

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Election Code of 1955 to bring the District of Columbia into compliance with the Help America Vote Act of 2002.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Help America Vote Amendment Act of 2004".

Sec. 2. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-1001.02) is amended by adding a new paragraph (22) to read as follows:

“(22) The term “voting system” means:

“(A) The combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment used to:

“(i) Define ballots;

“(ii) Cast and count votes;

“(iii) Report or display elections results; and

“(iv) Maintain and produce a permanent record; and

“(B) The practices and documentation used to:

“(i) Identify system components and versions of components;

“(ii) Test the system during its development and maintenance;

“(iii) Maintain records of system errors and defects;

“(iv) Determine necessary system changes after the initial

qualification of the system; and

“(v) Provide voters with notices, instructions, forms, paper ballots, or other materials.

(b) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

“(a)(1) Accurately maintain a uniform, interactive computerized voter registration list which shall serve as the official voter registration list for all elections in the District, and shall contain the name, registration information, and a unique identifier assigned for every registered voter in the District. The voter registration list shall be administered pursuant to the Help America Vote Act of 2002, approved October 29, 2002 (116 Stat 1666; 42 U.S.C § 15301 *et seq.*) (“Help America Vote Act of 2002”) and pertinent federal and local law, and shall be coordinated with

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other District agency databases;”

(B) Paragraph (10) is amended to read as follows:

“(10) Provide information regarding procedures for voter registration and absentee ballots to absent uniformed services voters and overseas voters in federal elections, accept valid voter registration applications, absentee ballot applications, and absentee ballots including write-in ballots from all of those voters, and comply with the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1873ff *et seq.*)”

(C) Paragraph (13) is repealed.

(2) A new subsections (i) and (j) are added to read as follows:

“(i) The Board shall cause the following information to be posted at each polling place on the day of each election for federal office:

“(1) A sample version of the ballot that will be used for the election;

“(2) The election and the hours during which polling places will be open;

“(3) Instructions on the proper manner of completing a ballot, including a special ballot;

“(4) Instructions for mail-in registrants and first-time voters under section 303(b) of the Help America Vote Act of 2002;

“(5) General information on voting rights under applicable federal and District laws, including the right to cast a special ballot and instructions to contact the appropriate officials if these rights are alleged to have been violated, and;

“(6) General information on federal and District law regarding prohibitions on acts of voter fraud and misrepresentation.

“(j) Not later than 90 days after the date of each regularly scheduled general election for federal office, the Board shall submit to the Mayor a report, in the format established by the Federal Election Assistance Commission, on the number of absentee ballots sent to absent uniformed services voters and overseas voters for the election and the number of ballots which were returned by those voters to the Board. The report shall be transmitted by the Mayor to the Election Assistance Commission, and shall be made available to the general public.”

(c) Section 7 (D.C. Official Code § 1-1001.07) is amended as follows:

(1) A new subsection (a-1) is added to read as follows:

“(a-1)(1) No application for voter registration may be accepted or processed by the Board unless the application includes:

“(A) The driver’s license number of the applicant, or

“(B) The last 4 digits of the social security number of an applicant who has not been issued a current and valid driver’s license.

“(2) If an applicant has not been issued a current and valid driver’s license or a social security number, the Board shall assign the applicant the unique identifier assigned pursuant to section 5(a)(1).”

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “Federal Election Commission” and inserting the phrase “Help America Vote Act of 2002” in its place.

(B) Paragraph (2) is amended as follows:

(i) Add the phrase “shall meet the requirements of the National Voter Registration Act of 1993, approved May 20, 1993 (107 Stat. 77; 42 U.S.C. § 1973 *gg et seq.*) and the Help America Vote Act of 2002,” after the phrase “approved by the Board”.

(ii) Add the word “and” after the phrase “approved by the Board”.

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(iii) Add a sentence to the end to read as follows: “If an applicant fails to properly complete the registration form, the Board’s registrar shall notify the applicant and provide the applicant with an opportunity to complete the form in a timely manner prior to the next election.”

(3) Subsection (c)(1) is amended by adding a new subparagraph (K) to read as follows:

“(K) The Board and the Bureau of Motor Vehicle Services shall match information in their respective databases to enable each agency to verify the accuracy of the information on applications for voter registration.”.

(4) Subsection (g) is amended by adding a new paragraph (2A) to read as follows:

“(2A) The Board shall process faxed postcard applications from persons eligible to vote absentee in federal elections in the District of Columbia pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1973ff *et seq.*), which are faxed not later than the 30th day preceding any election.”.

(5) Subsection (i) is amended by adding a new paragraph (6) to read as follows:

“(6) Each individual who has not previously voted in a federal election in the District and who registers to vote by mail shall present, either at the time of registration, at the polling place, or when voting by mail, a copy of a current and valid government photo identification or a copy of a current utility bill, bank statement, government check, or pay check that shows the name and address of the voter. Individuals who fail to present this identification shall vote by special ballot. This paragraph shall not apply to:

“(A)(i) Individuals whose registration application includes a driver’s license number or at least the last 4 digits of the individual’s social security number, and matches an existing identification record bearing the same number, name, and date of birth as the application; or

“(ii) Individuals entitled to vote otherwise than in person under federal law.”.

(d) Section 9 (D.C. Official Code § 1-1001.09) is amended as follows:

(1) A new subsection (d-2) is added to read as follows:

“(d-2) Any individual who votes in a federal election as a result of a court order or other order that extends the time established for closing the polls by a District law in effect 10 days before the date of that election shall vote in that election by casting a special ballot. Any ballot cast under this subsection shall be separated and held apart from other special ballots not affected by the order.”.

(2) Subsection (e) is amended as follows:

(A) Paragraph (2) is amended to read as follows:

“(2) Not later than the Tuesday following the election, the Board shall maintain a toll-free telephone service during regular business hours for any person who has voted by a challenged or special ballot to learn the Board's preliminary decision whether to count or reject his or her ballot and the reason for each decision.”.

(B) Paragraph (3) is amended to read as follows:

“(3) If the Board has made a preliminary determination that a challenged ballot shall not be counted, it shall afford the challenged voter an opportunity to contest that determination in a hearing before the Board. The hearings authorized pursuant to this paragraph shall take place not earlier than 8 days and not later than 10 days after that election. The Board shall inform the voter of the date scheduled for the hearing and the manner by which he or she may learn the Board's final decision to count or reject the voter's challenged ballot. The notice

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shall be in writing and shall be provided to the voter at the time of voting. At the hearing, the voter may appear and testify. The Board shall make a final determination within 2 days after the date of the hearing. The voter may appeal the decision of the Board to the Superior Court of the District of Columbia within 3 days after the date of the Board's decision. The decision of the court shall be final and not appealable.”.

(4) A new subsection (k) is added to read as follows:

“(k) Each voting system used in an election in the District shall meet or exceed the voting system standards set forth in the Help America Vote Act of 2002. The Board may implement additional standards provided they do not conflict with those set forth in the Help America Vote Act of 2002.”.

(e) Section 10 (b)(1) (D.C. Official Code § 1-1001.10(b)(1)) is amended by adding the phrase “, except in instances when the time established for closing the polls is extended pursuant to a federal or District court order or any other order.” after the phrase “7:00 a.m. to 8:00 p.m.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. This act shall take effect following approval by the Mayor (or in event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia