

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 351
Committee Substitute Favorable 4/7/11
PROPOSED COMMITTEE SUBSTITUTE H351-PCS11228-ST-54

Short Title: Restore Confidence in Government.

(Public)

Sponsors:

Referred to:

March 15, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO RESTORE CONFIDENCE IN GOVERNMENT BY REQUIRING THAT
3 VOTERS PROVIDE PHOTO IDENTIFICATION BEFORE VOTING.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.1. Article 14A of Chapter 163 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 163-166.13. Photo identification requirement for voting in person.**

8 (a) Every individual voting in person shall present photo identification to a local
9 election official at the voting place before voting.

10 (b) Notwithstanding subsection (a) of this section, any voter without photo
11 identification shall be permitted to vote a provisional official ballot.

12 (c) As used in this section, "photo identification" means any of the following that
13 contain a photograph of the registered voter:

14 (1) A North Carolina drivers license issued under Article 2 of Chapter 20 of the
15 General Statutes, including a learner's permit or a provisional license.

16 (2) A special identification card for nonoperators issued under G.S. 20-37.7.

17 (3) An identification card issued by a branch, department, agency, or entity of
18 this State, any other state, or the United States.

19 (4) A United States passport.

20 (5) An employee identification card issued by any branch, department, agency,
21 or entity of the United States government, this State, or any county,
22 municipality, board, authority, or other entity of this State.

23 (6) A United States military identification card.

24 (7) A tribal identification card.

25 (8) A North Carolina voter identification card issued under G.S. 163-166.14."

26 SECTION 1.2. Article 14A of Chapter 163 of the General Statutes is amended by
27 adding a new section to read:

28 "**§ 163-166.14. Voter identification card.**

29 (a) Each county board of elections shall accept applications for and issue North
30 Carolina voter identification cards to registered voters in that county. The voter identification
31 card shall be valid only for purposes of voter identification and proof of voter registration under



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1 this Chapter and available only to registered voters of this State. No fee shall be charged or
2 collected for the application for or issuance of a North Carolina voter identification card.

3 (b) No registered voter shall be eligible for a North Carolina voter identification card if
4 that registered voter has a valid unexpired drivers license, learner's permit, provisional license,
5 or a special identification card for nonoperators issued under G.S. 20-37.7.

6 (c) The North Carolina voter identification card shall be captioned "NORTH
7 CAROLINA VOTER IDENTIFICATION CARD" and shall contain a prominent statement that
8 under North Carolina law it is valid only as identification for voting purposes. The North
9 Carolina voter identification card shall be laminated, shall contain a digital color photograph of
10 the applicant, and shall include all of the following information:

11 (1) Full legal name.

12 (2) Address of residence.

13 (3) Birth date.

14 (4) Date identification card was issued.

15 (5) Sex.

16 (6) Eye color.

17 (7) County where the identification card was issued.

18 (8) Such other information or identification as required by rule of the State
19 Board of Elections.

20 (d) The application for a North Carolina voter identification card shall elicit the
21 information required under subsection (c) of this section and such other information as may be
22 required by rule of the State Board of Elections. The application shall be signed by the
23 applicant registered voter. The information collected by the county board of elections shall be
24 subject to G.S. 163-82.10 and G.S. 163-82.10B.

25 (e) The county board of elections shall require, and shall verify, all of the following
26 information before issuing a North Carolina voter identification card to a registered voter:

27 (1) A photo identity document, except that a nonphoto identity document is
28 acceptable if it includes the registered voter's name.

29 (2) Evidence that the individual is registered to vote in this State.

30 (3) Documentation showing the registered voter's name and residence address.

31 (f) A North Carolina voter identification card shall remain valid so long as a person
32 resides at the same address and remains qualified to vote. If a person moves his or her residence
33 within the State, that person may apply for and receive a new card if such person is otherwise
34 eligible under this section.

35 (g) The State Board of Elections shall provide each county board of elections issuing
36 North Carolina voter identification cards with the necessary equipment, forms, supplies, and
37 training for the production of the North Carolina voter identification cards and shall maintain
38 such equipment.

39 (h) The State Board of Elections shall adopt policies for the administration of this
40 section and, without limiting the generality of the foregoing, such policies may further define or
41 prescribe the types of documentation required under subsection (e) of this section."

42 **SECTION 1.3.** G.S. 163-82.6A(b) reads as rewritten:

43 "(b) Both Attestation and Proof of Residence Required. – To vote under this section, a
44 voter must present photo identification as required by G.S. 163-166.13. This requirement is
45 separate from the requirement to provide proof of residence under subdivision (2) of this
46 subsection. If an individual does not present the required photo identification, that individual
47 may vote a provisional official ballot. To register and vote under this section, the person shall
48 do both of the following:

49 (1) Complete a voter registration form as prescribed in G.S. 163-82.4, including
50 the attestation requirement of G.S. 163-82.4(b) that the person meets each

1 eligibility requirement. Such attestation is signed under penalty of a Class I
2 felony under G.S. 163-275(13); and

- 3 (2) Provide proof of residence by presenting any of the following valid
4 documents that show the person's current name and current residence
5 address: a North Carolina drivers license, a photo identification from a
6 government agency, or any of the documents listed in G.S. 163-166.12(a)(2).
7 The State Board of Elections may designate additional documents or
8 methods that suffice and shall prescribe procedures for establishing proof of
9 residence."

10 **SECTION 1.4.** G.S. 163-166.7(a) reads as rewritten:

11 "(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure
12 through the appropriate entrance. A precinct official assigned to check registration shall at once
13 ask the voter to state current name and residence address. The voter shall answer by stating
14 current name and residence ~~address.~~ address and presenting photo identification in accordance
15 with G.S. 163-166.13. If an individual does not present the required identification, that
16 individual may vote a provisional official ballot. In a primary election, that voter shall also be
17 asked to state, and shall state, the political party with which the voter is affiliated or, if
18 unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that
19 official shall state whether that voter is duly registered to vote in that precinct and shall direct
20 that voter to the voting equipment or to the official assigned to distribute official ballots. If a
21 precinct official states that the person is duly registered, the person shall sign the pollbook,
22 other voting record, or voter authorization document in accordance with subsection (c) of this
23 section before voting."

24 **SECTION 1.5.** G.S. 163-227.2(b) reads as rewritten:

25 "(b) Not earlier than the third Thursday before an election, in which absentee ballots are
26 authorized, in which a voter seeks to vote and not later than 1:00 P.M. on the last Saturday
27 before that election, the voter shall appear in person only at the office of the county board of
28 elections, except as provided in subsection (g) of this section. A county board of elections shall
29 conduct one-stop voting on the last Saturday before the election until 1:00 P.M. and may
30 conduct it until 5:00 P.M. on that Saturday. That voter shall enter the voting enclosure at the
31 board office through the appropriate entrance and shall at once state his or her name and place
32 of residence to an authorized member or employee of the ~~board.~~ board and present photo
33 identification in accordance with G.S. 163-166.13. If an individual does not present the
34 required identification, that individual may vote a provisional official ballot. In a primary
35 election, the voter shall also state the political party with which the voter affiliates and in whose
36 primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the
37 primary of a particular party under G.S. 163-119, the voter shall state the name of the
38 authorizing political party in whose primary he wishes to vote. The board member or employee
39 to whom the voter gives this information shall announce the name and residence of the voter in
40 a distinct tone of voice. After examining the registration records, an employee of the board
41 shall state whether the person seeking to vote is duly registered. If the voter is found to be
42 registered that voter may request that the authorized member or employee of the board furnish
43 the voter with an application form as specified in G.S. 163-227. The voter shall complete the
44 application in the presence of the authorized member or employee of the board, and shall
45 deliver the application to that person."

46 **SECTION 1.6.** Article 15A of Chapter 163 of the General Statutes is amended by
47 adding a new section to read:

48 **"§ 163-182.1A. Counting of provisional official ballots cast because of failure to provide**
49 **valid photo identification at the polls.**

50 (a) A voter who cast a provisional official ballot wholly or partly as a result of the
51 voter's inability or declination to provide proof of identification may personally appear at an

1 office of the county board of elections not later than the date of the conclusion of the election
2 canvass for that county to seek counting of the provisional official ballot as provided in
3 subsection (b) or (c) of this section.

4 (b) Unless the vote is disqualified for some other reason provided by law, the county
5 board of elections shall find that the voter's provisional ballot is valid and direct that the
6 provisional ballot be opened and counted in accordance with this Chapter if the voter both:

7 (1) Provides valid photo identification to the county board of elections; and

8 (2) Executes an affidavit, in the form prescribed by the State Board of Elections,
9 affirming under the penalties of perjury that the voter is the same individual
10 who:

11 a. Personally appeared to vote on the day of election or at an early
12 voting site; and

13 b. Cast the provisional ballot on that day.

14 (c) Unless the vote is disqualified for some other reason provided by law, the county
15 board of elections shall find that the voter's provisional ballot is valid and direct that the
16 provisional ballot be opened and counted in accordance with this Chapter if the voter executes
17 an affidavit before the county board of elections, in the form prescribed by the State Board of
18 Elections, affirming under the penalties of perjury that:

19 (1) The voter is the same individual who:

20 a. Personally appeared to vote on the day of election or at an early
21 voting site; and

22 b. Cast the provisional ballot on that day; and

23 (2) The voter has a sincerely held religious objection to being photographed.

24 (d) If the county board of elections determines that a voter described in subsection (b)
25 or (c) of this section has also cast a provisional official ballot for a cause other than the voter's
26 inability or declination to provide valid photo identification, the board shall both:

27 (1) Note on the envelope containing the provisional official ballot that the voter
28 has complied with the proof of valid photo identification requirement; and

29 (2) Proceed to determine any other reasons for which the ballot was cast
30 provisionally before ruling on the validity of the voter's provisional ballot."

31 **SECTION 1.7.** G.S. 163-87 reads as rewritten:

32 **"§ 163-87. Challenges allowed on day of primary or election.**

33 On the day of a primary or election, at the time a registered voter offers to vote, any other
34 registered voter of the precinct may exercise the right of challenge, and when ~~he~~the voter does
35 so may enter the voting enclosure to make the challenge, but ~~he~~the voter shall retire therefrom
36 as soon as the challenge is heard.

37 On the day of a primary or election, any other registered voter of the precinct may
38 challenge a person for one or more of the following reasons:

39 (1) One or more of the reasons listed in G.S. 163-85(c).

40 (2) That the person has already voted in that primary or election.

41 (3) Repealed by Session Laws 2009-541, s. 16.1(b), effective August 28, 2009.

42 (4) If the challenge is made with respect to voting in a partisan primary, that the
43 person is a registered voter of another political party.

44 (5) The voter does not present proof of identification as required by
45 G.S. 163-166.13.

46 The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may enter
47 challenges under this section against voters in the precinct for which appointed regardless of
48 the place of residence of the chief judge, judge, or assistant.

49 If a person is challenged under this subsection, and the challenge is sustained under
50 G.S. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-82.15(e) if
51 eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if

1 the transfer is made. A person who has transferred his registration under G.S. 163-82.15(e) may
2 be challenged at the precinct to which the registration is being transferred."

3 **SECTION 1.8.** G.S. 20-37.7(d) reads as rewritten:

4 "(d) Expiration and Fee. – A special identification card issued to a person for the first
5 time under this section expires when a drivers license issued on the same day to that person
6 would expire. A special identification card renewed under this section expires when a drivers
7 license renewed by the card holder on the same day would expire.

8 The fee for a special identification card is the same as the fee set in G.S. 20-14 for a
9 duplicate license. The fee does not apply to a special identification card issued to a resident of
10 this State who (i) is legally blind, (ii) is at least 70 years old, (iii) is registered to vote in this
11 State but does not have photo identification acceptable under G.S. 163-166.13, (iv) is homeless,
12 or (v) ~~who~~ has been issued a drivers license but the drivers license is cancelled under
13 G.S. 20-15, in accordance with G.S. 20-9(e) and (g), as a result of a physical or mental
14 disability or disease. To obtain a special identification card without paying a fee, a homeless
15 person must present a letter to the Division from the director of a facility that provides care or
16 shelter to homeless persons verifying that the person is homeless. To obtain a special
17 identification card without paying a fee, a registered voter shall sign an unnotarized affidavit
18 stating the registered voter is registered and does not have other photo identification acceptable
19 under G.S. 163-166.13."

20 **SECTION 1.9.(a)** Education and Publicity Requirements. – The public shall be
21 educated about the photo identification to vote requirements of this act as follows:

- 22 (1) As counties use their regular processes to notify voters of assignments and
23 reassignments to districts for election to the United States House of
24 Representatives, State Senate, State House of Representatives, or local
25 office, by including information about the provisions of this act.
- 26 (2) As counties send new voter registration cards to voters as a result of new
27 registration, changes of address, or other reasons, by including information
28 about the provisions of this act.
- 29 (3) Counties that maintain a board of elections Web site shall include
30 information about the provisions of this act.
- 31 (4) Notices of elections published by county boards of elections under
32 G.S. 163-22(8) for the 2012 primary and 2012 general election shall include
33 a brief statement that photo identification is required to vote.
- 34 (5) The State Board of Elections shall include on its Web site information about
35 the provisions of this act.
- 36 (6) Counties shall post at the polls and at early voting sites beginning with the
37 2012 primary elections information about the provisions of this act.
- 38 (7) The State Board of Elections shall include in the Judicial Voter Guide
39 described in G.S. 163-278.69 information about the provisions of this act
40 and shall also include the information in the Voter Guide under
41 G.S. 163-278.99E if it is published separately.
- 42 (8) The State Board of Elections and the county boards of elections shall take
43 reasonable steps to provide public service announcements about the
44 provisions of this act through print, radio, television, online, and social
45 media. The sum of six hundred thousand dollars (\$600,000) is appropriated
46 from the General Fund for the 2011-2012 fiscal year to a special reserve to
47 carry out the provisions of this subdivision and to provide for issuance of
48 North Carolina voter identification cards under G.S. 163-166.13 as enacted
49 by this act. Those funds shall be made available as follows:
 - 50 a. \$100,000 to the State Board of Elections.
 - 51 b. \$100,000 in an equal share to each county board of elections.

- 1 c. \$200,000 to county boards of elections in proportion to the number
2 of registered voters in the county.
3 d. \$200,000 to county boards of elections in counties covered by
4 section 5 of the Voting Rights Act of 1965, in proportion to the
5 number of registered voters in the county.

6 **SECTION 1.9.(b)** G.S. 163-278.69 is amended by adding a new subsection to
7 read:

8 "(d) The Judicial Voter Guide published under this section shall also include information
9 on the photo identification requirement for voting in person pursuant to G.S. 163-166.13."

10 **SECTION 1.10.(a)** Of the unexpended funds remaining in the North Carolina
11 Voter-Owned Elections Fund, up to four hundred twenty-nine thousand four hundred fifty-five
12 dollars (\$429,455) shall be used for the purposes of implementing this act and are hereby
13 appropriated.

14 **SECTION 1.10.(b)** Funds from the surcharge on attorney membership fees under
15 G.S. 84-34 collected on or after August 1, 2011, may be used to implement the education and
16 publicity requirements of this act as it relates to judicial elections and are hereby appropriated.

17 **SECTION 1.10.(c)** Of the funds appropriated to the General Assembly for the
18 2010-2011 fiscal year, the sum of two hundred thirty-one thousand four hundred thirty-seven
19 dollars (\$231,437) remaining on June 30, 2011, is transferred to the State Board of Elections
20 for the 2011-2012 fiscal year to implement the provisions of this act and are hereby
21 appropriated.

22 **SECTION 1.10.(d)** Of the funds appropriated to the General Assembly for the
23 2010-2011 fiscal year, the sum of thirty-nine thousand one hundred twenty-eight dollars
24 (\$39,128) remaining on June 30, 2011, is transferred to the State Board of Elections for the
25 2012-2013 fiscal year to implement the provisions of this act and are hereby appropriated.

26 **SECTION 1.10.(e)** Of the funds appropriated to the Department of Transportation,
27 Division of Motor Vehicles, up to one million four hundred sixty-eight thousand thirty-three
28 dollars (\$1,468,033) for the 2011-2012 fiscal year and the sum of one hundred thousand four
29 hundred thirty-eight dollars (\$100,438) for the 2012-2013 fiscal year may be used from the
30 Highway Fund, including unexpended funds within the Inspections Program Account and
31 Telecommunications Account created by G.S. 20-183.7, to support the costs of issuing special
32 identification cards for nonoperators and for costs associated with modifications to the State
33 Automated Driver License System.

34 **SECTION 2.** If any provision of this act or its application is held invalid, the
35 invalidity does not affect other provisions or applications of this act that can be given effect
36 without the invalid provisions or application, and to this end the provisions of this act are
37 severable.

38 **SECTION 3.** Sections 1.8, 1.9, and 1.10 of this act become effective July 1, 2011.
39 Except as otherwise provided, this act is effective when it becomes law and applies to primaries
40 and elections conducted on or after January 1, 2012.