a minimum a copy of the following:

1. the resolution or complaint, and any board authorized amendments;
2. any written submissions by the parish governing authority, respondent(s), or other interested persons, including any responses authorized by the board;

3. a written report of any investigation conducted or commissioned by the board;

4. copies of all notices and correspondence to or from the board in connection with the resolution or complaint;

5. originals or copies of any tangible evidence produced at any hearing conducted pursuant to these rules;

6. original tape recording produced at any hearing conducted pursuant to these rules and a copy of any hearing transcript; and

7. a copy of any final decision issued by the board.

H. The respondent registrar may file a written answer to the resolution or complaint, notarized or witnessed as provided for herein, prior to the hearing wherein he may admit or deny specifically each of the allegations of the resolution or complaint, and otherwise answer to the resolution or complaint. The board for good cause shown may allow an extension of the time period for answering, if requested by the respondent.

I. Postponements or continuances of any hearing are subject to board approval.

J. Either party or the board, at their cost, may order copies of the transcription of the testimony using the state's uniform fee schedule for copies of public records.

K. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act. A complainant, respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

L. The board shall render its decision within 10 days after the hearing. All decisions shall comply with the requirements of R.S. 49:958. The decision shall become final 30 days after the mailing date shown thereon, unless a rehearing has been timely requested by either party, or unless the registrar, whose removal has been ordered, files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

M. A rehearing may be requested within 10 days from the date of the board's written decision on the grounds listed in R.S. 49:959, and if requested timely, the board shall follow the procedures for rehearing in accordance with R.S. 49:959.

N. If the respondent registrar requests a rehearing, the decision upon rehearing, or denial thereof, shall become final 30 days after the mailing date shown thereon, unless the registrar files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

O. All filings and correspondence shall be addressed to State Board of Election Supervisors, Secretary of State, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24 and R.S. 18:53.

HISTORICAL NOTE: Promulgated by the Department of State, Board of Election Supervisors, LR 5:328 (October 1979), amended LR 34:1635 (August 2008).

§105. Sale of Voter Registration Lists

A. The Department of State generates voter registration lists through ERIN and establishes guidelines that shall be provided to the registrars of voters for the sale of voter registration lists to the general public.

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B. Voter registration lists can either be requested through the department's website www.GeauxVote.com or through a registrar of voters' office. All lists must be paid for in advance based upon an estimate provided by either the department or registrar of voters to the client. All estimates will be signed by the client, unless the estimate is submitted electronically. Checks, money orders and credit cards are the acceptable forms of payment. Payment shall either be given to the department or the Registrar of Voters' office. If the registrar of voters' office receives the payment, the registrar shall fax a copy of the check or money order to the department and mail the check or money order to the department within 48 hours.

C. The department hereby establishes the cost schedules detailed below for the sale of voter registration lists.

1. List of Voter Registrations in PDF Format

Number of Voters	Cost
1-2,000 voters	$20
2,001 +	$0.01 x number of voters, not to exceed $5,000

a. This list can be requested without districts and should contain the following information: parish, registration number, ward, precinct, name, party, age, sex, race, last-vote-date, residence, and mailing addresses. If requested, the list will provide telephone numbers.

b. This list can be requested with districts and should contain the same information above plus the following information: congressional, senatorial, representative, police jury/council, justice of the peace, school board, city district, district court, Public Service Commission, Board of Elementary and Secondary Education, tax ward district, and eight special districts. If requested, the list will provide telephone numbers.

c. This list can be ordered for delivery via electronic mail or CD-ROM. Each duplicate copy of the CD-ROM costs one-fourth the cost of the original.

2. Mailing Labels in PDF Format

Number of Voters	Cost
1-2,000 voters	$20
2,001 +	$0.01 x number of voters, not to exceed $5,000

a. Label formatted pdf files may be ordered with the following information:

i. voter's name and mailing address only; or

ii. voter's name, mailing address, ward and precinct.

b. The mailing labels in pdf format can be ordered for delivery via electronic mail or CD-ROM. Each duplicate copy of the CD-ROM costs one-fourth the cost of the original.

3. List of Voter Registrations in Text Format

Number of Voters	Cost
1-2,000	$20
2,001 +	$0.01 x number of voters, not to exceed $5,000

a. The data is in text format.

b. The text format list should provide the following information: parish, name, ward, precinct, party, residence and mailing addresses, sex, race, age, status, registration date, registration number, last 20 dates voted, and all district information.

c. If requested, the telephone number will be provided.

d. The text format list can be ordered for delivery via electronic mail or CD-ROM. Each duplicate copy of the CD-ROM costs one-fourth the cost of the original.

4. Delivery. The minimum cost for the delivery service shall be $7.50 per shipment.

5. Special Requests. The prices above apply to requests using the standard criteria. A $100 per hour programming charge will be added for any "special request." Registrars of voters must check with the information technology section of the department prior to agreeing to a request that does not conform to the standard criteria.

D. The client shall review the list immediately upon receipt. If there is a problem with the list, the client must immediately notify the department or registrar of voters. If the client has a valid reason for seeking a new list or getting a refund, the client has seven days to return the original voter registration list to the department or registrar of voters to receive a new list or a refund. If the original list has been reproduced, no refund will be issued and a new list will be subject to the appropriate costs. If the list was delivered via electronic mail, the list must be deleted prior to receiving a new list or getting a refund. If the reasoning is determined to be justifiable by the department, a new list will be provided or a refund issued.

E. Notwithstanding any provision of this Section to the contrary, a statewide voter registration list may be available electronically to the state chair of a political party recognized pursuant to R.S. 18:441 from the department by subscription agreement. Such statewide voter registration list shall be transmitted electronically on a quarterly basis at a subscription rate of $7,500 per year payable to the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:704 (April 2008); amended LR 40:372 (February 2014).

§107. Merit Evaluation for the Registrar of Voters

A. The secretary of state hereby designates the director of registration in the Department of State to conduct the annual evaluation of each parish registrar of voters by

reviewing the completed evaluation and data submitted by each registrar of voters. The evaluation will consider the timely performance of the registrar's job responsibilities as required by title 18 of the *Louisiana Revised Statutes*. Upon completion of the rating of a registrar by the director of registration, the director of registration shall submit the evaluation to the commissioner of elections for review and either approval or disapproval depending on the information submitted. If the commissioner of elections does not approve the rating given by the director of registration, the registrar will be given the rating recommended by the commissioner of elections. The registrar's evaluation is then submitted to the Department of State Human Resources office. If the registrar receives an "excellent" rating, Human Resources will process the merit increase. If the registrar receives a "satisfactory" rating, Human Resources will not process the merit increase.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the secretary of state or his designee in conjunction with the Registrar of Voters Association. The secretary of state or his designee shall prepare written instructions and forms to be utilized for the evaluation. Evaluation forms with instructions shall be submitted to the registrars of voters no later than November 1 for completion. The form shall include mandated duties required of the registrar's office in accordance with title 18 of the *Louisiana Revised Statutes* and other applicable laws with input from the Board of Review for Evaluation of the Registrar of Voters Association; however, the form is not intended to be all inclusive of all of the duties mandated in title 18 of the *Louisiana Revised Statutes* and other applicable laws. If a registrar receives an "excellent" rating, the registrar is eligible for a merit increase in January. If a registrar does not receive an "excellent" rating, the registrar will be rated "satisfactory" and is not eligible to receive a January merit increase. Also, if a registrar is a certified elections registration administrator (CERA) and does not receive an "excellent" rating, the registrar is not eligible to receive the 7 percent CERA certification pay increase for that year pursuant to R.S. 18:59.4.

C. The parish registrar of voters will have until December 15 to submit a completed evaluation form with supporting documentation to the Department of State.

D. A written explanation shall be given to any registrar of voters who does not receive an "excellent" rating.

AUTHORITY NOTE:Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015), amended LR 43:~~.~~

§108. Appeal of Merit Evaluation for the Registrar of Voters

Repealed.

~~A. Submission of a Request for Appeal~~

~~1. A registrar of voters who does not receive an "excellent" rating on his or her annual merit evaluation may appeal that rating to the Registrars of Voters Evaluation Appeals Committee.~~

~~2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the human resources director's designee, no later than January 30.~~

~~3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.~~

~~4. If the request for appeal is timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the Registrars of Voters Evaluation Appeals Committee and to the director of registration. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.~~

~~5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.~~

~~B. The Registrars of Voters Evaluation Appeals Committee~~

~~1. All written requests for appeal of annual merit evaluations that meet the requirements of Subsection A of this Section shall be considered by the Registrars of Voters Evaluation Appeals Committee.~~

~~2. The Registrars of Voters Evaluation Appeals Committee shall consist of seven members. Three members shall be registrars of voters appointed by the Registrar of Voters Association. Four members shall be appointed by the secretary of state, one of which shall be a registrar of voters who shall act as chairperson of the committee. The chairperson shall vote only to break a tie. The director of registration and the commissioner of elections shall not be appointed to the committee.~~

~~3. The chairperson shall convene a meeting of the Registrars of Voters Evaluation Appeals Committee within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The committee may vote to uphold the "satisfactory" rating or to change the rating to "excellent".~~

~~4. The chairperson of the committee shall give written notice of the committee's decision to the affected registrar of voters, the director of registration, and the human resources director within 15 days.~~

~~C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the committee's decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State Human Resources office.~~

~~D. A written explanation shall be given to any registrar of voters who does not receive any "excellent" rating.~~

AUTHORITY NOTE:Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:759 (April 2015)~~.~~, repealed LR 43:

§109. Merit Evaluations of the Chief Deputy and Confidential Assistant

A. The parish registrar of voters shall perform the annual evaluation of the chief deputy and confidential assistant.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the Registrar of Voters Association. The association shall prepare written instructions and forms to be utilized for the evaluation. The forms and instructions shall be submitted to the registrars of voters for reviewing the chief deputy and confidential assistant's performance no later than November 1.

C. The parish registrar of voters shall be responsible for evaluating his or her chief deputy and confidential assistant. These evaluations shall be submitted to the

Department of State Human Resources office no later than December 15 of each year.

D. A written explanation shall be given to any chief deputy and confidential assistant who does not receive an "excellent" rating.

AUTHORITY NOTE:Promulgated in accordance with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:759 (April 2015)~~.~~, amended LR 43:

§111. Professional Review Committee

A. The Commissioner of Elections shall submit a formal notification to the Professional Review Committee of the Louisiana Registrar of Voters Association of any registrar of voters who does not perform a mandated duty as defined by the annual performance evaluation form.

B. If the department receives a written complaint or email complaint concerning a registrar which does not fall under R.S. 18:53, the department may forward the complaint to the Professional Review Committee.

C. The Professional Review Committee shall investigate the matter and submit a copy of its findings to the board of directors of the Louisiana Registrar of Voters Association no later than 90 days of receipt of a formal notification or complaint. The board of directors shall submit a written copy of the findings and any recommended corrective action to the Commissioner of Elections, the Secretary of State and the State Board of Election Supervisors.

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

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008).

§113. Annual Expenditure Report to Parish Governing Authority

A. Annually, the Secretary of State shall provide each parish registrar of voters with an expenditure summary report for all expenses paid by the state on behalf of each registrar of voters. The report shall be mailed out by the department no later than January 31. This information shall be combined with expenses paid by the parish governing authority into a consolidated report. This report must be submitted annually by the registrar of voters to the parish governing authority, Secretary of State, and parish clerk of court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 36:742, and R.S. 42:283.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008).

§115. Repeal Prior Rules and Regulations

A. LAC 31:II.101 promulgated by the Department of Elections and Registration in October of 1998 relating to ERIN (Elections and Registration Information Network) is hereby repealed in its entirety.

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

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HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:706 (April 2008).

§117. Prohibition on Accumulation of Annual, Sick and Compensatory Leave for Registrars of Voters

A. Definitions

Duty Status – a registrar of voters shall be available and ready to perform the tasks and responsibilities necessary to fulfill the mandated duties and functions of his/her office, and shall be on-call at all times.

B. The registrar of voters of each parish shall not be eligible to earn or accrue any type of annual or sick leave or paid time off, including compensatory leave, during his/her tenure as the registrar of voters.

C. Registrars of voters shall be considered in "duty status" at all times and therefore will not be required to report absences from the office, take leave for time away from the office or report hours worked to the Department of State for purposes of payroll processing, except for those overtime hours actually worked during early voting for which payment is required and authorized by R.S. 18:1400.8. Each registrar of voters will be solely responsible for the performance of the mandated duties of his/her office. Variances in time and attendance shall not affect the provision of duties and services mandated for each registrar of voters by the Louisiana Constitution and Title 18 of the Louisiana Revised Statutes.

D. Registrars of voters will remain eligible to receive pay for overtime hours actually worked during early voting as authorized by R.S. 18:1400.8.

E. The current balances of accrued annual, sick and compensatory leave for each registrar of voters that were frozen pursuant to Department of State Policy #46, "Prohibition on Accumulation of Annual & Sick Leave & Compensatory Time for Registrars of Voters", shall remain frozen pursuant thereto, and no further annual, sick or compensatory leave shall accrue after the effective date of this Rule. Upon retirement or separation from service, each registrar of voters will be eligible to be paid for up to a combined total of 300 hours of accumulated annual and compensatory leave previously earned pursuant to Department of State Policy #2, "Attendance and Leave". The leave balances (annual, sick and compensatory) remaining will be reported by the Human Resources Division of the Department of State to the Registrars of Voters Employees' Retirement System for purposes of certification for retirement credit and calculation of retirement benefits, as allowed by the laws and rules governing that system.

F. Any annual, sick and compensatory leave accrued by an employee appointed as registrar of voters in the future shall be carried forward and frozen as of the date of the appointment as the registrar of voters. Upon retirement or separation from service, the registrar of voters will be eligible to be paid for up to a combined total of 300 hours of accumulated annual and compensatory leave. The leave balances (annual, sick and compensatory) remaining will be reported by the Human Resources Division of the Department of State to the Registrar of Voters Employees' Retirement System for purposes of certification for retirement credit and calculation of retirement benefits, as allowed by the laws and rules governing that system.

G. The provisions of this rule shall not be applied in violation of any provision of the Fair Labor Standards Act. Any application of such is strictly prohibited and shall

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render the applicable portion of the rule null and void.

H. The provisions of this rule apply to all 64 registrars of voters in the State of Louisiana and all registrars of voters that may be appointed in the future.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:134, R.S. 18:1400.8, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 39:25 (December 2013).

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

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Office: Elections Division

Rule Title: Merit Evaluations & Appeals For Registrars of Voters

Date Rule Takes Effect: December 20, 2017

SUMMARY
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units.

The proposed rule change repeals provisions associated with the appeal process for registrars of voters who do not receive an "excellent" in the merit evaluation process conducted by the Department. In accordance with Act 358 of 2016 the Department of State will no longer receive and evaluate appeals beginning with the 2017 merit evaluations. The same act now requires the State Board of Election Supervisors to conduct the appeals process.

In addition, there is a proposed rule change requiring the Department to provide a written statement in the merit evaluations if a registrar of voters, chief deputies, or confidential assistant does not receive an "excellent" rating. Originally, this provision was included in Section 108, which is being repealed and is now being placed in Sections 107 and 109.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs or benefits for directly affected persons or non-governmental entities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Joe R. Salter

Signature of Agency Head or Designee

Joe R. Salter, Undersecretary of M&F

Typed Name & Title of Agency Head or Designee

09/06/2017

Date of Signature

Evan Brasseaux, Staff Director

Legislative Fiscal Officer or Designee

9/7/17

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

During the 2016 Regular Legislative Session, Act No. 358 transferred the responsibilities of the Department of State to conduct the appeals process for merit evaluations given to the registrars of voters (see the provisions of R.S. 18:55(A)(4)(b)). Registrars of voters are now required to appeal the Department of State's findings on their merit evaluations to the State Board of Election Supervisors.

In addition, the Department amended the rule to require that a written explanation be given to any registrar of voters, chief deputies, or confidential assistants, who does not receive an excellent rating. This provision was previously included in Section 108 and will now be placed in Sections 107 and 109.

B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

See A above.

C. Compliance with Act 11 of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

N/A

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) __X____ NO. If no, provide justification as to why this rule change should be published at this time

The proposed rule is being adopted to comply with the provisions of Act 358 of the 2016 Regular Legislative Session.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 18	FY 19	FY 20
Personal Services			
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	**0**	**0**	**0**
POSITIONS (#)	**0**	**0**	**0**

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change repeals provisions associated with the Department of State performing the appeal of a merit evaluation that was not "excellent". Act 358 of the 2016 Regular Legislative Session transfers this function to the State Board of Election Supervisor.

In addition, the proposed rule amends Section 107 and 109 requiring that a written explanation be provided to registrars of voters, chief deputies, and confidential assistants who does not receive an excellent evaluation. This process is currently required through Section 108, which is being repealed.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 18	FY 19	FY 20
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

N/A

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed rule change will not result in any costs or savings to state or local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

N/A

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/ DECREASE	FY 18	FY 19	FY 20
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
TOTAL	**0**	**0**	**0**

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule change will not affect revenue collections for state or local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed rule change will not result in any costs or benefits for directly affected persons or non-governmental entities.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

See A above.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule change will not affect competition or employment.