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ELECTIONS

Georgia Election Code: Revise the Forms of Identification That Are Acceptable in Order to Register and to Vote in This State; and for Other Purposes

CODE SECTIONS:	O.C.G.A. § 21-2-417 (amended)
BILL NUMBER:	HB 244
ACT NUMBER:	53
GEORGIA LAWS:	2005 Ga. Laws 253
SUMMARY:	Section 59 of this Act, the only section with which this Peach Sheet is concerned, revises the acceptable forms of identification to register and to vote in the State of Georgia. As a result of this section, only the following forms of identification will be sufficient to register and vote in Georgia: (1) a valid Georgia driver's license that was properly issued by the appropriate state agency; (2) a valid identification card issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States that is authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector; (3) a valid United States passport; (4) a valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state; (5) a valid United States military identification card provided that such identification card contains a

photograph of the elector; or (6) a valid tribal identification card containing a photograph of the elector.

EFFECTIVE DATE: July 1, 2005

History

Representative Sue Burmeister of the 119th district introduced section 59 of HB 244 because she saw voter fraud as a prevalent problem in Georgia.¹ Under the amended Georgia Code section, the proper identification needed to vote included a valid Georgia driver's license, a valid student or employee identification card, or a valid social security card.² Unfortunately, one problem that arose was the ease with which identification could be stolen to enable an unqualified person to vote.³ Under the current Code section, one person could steal another's utility bill and vote using that bill as identification.⁴ In an effort to cut down on fraudulent voting and protect the integrity of voting in Georgia, the Georgia General Assembly sought to enact stricter identification requirements.⁵ The result was a bill that "would give Georgia the most restrictive voter identification requirements in the nation."⁶ Originally, these voter identification requirements were found in SB 84, but in the last few days of the session, legislators added SB 84 to HB 244 as section 59.⁷ With HB 244, the Georgia General Assembly attempted to follow both Louisiana and Mississippi in passing legislation aimed at preventing voter fraud.⁸

Proponents of the bill failed to recognize any specific instances of voter fraud, causing many opponents of the bill to question its

1. See Audio Recording of House Proceedings, Mar. 11, 2005 (remarks by Rep. Sue Burmeister), http://www.georgia.gov/00/article/0,2086,4802_6107103_33078458,00.html [hereinafter House Audio].

2. 2003 Ga. Laws 517, § 48, at 548 (formerly found at O.C.G.A. § 21-2-417 (2003)).

3. See House Audio, *supra* note 1 (remarks by Reps. Sue Burmeister and Fran Millar).

4. See *id.*

5. See *id.*

6. Sonji Jacobs & Carlos Campos, *Foes Rip Passage of Voter ID Bill*, ATLANTA J. CONST., Mar. 1, 2005, at D1, <http://www.ajc.com/metro/content/metro/legis05/0405/01legvote.html>.

7. See Telephone Interview with Rep. Amos Amerson, House District No. 9 (May 16, 2005) [hereinafter Amerson Interview].

8. See *id.*

primary intention.⁹ Opponents of the bill argued the legislation was motivated by politics rather than an intent to minimize voter fraud.¹⁰ Opponents of the bill further argued that the bill's intention was to limit the number of African American and Latino voters.¹¹ According to these opponents, with fewer minorities voting, it will be easier for the Republican Party to stay in power because most members of the minority population vote Democrat.¹²

Bill Tracking of HB 244

Consideration by the House

Representative Sue Burmeister of the 119th district sponsored HB 244.¹³ The House first read the bill on February 2, 2005, and the House Rules Committee favorably reported the bill on March 3, 2005.¹⁴

The Bill, As Introduced

The previous law in Georgia allowed a person to use any one of seventeen different forms of identification to register to vote.¹⁵ HB 244 greatly decreased the sufficient forms of identification.¹⁶ As introduced, the bill did not include the controversial voter identification requirements.¹⁷

9. See Telephone Interview with Sen. Vincent Fort, Senate District No. 39 (May 18, 2005) [hereinafter Fort Interview].

10. See *id.*

11. See *id.*

12. See *id.*

13. See HB 244, as introduced, 2005 Ga. Gen. Assem.

14. See State of Georgia Final Composite Status Sheet, HB 244, Feb. 2, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, HB 244, Mar. 3, 2005 (May 11, 2005).

15. 2003 Ga. Laws 517, § 48, at 548 (formerly found at O.C.G.A. § 21-2-417 (2003)).

16. Compare HB 244, as passed, 2005 Ga. Gen. Assem., with 2003 Ga. Laws 517, § 48, at 548 (formerly found at O.C.G.A. § 21-2-417 (2003)).

17. See HB 244, as introduced, 2005 Ga. Gen. Assem.

Committee Substitute

The House Committee on Governmental Affairs offered a substitute that did not include the identification requirements.¹⁸ However, the House Committee on Rules offered a substitute that included the identification requirements that originated in SB 84.¹⁹ The Committee substitute declared that proper identification for one to register to vote consisted of any of the following:

- (1) A valid Georgia driver's license;
- (2) A valid identification card containing a photograph of the elector and issued by a branch, department, agency, or entity of the State of Georgia, any other state, or the United States authorized by law to issue personal identification;
- (3) A valid United States passport;
- (4) A valid employee identification card containing a photograph of the elector and issued by any branch, department, agency, or entity of the United States government, this state, or any county, municipality, board, authority, or other entity of this state;
- (5) A valid student identification card containing a photograph of the elector from any public or private college, university, or postgraduate technical or professional school located within the State of Georgia; or
- (6) A valid United States military identification card containing a photograph of the elector.²⁰

Floor Debate

During the floor debate, a number of representatives spoke in opposition to the bill.²¹ Representatives Douglas Dean and Alisha Morgan of the 59th and 39th districts, respectively, spoke passionately about the possible negative effects the voter identification requirement could have on the minority population.²² According to them, allowing only these few forms of identification would result in the disenfranchisement of a large amount of the

18. See HB 244 (HCS), 2005 Ga. Gen. Assem.

19. Compare HB 244 (HCS), 2005 Ga. Gen. Assem., with SB 84, as introduced, 2005 Ga. Gen. Assem.

20. See HB 244 (HCS), 2005 Ga. Gen. Assem.

21. See House Audio, *supra* note 1 (remarks by Reps. Douglas Dean and Alisha Morgan).

22. See *id.*

minority population.²³ Representative Morgan argued this was a knock against the African Americans of the past who fought hard to ensure voting rights for African American people.²⁴ Those who spoke in support of the bill did not address the voter identification portion of the bill, instead they spoke in support of other sections.²⁵

Passage by the House

Following the floor debate on March 11, 2005, the House adopted the House Committee on Rules substitute and passed HB 244 by a vote of 98 to 65.²⁶ The House then transmitted HB 244 to the Senate for consideration.²⁷

Consideration by the Senate

The Senate first read HB 244 on March, 12, 2005, and the State and Local Governmental Operations Committee favorably reported the bill by substitute on March 22, 2005.²⁸

Committee Substitute

The State and Local Governmental Operations Committee offered a substitute that altered the wording in parts (2) and (5).²⁹ The only substantial alteration the committee offered was to add an additional form of valid identification: “(6) A valid tribal identification card, provided that such identification card contains a photograph of the elector.”³⁰

23. *See id.*

24. *See id.* (remarks by Rep. Alisha Morgan).

25. *See generally id.*

26. *See* State of Georgia Final Composite Status Sheet, HB 244, Mar. 11, 2005 (May 11, 2005); Georgia House Voting Record, HB 244 (Mar. 11, 2005).

27. *See* State of Georgia Final Composite Status Sheet, HB 244, Mar. 11, 2005 (May 11, 2005).

28. *See* State of Georgia Final Composite Status Sheet, HB 244, Mar. 12, 2005 (May 11, 2005); State of Georgia Final Composite Status Sheet, HB 244, Mar. 22, 2005 (May 11, 2005).

29. *See* HB 244 (SCS), 2005 Ga. Gen. Assem.

30. *Id.*

Floor Debate and Amendments

Senator Kasim Reed of the 35th district offered amendments, which later failed, attempting to add the following types of identification to those sufficient to enable a person to vote: (1) A valid voter registration card; (2) A valid social security card; and (3) A valid employee identification card containing a photograph of the elector and issued by any employer of the elector in the ordinary course of such employer's business.³¹ The Senate adopted one of Senator Reed's proposed amendments.³² Senator Reed also amended the first valid form of identification to read: "(1) A Georgia driver's license which was properly issued by the appropriate state agency."³³

Senator Emanuel Jones of the 10th district offered four amendments, all of which failed.³⁴ Senator Jones's first amendment added the following forms of identification: "(5) A valid United States military identification card, provided that such identification card contains a photograph of the elector; (6) A certified copy of the elector's birth certificate; or (7) A valid tribal identification card containing a photograph of the elector."³⁵ The second amendment added the following forms of identification: "(5) A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States; (6) A valid United States military identification card, provided that such identification card contains a photograph of the elector; or (7) A valid tribal identification card containing a photograph of the elector."³⁶ The third amendment added the following forms of identification: "(5) A valid United States military identification card, provided that such identification card contains a photograph of the elector; (6) A valid tribal identification card containing a photograph of the elector; or (7) Certified naturalization documentation."³⁷ The final amendment

31. See Failed Senate Floor Amendments to HB 244, introduced by Sen. Kasim Reed, Mar. 29, 2005.

32. See Adopted Senate Floor Amendment to HB 244, introduced by Sen. Kasim Reed, Mar. 29, 2005.

33. *Id.*

34. See Failed Senate Floor Amendments to HB 244, introduced by Sen. Emanuel Jones, Mar. 29, 2005.

35. *Id.*

36. *Id.*

37. *Id.*

added the following forms of identification: “(5) A valid United States military identification card, provided that such identification card contains a photograph of the elector; (6) A valid tribal identification card containing a photograph of the elector; or (7) A government check or paycheck, or a legible copy thereof, showing the name and address of the elector.”³⁸

Senator Steven Henson of the 41st district offered the following amendment, which also failed: “(5) A valid United States military identification card, provided that such identification card contains a photograph of the elector; (6) A valid tribal identification card containing a photograph of the elector; or (7) A bank statement, or a legible copy thereof, showing the name and address of the elector.”³⁹

Senator J.B. Powell of the 23rd district offered the following amendment to the Senate substitute, which also failed: “(7) A valid military discharge form, or a legible copy thereof, showing the name and address of the elector.”⁴⁰ Senator David Adelman of the 42nd district offered an amendment to the committee substitute which also failed.⁴¹ The amendment added the following as proper forms of voter identification: “(5) A valid Georgia license to carry a pistol or revolver; (6) A valid United States military identification card, provided that such identification card contains a photograph of the elector; or (7) A valid tribal identification card containing a photograph of the elector.”⁴²

Passage by the Senate

Following the floor debate on March 29, 2005, the Senate adopted the State and Local Governmental Operations Committee substitute, and passed HB 244 by a vote of 31 to 20.⁴³ The Senate then transmitted HB 244 back to the House where the House adopted the House Conference Committee’s report.⁴⁴ The House then transmitted

38. *Id.*

39. *Id.*

40. *See* Failed Senate Floor Amendment to HB 244, introduced by Sen. J.B. Powell, Mar. 29, 2005.

41. *See* Failed Senate Floor Amendment to HB 244, introduced by Sen. David Adelman, Mar. 29, 2005.

42. *Id.*

43. *See* State of Georgia Final Composite Status Sheet, HB 244, Mar. 29, 2005 (May 11, 2005); Georgia Senate Voting Record, HB 244 (Mar. 29, 2005).

44. *See* State of Georgia Final Composite Status Sheet, HB 244, Mar. 31, 2005 (May 11, 2005).

the bill back to the Senate where the Senate adopted the Senate Conference Committee's report.⁴⁵

The Act

Following the adoption of the House and Senate Conference Committee's reports, the House sent the bill to the Governor for his signature.⁴⁶ The Governor signed the bill into law on April 22, 2005.⁴⁷

Analysis

Though the bill's sponsors intended it to have the positive effect of upholding the integrity of the voting process, there are some potential unintended consequences that have caused great concern among many members of the Georgia General Assembly.⁴⁸ The strict requirements on what will qualify as valid forms of voter identification could have a negative impact on both minorities and the elderly.⁴⁹ Supporters of the bill argued that voter fraud is a problem in Georgia, and the strictness of this legislation will cut down on that problem.⁵⁰ In response, opponents of the bill argue that Georgia already has safeguards against voter fraud in the form of five separate felonies.⁵¹ The Act's supporters respond to the disenfranchisement argument by asserting that someone who cannot afford a license can go to the Department of Motor Vehicle Safety and get an identification card for free.⁵²

The Act has its opponents seething over what they believe to be clear civil rights and constitutional violations.⁵³ Senator Fort stated that legal action is already formulating in response to the Act.⁵⁴

45. *See id.*

46. *See* State of Georgia Final Composite Status Sheet, HB 244, Apr. 11, 2005 (May 11, 2005).

47. *See* State of Georgia Final Composite Status Sheet, HB 244, Apr. 22, 2005 (May 11, 2005).

48. *See* Fort Interview, *supra* note 9.

49. *See* House Audio, *supra* note 1 (remarks by Reps. Douglas Dean and Alisha Morgan); *see also* Fort Interview, *supra* note 9.

50. *See* House Audio, *supra* note 1 (remarks by Rep. Sue Burmeister); *see also* Amerson Interview, *supra* note 7.

51. *See* House Audio, *supra* note 1 (remarks by Rep. Mickey Channell).

52. *See* Amerson Interview, *supra* note 7.

53. *See* House Audio, *supra* note 1 (remarks by Rep. Alisha Morgan); Fort Interview, *supra* note 9.

54. *See* Fort Interview, *supra* note 9.

Consequently, there is no doubt that constitutional challenges to the Act are soon to come.⁵⁵

Opponents consider the Act a “voter suppression bill of the worst sort.”⁵⁶ Though it is difficult to question Representative Burmeister’s intent in sponsoring this bill, the inability to point to any specific instance of voter fraud that this Act will protect raises questions as to its true intent.⁵⁷ As arguably the most repressive anti-civil rights legislation in the last 40 years, Georgia has set a precedent that is “nothing to be proud of.”⁵⁸

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55. *See id.*

56. *Id.*

57. *See id.*

58. *See id.*; *see also* Jacobs & Campos, *supra* note 6 (quoting Georgia Secretary of State Cathy Cox).