



S.B. 36

126th General Assembly
(As Introduced)

Sens. Spada, Jacobson, Armbruster, Schuler, Mumper

BILL SUMMARY

- Requires first-time voters in an election for federal office in Ohio who registered to vote by mail to provide certain identification before being permitted to cast a ballot, and permits those electors to cast a provisional ballot if they do not provide the required identification.
- Requires all other electors who appear in a polling place to vote to provide proof of identity in the form of a current valid driver's license or other current valid photo identification before being permitted to cast a ballot.

CONTENT AND OPERATION

Existing Ohio law

Existing Ohio law does not include any identification requirement specifically applicable to first-time voters or, for that matter, generally applicable to voters. Under that law, when any elector appears in a polling place to vote, the elector must announce the elector's full name and address to the precinct election officials and then generally write the elector's name and address at the proper place in the poll lists or signature pollbooks. The elector's signature in the poll lists or signature pollbooks must be compared by the precinct election officials with the elector's signature on the elector's registration form or a digitized signature list. If, in the opinion of a majority of the precinct election officials, the signatures are the signatures of the same person, the clerks of elections must enter the date of the election on the registration form or otherwise record the date. If the elector is not challenged, or if the elector is challenged and then establishes the elector's right to vote, the elector must be permitted to proceed to use a voting machine or otherwise to vote. (R.C. 3505.18.)

Changes proposed by the bill

Identification requirements for certain first-time voters

The Help America Vote Act (HAVA), Public Law 107-252, 116 Stat. 1666, currently imposes specific identification requirements on *first-time* electors in an election for federal office *who registered to vote by mail*. The bill adds to the provisions of Ohio law discussed above identification requirements for those electors that generally mirror the federal law identification requirements (R.C. 3505.18(A)(2)).

Specifically, if the election for which an elector appears in a polling place to vote is an *election for federal office*, if the elector registered to vote by mail, and if the elector has not previously voted in an election for federal office in Ohio, the elector must announce to the precinct election officials the elector's full name and address (similar to existing law) and provide to them proof of identity in the form of a current valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the elector's name and address. If the elector does not provide to the precinct election officials any of the specified forms of identification, the elector may cast a provisional ballot as permitted under federal law (see **COMMENT**). (R.C. 3505.18(A)(2).)

Identification requirements for all other electors

The bill also adds to the provisions of Ohio law discussed above identification requirements generally applicable to *all* electors. Specifically, with the exception in an election for federal office of a first-time voter who registered to vote by mail and, thus, must comply with the bill's special HAVA-related identification requirements for such voters, when an elector appears in a polling place to vote, after announcing the elector's full name and address to the precinct election officials (similar to existing law) but before writing that information at the proper place in the poll lists or signature poll books, the elector must provide the officials with proof of his or her identity in the form of a *current valid driver's license or other current valid photo identification*. (R.C. 3505.18(A)(1).)

If the elector does not provide to the precinct election officials one of those forms of photo identification, the elector is unable to vote. But, once an elector announces his or her full name and address and provides the requisite identification, the voting process proceeds as under existing Ohio law. (R.C. 3505.18(B).)

The photo identification requirements discussed in this portion of the analysis would apply to voters in elections for federal office who are not subject to

the bill's special HAVA-related identification requirements, to voters in elections for state or local offices, and to voters in elections for state or local questions or issues.

COMMENT

HAVA, among other provisions, permits certain electors to cast "provisional ballots" for elections for federal office. Specifically, if an individual declares that the individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, the individual must be permitted to cast a provisional ballot (42 U.S.C. 15482(a)). The process for casting and counting provisional ballots is as follows (42 U.S.C. 15482(a)(1) to (4)):

- An election official at the polling place must notify the individual that the individual may cast a provisional ballot in the election.
- The individual must be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation before an election official stating that the individual is (1) a registered voter in the jurisdiction in which the individual desires to vote and (2) eligible to vote in the election.
- An election official at the polling place must transmit the ballot cast or the voter information contained in the written affirmation to an appropriate state or local election official for prompt verification.
- If the appropriate state or local election official to whom the ballot or voter information is transmitted determines that the individual is eligible to vote, the individual's provisional ballot must be counted as a vote in the election.

At the time that an individual casts a provisional ballot, the appropriate state or local election official must give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain whether the vote was counted and, if it was not counted, the reason (42 U.S.C. 15482(a)(5)(A)). The election official is required to establish a free access system, such as a toll-free telephone number or an Internet web site, that any individual who casts a provisional ballot may access to discover whether the individual's vote was counted and, if it was not counted, the reason (42 U.S.C. 15482(a)(5)(B)).

HISTORY

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