

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 351
Committee Substitute Favorable 4/7/11

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 AND ALLOWING
4 VOTERS MORE FLEXIBILITY IN APPLYING FOR ABSENTEE BALLOTS.

5 The General Assembly of North Carolina enacts:

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

8 "**§ 163-166.13. Photo identification requirement for voting in person.**

9 (a) Every individual voting in person shall present a photo identification to a local
10 election official at the voting place before voting in order to verify that voter's voter
11 registration.

12 (b) Notwithstanding subsection (a) of this section, any voter with a disability who does
13 not present photo identification shall be permitted to vote as provided in this subsection. To
14 satisfy the requirement of this subsection, a person who is at least 18 years of age
15 accompanying the voter with a disability shall execute an affidavit, in the form prescribed by
16 the State Board, affirming under the penalties of perjury that the voter with a disability is the
17 same individual as is registered to vote and, to the best of the affiant's knowledge, does not
18 have the required photo identification. Upon the completion of the affidavit, the voter with a
19 disability shall vote a ballot as if that voter with a disability met the photo identification
20 requirement.

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

- 23 (1) A North Carolina drivers license issued under Article 2 of Chapter 20 of the
24 General Statutes, including a learner's permit or a provisional license.
25 (2) A special identification card for nonoperators issued under G.S. 20-37.7.
26 (3) An identification card issued by a branch, department, agency, or entity of
27 this State, any other state, or the United States.
28 (4) A United States passport.
29 (5) An employee identification card issued by any branch, department, agency,
30 or entity of the United States government, this State, or any county,
31 municipality, board, authority, or other entity of this State.
32 (6) A United States military identification card.
33 (7) A tribal identification card.
34 (8) A North Carolina voter identification card issued under G.S. 163-166.14."

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

37 "**§ 163-166.14. Voter identification card.**



1 (a) Each county board of elections shall accept applications for and issue North
2 Carolina voter identification cards to registered voters in that county. The voter identification
3 card shall be valid only for purposes of voter identification and proof of voter registration under
4 this Chapter and available only to registered voters of this State. No fee shall be charged or
5 collected for the application for or issuance of a North Carolina voter identification card.

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

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

14 (1) Full legal name.

15 (2) Address of residence.

16 (3) Birth date.

17 (4) Date identification card was issued.

18 (5) Sex.

19 (6) Eye color.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) Complete a voter registration form as prescribed in G.S. 163-82.4, including
2 the attestation requirement of G.S. 163-82.4(b) that the person meets each
3 eligibility requirement. Such attestation is signed under penalty of a Class I
4 felony under G.S. 163-275(13); and
- 5 (2) Provide proof of residence by presenting any of the following valid
6 documents that show the person's current name and current residence
7 address: a North Carolina drivers license, a photo identification from a
8 government agency, or any of the documents listed in G.S. 163-166.12(a)(2).
9 The State Board of Elections may designate additional documents or
10 methods that suffice and shall prescribe procedures for establishing proof of
11 residence."

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

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

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

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

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

50 **§ 163-182.1A. Counting of provisional official ballots cast because of failure to provide**
51 **valid photo identification at the polls.**

1 (a) A voter who cast a provisional official ballot wholly or partly as a result of the
2 voter's inability or declination to provide proof of identification may personally appear at an
3 office of the county board of elections not later than the date of the conclusion of the election
4 canvass for that county to seek counting of the provisional official ballot as provided in
5 subsection (b) or (c) of this section.

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

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

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

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

15 b. Cast the provisional ballot on that day.

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

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

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

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

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

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

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

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

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

34 **"§ 163-87. Challenges allowed on day of primary or election.**

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

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

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

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

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

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

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

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

1 If a person is challenged under this subsection, and the challenge is sustained under
2 G.S. 163-85(c)(3), the voter may still transfer his registration under G.S. 163-82.15(e) if
3 eligible under that section, and the registration shall not be cancelled under G.S. 163-90.2(a) if
4 the transfer is made. A person who has transferred his registration under G.S. 163-82.15(e) may
5 be challenged at the precinct to which the registration is being transferred."

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

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

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

23 **SECTION 1.9.** Education and Publicity Requirements. – The public shall be
24 educated about the photo identification to vote requirements of this act as follows:

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

1 North Carolina voter identification cards under G.S. 163-166.13 as enacted
2 by this act. Those funds shall be made available as follows:

- 3 a. \$100,000 to the State Board of Elections.
- 4 b. \$100,000 in an equal share to each county board of elections.
- 5 c. \$200,000 to county boards of elections in proportion to the number
6 of registered voters in the county.
- 7 d. \$200,000 to county boards of elections in counties covered by
8 section 5 of the Voting Rights Act of 1965, in proportion to the
9 number of registered voters in the county.

10 **SECTION 1.10.(a)** Notwithstanding G.S. 163-82.28, funds under Title I and Title
11 II of the Help America Vote Act may be used for the purpose of Section 1.9 of this act and to
12 provide for issuance of North Carolina voter identification cards under G.S. 163-166.13 as
13 enacted by this act.

14 **SECTION 1.10.(b)** Notwithstanding G.S. 163-82.28, funds under the Election
15 Assistance for Individuals with Disabilities (EAID) provisions of the Help America Vote Act
16 may be used for the purpose of Section 1.9 of this act and to provide for issuance of North
17 Carolina voter identification cards under G.S. 163-166.14 as enacted by this act to persons
18 eligible for assistance under EAID.

19 **SECTION 1.10.(c)** Unexpended funds in the North Carolina Voter-Owned
20 Elections Fund may be used for the purpose of Section 1.9 of this act and to provide for
21 issuance of North Carolina voter identification cards under G.S. 163-166.14 as enacted by this
22 act.

23 **SECTION 1.10.(d)** Funds from the surcharge on attorney membership fees under
24 G.S. 84-34 collected on or after July 1, 2011, may be used for the purpose of Section 1.9 of this
25 act as it relates to judicial elections.

26 **SECTION 2.** G.S. 163-230.2 reads as rewritten:

27 "**§ 163-230.2. Method of requesting absentee ballots.**

28 (a) Valid Types of Written Requests. – A written request for an absentee ballot as
29 required by G.S. 163-230.1 is valid only if it is ~~written entirely by the requester personally, or~~
30 ~~is on a form generated by the county board of elections and signed by the requester. The county~~
31 ~~board of elections shall issue a request form only to the voter seeking to vote by absentee ballot~~
32 ~~or to a person authorized by G.S. 163-230.1 to make a request for the voter. If a requester, due~~
33 ~~to disability or illiteracy, is unable to complete a written request, that requester may receive~~
34 ~~assistance in writing that request from an individual of that requester's choice.~~

35 (b) Invalid Types of Written Requests. – A request is not valid if it does not comply
36 with subsection (a) of this section. If a county board of elections receives a request for an
37 absentee ballot that does not comply with subsection (a) of this section, the board shall not
38 issue an application and ballot under G.S. 163-230.1.

39 (c) Rules by State Board. – The State Board of Elections shall adopt rules for the
40 enforcement of this section."

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