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A Racial Impact Analysis of HB 9

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A Racial Impact Analysis of HB9

A project of the Minority Political Leadership
Institute Class of 2012

Prepared by: Olutosin Burrell, Dawn Lawson, Robert Mayfield, and LaDonna Sanders

Abstract

House Bill 9 was introduced by Delegate Mark L. Cole (R – House District 88 – Fredericksburg) as chief patron with support from co-patron Delegate Charles D. Poindexter (R – House District 9 – Glade Hill). The bill states that a voter who is unable to present one of the forms of ID may sign a sworn statement that he/she is the named registered voter he/she claims to be and then be allowed to vote a provisional ballot. The current law allows such a voter to cast an official ballot rather than a provisional one after signing such statement. We will attempt to show, through careful research, the adverse impact of the passage of this Bill has across racial lines. Whether or not this factor was known at the time of proposal, its passage is sure to make the basic right and civic duty of voting a bit more difficult for a wide swath of the Virginia populace is disproportionately a part of the minority class. We intend to make the argument that current and future legislation in the Commonwealth should take into account the impact it has on minority communities to make sure that they neither limit nor discourage participation in this democracy.

Legislation Overview

House Bill (HB) 9 was introduced by Delegate Mark L. Cole (R – House District 88 – Fredericksburg) as chief patron with support from co-patron Delegate Charles D. Poindexter (R – House District 9 – Glade Hill). The bill states that a voter who is unable to present one of the forms of ID may sign a sworn statement that he or she is the named registered voter he or she claims to be and allowed to vote a provisional ballot. The current law allows such a voter to cast an official ballot rather than a provisional one after signing such statement. The bill passed in the House by a vote of 69-30. There were no abstentions and one delegate did not vote. There was a 20-20 tie in the Senate, but the President (Lt. Governor Bill Bolling) broke the tie in favor of the bill. The Governor signed Executive Order No. 45 on 18 May 2012 to implement House Bill 9 and Senate Bill 1. He directed the State Board of Elections to conduct a voter outreach campaign that will educate voters about the changes to voter identification requirements. Voters voting with a provisional ballot will have until 12:00 on the Friday immediately following the election to provide a copy of an approved form of identification via fax, e-mail, and in-person or commercial mail (McDonnell, 2012). According to, the American Civil Liberties Union (ACLU), a survey conducted by the U.S. Election Commission found that in 2010 nearly 60% of provisional ballots cast were not counted.

The following is a list of the House of Delegates voted “Yea” on “HB 9 Voting procedures; voter identification requirements, provisional ballots.” This vote represented final approval of the bill by the House:

Floor: February 1, 2012 House: VOTE: PASSAGE (69-Y)

Albo, Anderson, Bell, Richard P., Bell, Robert B., Byron, Cline, Cole, Comstock, Cosgrove, Cox, J.A., Cox, M.K., Crockett-Stark, Dudenhefer, Edmunds, Fariss, Farrell, Garrett, Gilbert, Greason, Habeeb, Head, Helsel, Hodges, Hugo, Iaquinto, Ingram, Joannou, Johnson, Jones, Kilgore, Knight, Landes, LeMunyon, Lingamfelter, Loupassi, Marshall, D.W., Marshall, R.G., Massie, May, Merricks, Miller, Minchew, Morefield, Morris, O’Bannon, O’Quinn, Orrock, Peace, Pogge, Poindexter, Purkey, Putney, Ramadan, Ransone, Robinson, Rush, Rust, Scott, E.T., Sherwood, Stolle, Tata, Villanueva, Ware, R.L., Watson, Webert, Wilt, Wright, Yancey, Mr. Speaker–69 (General Assembly, 2012).

Republicans say that the proposals would guard against voter fraud. Under current law, someone without a voter registration card or other identification can vote by signing an affidavit that “he is the named registered voter who he claims to be.”

While there is little information regarding individual legislators’ reasons behind the support of this bill outside of it being a deterrent against voter impersonation fraud (of which there is no documented evidence that such fraud has ever occurred in the Commonwealth), those who support it insist that it will not hinder any individual from casting a ballot.

Delegate David Albo, R-Fairfax, said critics of HB9 are making false claims about the bill. “Most people who are against it are saying it denies people the right to vote. They need to read the bill – it does not deny anyone the right to vote,” Albo said. “If they don’t have an ID,

they vote a provisional ballot. All provisional ballots are counted as long as it is not determined that the vote is fraudulent. So, everyone's vote still gets counted."

Voter ID laws have been proposed as way to ensure the validity and reliability of the electoral process. According to the Times Dispatch, 39 cases of voter fraud have been prosecuted out of approximately 3.7 million votes cast in the 2008 election. None of the cases, the newspaper said, "appeared to involve someone who misrepresented his or her identity at the polls to vote." "Instead involved felons who either illegally registered to vote or who illegally voted in the general election, or both." Virginia bans felons from voting unless their rights are restored by the Governor.

Current Virginia law requires voters to provide identification at the polls, or sign an Affirmation of Identity under felony penalty, in order to vote at the polls. This requirement also applies to absentee voters who vote in person. Acceptable forms of identification include (Virginia State Board of Elections, 2012):

- Virginia voter identification card
- Valid Virginia driver's license
- Military ID
- Any Federal, state or local government-issued ID
- Employer issued photo ID card
- Social Security card

Any voter who forgets to bring acceptable ID to the polls may still vote but will be requested to sign under oath, an Affirmation of Identity form affirming that he/she is the voter he or she claims to be. A voter who requires assistance to vote by reason of physical disability or an inability to read or write may, if he so requests, also be assisted in completing this statement (Virginia State Board of Elections, 2012):

Under the new legislation the list of acceptable identification has been expanded. The following are acceptable forms of ID for voting:

- Virginia voter registration card
- Social Security card
- Valid Virginia driver's license
- Any other identification card issued by an agency of the Commonwealth, one of its political subdivisions, or the United States
- Any valid student identification card issued by a Virginia institution of higher education
- A valid identification card issued by an employer containing a photograph of the voter
- A copy of a current utility bill
- A copy of a bank statement
- A government check
- A paycheck that shows the name and address of the voter.

HB9 increases the number of acceptable documents voters can use when voting. Additionally, HB9 eliminates the provision that allows a voter to sign a sworn statement that he is the named registered voter he claims to be in lieu of showing identification.

On May 18, 2012 Governor Bob McDonnell issued an executive order directing his office and the State Board of Elections to follow a plan of action to implement HB9 and HB1. The Executive Order directs the State Board of Elections to coordinate a public education campaign to help raise awareness of the provisions of the new laws and that voters are given the necessary information in order to provide an appropriate form of identification when voting. The Executive Order also directs the State Board of Elections to provide all registered voters with a new voter registration card. Finally, the Executive Order requests that the State Board of Elections and local election officials report certain data to the Governor following the November 6, 2012, and November 5, 2013, General Elections (McDonnell, 2012).

According to the January 30, 2012 fiscal impact statement, the cost of bill implementation will be absorbed by the State Board of Elections (SBE). SBE must provide training efforts that would need to be provided to election officials and voter outreach efforts necessary to inform voters of the law change. In addition, they would need to design another provisional ballot envelope to be used solely for voters without proper identification. SBE states that the agency will be able to absorb the costs associated with implementing this legislation.

They also indicate that this legislation may impact the localities. Registrars will need to train election officers on how to implement the new standard. Also localities will need to purchase new provisional ballots and may see additional provisional ballots because of the change. Some localities may need to purchase equipment that would fully permit the process of receiving scanned and faxed versions of identification provided by voters.

While this legislation would create a second provisional ballot envelope, it would also eliminate the Affirmation of Identity form. Tighter voter registration laws could cost Virginia between \$522,253 and \$1,258,959.

On January 31, 2012, several hundred citizens joined Democratic officials and civil rights leaders at the Richmond Capitol to rally against the bill they say would suppress the voting rights of minorities, elderly people and low-income Virginians. Groups such as the Virginia Legislative Black Caucus, the Democratic caucuses of the House and Senate, the AFL-CIO, the NAACP, the Virginia Poverty Law Center, the Sierra Club, and the AARP rallied against it. Some Democrats charge that Republicans are pushing for the changes to target Virginians who likely would vote for democratic candidates. The Virginia New Majority also spoke out against the bill. Republicans say that the bill is intended to prevent voter fraud, but Democrats stated that voter fraud has not been a problem in Virginia. The sponsor of this bill admitted that he has no knowledge of voter fraud in Virginia. Additionally, a member of the State Board of Elections admitted during debate on the bill that he is not aware of any documented case of voter fraud. Thus, it appears that Republicans are trying to suppress voter turnout because a higher turnout favors Democrats.

“We know that these voter suppression activities are designed with a strategic purpose in mind,” said Richmond Mayor Dwight C. Jones. “This is a systemic approach to suppressing the voting power of those who turned Virginia blue in 2008,” when the state supported Barack Obama for President.

Republicans say that the proposals would guard against voter fraud. Under current law, someone without a voter registration card or other identification can vote by signing an affidavit that “he is the named registered voter who he claims to be.”

“The legislation debated today will cause confusion at the polls, deter lawful voters from voting, and create chaos for our already stressed election officials,” said Delegate Mark Sickles of Franconia, who chairs the House Democratic Caucus. “A clear and convincing reason why these bills are needed has yet to be articulated in committee or on the floor.”

Racial Impact Analysis

The Voting Rights Act of 1965 (VRA) prohibited discriminatory voting practices that disenfranchised African Americans. The VRA guarantees the right of all citizens to participate in the electoral process and also provides the legal framework to prohibit or remedy any barriers used to threaten an individual’s right to vote. Section 5 of the VRA requires states and jurisdictions with documented histories of voting discrimination and lower voter turnout submit planned changes in their election laws to federal officials or judges for prior approval (preclearance).

Since January 2011 many states have proposed or passed restrictive legislation that change voting laws and will impact political participation. Depending on a voters state of residency new laws require voters to produce a government issued photo ID or show proof of citizenship in order to vote. In other states, early voting hours have been reduced, voting absentee has been affected, the ability to register to vote on Election Day has been abolished, and restoring voting rights in some states has become more difficult.

Some of the most controversial voter ID bills were proposed in swing states like Florida, Ohio, Pennsylvania, Georgia, and Texas. In Florida, HB 1355 made changes to early voting periods, prohibits registered voters from making cross-county address updates, and placed restrictions on voter registration drives (2012 Voting Law Changes) In Florida in 2008, 15% of Latinos and nearly 20% of African Americans registered to vote through registration drives (NAACP, 2012). In Florida, Ohio, and, Wisconsin bills were introduced limiting opportunities for when and where individuals could register to vote. Ohio eliminated the one week period where a person could register to vote and cast a ballot at the same time, the restriction is expected to have a disproportionate effect on minority voters (NAACP, 2012).

Disenfranchisement after criminal conviction is the most significant barrier to voting rights in the United States (2012 Voting Law Changes). Nationally, 5.3 million people are ineligible to vote as a result of a criminal conviction; of those 4 million has completed their sentence and live in communities (2012 Voting Law Changes). Florida reversed an executive order that restored the voting rights to convicted felons whom had completed their sentence

permanently (NAACP, 2012). Minority communities will be impacted greatly as African Americans and Latinos suffer disproportionate rates of criminal convictions and incarcerations (NAACP, 2012).

While HB9 expands the number of documents voters can present at the polls, opponents of HB9 state this legislation will disenfranchise a significant number of minorities, low-income voters, students, and elderly from voting.

The Brennan Center for Justice at NYU School of Law found that 7% of American citizens do not have identification, citizenship papers, or a birth certificate, and they do not have a way of obtaining an ID. The study also found that people making less than \$25,000 per year were twice as likely not to have documentation to get identification as people possessing larger income. The study also noted 18% of Americans over the age of 65 do not have a current government issued photo ID, 25% (6.2 million) of voting age African Americans, and 16% (over 2.9 million) of voting age Hispanics neither possess a valid photo ID in comparison to 8% of Whites (Kennedy & Wang, 2012, para.10).

While HB9 expanded the acceptable forms of documentation for voting, obtaining these documents is not so easy. Elderly voters, individuals born outside a hospital, or on a reservation could be forced to cast a provisional ballot as the government issued documents needed do not exist. Currently, Virginia, charges between \$12 and \$32 for a driver's license, and \$10 for a government-issued ID card. With 3.5% of individuals over the age of 65 living in poverty in Lorton, VA, it is unrealistic to think individuals have the financial means to obtain the necessary documents. Low-income families living in rural counties often do not have access to public transportation to get to government offices, presenting an additional barrier. It is estimated that 1.2 million voters whose incomes fall below the federal poverty line live more than 10 miles from the nearest state ID-issuing office.

In the 2008 Presidential Election, there was unprecedented minority voter turnout demonstrating the significant impact of minority presence nationally. According to the 2010 Census, the national gap in voter turnout rate between eligible white voters (66.1%) and eligible African American voters (64.7%) was nearly eliminated. The number of African American voters who cast ballots in 2008 was 15.1% higher than in 2004, representing an increase of 2.1 million African American voters. The number of Latino voters who cast ballots in 2008 was 28.4% higher, representing an increase of 2.2 million Latino voters. The anticipated continued increase of minority turnout may become stagnant as a result of voter ID laws (NAACP, 2012).

HB9 allows Virginia voters who lack proper ID to cast a provisional ballot but further requires voters to present one of the acceptable forms of ID to an election official by the Friday after an election in order for their vote to be counted. The Charlottesville Electoral Board weighed in stating the alternative to presenting photo identification and the signing of an Affirmation of Identity under penalty of perjury is a sufficient deterrent to voter fraud. In 2010, only 42% of the provisional ballots cast in Virginia were counted fully, while 56.8% of provisional ballots cast were not counted, much worse than the national average. Having the

ability to vote, and in turn having his or her vote count is a basic right and responsibility of being a citizen of this great democracy (Kennedy & Wang, 2012, para.12).

It is estimated that Virginia's 135 localities will be affected by the implementation of HB9. Election officers have to be retrained; new provisional ballots have to be purchased as well as the purchasing of new equipment to handle receipt of scanned and faxed versions of identification. The State Election Boards indicate HB9 will have minimal impact on their agency. State Board of Elections are required to send out new voter registration cards to Virginia's 5,032,521 registered voters, redesign the provisional ballots, modify current office databases, and possibly hire additional staff.

Requiring voters to present valid identification is likely to prevent many voters from casting ballots. In 2008 a study was conducted exploring the effects of voter ID laws on voter turnout. The findings reported stricter voter ID requirements depress participation among all registered voters, and especially voters of color. In 2008 election, the Pew Center on the States reported that Georgia, who had a voter ID law in place since 2005, 30% of African Americans, cited a lack of photo ID as an important reason for voting absentee, as compared to 19% of white voters (NAACP, 2012).

Current state law allows voters who do not have identification to sign an affidavit swearing that they are the registered voter they claim to be, under penalty of law. Perjury is a felony in Virginia, and punishments range from imprisonment for up to a decade to potentially to thousands of dollars in fines. These deterrents effectively have protected the integrity of Virginia's elections. Numerous investigations have found there have been isolated only instances of voter fraud. AARP Virginia opposes these bills that would burden the voting rights of older Virginians because they are based on the unfounded assertion that voter fraud is significant problem in Virginia (Kennedy & Wang, 2012, para.14).

The legislation is not as damaging as some passed by other states such as South Carolina because the list of acceptable identification is quite extensive. Some states have a very short list of acceptable IDs. Any inequity would occur if residents had to pay to purchase a government-issued ID card. It was reported that at least 25% of African Americans do not have a government ID. Thus, the added expense of purchasing an ID would create a disparity under different circumstances. However, the Governor's Executive Order to issue all Virginia residents a voter ID card prior to the election can assist in eliminating any disparities. Those without other forms of ID can use their voter registration card to present at the polls and vote.

The social stigma would stem from minorities feeling as if they are being targeted and experiencing feelings of disenfranchisement. Additionally, there does not seem to be any benefit to racial groups. The law does not promote unity or provide greater encouragement to vote. Because there were no documented cases of voter fraud, the law is like a solution searching for a problem. For the last two years, Republicans have made great efforts in several states to tighten voter registration procedures, cut back on early voting and requiring voters to present photo IDs. According to, the Department of State in Pennsylvania, as many as 758,000 people, about 9% of the state's 8.2 million registered voters, currently do not have the required ID to vote.

African Americans take issue with making voting harder. Some of them have a harder time navigating the “system” which, at times can be quite complex. Some politicians consider voting as a privilege. Most see it as a right.

HB9 legislation brought forth by the Commonwealth of Virginia was recently approved by the U.S. Department of Justice on August 20, 2012. Virginia is one of 16 states covered by Section 5 of the Voting Rights Act, pre-clearance was required. U.S. Attorney General Eric Holder stated that he “does not interpose any objection to the specified changes.” However, he did add that this does not bar other party from suing to prevent implementation of the new law.

Our assessment is that it was not necessary to implement the law. Because there was little evidence that these changes were necessary to eliminate widespread voter fraud, we can come to the conclusion that certain politicians want to discourage voting among the poor and minorities.

Recommendations

Why are lawmakers making it harder for us to vote? Instead of simplifying the voting process and encouraging Virginians to actively participate in the political process, many Virginia legislators continue to suppress the vote.

Examine the following examples of voting impediments:

- Photo ID’s – Government-issued identification cards are costly, making this prohibitive for low-income communities, many African Americans are living at or near the poverty line and many others are unemployed.
 - Recommendations:
 - Identification cards should be free to all those from lower income families, students, and the elderly.
 - Identification cards distribution centers need to be set-up throughout the state.
 - TV and radio ads need to be started to inform the public of the new voting rules and ID card centers.
- Early voting – students, seniors, parents, and working class Americans who lack the flexibility in their schedule to stand in long lines on Election Day may have to vote earlier.
 - Recommendations:
 - Extend the Election Day hours to ensure all registered voters have an opportunity to vote.
 - Increase the number of locations one can vote.
 - Election Day should be a national holiday so everyone DOES have the opportunity to vote.

An organized informational campaign may need to be developed by the State Board of Elections to inform voters of this change in law. Looking to other states that have tightened

identification requirements for voting, substantial voter education/outreach campaigns have been conducted to survive Voting Rights Act and Constitutional challenge (Stanley, 2012, para. 8).

We have been able to identify a few steps that if taken and implemented statewide could allow the legislation to be a harbinger of racial equity instead of one that divides and isolates particular voting blocs. One of the main concerns of the legislation is that it can be seen as an affront to the liberties of racial groups who may not have in their possession the types of identification accepted nor will a great number of people of color be able to secure one of those acceptable forms of identification prior to Election Day. It can be reasonably asserted and proven via data that a large portion of Virginians who live below the poverty line cannot afford to miss any days of work- even for the noble cause of exercising their right to vote. By implementing new restrictions on voter ID and the way that ballots will be counted based upon the form of ID presented, it discourages broad swaths of the minority population from taking part in the process.

There are segments of the population, which greatly distrust the government because of historical accounts of racial discrimination. The passage of HB9 reinforces fears that this innocuous act is a hurdle designed to hinder total voter participation and turnout. As has been intimated in earlier documentation, the proposal and passage of HB9 in no way addressed a problem that had been occurring in the Commonwealth. There had never been any documented cases of voter fraud, and yet a bill was constructed which placed restrictions on the voting process keep it from happening in the future. This move, it can be argued, is akin to prescribing medicine to a person in perfect health. It is a move that places an additional unnecessary burden on the Virginia taxpayer by requiring a substantial investment in the education, training, and facilitation of personnel to fulfill the ends of the law. We identified a few steps that if taken and implemented statewide could allow the legislation to be a harbinger of racial equity instead of one that divides and isolates particular voting blocs. These steps include:

- Acquiring “air time” on TV and Radio Stations in all markets that reach Virginia citizens; making them aware of the requirements of the law.
- Using social media including (but not limited to): Twitter, Facebook, LinkedIn, Pinterest, etc. to establish a presence on the World Wide Web for the dissemination of information.
- Taking out ads in the major newspapers that serve the 95 counties and 39 cities that comprise the Virginia populace.
- Training volunteers at the polls not only to ensure compliance with the law but to also ensure fairness of Identification Assessment.
- Placing a notice that includes the instructions, deadlines, and all other relevant information pertaining to the requirements of the law on the official state website.
- Post notices about the law in every United States Post Office in the state.
- Conduct workshops and host “ID Days” at all library branches.
- Produce “Myths vs. Fact” sheets concerning the laws and distribute them to major advocacy groups for minorities in Virginia and empower them to disseminate the information to their memberships.
- Considering the failure to adequately inform voters in the time since the proposal of this bill, the final date of registration for the general election should be relaxed and extended a full week- from October 15, 2012 to October 22, 2012.

The most ensured way to prevent discrimination by the law is to give Virginia residents and voters the opportunity to experience multiple avenues and levels of exposure to the law in a reasonable amount of time. Access to both the information and to the polls is paramount. When a measure like this one is created the state legislature must be proactive and vigilant in ensuring their constituencies that short of the law being repealed, (at which there stands no chance of that happening at this juncture), the best way to proceed is to inform everyone affected so that they may make adequate provisions to ensure that they are still able to exercise his or her civic duty come election day. All of the methods outlined above should be used concurrently. This will help everyone--no matter their political leanings-- get a fair shot at their vote counting on Election Day.

Conclusions

Despite the existence of the Voting Rights Bill, law makers could coordinate and pass Voter ID laws that will disenfranchise millions of voters across the country. HB9 will have a significant effect on millions of voters in Virginia. Studies show that minority, low income, students, and the elderly are the least likely to produce identification on Election Day.

Voter ID fraud has not been a problem in Virginia, leading to the conclusion, that previous regulations had been effective. With voting rights under attack, communities must work together to educate and protect the right to vote.

Process Observations/Reflections

“Should I ever be empowered to become part of a legislative body, I intend to use my time and position to serve the needs of my constituents and avoid political posturing and seeking to limit the rights and access of any individual. Laws like HB 9 benefit only those who are interested in furthering their own agenda and the ideals of those whose leanings are similarly aligned. While you may not receive everyone's vote, your responsibility is to govern everyone in your purview. This project has truly been an eye-opening experience.” –Olu Burrell

The completion of the project has been seamless. As a group we strategized and created deadlines for ourselves and supported each other throughout the process.

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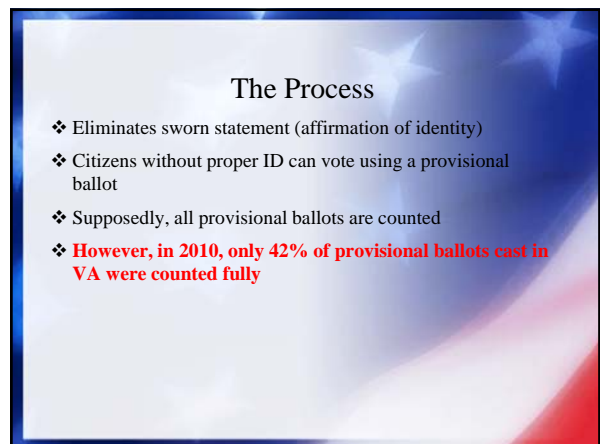
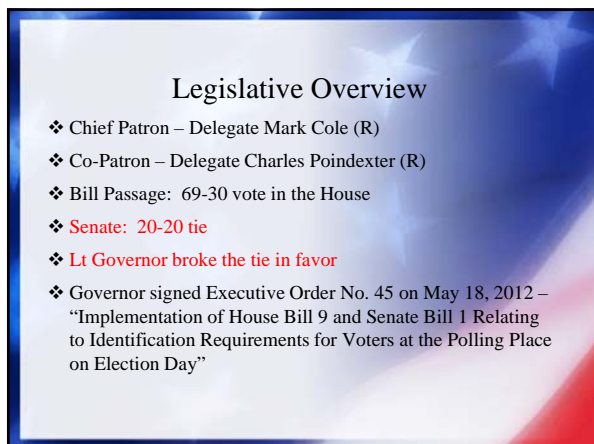
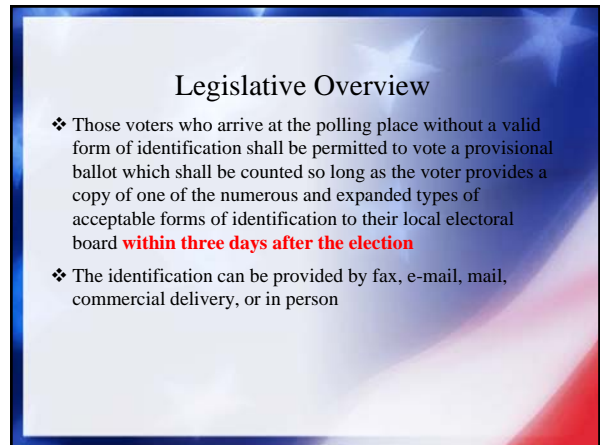
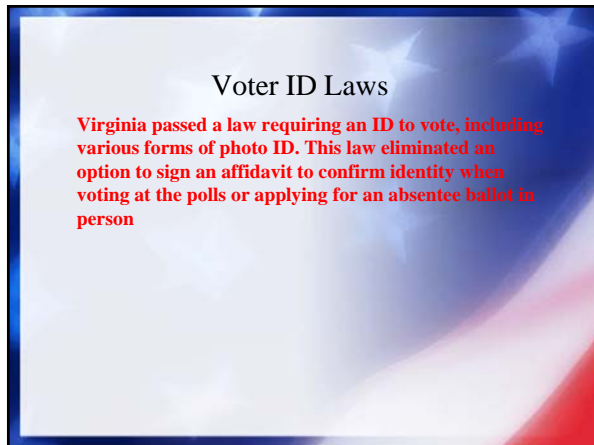
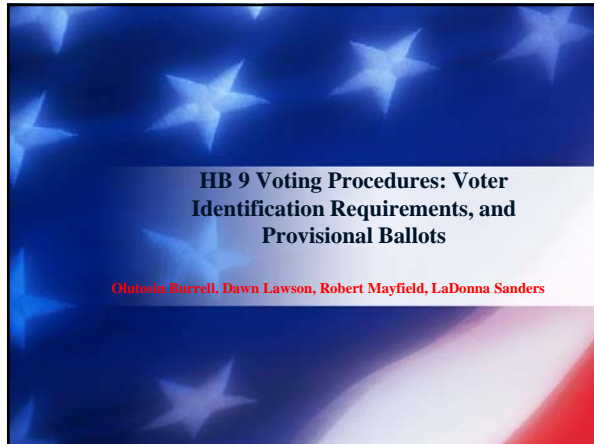
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Acceptable Forms of ID

- ❖ Virginia voter registration card
- ❖ Social Security card
- ❖ Valid Virginia driver's license
- ❖ Any other identification card issued by an agency of the Commonwealth, one of its political subdivisions, or the United States
- ❖ Any valid student identification card issued by a Virginia institution of higher education
- ❖ A valid identification card issued by an employer containing a photograph of the voter
- ❖ A copy of a current utility bill
- ❖ A copy of a bank statement
- ❖ A government check
- ❖ A paycheck that shows the name and address of the voter.

Voter Fraud

- ❖ **No documented evidence in VA**
- ❖ In the 2008 election, only 39 cases prosecuted out of 3.7 million votes cast
- ❖ Those cases involved felons
- ❖ No one misrepresented their identity at the polls

Rallying Against the Bill

- ❖ **Rationale: The bill could suppress voting rights of minorities, elderly and low-income Virginians**
- ❖ **Groups in Opposition**
 - VA Legislative Black Caucus
 - Democratic Caucus of the House & Senate
 - AFL-CIO
 - NAACP
 - VA Poverty Law Center
 - Sierra Club
 - AARP
 - VA New Majority

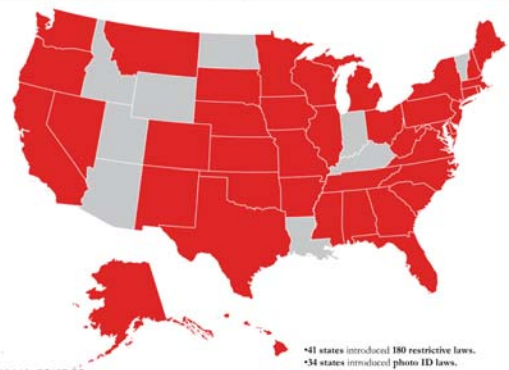
Financial Impact

- ❖ Costs could range from \$522,253 to \$1,258,959
- ❖ Cost will be absorbed by the State Board of Elections
- ❖ Additional training
- ❖ New provisional ballot envelopes
- ❖ Eliminates the affirmation of identity form
- ❖ Possibly new equipment (fax/scanner)

Role of the State Board of Elections

- ❖ Conduct public education campaign - in person trainings, distribution of materials, e-blasts, mainstream, local, and social media outreach
- ❖ Outreach Coordinators have been assigned to cover various portions of the Commonwealth
- ❖ Issue new voter registration cards
- ❖ Collect post-election data

States with restrictive voting legislation introduced since 2011



Numbers Overview

- ❖ 16 states have passed restrictive voting laws and executive actions that have the potential to impact the 2012 election (Florida, Georgia, Illinois, Iowa, Kansas, New Hampshire, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin)
- ❖ These states account for 212 electoral votes, or 78 percent of the total needed to win the presidency

Numbers Overview

- ❖ Of these, restrictions from 18 laws and executive actions are currently in effect in 13 states (Florida, Georgia, Illinois, Iowa, Kansas, New Hampshire, Rhode Island, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin)
- ❖ In the past two years, vetoes, referendums, court decisions, or the Department of Justice have blocked or blunted restrictive measures in 14 states (Arizona, Florida, Maine, Michigan, Minnesota, Missouri, Montana, New Hampshire, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Wisconsin)

States that passed restrictive voting laws



Racial Impact Analysis

- ❖ The Voting Rights Act of 1965 (VRA) prohibited discriminatory voting practices that disenfranchised African Americans
- ❖ Section 5 of the VRA requires states and jurisdictions with documented histories of voting discrimination and lower voter turnout submit planned changes in their election laws to federal officials or judges for prior approval (preclearance)

Racial Impact Analysis

- ❖ In the 2008 Presidential Election, 15.1% more African Americans and 28.4% more Latinos voted than in the 2004 election
- ❖ According to the 2010 Census, this nearly eliminated the national gap in voter turnout rates
- ❖ In anticipation of continued minority turnout states have implemented more restrictive voting

Racial Impact Analysis

The Brennan Center for Justice at NYU School of Law found that 7% of American citizens do not have a government issued ID

- 18% of Americans over the age of 65 do not have a current government issued photo ID
- 25% (6.2 million) of voting age African Americans do not have a photo ID
- 16% (2.9 million) of voting age Hispanics do not possess a valid photo ID

Ballot Security:

Is an umbrella term for a variety of practices that are carried out by political operatives and private groups with the stated goal of preventing voter fraud. Far too often, however, ballot security initiatives have the effect of suppressing eligible votes, either inadvertently or through outright interference with voting rights

Ballot Security

- ❖ Such laws have been justified under the theory that they will prevent “voter fraud,” even though a person is more likely to be struck by lightning than to commit voter impersonation fraud—and even though 11 percent of voting-age Americans lack the kinds of ID these states will now require
- ❖ That percentage is significantly higher among students, the elderly, African-American and Hispanic voters, and the poor. These will be the people most likely to lose their right to vote under these laws

HB9 Impact

- ❖ Minorities feeling targeted
- ❖ Decreased voter turnout
- ❖ Creates environment of division
- ❖ Possibility of vote not being counted
- ❖ Increased likelihood of legal battles

Restrictions still in place for 2012 election



As of October 3, 2012, there are now **16 new laws** and **2 executive actions** in **13 states** that will be in effect for 2012. **Two laws in 2 states** have been seriously blunted by courts.

BRENNAN CENTER FOR JUSTICE

Pushback against restrictive voting laws



As of October 3, 2012, 10 courts blocked or blunted restrictive voting laws, and DOJ blocked 1 more.

Laws were repealed as a result of citizen action in 2 states.

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- States with pushback
- G States with gubernatorial pushback
- DOJ States with Department of Justice pushback
- C States with court cases
- P States with voter pushback
- Legislation passed before this election year

Recommendations

Short Term

- ❖ Identification cards should be free to all those from lower income families, students and the elderly.
- ❖ Identification cards distribution centers need to be set-up throughout the state.
- ❖ TV and radio ads need to be started earlier to inform the public of the new voting rules and ID card centers.
- ❖ Extend the Election Day hours to ensure all registered voters have an opportunity to vote.
- ❖ Increase the number of locations one can vote.
- ❖ Provide free transportation to those that cannot get to the voting centers

Recommendations

- ❖ **Long Term**
 - Election Day should be a national holiday so everyone DOES have the opportunity to vote.
 - ❖ As the Estonians have been doing for the past 7 years, phasing online voting in while maintaining physical polling places allows voters to opt-in to online ballots
 - If the United States were to implement an online voting system it should be phased in over several years. A drastic transition to online elections would likely leave voters confused and leave many without an opportunity to participate. As the Estonians have done successfully, an online option should be presented to all voters, but it should not be the only option.
 - This option can be phased in starting with the 2014 State elections.

Recommendations

- ❖ **Voting is both a fundamental right and a civic duty. However there remains one significant blanket barrier to the franchise: 5.85 million American citizens are not allowed to vote because of a criminal conviction. As many as 4.4 million of these people live, work, and raise families in our communities, but because of a conviction in their past they are still denied the right to vote.**
- ❖ A student voters guide is an online voter education resource designed to help students and advocates understand the diverse patchwork of state laws governing student voters.

Recommendations

- ❖ In recent years, at least 21 states have moved forward to automate voter registration at DMVs, a step supported by officials from both parties. Experiences in the states demonstrate that this increases accuracy and registration rates, minimizes the potential for fraud, and saves money.
- ❖ Paperless national registration
 - 12% of voting-age citizens (almost 20 million) moved in 2008
 - 23% of voting-age citizens below poverty line moved in 2008
 - Numbers higher in jurisdictions with high rates of foreclosures

Conclusion

- **We made the argument that current and future voting legislation in the Commonwealth should take into account the impact on all communities to make sure that they neither limit nor discourage participation in this democracy.**