

STATE BOARD OF ELECTION SUPERVISORS  
LOUISIANA DEPARTMENT OF STATE

LEGISLATIVE OVERSIGHT REPORT

NOTICE OF INTENT  
*(Intended Action)*

TITLE 31

ELECTIONS  
LAC 31:II.CHAPTER 2

APPEAL PROCESS OF MERIT EVALUATIONS 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 proposed by the State Board of Election Supervisors regarding the merit evaluation appeals process for registrar of voters who do not receive an “excellent” rating on their annual merit evaluation. Since this is a new rule, a marked copy utilizing the old Section 108 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.)*

The proposed rule will provide for a merit evaluation appeal process for registrars of voters who do not receive an “excellent” in the merit evaluation process conducted by the Department of State. 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. This function has been transferred to the State Board of Election Supervisors.

**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. 18:24(A)(6), R.S. 18:55, and R.S. 36:742, the State Board of Elections Supervisors is proposing to adopt an appeal process for registrars of voters who do not receive an “excellent” in the merit evaluation process which is conducted by the Department. This function was transferred to the State Board of Election Supervisors beginning with the 2017 merit evaluations.

**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**

### **State Board of Election Supervisors Department of State**

#### **Appeal of Merit Evaluation 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. 18:24(A)(6), R.S. 18:55, and R.S. 36:742, the State Board of Election Supervisors is proposing to adopt this Rule to provide for 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.

### **Title 31**

### **ELECTIONS**

#### **Part II. Voter Registration**

#### **Chapter 2. Registrars of Voters**

##### **§201. Appeal of Merit Evaluation for the Registrar of Voters**

###### **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 State Board of Election Supervisors.

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 31.

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

4. If the request for appeal is received timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the State Board of Elections Supervisors and to the director of registration within 15 days of receipt of the request for appeal. 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 State Board of Election Supervisors**

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 State Board of Election Supervisors.

2. The State Board of Election Supervisors shall consist of eight members. The chairperson shall vote only to break a tie. The commissioner of elections shall not vote on the appeal of merit evaluation for the registrar of voters.

3. The chairperson shall convene a meeting of the State Board of Election Supervisors within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The registrar of voters who submitted the request for appeal shall be given an opportunity to be heard at the meeting. The board may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the board shall give written notice of the board's decision to the affected registrar of voters, the director of registration, and the human resources director within 10 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the board'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's Human Resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, State Board of Election Supervisors, LR 43:

### **Family Impact Statement**

The proposed Rule cited in LAC 31:II.201 regarding the appeal of merit evaluation for registrars of voters 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 Rule cited in LAC 31:II.201 regarding the appeal of merit evaluation for registrars of voters 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 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 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:

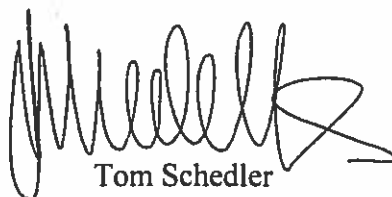
1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level 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 Rule regarding the appeal process of merit evaluation for the registrar of voters. The deadline for the Department of State to receive written comments on behalf of the State Board of Elections Supervisors is 4:30 p.m. on Thursday, October 26, 2017 after the public hearing.

### **Public Hearing**

A public hearing on the proposed Rule is scheduled for Wednesday, October 25, 2017 at 1:00 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  
Chairperson

Title 31

ELECTIONS

Part II. Voter Registration

Chapter ~~42~~. Registrars of Voters

~~§108201~~. Appeal of Merit Evaluation for the Registrar of Voters

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~~ State Board of Election Supervisors.

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~~1~~.

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~~ State Board of Elections Supervisors and to the director of registration within 15 days of receipt of the request for appeal. 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~~ State Board of Election Supervisors

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~~ State Board of Election Supervisors.

2. The ~~Registrars of Voters Evaluation Appeals Committee~~ State Board of Election Supervisors shall consist of ~~seven~~ eight 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.~~ vote on the appeals of merit evaluation for the registrar of voters.

3. The chairperson shall convene a meeting of the ~~Registrars of Voters Evaluation Appeals Committee~~ State Board of Election Supervisors within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The registrar of voters who submitted the request for appeal

~~shall be given an opportunity to be heard at the meeting.~~ The ~~committeeboard~~ may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the ~~committeeboard~~ 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 ~~45~~10 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the ~~committee-board'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, [State Board of Elections Supervisors Division, LR 41:759 \(April 2015\)-43](#):

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

Person  
Preparing  
Statement: Carol H. Guidry Dept.: State Board of Election Supervisors

Phone: (225) 362-5142 Office: \_\_\_\_\_

Return  
Address: P.O. Box 94125 Rule  
Title: Merit Evaluations Appeals  
Baton Rouge, LA For Registrars of Voters by SBOES

70804-9125 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 will not result in any costs or savings to state or local governmental units.

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

It is expected that the appeals process can be conducted as part of existing board meetings. However, the board members do not receive a per diem or travel expenses, so there would be no additional expenses incurred if there was a need for an additional meeting.

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

The proposed rule 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 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 will not affect competition and employment.

  
\_\_\_\_\_  
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

  
\_\_\_\_\_  
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.

- 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?

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

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 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.

It is expected that the appeals process can be conducted through existing board meetings. However, the board members do not receive a per diem or travel expenses, so there would be no additional expenses incurred if there was a need for an additional meeting.

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

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

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 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?

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

\*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 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 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 will not affect competition or employment.