



# HOUSE BILL 836: Election Modifications

2015-2016 General Assembly

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<b>Committee:</b>		<b>Date:</b>	June 18, 2015
<b>Introduced by:</b>	Reps. Robinson, Bishop, Fraley	<b>Prepared by:</b>	Erika Churchill, Kara McCraw, and Kelly Tornow, Staff Attorneys
<b>Analysis of:</b>	Conference Report		

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**SUMMARY:** *The conference report for House Bill 836 amends various laws relating to local government and elections.*

## CURRENT LAW & BILL ANALYSIS:

**Section 1.** Cities have the authority to permanently close a street or alley. Generally, on the closing of a street or alley by a city, the title to the area is conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, is extended to the centerline of the street or alley. However, the city may reserve a right, title, and interest in any improvements or easements within a closed street. Section 1 of the conference report clarifies the retention of that right, title or interest to specifically state that the easement may include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest.

**Section 2** repeals the license requirement for (i) going out of business sales; (ii) sales of good, wares, or merchandise damaged by fire, smoke, water, or otherwise; and (iii) distress sales.

**Section 3:** Under current law, county boards of elections are required to mail to the State Board of Elections, by "first-class" mail, copies of the lists of executed absentee ballots (i) received prior to election day and (ii) received after election day. Section 3 would permit county boards of election to submit all executed absentee ballots lists electronically in a manner approved by the State Board of Election, as an alternative to mailing the lists.

**Section 4:** Under current law, an official ballot is required to contain certain elements, including the title of each office to be voted on and number of seats to be filled in each ballot item and names of the candidates for each ballot item. Section 4 would create an exception allowing an official ballot that did not otherwise include the elements of an official ballot, if the ballot were created and printed by a voting system in the voting enclosure and certain requirement were met, including:

- The printed ballot included the election date, precinct or identifying ballot style code, and voter choices on each ballot item.
- All other information required on an official ballot was displayed electronically on the voting system for the voter.
- The voter was able to review and, if needed, void the printed ballot prior to casting the ballot.
- The voter's choices in the electronic system were removed before the next voter used the equipment.

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**Sections 5 and 6:** Under current law, the term "ballot" is defined as an instrument on which a voter indicates a choice to be recorded as a vote for or against a certain candidate or referendum proposal, and may include paper ballots counted by hand, electronic scanner, or used on other voting systems. Effective January 1, 2018, the term "paper ballot" is defined as an individual paper document that bears marks made by the voter by hand or through electronic means. S.L. 2013-381, Sec. 30.8, requires direct record electronic (DRE) voting systems certified by the State Board of Elections that do not use paper ballots to be certified and not used in any election after January 1, 2018.

Sections 5 and 6 would change the following:

- The term "ballot" would be redefined to include the definition of paper ballot, as an instrument on which a voter indicates a choice to be recorded as a vote for or against a certain candidate or referendum proposal that is evidence by an individual paper document bearing marks made by the voter by hand or through electronic means, whether preprinted or printed in the voting enclosure.
- The definition of the term "paper ballot" would be repealed.
- A new statute would explicitly prohibit use of voting systems that do not use or produce a ballot (as redefined to require an individual paper document marked by the voter).
- The prohibition on use of voting systems that do not use or produce paper ballots would be effective January 1, 2018. Counties authorized to use DRE machines that used those machines on election day as of January 1, 2015, would be permitted to continue using those DREs until September 1, 2019.

**Section 7** allows a city to hold a malt beverage or unfortified wine election if all of the following apply:

- The county in which the city is located has held an unsuccessful malt beverage or unfortified wine election.
- The city has a population of 200 or more.
- The county in which the city is located also contains three or more other cities that have previously voted to allow malt beverage and unfortified wine sales.

**Section 8(a).** Under current law, a qualified voter voting in person must present photo identification bearing a reasonable resemblance to that voter, with a few exceptions. If a voter does not present photo identification, he or she can vote a provisional ballot. Acceptable photo identification has a photograph of the registered voter, a printed expiration date, and must be unexpired, except that voters age 70 and older can present an expired form of identification. Section 8(a) adds that the voter must also be notified of the option to permit a reasonable impediment declaration and vote a provisional ballot, and of the option to complete a written request for an absentee ballot until the deadline for submission of requests for absentee ballots under current law. Section 8(a) also allows drivers' licenses and nonoperators' identification cards issued by the DMV to be expired for up to four years prior to being presented for voting.

**Section 8(b)** amends the one-stop voting procedure to provide that until the deadline for submission of requests for absentee ballots, any voter who fails to present an eligible form of photo identification must be notified of the option to complete a written request form for an absentee ballot at that one-stop voting location, the instructions for completing the absentee ballot and deadline for submission, and the means by which the voter can transmit the absentee ballot to the county board of elections.

**Section 8(c)** requires the Board of Elections to adopt rules requiring signs to be displayed until the deadline for submission of requests for absentee ballots at all one-stop voting locations to notify voters who do not have eligible photo identification of the option to request an absentee ballot as provided in Section 8(b) of the conference report.

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**Section 8(d)** provides a process to allow a voter to vote a provisional ballot if he or she does not comply with the photo identification requirement due to a reasonable impediment that prevents the voter from obtaining photo identification. The voter must complete a reasonable impediment declaration form declaring that the voter is the same individual who personally appeared at the polling place, cast the provisional ballot while voting in person, and suffers from a reasonable impediment that prevents the voter from obtaining photo identification. The voter must also present identification in the form of (i) a copy of a current utility bill, bank statement, government check, paycheck, or other government document (HAVA documents); (ii) the voter registration card; or (iii) the last four digits of the voter's social security number and the voter's date of birth.

If the voter complies with this section, he or she can vote a provisional ballot that will be counted in accordance with Section 8(e) of the conference report. If the voter does not prevent photo identification but does complete the reasonable declaration form, the voter can vote a provisional ballot that will be counted if he or she brings the required identification to the county board of elections as provided in Section 8(e) of the conference report.

The reasonable impediment form must at a minimum include:

- Separate boxes that a voter may check to identify the reasonable impediment.
- A space for the voter to provide the last four digits of his or her social security number and date of birth, if the voter opts to provide that information in accordance with this section.
- A space to note whether the voter has provided a HAVA document or the voter registration card.

**Section 8(e)** provides that the county board of elections must find that a voter's provisional ballot cast following completion of a declaration of reasonable impediment is valid and direct that the provisional ballot be opened and counted unless any of the following apply:

- The county board of elections has grounds, including an impediment evidentiary challenge by a voter, to believe the declaration is factually false, merely denigrated the photo identification requirement, or made obviously nonsensical statements.
- The voter failed to present a HAVA document, voter registration card, or the voter's last four digits of the social security number and date of birth to the county board of elections.
- The voter provided the last four digits of the social security number and date of birth as the required form of identification and the county board of elections could not confirm the voter's registration using that information.
- The voter is disqualified for some other reason provided by law.

An impediment evidentiary challenge may be made by any registered voter of the county by submitting clear and convincing evidence in writing challenging the factual veracity of the impediment, and must be submitted no later than 5PM on the third business day following the election. The county board must hear evidentiary challenges on the date set for the canvass (10 days after the election for general elections occurring in November of an even-numbered year, and 7 days after the election for all other elections). A voter whose declaration has been challenged can appear before the county board and present evidence supporting the factual veracity of the impediment. The county board cannot find a challenge valid if it provides only evidence regarding the reasonableness of the impediment, but may find a challenge valid if the evidence demonstrates that the declaration merely denigrated the photo identification requirement, made obviously nonsensical statements, or made statements or selected a reasonable impediment check box that was factually false.

A voter who does not present a HAVA document, voter registration card, or the last four digits of the social security number and date of birth at the time the voter appeared in person to vote can comply with

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the identification requirement by appearing in person at the county board of elections to present that identification no later than noon on the day prior to canvass.

If the county board of elections determines that a voter has cast a provisional ballot for a reason other than the voter's failure to provide photo identification, the county board must note on the envelope containing the provisional ballot that the voter has complied with the reasonable impediment declaration requirement and then determine any other reasons why the provisional ballot was cast before ruling on the validity of that provisional ballot.

Within 60 days after each election, the county board of elections must provide a report of those reasonable impediments identified in that election by voters to the State Board of Elections, which must use the information to identify and address obstacles to obtaining photo identification.

**Section 8(f)** allows the county board of elections to notify a voter that the voter's registration card can be used for the required identification in conjunction with a reasonable impediment declaration.

**Section 8(g)** requires the State Board of Elections to educate the public regarding the reasonable impediment declaration and to use the information on reasonable impediments reported by county boards of election to identify and address obstacles to obtaining photo identification.

**Section 9.** Currently, members of the Alexander County Board of Education cannot serve more than two terms in succession. Section 9 removes the term limit requirement for members of the Board.

This section becomes effective January 1, 2016, and applies to elections conducted on or after that date.

**Section 10,** broadens the authority of the State Board of Elections to certify voting systems.

**Section 11.** requires electronic poll books to be certified by the State Board of Elections in order to be used in elections.

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.