

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 351 (First Edition)

SHORT TITLE: Restore Confidence in Government.

SPONSOR(S): Representatives T. Moore, Lewis, and Killian

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>
REVENUES					
EXPENDITURES*					
<u>General Fund</u>					
State Board of Elections	\$315,242	\$64,743	\$64,705	\$64,378	\$64,391
Special Reserve – County	\$500,000				
<u>Highway Fund</u>					
DMV	\$2,450,341	\$311,784	\$311,784	\$311,784	\$311,784
<u>County</u>					
County Board of Elections	Costs Cannot Be Determined: See Assumptions and Methodology				
County Jails	Costs Cannot Be Determined: See Assumptions and Methodology				
POSITIONS (cumulative):					
* The maximum amount of eligible voters are assumed to access the State Board of Elections and DMV services. Thus, totaling expenditures would not be accurate. See Assumptions and Methodology.					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: State Board of Elections, county board of elections, Division of Motor Vehicles.					

EFFECTIVE DATE:

Section 1.1 through 1.7 are effective for the 2012 statewide primary if the county is not subject to Section 5 of the Voting Rights Act of 1965. For those counties subject to Section 5, these sections are effective for the 2012 statewide primary or when this act is pre-cleared and approved under the Voting Rights Act.

Sections 1.8 through 1.10 are effective July 1, 2011.

Section 2 is effective January 1, 2012.

Section 3 is effective when the bill becomes law.

Section 4 is effective to completed voter registration applications on or after January 1, 2012.

Section 5 is effective January 1, 2012

Section 6 is effective for primaries and elections conducted on or after January 1, 2012.

BILL SUMMARY:

Section 1: G.S. 163-166.12 is amended to require every individual seeking to vote in person to present valid photo identification to a local election official before voting at the voting place. A provision requiring persons who registered by mail to present identification under certain circumstances is deleted. G.S. 163-166.12(a1) is added to define a valid photo identification as one of the following items, provided it contains a photograph of the registered voter: (1) a NC driver's license issued under G.S. Chapter 20; (2) a special identification card for non-operators issued under G.S. 20-37.7; (3) a valid identification card issued by any state or federal entity authorized to issue personal identification; (4) a valid U.S. passport; (5) a valid employee identification card issued by any state, local government, or federal entity; (6) a valid U.S. military identification card; (7) a valid tribal identification card; or (8) a valid NC voter identification card issued under proposed G.S. 163-166.13. Conforming changes are also made.

Section 1.2: G.S. 163-166.13 is added to require each county board of elections to accept applications for and issue North Carolina voter identification cards to registered State voters. The cards are valid only for voter identification purposes. County boards of elections are prohibited from charging or collecting any fee associated with the voter identification card. The NC voter identification card is available only to those persons that are without a valid unexpired driver's license or special identification card for non-operators. The card is required to be captioned "NORTH CAROLINA VOTER IDENTIFICATION CARD" and to contain a prominent statement that the card is valid only as identification for voting purposes. The card must be laminated, contain a digital color photograph of the applicant, and include the applicant's full legal name, address of residence, birth date, date of card issuance, sex, height, weight, eye color, county where card was issued, and any other information required by the State Board of Elections (SBE). The application for a NC voter identification card must elicit the information for inclusion on the card, and the applicant must sign the document. The county board of election is required to verify the following before issuing a voter identification card: (1) a photo identity document or a non-photo

identity document if it includes the person's name; (2) evidence that the person is registered to vote in NC; and (3) documentation of the person's name and residence address. Voters that are eligible for the identification card who move may receive a new card, free of charge. Voters are required to surrender identification cards upon moving. The State Board of Elections is required to provide each county with all necessary equipment, supplies, and training for the production of the voter identification cards and is responsible for their maintenance.

Section 1.3: G.S. 163-82.6A(b) is amended to require a voter to present valid photo identification, as defined, in order to register in person and then vote at one-stop voting sites. The photo identification requirement is separate from the requirement to provide proof of residence during in-person registration. A person may vote a provisional ballot if the person fails to present the required identification. Conforming changes are made to relevant General Statutes.

Section 1.4 and 1.5: Additional conforming changes are made to G.S. 163-166.7(a) (requiring a person to state current name and address and to present valid photo identification upon entering the voting site) and 163-227.2(b) (requiring a person to state current name and address and to present valid photo identification upon entering an early voting site).

Section 1.6: G.S. 163-182.1A is added to allow a voter who casts a provisional ballot as a result of the voter's inability or refusal to provide proof of identification to personally appear at the county board of elections office before the conclusion of the election canvass in that county in order to request the provisional ballot be counted. The county board of elections is required to count the provisional ballot, unless disqualified for some other reason, if the voter both: (1) provides valid photo identification and (2) executes an affidavit affirming, under penalty of perjury, that the individual personally appeared to vote and cast the provisional ballot on that date. Voters with a sincerely held religious objection to being photographed are required to submit an affidavit affirming the objection and may vote without photo identification. The county board of elections is required to note on the provisional ballot envelope that the voter has provided valid photo identification. The county board of elections is required to determine any other reason for the cast provisional ballot before ruling on the ballot's validity in a situation where the county board of elections determines that a voter cast a provisional ballot for a cause other than the voter's inability or declination to provide photo identification.

Section 1.7: G.S. 163-87 is amended to also allow any registered voter of the precinct to challenge a voter who does not present proof of identification. An observer appointed under G.S. 163-45 may also enter challenges against voters in the precinct regardless of the observer's place of residence.

Section 1.8: G.S. 20-37.7(d) is amended to clarify that the special identification card issued under the statute by the Division of Motor Vehicles does not include a fee if the state resident is eligible to vote in NC but does not have valid photo identification. Technical changes are also made.

Section 1.9: Provides for public education about the photo identification requirement by counties and the State Board of Elections, as indicated. Appropriates \$600,000 from the General Fund for Fiscal Year 2011-12 to a special reserve to fund the public education campaign and the issuance of NC voter identification cards, allocated as follows: (1) \$100,000 to the State Board of Elections;

(2) \$100,000 allocated equally to each county board of elections; (3) \$200,000 to county boards of election in proportion to the number of the county's registered voters; and (4) \$200,000 to county boards of election in counties covered by Section 5 of the Voting Rights Act of 1965, in proportion to the number of the county's registered voters.

Sections 1.10(a), 1.10(b), 1.10(c), and 1.10(d): The act also allows the use of funds under Title I and Title II of the Help America Vote Act and unexpended funds in the NC Voter-Owned Elections Fund to fund the public education campaign and the issuance of NC voter identification cards. Remaining funds under the Election Assistance for Individuals with Disabilities provisions of the Help America Vote Act are also allowed to fund the public education campaign and the issuance of NC voter identification cards to eligible persons. Funds from the surcharge on attorney membership fees may also fund the judicial elections component of the public education campaign.

Sections 1.11(a) and 1.11(b): The above provisions of the act, requiring and relating to the new photo identification requirement, become effective in counties not subject to Section 5 of the Voting Rights Act of 1965 (requiring preclearance of election law changes in some counties) beginning with the 2012 statewide primary, and become effective in any county covered by Section 5 beginning with the later of the 2012 statewide primary or the date the act is precleared or approved under the Voting Rights Act of 1965.

Section 2.1: G.S. 163-278.11A (duty of candidate) and 163-278.11B (duty of treasurer) are added to require a candidate or treasurer to take immediate action to correct the violation, upon actual notice of a violation under Article 22A of G.S. Chapter 163 (regulating political campaign contributions and expenditures) which may result in a criminal or civil penalty to a candidate or candidate campaign committee.

Section 2.2 and 2.3: A new subsection (d1) is added to G.S. 163-278.34 to state that a candidate will be jointly and severally liable for a civil penalty assessed by the State Board of Elections against a candidate campaign committee if the candidate had actual notice of the violation at the time the violation occurred and failed to correct the violation. Section 2 becomes effective July 1, 2012 and civil penalties are assessed for any violation occurring on or after January 1, 2012.

Sections 3.1, 3.2, and 3.3: G.S. 163-19 is amended to provide that the term of office for the State Board of Elections chair is two years, beginning on May 1 of each odd-numbered year. In the case of a vacancy, a new chair is to be elected to serve the remainder of an unexpired term. Persons are prohibited from being elected as chair for more than two terms. Cumulative service as chair for more than two years prior to May 1, 2009, is considered one term. The State Board of Elections is to elect a new chair for a two-year term beginning May 1, 2011. This section is effective when it becomes law.

Sections 4.1, 4.2, and 4.3: G.S. 163-82.25A is added to prohibit any person who employs or contracts with another to register voters or assist voters with registration forms from paying that person per voter registration application completed. Persons are prohibited from accepting a payment for such services. A violation of this section is a Class 2 misdemeanor. Conforming

changes are made to G.S. 163-274. The section applies to voter registration applications completed on or after January 1, 2012.

Section 5.1 and 5.2: G.S. 163-278.13D is added to prohibit any entity affiliated with a vendor that has a contract in excess of \$25,000 with any principal office or department listed under G.S. 143A-11 and subject to Article 3 of G.S. Chapter 143 (contract requirements) from making a contribution to a relevant political campaign during the contract’s term. Campaigns are prohibited from knowingly accepting a contribution during the contract. The prohibition does not apply if contributions by all entities affiliated with the vendor to the relevant political campaign during the contract’s term do not exceed \$1,000. Entity affiliated with a vendor is defined as an officer, director, member, manager of the vendor, partner, general manager, or political committee which the vendor is the parent company. Relevant campaign is defined as candidate for an office with the authority to award a contract, officer holding the office, or political committee controlled the candidate or officer holding the office. The State Board of Elections is required to adopt reporting procedures necessary to enforce the law. A violation of this section is a Class 2 misdemeanor. This section applies to contributions made on or after January 1, 2012.

Sections 6.1 and 6.2: G.S 163-230.2 is amended stating that a written request for an absentee ballot is valid only if it is signed by the requester. All other conditions placed on the absentee ballot request are deleted. This section is effective with respect to primaries and elections conducted on or after January 1, 2012.

ASSUMPTIONS AND METHODOLOGY:

Using estimates provided from the State Board of Elections (SBE) and the Divisions of Motor Vehicles (DMV), an estimate of registered voters without a driver’s license or special non-operator’s identification has been obtained. The DMV issues drivers licenses under G.S. 20, Article 2 and issues special non-operator’s identification cards under G.S. 20, Article 2b. In February, DMV compared information provided from the State Board of Elections regarding the registered voters in the State. DMV and State Board of Elections analyzed the data for matches on name, birth date, and Social Security number (SSN) records. The information is as follows:

Table 1: Potential Number of Voters without a DMV Issued Form of Identification

Total North Carolina Registered Voters	6,104,976
Less: DMV and SBE Name Matched Record	(4,309,118)
Less: DMV and SBE Name and SSN Match	(192,794)
Less: DMV and SBE Name and Birth Date Match	(597,483)
Less: Potential Matches ¹	(114,417)
Less: Non-Match Verified ²	(5,627)

¹ There were voter records that potentially matched DMV information (over 99% match on birth date or driver license) but there is some variation in the name, date of birth, or driver’s license numbers across the databases that prevent the SBE from confirming the exact match. Additional research by DMV and SBE would be required to confirm an exact match.

² There were 334,651 voter records with a driver’s license number or voter record that did not match any information in the data provided by DMV. DMV analyzed the data and determined that 5,627 of this number had a valid driver’s license.

Total without a Valid Driver's License or Special Non-Operators Identification Card	885,537
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No estimate is available regarding the number of voters without DMV-issued identification but who possess an alternative form of identification allowed under Section 1.1 of the bill. Thus, the figure presented in Table 1 should be considered a high estimate of potential registered voters who are eligible for a voter identification card. It is assumed that all eligible voters would obtain a voter identification card each year.

Furthermore, Section 1.2 of the bill allows for a free voter identification card or DMV-issued special non-operators card should they move. As individuals move into the State, they could be eligible for a voter identification card or special non-operators identification card. Thus, after FY 2012, an additional pool of voters would be eligible for either a NC voter identification card or DMV issued special non-operators identification card. Table 2 shows the number of new registrations and address changes for the past seven calendar years. Based on the population of current voters without a DMV-issued identification card, it is expected that approximately 14.51% of these new voters would not have recognized form of photo identification (885,537 divided by 6,104,976).³ Using these figures, 120,380 voters may request a new form of voter identification after the initial amount of voters without a valid form of identification.

Table 2: Voters Requesting a New Registration or Change of Address

Year	Total Voters with a New or Address Changes	At 14.51% of Total
2004	913,007	132,433
2005	490,891	71,205
2006	594,112	86,177
2007	626,775	90,915
2008	1,971,218	285,928
2009	508,960	73,825
2010	704,424	102,178
Average	829,912	120,380

Under Section 1.2 and 1.8, voters without a form of photo identification allowed in Section 1.1 of the bill are allowed the option of obtaining a free State Board of Elections funded NC voter identification card or a free DMV-issued special non-operator's identification card. However, it is unknown at this time what option voters will choose. When reviewing the costs to the State Board of Elections and DMV, it is assumed that the maximum number of voters allowable uses each service. As such, each method is mutually exclusive and should not be totaled.

Section 1.2 (State Board of Elections: NC Voter Identification Card)

The State Board of Elections is required to provide each county board of elections with the equipment, supplies, training, and maintenance required to provide the NC voter identification

³ The State Board of Elections assumed that 25 percent of such voters would require a new identification card. Fiscal Research did not concur with this figure. The State Board of Elections figure accounts for variations in the geographic location of voters without a photo identification and new college students.

card. The State Board of Elections provided a cost estimate from Alpha Card Systems. The cost information is provided below:

Table 3: Cost Information for NC Voter Identification Card

Item	Cost
Two Sided ID Card Printer for 100 Counties	\$179,500
AlphaCard Enterprise ID Software Package for 100 Counties	\$95,000
6 Panel Dye Film	\$110.50 per 250 Cards
ID Cards	\$39.95 per 500 Cards
Logitech Webcam for 100 Counties	\$4,900
Cleaning Kit for 100 Counties	\$2,175

Additionally, the State Board of Elections reports that additional software would have to be purchased for the Statewide Elections Information Management System (SEIMS) at \$100,000. Additional costs to SEIMS would result from the additional information, such as photographs, required for the issuance of the NC voter identification card.

The total estimated cost of the NC voter identification card is presented below. Figures were inflated based on inflation guidelines in the 2011 Legislative Fiscal Note Manual. No additional costs for training were assumed. However, the quote provided by Alpha Card Systems included one hour of free training per system and free customer support.

Table 4: Total Cost for NC Voter Identification Card

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Equipment	\$186,575				
Software	\$195,000				
Badge Cost	\$462,162	\$64,743	\$64,705	\$64,378	\$64,391
Total	\$843,737	\$64,743	\$64,705	\$64,378	\$64,391

The State Board of Elections finds that additional personnel may be required at county offices to issue identification cards. However, the additional costs cannot be determined at this time.

Section 1.8 (Division of Motor Vehicles: Special Non-Operators Identification Card)

Section 1.8 allows an eligible voter without valid photo identification to obtain a special non-operators identification card from the Division of Motor Vehicles (DMV) and waives the \$10 fee set by G.S. 20-14. This analysis assumes that registered voters seeking DMV-issued identification are prompted by the photo identification requirement for voting, and therefore do not seek identification cards in lieu of regular ID issuance or license renewal. Accordingly, this analysis does not address potential foregone fee collections.

Vendor compensation for license/identification card production in FY 2011-12 is \$2.12 per issued card, as defined by the Secure Driver License System contract. Additionally, DMV estimates per card postage and delivery costs of \$.47 for the central issuance of cards. Since voter behavior and the potential use of alternate forms of identification are indeterminate at this time, the scenario included below represents the maximum per card production cost if all eligible voters without

photo identification seek DMV-issued identification. However, given the alternate authorized forms of identification, Fiscal Research does not expect DMV to incur costs at this level. Furthermore, Fiscal Research expects that existing central issuance and driver license field office staff will accommodate requisite identity and residency document verification. Because of the potential influx in identification card requests, longer wait times at DMV field offices and central issuance backlogs may be experienced.

Table 5: DMV Special Non-Operator's Identification Card Costs

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Identification Card and Delivery	\$2,293,541	\$311,784	\$311,784	\$311,784	\$311,784
IT Costs	\$ 156,800				
<i>SADLS:</i> (890 hrs. @ \$65/hr.; 870 hrs. @ \$85/hr.)	\$131,800				
<i>NGDLS:</i> (250 hrs. @ \$100/hr.)	\$25,000				
Total	\$2,450,341	\$311,784	\$311,784	\$311,784	\$311,784

According to DMV, verification of whether a person holds a valid driver license or special identification card, as proposed by G.S. 163-166.13(b) for issuance of a NC voter identification card, will require development of a real-time interface between the State Board of Elections (SBOE) database and DMV's State Automated Driver License System (SADLS). DMV could not provide an estimated completion date for development of the interface for both the current application and the New Generation Driver License System (NGDLS) under implementation. Per the January 1, 2012 effective date, interfaces must be developed for each platform. Additionally, a "code freeze" may be imposed for NGDLS implementation, thereby restricting the number of changes that can be implemented. Consequently, integration of the SBOE interface into the NCGLS may extend beyond the January 2012 timeframe. DMV projects a total of 1760 hours of contractual labor for SADLS adjustments and 250 hours for NGDLS adjustments. Total contractual programming costs are estimated at \$156,800, as shown in Table 5.

Sections 1.3-1.7:

Section 1.3 of the bill is not believed to add any additional cost as additional information is required to the existing process for voting and registering at the one-stop voting sites set out in G.S. 163-82.6A.

Fiscal Research does not believe that any additional costs will be associated with Sections 1.4 and 1.5 of the bill. Voters will be required to provide valid photo identification as well as provide the existing requirement of stating their name and residence per G.S. 163-166.7(a) and G.S. 163-227.2(b).

Section 1.6 of this bill adds an additional section to the General Statutes pertaining to the counting of provisional ballots. No estimate of costs associated with this section is available; however there may be additional time for the county board of elections as a result of reviewing the provisional ballots. However, county boards of elections are only compensated per meeting as stated in G.S.

163-32. It is unknown if an additional meetings would be required to handle additional provisional ballots.

Cost information is not available for Section 1.7 of the bill. However, additional costs related to increased challenges during elections as a result of photo identification requirements may occur. The compensation of election officials are set in G.S. 163-46.

Sections 1.9-1.10:

Section 1.9, subsections 1-7 are not assumed to create additional costs for the State or county governments. Communications described under these sections are undertaken currently by the State and county governments, thus additional costs should be nominal, if any. Under current law (G.S. 163-82.8), county boards of elections may issue voter registration cards with the approval of the board of county commissioners. This bill requires all county boards of elections to issue voter registration cards. According to the State Board of Elections, all county boards of elections currently issue voter registration cards; therefore no additional costs are anticipated as a result of this new requirement. Only counties that maintain a board of elections website are required to post additional information. Should any costs occur, there is an additional appropriation in this bill.

Section 1.9 also appropriates \$600,000 for FY 2011-12 to cover the cost of advertisements defined in the subsection. Under this bill, \$500,000 is allocated to the county board of elections for the purposes of voter education. No additional funding for advertising was assumed to be required by the State Board of Elections or Fiscal Research. As the State Board of Elections is responsible for supplying the equipment necessary to issue the NC voter identification card, the \$100,000 appropriated to them is assumed to reduce the FY 2012 cost of issuing the cards. No additional funding is provided to the DMV, and thus their costs are not reduced. The appropriation is taken into account in the analysis presented on the summary page, under “Special Reserve - County.”

Sections 1.10(a) and 1.10(b) of the bill allows the use of Help America Vote Act (HAVA) funds to fund Section 9 of the bill, including funds from the Election Assistance for Individuals with Disabilities (EAID). As of March 2011, the State has funds from the Help America Vote Act that are expected to be available for FY 2012. The funding details are as follows:

Table 6: FY 2012 HAVA Fund Availability

Program	Funds
HAVA Title I, Section 101	\$1,755,929.71
HAVA Title II	\$4,407,664.92
EAID-HAVA	\$615,075.21
Total	\$6,778,669.75

HAVA funds are to be used, generally, for the improvement of federal elections. It is unknown if HAVA funds could be used for picture identification efforts relating to federal elections. Funds for HAVA may be used for education of election workers and voters, specifically HAVA Title I, Section 101 funds; however their use for efforts relating to picture identification is uncertain. The State Board of Elections expects all HAVA funds to be expended by the end FY 2013 and projects that some portion of them will be used for education and training of election officials. An amendment to the “State HAVA Plan” may be required for additional outreach to be funded out of

HAVA funds. Currently the State Board of Elections is planning to expend the remaining HAVA funds on general election coding, replacing various servers, software upgrades, and to replace the SEIMS Infrastructure. Given the uncertainty of HAVA funding for this purpose, such funds are not included in the summary fiscal impact.

Section 1.10(c) of this bill allows available funds from the North Carolina Voter-Owned Elections Fund to be used to fund Section 9 of this bill and to issue voter identification cards. The current cash balance of this fund is \$428,495. The costs of this bill reflect the transfer of this cash balance. For FY 2012 cost estimates on the first page, costs are adjusted down to reflect the use of this funding.

Section 1.10(d) redirects the \$50 annual attorney membership fee authorized in G.S. 84-34 that funds a portion of the North Carolina Voter Owned Elections Fund to fund activities in section 9 as they relate to judicial elections. However, based on the assumption that no additional advertisements are required, the existing fee would not be used to support section 9. Additionally, as this is an existing fee, no new revenues are generated. According to the North Carolina State Bar, there are 24,217 active North Carolina licensed attorneys. Over the last ten years, according to data provided by the State Bar, there has been an annual growth rate of 2.94% of new North Carolina licensed attorneys. Thus, expected revenues are as follows for the fund:

Table 7: \$50 Annual Attorney Membership Fee Revenues

Fiscal Year	Revenue
FY 2012	\$1,210,850
FY 2013	\$1,246,449
FY 2014	\$1,283,095
FY 2015	\$1,320,818
FY 2016	\$1,359,650

Parts 2 through 6:

No additional costs for Sections 2 through 6 are assumed by the State Board of Elections. Fiscal Research concurs with this analysis.

Section 4.1 and 5.1 state that violations of those sections are to be Class 2 misdemeanors. According to the Sentencing and Policy Advisory Commission, in FY 2009-10, 25% of Class 2 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 2 convictions was 10 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the State prison population. The impact on local jail populations is not known.

SOURCES OF DATA: State Board of Elections, Division of Motor Vehicles, North Carolina State Bar, Sentencing and Policy Advisory Commission.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910

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DATE: March 22, 2011



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