



SENATE BILL 824: Implementation of Voter ID Const. Amendment.

2017-2018 General Assembly

Committee:		Date:	December 5, 2018
Introduced by:	Sens. Krawiec, Ford, Daniel	Prepared by:	Jessica Sammons Staff Attorney
Analysis of:	Fifth Edition		

OVERVIEW: *Senate Bill 824 would do the following:*

- *Implement the constitutional requirement that voters offering to vote in person present photographic identification before voting.*
- *Require county boards of elections to issue free voter photo identification cards to registered voters upon request.*
- *Waive the fee for a special identification card issued by the DMV for all applicants who are at least 17 years old, and provide that an automatic special identification card is issued to individuals whose drivers license is seized or surrendered.*
- *Require the State Board to adopt rules for voters to include identification in the request for an absentee ballot by mail, or to comply with an affidavit requirement or include the required identification in with the voters' returned ballot.*
- *Require the State Board to review and make recommendations to the Joint Legislative Elections Oversight Committee on steps to implement the use of electronic and digital information in polling places by September 1, 2019.*
- *Create a new Class I felony for counterfeiting, selling, lending to, or knowingly permit the unauthorized use of a form of photo identification for the purpose of voting.*
- *Allow the chair of each political party to designate up to 100 additional at-large observers who may attend any voting place in the State.*

CURRENT LAW: For each voter in the State appearing at the polls, that voter must state his or her name and residence address to the election official. The individual, if verified by the election official as a registered voter, must then sign his or her name to the poll book, other voting record, or voter authorization document prior to voting. G.S. 163A-1137. County boards may not require voters to show voter registration cards to vote. G.S. 163A-869.

Showing of ID – Certain First Time Voters: A voter registering by mail, who has not previously voted in an election with a federal ballot item, must provide one of the following forms of Help America Vote Act (HAVA) identification prior to voting in person:

- A current and valid photo ID.
- A copy of one of the following documents that shows the name and address of the voter: current utility bill, bank statement, government check, paycheck, or other government document.

A voter is exempted from showing identification if that individual included as part of his or her voter registration one of the forms of ID listed above, his or her drivers license number, or the last four digits

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of his or her social security number which matched an existing State identification record. Also exempt are overseas and military voters entitled to vote by absentee ballot under the Uniform Military and Overseas Voter Act (Part 2 of Article 21 of Chapter 163A) and voters entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act. G.S. 163A-1144.

Special Identification Cards: Individuals may obtain a special identification card for nonoperators from the Division of Motor Vehicles (DMV) which requires the same documentation of identity and residence as a NC drivers license. The fee for a special ID card is currently \$13. The fee is waived for those who are legally blind, older than 70, homeless, or who have had a license canceled due to physical or mental disability or disease. The fee is also waived if the applicant signs a declaration that the voter is: (i) registered or registering to vote, and (ii) does not have other photo ID to vote. False or fraudulent statements on these declarations are a Class I felony. G.S. 20-37.7.

Voters in the November 2018 election approved amendments to the North Carolina Constitution to require voters offering to vote in person to present photographic identification before voting.

BILL ANALYSIS:

Part I would implement the constitutional requirement that voters offering to vote in person present photographic identification before voting.

- **Photo Identification Requirement (Section 1.2)** – Would establish G.S. 163A-1145.1, requiring all voters voting in person to present photo ID, subject to the exceptions noted below.

The precinct official would verify that the photograph is that of the person seeking to vote. If the precinct official disputes that the photograph is that of the person seeking to vote, a challenge would be heard and decided by the judges of the precinct. A voter would be allowed to vote unless the judges at the voting site unanimously agree that the photo does not bear any reasonable resemblance to the person seeking to vote.

Voters without photo ID would vote a provisional ballot. If the voter brings an acceptable form of photo ID to the county board of elections no later than the end of the business day before canvass, the ballot would be counted. The State Board would provide voters casting a provisional ballot due to not presenting photo ID with an information sheet on the deadline to return with photo ID and what forms of ID are acceptable in order for the provisional ballot to be counted.

- **Acceptable Forms of Photo Identification for Voting Identification (Section 1.2)**
 - Any of the following that contains a photograph of the voter and is valid and unexpired, or has been expired for one year or less:
 - NC drivers license.
 - NC special identification card or other form of non-temporary ID issued by the DMV.
 - US passport.
 - NC voter photo identification card.
 - Tribal enrollment card issued by a state or federal recognized tribe.
 - Student identification card issued by a constituent institution of The University of North Carolina, a community college, or eligible private postsecondary institutions, if approved by the State Board.
 - Employee identification card issued by a state or local government entity, including a charter school, if approved by the State Board.

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- Drivers license or special identification card issued by another state, D.C., or a territory or commonwealth of the US, only if the voter's voter registration was within 90 days of the election.
- Any of the following that contain a photograph of the voter, regardless of whether the card contains an expiration or issuance date:
 - US military identification card.
 - Veterans Identification Card issued by the US Department of Veterans Affairs for use at Veterans Administration medical facilities.
- For voters over the age of 65, any of the identification cards above that bear a date of expiration that was not expired on the day that the voter reached the age of 65.

For any election held before January 1, 2021, any approved student identification card or employee identification card that does not contain an expiration date would be deemed an acceptable form of photo identification.

- **Approval of Student and Employee Identification Cards for Voting Identification (Section 1.2)**

The State Board would be required to approve the use of: (i) student identification cards issued by a constituent institution of The University of North Carolina, a community college, or eligible private postsecondary institutions, and (ii) employee identification cards issued by a state or local government entity, including a charter school, if the following criteria are met:

- 1) The chancellor, president or registrar of the university or college, or the head elected official or lead human resources employee of the state or local government entity, submits a letter signed under penalty of perjury that the following are true:
 - The ID cards contain photos of the individual taken by the university, college, or government employer.
 - The ID cards are issued after confirming the identity of the individual, including the individual's social security number, citizenship status, and birthdate.
 - The equipment that produces the cards is kept in a secure location.
 - Misuse of the equipment producing the cards is grounds for discipline of a student or termination of an employee.
 - Any misuse of equipment is reported to law enforcement.
 - The cards issued have an expiration date, effective January 1, 2021.
 - Copies of the cards are provided to the State Board to assist with training purposes.
 - For college and universities, the school will provide a copy of documentation developed by the State Board on the requirements related to voting, including identification for voting and residency requirements.
- 2) The university, college, or government employer complies with any other reasonable security measures deemed necessary by the State Board.

The State Board would be required to approve use of ID cards from any universities, colleges, or government employers no later than March 15, 2019 for primaries and elections held in 2019 and 2020, and no later than May 15, 2021 for elections beginning after that date, and every four years thereafter.

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The State Board would be required to produce a list of participating universities, colleges, and government employers every four years, publish the list on the State Board's website, and distribute the list to every county board of elections, with the initial list produced no later than April 1, 2019.

Any college or university with a student ID card approved for use by the State Board would be required to provide copies of any new design of the student ID card to the State Board.

The State Board would adopt temporary rules on reasonable security measures for the use of student or employee identification cards for voting identification no later than February 1, 2019, and permanent rules no later than May 15, 2021.

- **Exceptions to the Photo Identification Requirement (Section 1.2)**

- **Religious Objection** – A voter who does not produce a photo ID due to a religious objection to being photographed may complete an affidavit under penalty of perjury at the voting place and affirm that the voter: (i) is the same person personally appearing at the voting place, (ii) will cast a provisional ballot, and (iii) has a religious objection to being photographed.
- **Reasonable Impediment** – A voter who suffers from a reasonable impediment that prevents the voter from presenting photo ID may complete an affidavit under penalty of perjury at the voting place and affirm that the voter: (i) is the same person personally appearing at the voting place, (ii) will cast a provisional ballot, and (iii) suffers from a reasonable impediment that prevents the voter from presenting photo ID. The voter would complete a reasonable impediment declaration form, checking a box to identify his or her reasonable impediment from the following:
 - Inability to obtain photo ID due to lack of transportation, disability or illness, lack of birth certificate or underlying documents required, work schedule, or family responsibilities.
 - Lost or stolen photo ID.
 - Photo ID applied for but not yet received by the voter voting in person.
 - Other reasonable impediment, which would require a brief written statement of the reasonable impediment by the voter.
- **Natural Disaster** – A voter who does not produce a photo ID due to being a victim of a natural disaster occurring within 100 days before election day that resulted in a disaster declaration by the President of the United States or Governor of this State may complete an affidavit under penalty of perjury at the voting place and affirm that the voter: (i) is the same person personally appearing at the voting place, (ii) will cast a provisional ballot, and (iii) was a victim of the natural disaster.

A voter completing the affidavit for religious objection, reasonable impediment, or natural disaster will cast a provisional ballot. If the county board of elections determines that the voter voted a provisional ballot only due to the inability to provide proof of ID and the required affidavit is submitted, the county board would count the provisional ballot, unless the county board has grounds to believe the affidavit is false.

For the 2019 municipal elections, a voter who does not produce photo ID when presenting to vote in person would be allowed to complete a reasonable impediment affidavit and vote a provisional ballot, listing as the impediment not being aware of the photo ID requirement or failing to bring photo ID to the voting place.

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- **Voter Photo Identification Cards (Section 1.1)** – The county board of elections would be required to issue free voter photo identification cards upon request to registered voters. This card would contain the voter's name, photo, and voter registration number, and expire 10 years from the date of issuance.

The State Board would provide necessary equipment to the county boards to print the cards, and the county boards would operate and maintain the equipment. County boards would also be required to maintain a secure database containing the photographs of the registered voters. The State Board would adopt rules for implementation, with temporary rules required no later than April 15, 2019, ensuring, at a minimum, the following:

- Voters must provide their name, date of birth, and last four digits of their social security number to obtain the card.
- The cards must be issued upon request at all times, except during the time between the end of one-stop voting and election day for each primary and election.
- Voters may obtain a free duplicate card upon request in person or by telephone or mail.
- Voters may obtain a replacement card upon request following a name change and subsequent update to his or her voter registration record.
- Voter photo identification cards must contain the following disclaimer: "Expiration of this voter photo identification card does not automatically result in the voter's voter registration becoming inactive."

The State Board would be required to notify any voter issued a voter photo identification card 90 days before his or her card is to expire of the impending expiration.

- **Special Identification Cards (Section 1.3)** – The fee for special identification cards for nonoperators would be waived for applicants who are at least 17 years old. The requirement that the voter sign a declaration stating that the voter is registered or registering to vote and does not have a photo ID needed to vote would be repealed.

For any person whose drivers license, permit, or endorsement is seized or surrendered due to cancellation, disqualification, suspension, or revocation, the DMV would be required, no later than May 1, 2019, to automatically issue a special identification card to the individual, mailed to the individual's address on file, at no charge.

- **Rules for Requiring Photocopy of ID for Mail-In Absentee Ballots (Section 1.2(d))** – The State Board would be required to adopt rules to provide for the forms of identification that must be included with the written request for an absentee ballot. These rules would be required to do the following:
 - Require forms of readable identification similar to acceptable identification for presenting to vote in person.
 - Contain a process for a voter without acceptable identification to complete an alternative affidavit in accordance with religious objection, reasonable impediment, or natural disaster affidavits for presenting to vote in person.
 - Contain a process for voters to have the option to return required information with the voter's absentee ballot return envelope.

The State Board would adopt temporary rules no later than July 1, 2019, and permanent rules no later than January 1, 2020 on the forms of identification that must be included with the written request for an absentee ballot. In developing these rules, the State Board would be required to consult with Disability Rights North Carolina to develop forms and instructions that are accessible to the disabled

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community. At least 14 days before the adoption of rules, the State Board would be required to report to the Joint Legislative Elections Oversight Committee on the content of the proposed rules.

The State Board would also be required to report to the Joint Legislative Elections Oversight Committee no later than March 1, 2019 on other recommendations to secure the absentee voting by mail process, including recommended statutory changes.

- **Notice of Fraudulent or False Declarations a Class I felony (Section 1.4A)** – The State Board would be required to include a prominent statement on all forms that submitting a fraudulent or false declaration is a Class I felony.
- **Voter Education Program (Section 1.5)** – The State Board would be required to educate the public on the photo ID provisions through the following:
 - Post information at the State Board, county boards of elections, and their respective websites.
 - Train precinct officials at training sessions on how to answer questions by voters.
 - Disseminate information by precinct officials at each election.
 - Conduct at least two seminars in each county prior to September 1, 2019.
 - Coordinate with local service organizations to provide informational seminars.
 - Coordinate with local media outlets, county boards of commissions, and county boards of elections to disseminate information in a way that would reasonably inform the public, including making necessary efforts to inform rural, military, veteran, elderly, underserved, minority, or other communities as determined by local needs.
 - Conduct educational programs to inform the public regarding the requirements of NC residency to vote, including applicable intent requirements for residency to vote, and the penalty for voting in multiple states.
 - Make available on the State Board's website a document providing information on the provisions of this act, the requirements for voting, a description of voting by provisional ballot, the availability of a free voter photo identification card, and the residency requirement to vote.
 - Notify each registered voter who does not have a NC issued drivers license or special ID card of the photo ID provisions, the requirements to vote absentee, early, and on election day, a description of voting by provisional ballot, and the availability of a free NC voter photo identification card no later than September 1, 2019.
 - Mail information on presenting photo ID, the options for provisional voting, and a description of voting mail-in absentee to all registered voters twice in 2019 and twice in 2020.
 - Prominently place a statement on all voter education materials mailed to citizens and on information posters displayed at voting sites stating that all registered voters will be allowed to vote, how to obtain a valid photo ID card, and the availability to vote by signing an affidavit of reasonable impediment.

County boards of elections would be required to make available information on photo ID to all voters in the 2019 municipal and primary and election and at the 2020 primary election.

- **Review to the Joint Legislative Elections Oversight Committee (Section 1.5(d))** – The State Board would be required to review, update, and make recommendations to the Joint Legislative Elections Oversight Committee on steps to implement the use of electronic and digital information in all polling places statewide by September 1, 2019.

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Part II would repeal uncodified sections of Session Law 2013-381 and Session Law 2015-103 requiring photo IDs that were enjoined by federal courts.

Part III would repeal codified sections of Session Law 2013-381 and Session Law 2015-103 requiring photo IDs that were enjoined by federal courts, and would make the following changes:

- Allow any other registered voter to issue a challenge on the day of a primary or election for a voter failing to present photo ID.
- Create a new Class I felony for any person to counterfeit, sell, lend to, or knowingly permit the use of, by one not otherwise entitled, a form of photo identification for the purpose of voting.
- Allow the chair of each political party in the State to designate up to 100 additional at-large observers, provided they are registered voters of the State and of good moral character, who may attend any voting place in the State.

Part IV would appropriate funds from the General Fund as follows:

- \$2.25 million to the State Board for the 2018-2019 fiscal year:
 - The State Board would be required to use \$750,000 to implement the provisions of this act, including creating temporary positions.
 - The State Board would be required to transfer up to \$1.5 million to the Highway Fund to address the loss of revenue from the waiving of fees for special identification cards.
- \$850,000 to the North Carolina Public Campaign Fund for the 2018-2019 fiscal year. These funds would be allocated to county boards of elections for maintenance grants for printing equipment.

EFFECTIVE DATE: County board of elections would be required to issue voter photo identification cards no later than May 1, 2019. The remainder of this act is effective when it becomes law.

BACKGROUND: In NAACP v. McCrory, the defendants were enjoined from implementing certain portions of Session Laws 2013-381 and Session Laws 2015-103, relating to photo IDs and changes to early voting, same-day registration, out-of-precinct voting, and preregistration, and the pertinent statutory provisions in effect prior to those amendments were declared to be in full force.