



HOUSE BILL 351: Restore Confidence in Government

2011-2012 General Assembly

Committee:	House Elections	Date:	March 15, 2011
Introduced by:	Reps. Lewis, T. Moore, Killian	Prepared by:	Kara McCraw and Erika Churchill, Committee Counsels
Analysis of:	First Edition		

SUMMARY: *HB 351 would 1) require voters to show photo identification prior to voting, 2) require immediate correction of campaign finance violations by candidates and treasurers, 3) make candidates joint and severally liable for civil penalties for campaign finance violations assessed the candidate's campaign committee, 4) limit the chair of the State Board of Elections to terms of 2 years and no more than 2 terms, 5) prohibit piece-work payment for voter registration drives, 6) prevent conflict of interest and its appearance involving political contributions by state contractors, and 7) make requests for absentee ballots signed by the requestor valid, and eliminate requirements that the request be made personally in writing by the voter or on a form generated by the county board.*

Bill Analysis

Part 1: Voter Photo Identification

Current Law:

G.S. 163-166.12 requires individuals who register to vote by mail after January 1, 2003 who have not previously voted in an election with a federal ballot item to show one of the following forms of identification prior to voting:

- A current and valid photo ID.
- A copy of one of the following documents that shows the name and address of the voter: current utility bill, bank statement, government check, paycheck, or other government document.

An individual is exempted from showing identification if they included as part of their registration either one of the forms of ID listed above, or their driver's license number or the last four digits of their social security number, either of which provide a match to an existing State identification record.

The statute also provides exceptions from the ID requirement as provided under federal law, such as overseas and military voters entitled to vote by absentee ballot and voters entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act.

Bill Analysis:

Part 1 of HB 351 would amend G.S. 163-166.12 to require all voters to present a valid photo ID when voting in-person.

Valid Photo ID (Section 1.1): The following IDs which contain photographs would be accepted:

- NC drivers' license.
- Special NC ID card for nonoperators.
- ID card issued by a State branch, department, agency, or entity, any other State, of the US government if authorized by law to issue personal identification.
- US passport.
- Employer ID card issued by a branch, department, agency, or entity of the US government, NC, or any county, municipality, board, authority, or other entity of NC.
- US military ID card.
- Tribal ID card.
- NC Voter ID card.

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Mail-in Absentee Voting: Photo IDs would not be required for mail-in absentee voting. The previous ID requirements of G.S. 163-166.12 for first-time voters who register by mail would still apply to mail-in absentee voting.

Voter Identification Cards (Section 1.2): County boards of elections would be authorized to issue voter identification cards at no cost to the voter to individuals registered to vote who did not have a valid drivers' license or special ID card for nonoperators. The cards could only be used for voting and would require certain information about the person be printed on the card, including a photograph of the voter. A voter would be required to present a photo identity document or a nonphoto identity document that includes the person's name, evidence of the person's voter registration, and documentation of name and address. The card would remain valid as long as the person resided at the same address and remained qualified to vote. The voter would be responsible for surrendering the card to the county board of elections if the voter changes residence or ceases to be qualified to vote. The State Board would provide supplies and equipment to county boards of elections and adopt policies for administration.

One-Stop Voting and Registration (Section 1.3):

HB 351 would also require the voter to show one of the valid photo ID required by G.S. 163-166.12, and would require the person vote a provisional ballot if the document was not shown.

Election Day voting (Section 1.4): HB 351 would require a voter to present valid photo ID required by G.S. 163-166.12 prior to voting.

Early Voting (Section 1.5): HB 351 would require a voter to present valid photo ID required by G.S. 163-166.12 prior to voting, and would require the person vote a provisional ballot if the document was not shown.

Provisional Ballots (Section 1.6): HB 351 would require voters casting provisional ballots as a result of failure to show valid ID to appear in person at the county board of election no later than the conclusion of the election canvass to seek counting of the provisional ballot in one of two ways:

1. Provide photo ID and execute an affidavit that the person voted on the relevant day and cast a provisional ballot.
2. Execute an affidavit that the voter has a sincerely held religious objection to being photographed and that the person voted on the relevant day and cast a provisional ballot.

Unless the vote is disqualified for some other legal reason, the board must count the ballot.

Voter challenges (Section 1.7): HB 351 would add to the list of reasons for voter challenges that a voter does not provide required proof of ID. It would also allow observers assigned to that precinct to enter challenges.

Special ID Cards for nonoperators (Section 1.8): HB 351 would permit individuals eligible to vote in NC who do not have valid photo ID required for voting to be issued a special ID card without a fee.

Publicity Requirements and Funds (Sections 1.9-1.10): HB 351 would require voters be educated about the photo ID requirements through regular mailings, State and county board of election websites, notices of elections, posting at polling sites, and the Judicial Voters Guide. \$600,000 would be appropriated for FY 2011-2012 to carry out the publicity requirements. Funding for publicity and to provide for issuance of ID cards could also come from:

- Title I and II Help America Vote Act (HAVA) funds
- Election Assistance for Individuals with Disabilities (EAID)
- Unexpended funds in the NC Voter Owned Elections Fund
- Funds from the surcharge on attorney membership fees as related to judicial elections.

Effective Date (Section 1.11): For counties not subject to Section 5 of the Voting Rights Act the voter ID requirements would apply beginning with the statewide primary in 2012. For counties subject to Section 5 of the Voting Rights Act the voter ID requirements would apply beginning with the later of the statewide primary in 2012 or when the act is precleared. The remainder of Part 1 would become effective July 1, 2011.

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Part 2: Candidate and Treasurer Duty and Liability

Duty to Correct Violations (Section 2.1): HB 351 would require a candidate or treasurer to take immediate action to correct campaign finance violations that could result in a criminal or civil penalty upon actual violations. Former treasurers would be required to report violations to the State Board of Elections.

Candidate Liability (Section 2.2): HB 351 would make a candidate jointly and severally liable for any civil penalties assessed for campaign finance violations against the candidate's campaign committee.

Effective Date (Section 2.3): Part 2 would become effective January 1, 2012 and apply to civil penalties assessed for any violation occurring on or after that date.

Part 3: State Board of Elections Chair Term Limit

Current Law: The State Board of Election consists of 5 members serving four year terms. Members are appointed by the Governor. No more than 3 of the Board members may be from the same political party. The Board elects one of its members chair. Currently, there are no term limits on Board membership or terms as chair.

Bill Analysis (Sections 3.1 and 3.2): HB 351 would limit the term of office as chair to 2 years, beginning May 1 of odd-numbered years, and limit service as chair to 2 terms. Service prior to May 1, 2009 would be considered as 1 term for purposes of the bill. The State Board of Elections would be required to elect a chair for a two-year term beginning May 1, 2011.

Effective Date (Section 3.3): Part 3 would become effective when it becomes law.

Part 4: Prohibit Piece Payment for Voter Registration

Current Law: G.S. 163-82.6(a1)(2) makes it a Class 2 misdemeanor to sell or attempt to sell a completed voter registration form or condition its delivery upon payment.

Bill Analysis (Sections 4.1 and 4.2): HB 351 makes it a Class 2 misdemeanor for a person who employs or contracts with another person to register voters or encourage or assist voters to fill out voter registration forms to pay that person by the completed voter registration application. It also makes it a Class 2 misdemeanor for a person to accept payment based on the number of complete voter applications.

Effective Date (Section 4.3): Part 4 would become effective with respect to voter registration applications completed on or after January 1, 2012.

Part 5: No Pay-To-Play

Current Law:

Limitations on campaign contributions: A candidate may not accept and a contributor may not give more than four thousand dollars (\$4,000) per candidate per election. If there is a primary for the office of the candidate and a general election, the candidate may receive four thousand dollars (\$4,000) through the day of the primary and four thousand dollars (\$4,000) from the day after the primary through the general election per contributor. A candidate, the candidate's spouse, parents, brothers and sisters may contribute unlimited amounts to the candidate and are not subject to the limitations. Any National, State, district or county executive committee of any political party (recognized under G.S. 163-96) is exempt from the contribution limitations as well.

Prohibitions on campaign contributions: It is unlawful for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to a candidate. Political committees not registered with North Carolina are also prohibited from contributing. A registered political committee, other than those exempt political party committees, may contribute four thousand dollars (\$4,000) per election to candidate committees. No lobbyist may make a contribution at any time to a member of the General Assembly or Council of State or a candidate that has been elected or appointed to the General Assembly or Council of State.

State Purchase and Contract: Article 3 of Chapter 143 requires that all contracts in excess of certain "benchmarks" for the purchase of supplies, materials, equipment, other tangible personal property and service contracts must be handled by the Office of Purchase and Contract in the Department of Administration. Contracts

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under the specified benchmark may be handled by the specific department. Most departments have a \$10,000 benchmark, but the Secretary of the Department of Administration has the authority to increase the benchmark to \$25,000 under certain circumstances. The following are some of the State agency contracts that are not subject to Article 3: information technology (Article 3D, Chpt. 147), consultant services (Article 3C, Chpt. 143); architectural, engineering and surveying services (Article 3D, Chpt 143); building contracts (Article 8, Chpt 143); acquisition of real property (Article 6, Chpt. 146) and disposition of real property (Article 7, Chpt. 146).

Bill Analysis (Section 5.1): Part 5 would prohibit an "entity affiliated with a vendor" that has entered into a contract for goods, materials, supplies, or services over \$25,000 with any of the offices or departments headed by a member of the Council of State from making during the term of the contract a contribution to a relevant political campaign. It also would provide that the relevant political campaign cannot **accept contributions** from those individuals during the term of the contract. The prohibition would **not** apply if the contributions from all the entities affiliated with a vendor did not total more than \$1,000 during the term of the contract. A violation of the prohibition would be a Class 2 misdemeanor. The State Board of Elections must adopt procedures it deems necessary to enforce this subsection.

The following terms would be defined.

"Contribution." - Contribution as defined in G.S. 163-278.6 means a advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, made to, or in coordination with, a candidate, and any contract, agreement, or other obligation to make a contribution. Contributions are made during the term of the contract if dated or pledged on or after the 1st day but no later than the last day of the term of the contract, or if the entity affiliated with the vendor pledges to deliver the contribution after the term of the contract while the contract is ongoing.

Contributions are not deemed made under the following conditions:

1. The vendor or affiliated entity discovers the contribution within 2 months of the date of the contribution.
2. The contribution exceeds \$1,000.
3. The vendor or affiliated entity obtains a return of the contribution within 60 calendar days of date of the discovery.

Contributions are accepted during the term of the contract if the relevant political campaign received the contribution on or after the 1st day and not later than the last day of the term of the contract and does not return the contribution within 10 days, or if the political campaign agrees on or after the first day of the term of the contract to receive the contributions after the last day of the term of the contract.

"Entity affiliated with a vendor." – An officer, director, member or manager of the vendor if the vendor is an incorporated business or a limited liability company, a partner or general manager if the vendor is an unincorporated business entity or any political committee of which the vendor is the parent entity as provided in G.S. 163-278.19. Director of a vendor means any director of the vendor whether or not receiving compensation. An advisory director is not a director of a vendor if the advisory director: (i) is not elected by the vendor's shareholders and the vendor is a company or bank; (ii) is not authorized to vote on matters before the Board of Directors; and (iii) provides solely general policy advice to the Board of Directors.

"Office with authority to award contract." –

- (1) Office of the Governor.
- (2) Office of the Lieutenant Governor.
- (3) Department of the Secretary of State.
- (4) Department of State Auditor.
- (5) Department of State Treasurer.
- (6) Department of Public Instruction.
- (7) Department of Justice.
- (8) Department of Agriculture and Consumer Services.
- (9) Department of Labor.
- (10) Department of Insurance.

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"Relevant political campaign." – A candidate for the office with authority to award the contract, the officer holding the office with authority to award the contract, or a political committee controlled by a candidate for or officer holding the office with authority to award the contract.

Effective Date (Section 5.2): Part 5 would become effective January 1, 2012 and applies to contributions made on or after that date.

Part 6: Absentee Ballot Request Flexibility

Current Law: G.S. 163-230.2 requires that a written request for an absentee ballot must be either 1) written entirely by the requestor personally, or 2) on a form generated by the county board of elections and signed by the requestor. A request form may only be issued to the voter seeking an absentee ballot or the voter's near relative or verifiable legal guardian. The requestor may receive assistance in writing from an individual of the requestor's choice if the requestor is unable to complete the request due to disability or illiteracy.

Bill Analysis (Section 6.1): HB 351 would require that a written request for an absentee ballot be signed by the requestor. It would eliminate the requirement the request be personally written entirely by the requestor or made on a form generated by the county board of elections.

Effective Date (Section 6.2): Part 6 would become effective for primaries and elections conducted on or after January 1, 2012.

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