



**SELECTED LEGISLATION**  
from the  
**2011 Regular Session**  
of the  
Louisiana Legislature

Prepared by  
  
House Legislative Services  
Louisiana House of Representatives  
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**2011 REGULAR SESSION**

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# **I. CIVIL LAW AND PROCEDURE**

## **A. SUBSTANTIVE, LIABILITY, AND DAMAGES**

### **1. Greene (HB 358)**

**Act No. 351**

Provides that the governing authority of an elementary or secondary school or charter school who enters into a **joint-use agreement** with another party for use of its facility, **owes no duty of care or duty to warn** and does not extend any assurance that the premises are safe or incur any liability for injuries to persons or property. Liability is not excluded for gross negligence or willful and wanton misconduct.

The school executing a joint-use agreement shall require the other party to maintain and provide **proof of insurance** coverage and the agreement shall set forth the conditions, terms, and requirements under which the authorization and use is granted and requires the entity to indemnify and hold harmless the governing authority from any liability arising from the use.

The governing authority may at any time and without cause revoke its authorization to use the premises and terminate the agreement.

Effective June 29, 2011. (Adds R.S. 9:2800.22)

### **2. Anders (HB 382)**

**Act No. 185**

Relative to the **Medical Assistance Programs Integrity Law**, provides definitions for "claim", "material", "obligation", and "original source".

**Increases the civil monetary penalties** imposed on the violator from \$5,000 to \$5,500 and from \$10,000 to \$11,000 and provides that the penalties shall be adjusted according to the federal penalties inflation law. Provides that the court may reduce to not less than twice the actual damages, if requested.

Provides that the court shall dismiss an action if the same allegations were publicly disclosed.

Provides that any employee, contractor, or agent shall be entitled to all relief necessary to make him whole if he is discharged, demoted, suspended, or discriminated against in any manner.

Requires that a copy of the complaint be served upon the attorney general in accordance with the rules of civil procedure, and only the attorney general or secretary may intervene or bring a related action based on the same facts.

Provides that any government intervention shall relate back to the date the complaint was filed, for prescription purposes.

Provides that if the court finds the allegations are based on information related to criminal, civil, or administrative hearings or the media, it may award a sum it considers appropriate, but in no case more than 10% of the proceeds.

Effective August 15, 2011. (Amends R.S. 46:437.3(6), 438.3(B) and (C), 438.6(C)(1)(intro. para.) and (a), 438.7(intro. para.), 439.1(D), (E), (F), and (G), 439.2(A) and (B)(1), and 439.4(A)(2) and (3) and (D); Adds R.S. 46:437.3(29) and (30) and 438.6(C)(3); Repeals R.S. 46:439.1(H) and (I) and 439.2(C))

### **3. Cromer (HB 206)**

**Act No. 229**

Relative to the **limitation of liability of designated nonprofit organizations**, adds to the existing definition of "designated nonprofit organizations" those nonprofit organizations designated by city municipal courts which coordinate or supervise the utilization of community service of persons sentenced to perform community service as an alternative to incarceration.

Existing law provides that the state shall hold harmless and indemnify designated nonprofit organizations for acts or omission of a community service worker resulting in damage or injury unless the damage or injury was caused by willful or wanton conduct, and provides that employees of designated nonprofit organizations shall not be individually liable for any act or omission resulting in damage or injury unless the damage or injury was caused by willful or wanton conduct.

Effective August 15, 2011. (Amends R.S. 9:2792.8(A)(1))

## **B. MEDICAL MALPRACTICE**

### **1. Ligi (HB 69)**

**Act No. 160**

Provides that the **Patient's Compensation Fund Oversight Board** may invest monies which are not required for the payment of 1-½ times the current fiscal year of budgeted expenditures.

Applies the **prudent man rule** to the investing of fund monies which requires the board and each member to act with the same care, skill, prudence, and diligence a prudent institutional investor acting in a like capacity would use. The rule is not applied in isolation, but as an overall investment strategy. Also requires an asset allocation study and diversification in investments.

Authorizes the board to hire a chief investment officer and delegate certain investment duties to him.

Requires the board to **report semiannually to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A**. Requires investment performance reports be given to the board at least annually and to be in compliance with the current Performance Presentation Standards as published by the Association for Investment Management and Research.

Requires consultants and money managers to **fully disclose any conflicts of interest** to the board and provides penalties for the failure to do so.

Effective August 15, 2011. (Amends R.S. 40:1299.44(A)(1)(b); Adds R.S. 40:1299.44(D)(2)(b)(xvi) and 1299.44.1)

## **C. EVIDENCE / DISCOVERY**

### **1. Richardson (HB 262)**

**Act No. 90**

Existing law provides a listing of documentary evidence that shall be deemed as **authentic evidence in an action for executory process**.

New law includes a **certified reproduction** of a security agreement as authentic evidence in an action for executory process.

Effective August 15, 2011. (Amends C.C.P. Art. 2636(5))

### **2. Roy (HB 361)**

**Act No. 280**

Existing law provides that the **information contained in accident reports** shall be **confidential**, exempt from the provisions of the public records laws, and shall be made available only to parties of the accident, insurers of any party subject to the report, the succession representatives, or to a news-gathering organization that requests documents related to the accident.

New law defines "**news-gathering organization**" as any of the following:

- (1) A newspaper, or news publication, printed or electronic, of current news and intelligence of varied, broad, and general public interest, having been published for a minimum of one year and that can provide documentation of membership in a statewide or national press association, as represented by an employee thereof who can provide documentation of his employment.

- (2) A radio broadcast station, television broadcast station, cable television operator, or wire service as represented by an employee thereof who can provide documentation of his employment.

Effective August 15, 2011. (Amends R.S. 32:398(K)(1)(a))

### **3. Amedee (SB27)**

**Act No. 125**

Relative to the right to obtain **copies of a patient's medical records** from a health care provider, provides that the charges provided for in existing law shall be the only charges applied by the healthcare provider for the production of healthcare records.

Provides that a person or entity otherwise subject to the provisions of existing law who provides medical records to a nonprofit organization assisting with social security or medicaid applications may waive or charge an amount less than the maximum charges set forth in R.S. 40:1299.96(A)(2)(b)(i).

Effective August 15, 2011. (Amends R.S. 40:1299.96(A)(2)(b)(i) and (C))

## **D. CONTRACTS / CONSUMER PROTECTION**

### **1. Abramson (HB 449)**

**Act No. 188**

Regarding the requirement of **open public meetings of public bodies**, specifies that a discussion of the awarding of a **public contract** is not covered by the exception to the rule which allows the body to meet in executive session on certain issues involving the character, professional competence, or physical or mental health of a person.

Effective August 15, 2011. (Amends R.S. 42:17(A)(1))

### **2. Fannin (HB 271)**

**Act No. 391**

Requires any municipality or parish which issues a **permit for construction** pursuant to the **state uniform construction code** to provide a list of registered certified building inspectors to the applicant for the permit at the time the permit is issued.

Authorizes a parish or municipality to accept determinations made by the state fire marshal as they pertain to life safety and fire protection as required in the state uniform construction code.

Prohibits municipalities and parishes that establish agreements with other governmental entities of the state or certified third-party providers to enforce the state uniform construction code from imposing a fee for inspections not performed by the municipality or parish if a fee



for the inspection was collected by the governmental entity or third-party provider that actually performed the inspection.

Effective August 15, 2011. (Adds R.S. 40:1730.23(F) and (G) and 1730.24(C))

### **3. Anders (HB 133)**

**Act No. 221**

Requires **warranty claims** on farm equipment, heavy industrial equipment, construction equipment, material handling equipment, utility equipment, engines equipment, lawn and garden equipment, or retail equipment submitted to a supplier by a dealer for payment under a warranty agreement to either be approved or disapproved within 30 days of receipt by the supplier.

Requires all claims for payment to be paid within 30 days of their approval. When any claim is disapproved, the supplier is required to notify the dealer within 30 days stating the specific grounds upon which the disapproval is based. If a claim is not specifically disapproved within 30 days of receipt, it shall be deemed approved and payment by the supplier shall be made within 30 days.

Provides that **warranty work performed by the dealer** shall be compensated in accordance with the reasonable and customary amount of time required to complete the work multiplied by the dealer's established customer hourly retail labor rate. All parts used by the dealer in performing warranty work shall be paid to the dealer in the amount equal to the dealer's net price for parts used, plus a minimum of 15%.

Effective June 27, 2011. (Adds R.S. 51:501)

### **4. Arnold (HB 221)**

**Act No. 14**

**Prohibits a solicitor from using a lender's name**, trade name, service mark, or trademark in a solicitation for the **offering of services or products to a consumer** without the written authorization of the lender, unless the oral, electronic, or written solicitation discloses all of the following:

- (1) The name, address, and telephone number of the solicitor making the solicitation.
- (2) A statement explaining that the solicitor making the solicitation is not affiliated with the referenced lender.
- (3) A statement that the solicitation is not authorized or sponsored by the referenced lender.
- (4) A statement that the referenced loan information was not provided by the lender.

Prohibits a solicitation for the purchase of services or products from containing a loan number, loan amount, or other specific loan information that is not publicly available information.

Prohibits a solicitor from using a loan number, loan amount, or other specific loan information that is publicly available information in a solicitation for the purchase of services or products unless the oral, written, or electronic solicitation discloses all of the following:

- (1) The name, address, and telephone number of the solicitor making the solicitation.
- (2) A statement that the solicitor making the solicitation is not affiliated with the lender.
- (3) A statement that the solicitation is not authorized or sponsored by the lender.
- (4) A statement that the loan information referenced was not provided by the lender and that the information was retrieved from public records.

Effective August 15, 2011. (Adds R.S. 6:412.1)

#### **5. Thibaut (HB 227)**

**Act No. 84**

Requires any **condominium unit owners' association** collecting assessments for common expenses to obtain and maintain a **blanket fidelity bond** covering the officers, directors, and persons employed by the unit owners' association and any managing agent and employees of the managing agent in an amount equal to the lesser of \$1,000,000 or the amount of reserve balances of the unit owners' association plus 1/4 of the aggregate annual assessment of the unit owners' association. The minimum coverage amount shall be \$10,000.

Effective August 15, 2011. (Adds R.S. 9:1123.113)

#### **6. Hutter (HB 344)**

**Act No. 180**

Provides that **no charge for later payment of assessments** shall be imposed if the assessment is paid **within 10 days of the due date** and limits the late payment charge to no more than 30% of the amount of the monthly assessment.

Requires condominium associations to provide to each unit owner written or electronic notice detailing the amount and due date of the assessment due.

Effective June 24, 2011. (Amends R.S. 9:1123.102(11))

**7. Thierry (HB 418)**

**Act No. 105**

Authorizes the **La. State Plumbing Board**, upon receipt of a complaint from a consumer for whom the work was performed, to **fine any person**, or employing entity, who performs plumbing work or engages in the business of plumbing while **not possessing a license** or endorsement issued by the board an amount **not more than \$5,000**.

Effective June 20, 2011. (Amends R.S. 37:1374)

**8. Richardson (HB 195)**

**Act No. 389**

Incorporates the provisions of the **junk dealers' law** and the provision regarding the purchase of copper, copper wire, alloy, bronze, zinc, aluminum, stainless steel, or brass, and railroad track materials into the secondhand dealers' law to create one body of law governing persons who purchase and sell used or secondhand property and junk.

**Requires all payments** for used or secondhand property or junk **to be made by check, money order, or electronic transfer** issued to the seller of the used property.

Effective August 15, 2011. (Amends R.S. 37:1861(A)(1) and (B)(intro. para.) and (2), 1862.1, 1864, 1864.2(B), 1869(A), and 1870; Adds R.S. 37:1861(A)(5), (6), and (7) and (B)(5), 1861.1, 1864.2(C) and (D), 1864.3, and 1864.4; Repeals R.S. 51:571-579)

## II. SUCCESSIONS AND TRUSTS

### 1. Murray (SB 22)

Act No. 323

Changes the definition of "**small succession**" as the succession or the ancillary succession of a person who has died at any time, leaving property in Louisiana having a gross value of \$75,000 or less valued as of the date of death.

Provides that under certain circumstances a **co-owner in possession** of small succession immovable property that is damaged by a **declared disaster or catastrophe** may receive and expend funds given to him by a public entity to repair, reconstruct, and restore the property. Further authorizes the co-owner to execute mortgages to secure funds and encumber the immovable in order to repair, reconstruct, and restore the property without obtaining the concurrence of the other co-owners. Provides that new law shall expire on Jan. 1, 2013.

Deletes the definition of "**small succession property**" and provides that judicial opening of a small succession is not necessary of a person domiciled in Louisiana who died intestate, or domiciled outside of Louisiana whose testament has been probated by court order of another state, and whose sole heirs are the following:

- (1) His descendants.
- (2) His ascendants.
- (3) His brothers or sisters, or descendants thereof.
- (4) His surviving spouse.
- (5) His legatees under a testament probated by court order of another state.

Adds the requirement of an attachment consisting of certified copies of the testament and the probate order of another state, if the affidavit is being used in lieu of an ancillary probate proceeding.

Provides that an action by a person, who claims to be a successor of a deceased person but who has not been recognized as such in an affidavit, to assert an interest in property formerly owned by the deceased, against a third person who has acquired an interest in the property, or against his successors by onerous title, is **prescribed two years from the date of the recording of the affidavit**.

Effective June 29, 2011. (Amends C.C.P. Arts. 3421, 3431(A)(intro. para.) and (5) and (B), 3432(A) (intro. para.) and (5) through (8), and 3434(C); Adds C.C.P. Art. 3422.1; Repeals C.C.P. Art. 3431(D))

Upon recommendation of the Louisiana State Law Institute, provides that a **pledge of all or part of a savings account** or shares owned by two or more persons made to an association by an eligible person, shall be a valid pledge and transfer.

Authorizes an association to **pay to a surviving spouse up to \$10,000** of any savings or demand account or shares, **without a court order** and regardless of whether they are separate or community assets. When the deceased does not arrange for the apportionment of taxes, the tax shall be apportioned in proportion to the value of the interest each person bears to the total value of the interests.

Provides that no beneficial interest in income from a trust and no usufruct shall be subject to apportionment with the principal beneficiary and the naked owner.

The person in possession of the property and required to pay the tax, may withhold, prior to distribution, the amount of **tax attributable to each person's interest** or the court may require interested persons to post a bond for the apportionment liability.

Provides for exemptions, deductions, and credits in making an apportionment because of a certain relationship to the decedent, previous gift received, or credit for taxes already paid.

Provides a **right of action, with a one year time limit**, to recover the original amount of tax apportioned to each person and any additional amounts based on deficiencies.

If a person required to pay the tax is domiciled outside of state, he has a right of action for the proportionate amount of the federal estate tax, estate tax payable to another state, or a death duty due to another state.

Provides for retroactive application.

Effective August 15, 2011. (Amends R.S. 6:765(B) and 767(D) and R.S. 9:2449(B); Adds R.S. 9:2432-2439)

### III. FAMILY LAW

#### A. MARRIAGE, DIVORCE, AND DOMESTIC MATTERS

##### 1. Broome (SB 32)

Act No. 128

On recommendation of the Louisiana State Law Institute, deletes the definition and eliminates the concept of legal guardianship and defines "**guardianship**" as the judicial placement of a child under the duty and authority of a guardian to make decisions in matters having a permanent effect on the life and development of the child.

Sets forth requirements of guardianship, including design to provide a permanent placement for children in need of care, case plan for children whose permanent plan is guardianship, purpose of guardianship, rights and responsibilities of the guardian, and home study report.

Sets forth procedures and requirements for a motion, hearing, and order for guardianship, and for modification and termination of guardianship. Provides that if a guardian has been appointed, a petition for voluntary transfer cannot be filed, and a change in guardianship is made through a motion to modify the guardianship.

In the performance of his duties, the guardian will be liable for his own negligence but will not be vicariously liable for his ward.

Effective August 15, 2011. (Amends Ch.C. Arts. 116(12.1), 675(B)(3), 681, 1511, 1515(B), and 1516(B); Adds Ch.C. Arts. 718, 719, 720, 721, 722, 723, 724 and 1514(D))

##### 2. Barrow (HB 572)

Act No. 200

Authorizes day care centers to have a **child safety alarm installed in any vehicle** that is owned or operated by the day care center and used in the transport of children to or from the day care center. Also requires the installation of the alarm to be completed by a person or business that is approved by the manufacturer of the child safety alarm.

Specifies that an owner or director of a day care center who elects to have a child safety alarm installed in a vehicle owned or operated by the day care center must ensure that the child safety alarm is properly maintained and in good working order each time the vehicle is used for transporting children to or from a day care center.

Effective August 15, 2011. (Adds R.S. 32:295.3.1)

## **B. ADOPTION, CHILD IN NEED OF CARE, JUVENILES**

### **1. Norton (HB 465)**

**Act No. 189**

Requires that a preliminary investigation of **abuse and neglect** include an immediate assessment of any existing visitation order, custody order, or agreement involving the alleged perpetrator and the child. Also, requires the Dept. of Children and Family Services to request a **temporary restraining order** pursuant to existing law (Art. 617) or a **protective order** pursuant to existing law (Art. 618) if the department determines that any such previously ordered visitation would put the child's health and safety at risk.

Provides that a request for a temporary restraining order or a protective order shall not independently confer exclusive jurisdiction on the juvenile court in accordance with existing law.

Effective August 15, 2011. (Amends Ch.C. Art. 612(A)(2))

### **2. Nevers (SB 26)**

**Act No. 44**

Authorizes the **Board of Medical Examiners** to adopt rules to allow an out-of-state physician to order routine diagnostic testing under certain circumstances as provided in new law.

Effective August 15, 2011. (Adds R.S. 37:1291.1)

### **3. Broome (SB 188)**

**Act No. 313**

Increases the **Council on the Status of Grandparents Raising Grandchildren** membership to include one representative of the Grandparents Raising Grandchildren Information Center of Louisiana.

Effective June 28, 2011. (Adds R.S. 46:2911(B)(21))

### **4. Cheek (SB 189)**

**Act No. 314**

Requires the governing authority of each public and nonpublic elementary school, middle school, junior high school, high school, each private club or public recreation facility, and each athletic league which sponsors youth athletic activities to provide pertinent information to all coaches, officials, volunteers, youth athletes, and parents or guardians about the **nature and risk of concussion and head injury**, including the risks associated with continuing to play after a concussion or head injury.

**Requires each coach**, whether such coach is employed or a volunteer, and every official of a youth athletic activity that involves interscholastic play **to complete an annual concussion recognition education course.**

Requires as a condition of participation in any athletic activity that the youth athlete and the youth athlete's **parents or legal guardian sign a concussion and head injury information sheet** which provides adequate notice of the statutory requirements which must be satisfied in order for an athlete who has or is suspected to have suffered a concussion or head injury to return to play.

Requires that a coach who is required to complete concussion recognition education shall **immediately remove any youth** athlete from a game, competition, or practice if certain conditions are present.

Requires that if a youth athlete is removed from play and the signs and symptoms cannot be readily explained by a condition other than concussion and he is reasonably suspected of having sustained a concussion, the coach shall notify the athlete's parent or legal guardian and shall not permit the youth athlete to return to play or participate in any supervised team activities involving physical exertion, including games, competitions, or practices, until the youth athlete is evaluated by a health care provider and receives written clearance from the health care provider for a graduated or full return to play.

After a youth athlete who has sustained a concussion or head injury has been evaluated and received clearance for a graduated return to play from a health care provider, a licensed athletic trainer with specific knowledge of the athlete's condition may manage the athlete's graduated return to play.

Does not create any liability for, or create a cause of action against, a school, its officers, or its employees, an organization or association of which a school or school district is a member, a private or public school, a private club, a public recreation facility, or an athletic league when such person or entity has complied with the law.

Effective June 28, 2011. (Adds R.S. 40:1299.181 - 1299.185)

## **5. Roy (HB 364)**

**Act No. 352**

Requires each high school that sponsors or sanctions any athletic activity and which requires a participating student to regularly practice or train and compete to implement a **sports injury management program.**

Provides that subject to availability of financial resources and supply of the necessary workforce, the sports injury management program shall rely to the greatest possible extent on **athletic trainers licensed by the La. State Board of Medical Examiners** to provide athletic health care at high school athletic competitions.



Provides that these provisions of new law **do not create any liability for, or create a cause of action against, a school, its officers, or its employees.**

Authorizes a school to contract for and accept private contributions, gifts, and grants, or in-kind aid from the federal government, the state, or any other source to implement the sports injury management program.

Provides that no school or school system shall be required to incur any financial cost related to implementation of the sports injury management program, unless funds are appropriated by the legislature for such purpose.

Provides that the sports injury management program shall not encompass concussions. Also provides that protocols specific to concussions shall be governed by the Louisiana Youth Concussion Act.

Effective August 15, 2011. (Adds R.S. 40:1299.181)

## **6. Barrow**

**HCR No. 85**

**Requests the La. State Law Institute to study the laws regarding adoptions** and make recommendations, on or before February 1, 2012, relative to establishing consistent but separate procedures and laws for all types of adoptions and procedures for adopted persons to obtain information about their biological parents.

## IV. PROPERTY

### 1. Perry (SB 208)

Act No. 316

Provides that if a **public or private entity vested with the power of expropriation** expropriates less than 50% of the immovable property requested in the petition for expropriation or if the action is abandoned, the property owner **shall be entitled to attorney fees and costs.**

Effective August 15, 2011. (Amends R.S. 19:201)

### 2. Hill (HB 184)

Act No. 226

Requires **consent from a co-owner** or co-heir in order to **cut or remove timber** on co-owned land and provides for damages of **three times the fair market value** of the trees cut or removed from co-owned land, plus reasonable attorney fees and costs.

Provides that new law does not apply to the sale of an undivided timber interest pursuant to R.S. 3:4278.2.

Effective August 15, 2011. (Amends R.S. 3:4278.1(A), (B), (C), and (D))

### 3. Morrish (SB 36)

Act No. 325

Defines "**abstract of title**" or "**abstract**" as a written history, synopsis or summary of the recorded instruments in the public records affecting the title to immovable property that is prepared and certified by the abstractor covering the requisite search periods set forth in law.

Requires that the abstract **include a photocopy or electronic copy of the recorded instruments** or extracts prepared by the abstractor reviewing the records and requires that the abstract be dated and signed by the abstractor and presented for examination to an attorney duly licensed and authorized to practice law in this state.

**Provides that rendering a title opinion as a basis for issuing a title insurance report constitutes the practice of law.**

Effective January 1, 2012. (Amends R.S. 22:512(1) and 17(b)(vi) and R.S. 37:212(A)(2)(d))

### 3. Kleckley (HB 85)

Act No. 164

Requires the **title insurance producer** to include **identifying information** for the title producer, title insurer, and the examining attorney on **all recorded acts of transfer and on**

**all recorded mortgages** insured by a title policy where the property described in the recorded act is a one-to-four family residential property.

Provides that the inclusion of the required information does not create additional liability for those named therein nor does it create a separate cause of action against the title insurance producer, title insurer, lender, or examining attorney.

Provides that failure to include the information required by new law shall not nullify or otherwise affect the validity of the document.

Effective January 1, 2012. (Adds R.S. 22:513.1)

## V. MORTGAGES, SECURITY DEVICES, AND PRIVILEGES

### 1. Alario (SB 24)

Act No. 124

Creates and sets forth the contents, requirements, and a form for a **uniform cancellation affidavit** and provides that it may be used to cancel a mortgage or vendor's lien inscription, except for judgments or legal mortgages. Provides that it may be used in lieu of any other affidavit otherwise required by law, and no additional affidavit shall be necessary for cancellation.

Provides that the uniform cancellation affidavit must be sworn to and subscribed in the presence of a notary public or other properly authorized official, but **shall not be required to be an authentic or witnessed act.**

Provides that the filing with the clerk of court and ex officio recorder of mortgages of a uniform cancellation affidavit containing a request to cancel, together with any additional documents as may otherwise be required by law, shall operate as a release and authorization to the clerk of court and ex officio recorder of mortgages to cancel and erase from the mortgage records any mortgage or vendor's lien inscription described in the uniform cancellation affidavit.

Provides that the **clerk of court as ex officio recorder of mortgages shall not be liable** for any damages resulting to any person or entity as a consequence of canceling a mortgage in reliance upon a uniform cancellation affidavit, and that **the affiant shall be liable** to and indemnify the clerk of court as ex officio recorder of mortgages and any person relying upon the cancellation for any claims or damages suffered if the uniform cancellation affidavit contains materially false or incorrect statements. Further provides that the preparing, signing, or filing of a uniform cancellation affidavit with the knowledge it contains **materially false or incorrect statements shall subject the offender to civil and criminal liability.**

Effective August 15, 2011. (Adds R.S. 9:5166)

### 2. Mount (SB 225)

Act No. 342

Provides that the existing law relative to the **obligation of the mortgagee to grant a release** upon the extinction of the mortgage when requested by the mortgagor, and the resulting penalties for failure to grant the release, shall apply only to mortgages recorded **prior to January 1, 2012.**

Relative to the release of mortgages by the mortgagee on and **after January 1, 2012**, provides that the request for release shall **apply only to residential mortgages**, where a mortgage has been granted by a consumer on a **one-to-four family residential immovable**

property, including a mortgage to finance the initial construction of the one-to-four family residential immovable property.

Provides that upon extinction of the mortgage, **the mortgagor**, his successor in ownership or settlement agent **may submit a written request**, signed by the mortgagor to the mortgagee, to issue a written act of release directing the appropriate recorder of mortgages to cancel the inscription of the mortgage from the mortgage records. The written request that the mortgage be cancelled shall extinguish any obligation on the part of the mortgagee and all additional lenders, on whose behalf the mortgagee may be representing or acting for the benefit of, to make any further loan or advance that would be secured by the mortgage.

Provides that if the mortgagee has assigned, transferred, or delegated the servicing rights to a third party then the duties and liabilities of the mortgagee shall apply solely to the third party.

Provides for the procedures and fees for submission and filing of the act of release and request for cancellation, and provides for the effect of failure to comply with these procedures.

Effective January 1, 2012. (Amends R.S. 9:5557; Adds R.S. 9:5165)

## VI. LABOR AND WORKER'S COMPENSATION

### 1. Talbot (HB 646)

Act No. 402

Provides that the United States Citizenship and Immigration Services **E-Verify status verification system** can be used to **verify citizenship for employment**, and that if an employer utilizes E-Verify to determine work eligibility, he **will not be liable for any errors that result in the employment of an unauthorized worker** as a result of his reliance on E-Verify. Provides for increased civil penalties for employers who hire illegal aliens, including the doubling of the fines in existing law, as well as the suspension of an employer's license to do business in the state upon a third violation. Excludes entities licensed by the Department of Health and Hospitals and provides that these entities are subject to their own licensing provisions.

Effective August 15, 2011. (Amends R.S. 23:995)

## VII. CRIMINAL JUSTICE

### A. NEW CRIMES

#### 1. Thierry (HB 55)

Act No. 26

Creates the crime of **unlawful use or access of social media**, prohibiting the use or access of social networking websites, chat rooms, or peer-to-peer networks by a person who is **required to register as a sex offender** and who was either previously convicted of indecent behavior with juveniles, pornography involving juveniles, computer-aided solicitation of a minor, or video voyeurism or was previously convicted of a sex offense in which the victim of the offense was a minor.

Effective August 15, 2011. (Adds R.S. 14:91.5)

#### 2. Wooton (HB 264)

Act No. 91

Creates the crime of unlawful production, manufacturing, distribution, or possession of **unauthorized peace officer badges**. Creates exceptions for novelty badges.

Effective August 15, 2011. (Adds R.S. 14:112.4)

### B. OTHER CRIMINAL MATTERS

#### 1. Stiaes (HB 116)

Act No. 250

Prohibits the **destruction of biological evidence** prior to Dec. 31, 2012, in certain cases involving homicide, rape, or armed robbery. Defines "biological evidence" and provides an exception for certain crime lab work products.

Effective July 1, 2011. (Amends C.Cr.P. Art. 926.1(H)(6); Adds R.S. 15:621)

#### 2. Dixon (HB 285)

Act No. 262

Increases the amount of compensation a person who was **wrongfully incarcerated** shall receive from \$15,000 per year to \$25,000 per year and from \$150,000 total to \$250,000 for physical harm and injury suffered by the petitioner. Provides that the amount shall be paid at a rate of \$25,000 annually.

Effective September 1, 2011. (Amends R.S. 15:572.8(H)(2)(intro. para.), (a), and (b); Adds R.S. 15:572.8(Q))

### 3. Hazel (HB 392)

Act No. 283

Provides that if an employer wants **criminal history information** from a person seeking employment and the applicant consents to the background check, then applicants shall be fingerprinted. Requires the La. Bureau of Criminal Identification and Information to forward fingerprints obtained for background checks to the FBI for a national criminal history check.

Effective August 15, 2011. (Amends R.S. 15:587(F)(1), 587.1(C)(intro. para.) and (1); Adds R.S. 15:587.1(J))

### 4. Templet (HB 12)

Act No. 420

Adds synthetic cannabinoids (**synthetic marijuana**) and substituted cathinones (**bath salts**) to Schedule I of the Uniform Controlled Dangerous Substances Law.

Effective July 15, 2011. (Amends R.S. 40:964(Schedule I)(E)(intro. para.); Adds R.S. 40:964(Schedule I)(E)(8) and (9) and (F); Repeals R.S. 40:964(Schedule I)(C)(32))

### 5. Lopinto (HB 339)

Act No. 100

Adds possession with intent to distribute or dispense an **imitation controlled dangerous substance** to the crime of prohibited acts involving imitation controlled dangerous substances.

Effective August 15, 2011. (Amends R.S. 40:971.1(A); Repeals R.S. 40:617.1)

### 6. Seabaugh (HB 489)

Act No. 242

Removes the requirement that a person reside in Louisiana for six months prior to being eligible to apply for a **concealed handgun permit**.

Effective August 15, 2011. (Amends R.S. 40:1379.3(C)(3) and (J)(3))

### 7. Honore (HB 14)

Act No. 159

Adds **P.O.S.T. certified judges and justices of federal courts** domiciled in La. to the list of exceptions to the crime of **illegal carrying of weapons**.

Effective August 15, 2011. (Amends R.S. 14:95(H))



**8. Gisclair (HB 13)**

**Act No. 216**

Requires a **sex offender who is a student** of an institution of postsecondary education to register with the campus law enforcement agency of the institution at least one business day prior to the beginning of the school term or semester, but does not require the sex offender to pay a registration fee to the campus law enforcement agency.

Effective August 15, 2011. (Amends R.S. 15:542(D); Adds R.S. 15:542(B)(3))

**9. Leger (HB 49)**

**Act No. 64**

Amends the crimes of **human trafficking and trafficking of children for sexual purposes** to include those persons who benefit in any way from the trafficking activity, who facilitate the trafficking activity, or who advertise the trafficking activity.

Effective August 15, 2011. (Amends R.S. 14:46.2(A) and 46.3(A)(1) and (2), (B), and (D)(1); Adds R.S. 14:46.2(D) and 46.3(A)(4) and (5) and (G))

## VIII. INSURANCE

### 1. Kleckley (HB 259)

Act No. 17

With respect to **motor vehicle liability insurance**, changes the \$25,000 compulsory insurance minimum liability limit for property damage from coverage for bodily injury or destruction of property of others in any one accident to coverage for damage to or destruction of property of others in any one accident.

Effective August 15, 2011. (Amends R.S. 32:900(B)(2)(c))

### 2. Thibaut (HB 635)

Act No. 370

Requires the secretary of the office of motor vehicles, upon notification by an insurer of a vehicle owner's **cancellation of a vehicle's compulsory liability coverage**, to notify the vehicle owner that he has 10 calendar days from the date of notice in which to **surrender the vehicle's license plates in order to avoid fees**. Further provides that, in the absence of a surrendered license plate, the fees for lapse of insurance will begin to accrue upon the first day of cancellation the compulsory liability insurance.

Effective August 15, 2011. (Amends R.S. 32:861(A)(3), 863(A)(3)(a) and (B), and 863.2 (A)(1), (2), and (6), (B), (E)(1) and (2); Adds R.S. 22:885(E))

### 3. Claitor (SB 169)

Act No. 382

**Prohibits a health insurance issuer from seeking reimbursement** from an insurer that provides automobile medical payment coverage to a health insurance issuer's insured or member **without first obtaining written consent**, except as provided by agreement between the parties and in accordance with regulations of the Department of Insurance governing the coordination of benefits. Provides that after a period of nine months from the date of the accident from which medical claims arise, the health insurance issuer may seek reimbursement from the medical payments insurer for only the outstanding balance remaining under the automobile policy for medical coverage.

Does not prohibit or impair the rights of an insurer or provider from seeking reimbursement of monies paid; however, the total amount to be reimbursed is not to exceed the amount actually paid by the insurer or provider. Provisions are inapplicable to Medicare Advantage plans or self-insured plans.

Effective August 15, 2011. (Amends R.S. 32:793(D); Adds R.S. 22:1881)

Makes numerous **technical changes to certain provisions of the La. Insurance Code**, Title 22 of the La. Revised Statutes of 1950. Such changes include correction of citations, updates of terms and language, reorganization of provisions, elimination of obsolete or ineffective provisions, such as transition provisions and past effective dates, and harmonizing of inconsistent provisions.

Effective January 1, 2012. (Amends R.S. 22:901(A), (B), (C)(1) and (3), and (D)(1)(intro. para.) and (a) and (2), 902, 904, 905, 906, 907, 910, 912(A), (B)(1), (C), (D)(1)(b), (E), and (F), 913, 914, 915(B), 931, 932(B)(intro. para.) and (1), (D)(intro. para.) and (2), and (E), 934, 935, 936(A)(1)(intro. para.) and (2), (B), (D)(1), (2), and (4), (E), (F)(1), (G)(1), (4), and (8)(intro. para.) and (b) and (d)-(g), (I)(1), (J)(1), (2), (3), and (5), (K)(1)(g) and (h), 941(B)(intro. para.) and (6), 942(intro. para.) and (1), (10)(b), and (11), 943(D)(2), 944(A), 951(A), 952(A)(2), (B)(intro. para.) and (4), and (J), 961, 1541, 1542(1), (4), (6), (9), (11), (14), and (18), 1544(B)(5)-(8) and (D), 1545(I)(1)(intro. para.), 1546(A)(3), (D)(4), and (F), 1547(A)(10), (C)(2), (D), (E), (G), (H), and (I)(3), 1548(A)(1) and (3), (B)(2) and (3)(b), (D)(2), and (E), 1549(B)(4) and (5), (C), (D), (E)(intro. para.), (F), and (H), 1550(A)(2), (B)(1) and (d) and (2), (C), (D), (E)(intro. para.), and (H), 1554(G), 1555, 1556(A), (B), and (C), 1557(B)(1) and (2), 1558(B)(3) and (4), (C), and (D), 1559(C), (D)(1), and (E)(1), 1562(C)(1)(b) and (d), (E)(2), and (H)(intro. para.) and (4), 1564(A)(2), (B)(1)(a), and (C), 1571, 1573(C)-(G), (I)(1)(a), (K), (L), and (M), 1574(A)-(D)(1), 1575(C)(2) and (D), 1583, the heading of R.S. 22:1584, 1585(C), 1591, 1592, 1593(A)(intro. para.) and (1), 1594(intro. para.), 1595, 1597, 1598(C), 1599(A) and (C)(intro. para.), 1600(B)(intro. para.), 1603(1) and (3), 1604(A)(2), 1605, 1622, 1623(A), (B), (D), and (F), 1624, 1625(A) and (H), 1627(A)(2), the heading of Part III of Chapter 5 of the Louisiana Revised Statutes of 1950, 1641(intro. para.), (1)(intro. para.), (c), (g), and (j), (4), and (7), 1642(A) and (C), 1644(D), 1651(B)(6), (D), (H)(1), and (I)(1), 1652, 1654(A)(intro. para.) and (C)(intro. para.), 1657, 1662(6)(a)(intro. para.) and (14), 1664(A) and (C)(2), 1665(A)(intro. para.) and (1), 1669, 1670(A)(2) and (D), 1671(A), (B)(2), and (C), 1673(C), 1693(A), 1694(A), 1696(A), 1697, 1698(A)(2) and (D), 1699(A)(3), (B), and (F), 1704(E)(1)(a) and (b), 1706(F), 1722, 1723(A)(intro. para.), (B)(intro. para.) and (2), (D), and (F), 1724 (intro. para.) and (5), 1726(A) and (B), 1727(A)(intro.)(para.)(1), (2), (3), (4)(intro. para.), (7), and (8), (B)(4), (C), and (F), 1728(6), 1729(A) and (F), 1731(A)(2), 1741, 1747, 1761, 1763(B), 1767, and 1768; Adds R.S. 22:821(B)(31), (32), and (33), 1557(C), 1641(8) and (9), and 1766(C); Repeals R.S. 22:1546(G) and (H), 1566, 1746(E), 1751, and 1769)

## IX. JUDICIAL AFFAIRS

### A. GENERAL PROVISIONS

#### 1. Chandler (HB 263)

Act No. 235

Provides that persons employed as **official court reporters and deputy court reporters** of a court of record shall be **subject to the certification requirements** applicable to certified court reporters and provided that any person employed as a court reporter or deputy court reporter on or before Dec. 31, 2011, by a court which uses electronic or audio recording equipment shall be certified as long as he remains employed by that court in such capacity.

Excludes Jefferson Parish First and Second Parish Courts and other certain courts from the certification requirements applicable to certified court reporters.

Effective August 15, 2011. (Amends R.S. 37:2554(B)(2))

#### 2. Nowlin (HB 224)

Act No. 15

**Increases costs** collected against every defendant who is convicted after trial or after a plea of guilty or who forfeits his bond in the **10th JDC** from \$10 to \$15 in traffic offense cases and from \$10 to \$25 in all other criminal cases.

Effective August 15, 2011. (Amends R.S. 13:996.22(A))

#### 3. White (HB 407)

Act No. 20

Provides for the following **charges to be imposed** and collected in all cases in the **21st JDC in the parish of Livingston**:

- (1) \$100 per initial filing of a civil suit.
- (2) \$10 per filing of each additional pleading.
- (3) \$20 for the recordation of documents.

These charges shall be in addition to other civil filing fees levied and collected by the Livingston Parish Clerk of Court. Monies generated shall be irrevocably deposited into the Livingston Parish Courthouse Fund.

Effective August 15, 2011. (Adds R.S. 13:996.68)

**4. R. Jones (HB 522)**

**Act No. 245**

Provides that the request for **a new court cost or fee or to increase an existing court cost or fee shall be submitted to the Judicial Council by January 15** of the year in which the proposal is intended to be introduced in the legislature, and requires the council to notify the legislature of its recommendation as to whether the court cost or fee is reasonably related to the operation of the courts or court system, through the clerk of the House of Representatives and the secretary of the Senate, by March 15 of that same year.

This does not apply to mayor's courts, magistrate courts, or justice of the peace courts.

Effective August 15, 2011. (Amends R.S. 13:62(A)(2) and (B); Adds R.S. 13:62(C))

**5. Foil (HB 553)**

**Act No. 366**

Requires the person or agency responsible for receiving court fines, fees, costs, assessments, and forfeitures to disburse them monthly with an itemized detail of the source of the funds.

Effective August 15, 2011. (Adds R.S. 13:848.1)

**6. Foil (HB 556)**

**Act No. 23**

**Increases the special court cost** for a person convicted of a felony, a misdemeanor, or ordinance of any local government from \$2 to \$3 and provides that the additional proceeds shall also be used for the implementation of an **integrated juvenile justice information system**.

Effective August 15, 2011. (Amends C.Cr.P. Art. 887(F)(1))

**7. Martiny (SB 150)**

**Act No. 214**

Provides that the clerk of court shall collect the processing fee for the **expungement of any record of arrest** at the time the motion for expungement is filed. If the court finds the mover is entitled to the relief sought, the clerk shall direct the collected processing fee to the sheriff and the district attorney and the processing fee amount shall be remitted immediately upon receipt in equal proportions to the office of the district attorney and the sheriff's general fund. If the court does not grant the relief, the clerk of court shall return the processing fee to the moving party.

Effective August 15, 2011. (Amends R.S. 44:9(A)(4))

## 8. Quinn (SB 161)

Act No. 340

Dedicates judgeships in the **21<sup>st</sup> JDC and Civil District Court in the parish of Orleans** with divisions limited to **family or juvenile** subject matter jurisdiction.

**In the 21<sup>st</sup> JDC, abolishes the judgeship comprising Division H** effective midnight, Dec. 31, 2014, or at any earlier time upon such judgeship becoming vacant for any reason, and creates a new judgeship to preside over **Division J**. The subject matter of Divisions J shall be **limited to family matters** as provided by law.

In the **parish of Orleans**, provides that **the first two judgeships in Civil District Court** for the parish of Orleans which become vacant by death, resignation, retirement, or removal, on or after Aug. 15, 2011, **shall be abolished and two new judgeships shall be created** and limited to family matters including domestic relations matters. Provides for an exception for Divisions B and E unless there is a vacancy in one or both of those divisions on or after Feb. 1, 2012.

Provides that the individuals to be elected to these judgeships shall be elected at large and shall have jurisdiction throughout the applicable district for a six-year term at the congressional election held in 2014, and every sixth year thereafter. However, if any of the divisions authorized by proposed law is created earlier than Jan. 1, 2015, the election to such division shall be for a term which shall end Dec. 31, 2014, and for six year terms thereafter.

Effective June 29, 2011. (Amends R.S. 13:621.21 and 1138, and Section 19(A) of Act 621 of 2006 R.S., as amended by Act 873 of 2008 R.S.; Repeals R.S. 13:1139(A))

## 9. Martiny

SCR No. 44

Requests the chief justice of the Louisiana Supreme Court to create a **Families in Need of Services Commission** to study and issue recommendations regarding the governance, structure, target population, and necessary legislation for a Louisiana Families in Need of Services (FINS) system by submitting a report of its findings and recommendations to the legislature thirty days prior to the convening of the 2012 Regular Session.

## 10. R. Jones

HCR No. 143

Requests that the Supreme Court conduct a **comprehensive study of the caseload data** and the number of judges of each appellate court, district court, parish court, and city court in Louisiana to determine changes necessary to the existing structure of the judiciary to provide the most efficient use of judicial resources, and report its findings and recommendations to the legislature.

## B. COURTS OF LIMITED JURISDICTION

### 1. Murray (SB 158)

Act No. 339

Provides that senior and administrative judges of the **Municipal Court of New Orleans** shall possess the same qualifications that are required of district court judges and shall receive a salary of not less than \$18,000 per year, but not more than the salary paid, from all sources, to the district court judges in and for the parish of Orleans. Requires the governing authority of Orleans Parish to determine the salary paid to the senior and administrative judge, of which the amount payable by the state to city judges of the state shall be paid by the state and the remainder shall be payable by the city of New Orleans.

Creates the position of **judicial administrator for the Municipal Court of New Orleans**. Provides that he shall be appointed by the judges and subject to removal by a majority thereof, at will and his salary and benefits shall be paid by the city of New Orleans on the warrant of the chief judge.

Creates the **judicial expense fund for the Municipal Court of New Orleans**. Requires the judicial administrator to deposit into the fund any monies specifically designated for such purpose. Provides that the judges of the court, en banc, shall have control over and administer the funds.

Provides that certain court costs collected shall be remitted to the municipal court judicial administrator, and provides that the fund shall be administered by the judges of the municipal court. Provides that in **Traffic Court an additional \$5.00 cost shall be imposed**, which shall be transmitted to the clerk of the Municipal Court of New Orleans to be used by the court to defray its expenses.

Effective August 15, 2011. (Amends R.S. 13:2492(F), 2499, 2500.1(C), 2500.2, 2500.3(C) and (D) and 2501; Adds R.S. 13:2495.1 and 2496.4; Repeals R.S. 13:2501.1(M))

### 2. Henderson (HB 52)

Act No. 4

Provides for **additional court costs** in an amount not to exceed \$30 in all prosecutions in the **traffic court of New Orleans** and requires the monies to be transmitted to the judicial expense fund of the court.

Effective August 15, 2011. (Adds R.S. 13:2501.1(N))

### 3. Montoucet (HB 4)

Act No. 158

Authorizes the **city of Crowley** to adopt an ordinance which provides that on Sept. 1 of each year, the amount of money in the witness fee fund of the City Court of Crowley which

exceeds \$30,000 shall be transferred to the general fund of the city to be used to purchase equipment for the police department.

Effective August 15, 2011. (Adds R.S. 15:255(O))

**4. Guillory (HB 60)**

**Act No. 6**

Provides that if the local governing authority adopts an ordinance to increase court costs in the **mayor's court in Basile**, the mayor may then order an additional \$75 to be paid as court costs by any defendant convicted of a violation.

Effective August 15, 2011. (Adds R.S. 33:447.8)

**5. Ritchie (HB 38)**

**Act No. 3**

Provides that the **Bogalusa city prosecutor** shall be entitled to court costs, not to exceed \$25, from every defendant convicted after trial or who has entered a plea of guilty to a traffic violation or misdemeanor.

Effective August 15, 2011. (Adds R.S. 13:2072.1)

**6. Armes (HB 176)**

**Act No. 116**

Requires the marshal of the **City Court of Leesville** to collect an additional fee of \$30 for service of process in traffic and criminal matters and requires the monies collected to be deposited in the marshal's general fund to supplement the operational expenses.

Effective August 15, 2011. (Adds R.S. 13:2112.1)

**7. Cromer (HB 205)**

**Act No. 228**

Adds an exception to the prohibition against a parish or city court from having jurisdiction in certain cases and authorizes the **City Court of Slidell** to have jurisdiction over a petition for nullity filed in the City Court of Slidell to nullify a judgment of bond forfeiture rendered by the City Court of Slidell.

Effective August 15, 2011. (Amends C.C.P. Art. 4847(A)(6))



**8. Gallot (HB 237)**

**Act No. 88**

Provides that in the **City Court of Ruston**, the civil jurisdictional amount in dispute does not exceed the amount that triggers the right to demand a jury trial (\$50,000 exclusive of interest and costs).

Effective August 15, 2011. (Amends C.C.P. Art. 4843(E) and (H))

**9. Huval (HB 402)**

**Act No. 103**

Adds the **City Court of Breaux Bridge** to those city courts having civil jurisdiction where the amount in dispute or the value of the property involved does not exceed \$30,000.

Effective June 20, 2011. (Amends C.C.P. Art. 4843(F))

**10. J. R. Smith (SB 31)**

**Act No. 324**

Provides that in addition to the present court costs, the mayor, as the presiding officer of the **mayor's court of the town of New Llano**, may impose additional court costs not to exceed \$20 dollars for each offense, as defined by ordinance, on any defendant convicted of a violation of a municipal ordinance.

Effective August 15, 2011. (Adds R.S. 33:448(D))

## **X. MISCELLANEOUS**

### **1. Lorusso (HB 232)**

**Act No. 173**

Provides that if a member of the **La. National Guard dies while serving in state active duty** service or in combat, his surviving spouse and children shall be eligible to enroll in an institution of higher education in this state and shall be exempt from tuition charges.

Effective August 15, 2011. (Amends R.S. 29:36.1(G))

### **2. Hardy (HB 188)**

**Act No. 79**

Provides that affiliates of **housing authorities** are not subject to the laws of the state applicable to public agencies and their governing bodies by virtue of their affiliation with a local housing authority; however they are subject to the **Public Records Law**.

The law shall not require the disclosure of documents or records of persons who hold an ownership interest in, or authority over, an affiliate of a housing authority, but the law also does not prevent the disclosure of the identity of persons holding an ownership interest in an affiliate.

Effective August 15, 2011. (Amends R.S. 40:487 and R.S. 44:1(A)(1))

### **3. Willmott (HB 284)**

**Act No. 36**

Adds an exception to the **Public Records Law** for promotional or competitive tests and certain records relative thereto in the custody of the **Jefferson Parish Personnel Dept.**

Effective June 14, 2011. (Adds R.S. 44:21.1)

### **4. Lorusso (HB 375)**

**Act No. 182**

Removes the requirement that an agency submit one printed copy of a required report to each presiding officer and provides that an agency may send an electronic copy of a report to one or more members of the legislature.

Requires that a **list of reports and publications from each agency** be sent via e-mail to the **David R. Poynter Legislative Research Library by Feb. 1 each year**. Requires each agency to also distribute an electronic copy of each report and publication on such list to the David R. Poynter Legislative Research Library by Feb. 1 each year. Requires the library to ensure that the information required to be submitted, including a link to each report and publication, is distributed via e-mail to each member of the legislature.

Requires agencies to **submit one printed copy** of each report to the David R. Poynter Legislative Research Library.

Effective August 15, 2011. (Amends R.S. 24:772(A) and (B))

## **5. Hutter (HB 509)**

**Act No. 293**

Changes the **date of the presidential preference primary and elections** held at the same time from the second or third Saturday in February to the third Saturday after the first Tuesday in March. Changes corresponding dates for general elections from four weeks after the second or third Saturday in February to four weeks after the third Saturday after the first Tuesday in March.

Provides that the qualifying period opens on the **first Wednesday in December** and closes at 5:00 p.m. on the following Friday.

Provides that each member of a parish executive committee or state central committee of a recognized political party serving on the effective date of this Act shall serve until his successor is elected and takes office.

Effective August 15, 2011. (Amends R.S. 18:402(C)(1) and (2), (E)(1)(c) and (2)(c), and (F)(3), 467(3), 1280.21(A), and 1280.22(B(1)))

## **6. Jane Smith (HB 524)**

**Act No. 195**

Allows for the **transmission of voter registration documents** by facsimile or other means of transmission in addition to mailing.

Provides that a voter in the U.S. Service or residing outside of the U.S. is not required to obtain the signature of a notary or to execute the certificate in the presence of two witnesses when voting absentee by mail. Provides that persons other than those in the U.S. Service and those residing outside the U.S. may execute the certificate in the presence of one witness instead of two witnesses.

With respect to **members of the U.S. Service and persons residing outside the U.S.** who are registered to vote, an application to **vote by mail** may be delivered to the registrar by electronic transmission.

Specifies that when **voting absentee by mail**, materials may be electronically transmitted for federal candidates in congressional elections, presidential preference primary elections, and presidential elections. Requires the registrar to mail or electronically transmit materials for federal candidates in a federal election 45 days prior to the election for voters who have made application and requested such transmission prior to such time.

Provides that when ballots are mailed to military and overseas voters, the registrar shall mail the voter a regular general election absentee ballot if it includes one or more elections that were not included on the special ballot sent to the voter.

Provides that when a military or overseas voter made a timely application to vote absentee by mail but did not receive absentee by mail ballots, he may use the Federal Write-In Absentee Ballot to vote in presidential and congressional elections, and for presidential nominee, presidential candidates, and congressional candidates.

Effective June 24, 2011. (Amends R.S. 18:103(B)(3)(b) and (C)(3)(b), 1306(E)(2), 1307(C), 1308(A)(2), 1308.2, 1310(A)(2), and 1319; Adds R.S. 18:1307(B)(1)(c))

## **7. Fannin (HB 575)**

**Act No. 201**

Requires **vacancies in legislative office** to be filled at elections held on the regularly scheduled election dates. However, when a legislative vacancy occurs and six months or more remains in the term and, **in the discretion of the appropriate presiding officer**, a person may be elected and serve during a legislative session which occurs prior to the next regularly scheduled election date. Provides that the presiding officer determine the dates of qualifying and of the primary and general elections in the same manner as provided in present law.

Effective January 1, 2012. (Amends R.S. 18:402(E)(intro. para.) and 601(A))

## **8. Doerge**

**HCR No. 45**

Creates the **Notary Education, Application, and Examination Committee** to study notary education, applications, and examinations.

# XI. CONSTITUTIONAL AMENDMENTS

## OCTOBER 22, 2011 BALLOT

### 1. Alario (SB 53)

Act No. 423

Proposed constitutional amendment to **reallocate funds from the Millennium Trust to increase deposits into the TOPS Fund**. The proposed constitutional amendment and companion statutory legislation provide that future Tobacco Master Settlement Agreement proceeds received and deposited into the Millennium Trust and all such proceeds deposited into the trust since April 1, 2011, will be deposited into the TOPS Fund instead of the Millennium Trust. Annual earnings from interest, dividends, and realized capital gains on investment of money already in the trust would continue to be allocated among the Education Excellence Fund, the Health Excellence Fund, and the TOPS Fund.

Provides that beginning July 1, 2012, the rate of four-twentieths of one cent of tax per cigarette levied on January 1, 2012, would remain in effect and such revenue would be dedicated to the Health Excellence Fund.

(Amends Const. Art. VII, Section 10.8(A)(1)(c), (A)(2), (3), and (4), and (C)(1) and adds Const. Art. VII, Section 4.1)

### 2. Pearson (HB 384)

Act No. 422

Proposed constitutional amendment to require in fiscal years 2013-2014 and 2014-2015 that a minimum of 5% of any money designated in the official forecast as nonrecurring shall be applied toward the balance of the unfunded accrued liability which existed as of June 30, 1988, for the **La. State Employees' Retirement System and the Teachers Retirement System** of La. To further require that for fiscal year 2015-2016 and every fiscal year thereafter the minimum amount applied toward payment of the balance of the unfunded accrued liabilities shall increase to 10%.

(Amends Const. Article VII, §10(D)(2)(b))

### 3. Hazel (HB 341)

Act No. 421

This proposed constitutional amendment elevates the **Patient's Compensation Fund** to constitutional status, along with the protective language regarding the nature of its funds.

Present statutory law (R.S. 40:1299.44) establishes the Patient's Compensation Oversight Board and the Patient's Compensation Fund **and specifies that the fund's** revenue is self-generated and not state property, not subject to appropriation by the legislature, nor required to be deposited in the state treasury.

(Adds Const. Art. XII, §16)

### 4. Chaisson (SB 147)

Act No. 424

This proposed constitutional amendment changes the requirement of the automatic deposit of excess mineral revenue into the **Budget Stabilization Fund (aka the Rainy day fund)**. Under this proposed constitutional amendment, excess mineral revenues would not be deposited in to the fund in either the year money is appropriated out of the fund or the ensuing fiscal year. For each of the next three years, excess mineral revenue, up to one-third of the amount appropriated, would be automatically deposited into the fund until the amount appropriated out of the fund is deposited back into the fund, or the fund reaches its maximum, whichever is less.

(Adds Const. Art. VII, Sec. 10.3(C)(5))

### 5. Leger (HB 30; 2011 1<sup>st</sup> E.S.)

Act No. 43

This proposed constitutional amendment **changes the population restriction** from 450,000 persons to the city of New Orleans, relative to the applicability of existing laws on tax sales of immovable property.

(Amends Const. Art. VII, §25(A)(2))

## NOVEMBER 19, 2011 BALLOT

### 1. Nowlin (HB 135)

Act No. 425

This proposed constitutional amendment adds a prohibition, beginning Nov. 30, 2011, on the **levy of new taxes or fees upon the sale or transfer of immovable property**, including documentary transaction taxes or fees or any other tax or fee, from being levied by the state or by a political subdivision. Further provides that a documentary transaction is any transaction pursuant to any instrument, act, writing, or document which transfers or conveys immovable property.

This proposed constitutional amendment excludes from the prohibition of new taxes or fees, fees for the cost of recordation, filing, or maintenance of documents, or records effectuating the sale or transfer of immovable property, impact fees for development of property, annual parcel fees, and ad valorem taxes.

Effective Nov. 30, 2011. (Adds Const. Art. VII, §2.3)

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