HOUSE BILL 7
By Maggart

SENATE BILL 16

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 7, Part 1, relative to presenting photograph identification prior to voting.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-7-112(a)(1), is amended by adding the following language after the first sentence of the subdivision:

In addition, the voter shall present to the precinct registrar one (1) form of identification that bears the name and photograph of the voter; provided, however, a person voting in accordance with § 2-6-401(a) and (b) or § 2-6-601 shall not be required to show an identification with a photograph of the voter.

SECTION 2. Tennessee Code Annotated, Section 2-7-112(a)(1)(B), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(B) To verify the voter's identification, the voter shall supply evidence of identification specified in subsection (c).

SECTION 3. Tennessee Code Annotated, Section 2-7-112 (a)(1)(C), is amended by deleting the language "comparison of the signature and other" and substituting instead the language "verification of".

SECTION 4. Tennessee Code Annotated, Section 2-7-112, is further amended by adding the following language after the last sentence of subdivision (a)(3)(A):

If a voter is unable to present evidence of identification, the voter shall be entitled to vote a provisional ballot pursuant to subsection (e) unless the voter is eligible to vote pursuant to subsection (f).

SECTION 5. Tennessee Code Annotated, Section 2-7-112, is further amended by deleting subdivision (a)(1)(E) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 2-7-112(a)(3)(C)(i) is amended by deleting the first sentence in the subdivision and substituting instead the following language:

The counting of all provisional ballots must be completed within four (4) business days of the close of polls on election day.

SECTION 7. Tennessee Code Annotated, Section 2-7-112, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) For purposes of verifying the person's identification on the application for ballot, "evidence of identification" shall be:

(1) A Tennessee driver license;

(2) A valid identification card issued by a branch, department, agency or entity of the state of Tennessee, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the voter;

(3) A valid identification card issued pursuant to § 55-50-336;

(4) A valid United States passport;

(5) A valid employee identification card issued by a branch, department, agency or entity of the state of Tennessee, any other state, or the United States authorized by law to issue employee identification, provided that such identification card contains a photograph of the voter; or

(6) A valid United States military identification card, provided that such identification card contains a photograph of the voter.

SECTION 8. Tennessee Code Annotated, Section 2-7-112, is further amended by adding the following new subsections thereto:

(e) A person whose name appears on the computerized voter signature list or the electronic poll book and is unable to present valid evidence of identification specified in subsection (c) shall be entitled to vote a provisional ballot under the procedures of this subsection (e) unless such person is eligible to vote pursuant to subsection (f).

(1) The voter shall complete an application for ballot pursuant to this section, and if the voter has changed residence, or the voter's registration is inactive, the voter shall complete a fail safe affidavit. The voter must vote in the precinct in which the person is a resident. The voter shall also be given a written statement that specifies the voter has until the second business day after the election to provide evidence of identification. The voter shall sign such statement and return it along with the application of ballot.

(2) Upon completion of the application for ballot and if applicable, the presentation of a fail safe affidavit in the voter's correct polling location, the voter shall be given a provisional ballot and provisional ballot envelope. The provisional ballot envelope shall be a different color from the absentee ballot envelopes and shall bear a detachable slip that contains the provisional ballot affidavit. The provisional ballot affidavit shall contain the voter's printed name, social security number, date of birth, signature and any other identifying information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent voting. The application for ballot shall be deposited in the provisional ballot box.

(3) Pursuant to § 2-7-114(b) and (c), the voter shall vote the provisional ballot. Any county utilizing optical scan technology shall process their ballots pursuant to rules promulgated by the state coordinator of elections. Section 2-7-116 shall govern any voter needing assistance.

(4) Along with the applications for ballot completed by provisional voters, all provisional ballots that have been cast shall remain sealed and locked in the provisional ballot box for return to the county election commission at the close of polls.

(5) Provisional ballots cast pursuant to this subsection (e) shall only be counted if the voter provides evidence of identification specified in subsection (c) to the administrator of elections or the administrator's designee by the close of business on the second business day after the election. Evidence of identification must be presented at the voter's county election commission office or another location designated by the county election commission.

(6) Upon the voter presenting valid evidence of identification, set forth in subsection (c), to the administrator of elections or the administrator's designee, the voter shall sign an affidavit, prescribed by the coordinator of elections, containing the voter's name, signature and any other information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent voting. The affidavit shall also contain a statement affirming under the penalty of perjury that the voter is the same individual that cast the provisional ballot. A photocopy of the evidence of identification shall be attached to the affidavit.

(7) The central provisional ballot counting board shall compare the information on the provisional affidavit envelope to the information set forth in subdivision (e)(6). If it is determined that the person provided proper evidence of identification, then the central provisional counting board shall remove the provisional ballot affidavit from the provisional ballot envelope and place the sealed ballot with all provisional ballots to be counted.

(8) If the voter does not provide valid evidence of identification in a timely manner, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but shall be marked “Rejected” across its face with the reason for rejection written on it and signed by at least two (2) members of the central provisional ballot counting board. The board members signing the provisional ballot affidavit may not be of the same political party. It shall then be placed in the container of rejected ballots. The administrator shall notify the voters by mail of the rejection and the reason for such rejection.

(9) The central provisional ballot counting board shall have until the close of business on the fourth business day after the election to count any provisional ballot cast pursuant to this subsection (e). If the county election commission determines that the counting of provisional ballots cannot be completed by the designated time, the state coordinator of elections may grant the county an extension of time and designate a time that shall be no later than the second Monday after the election.

(f) A voter who is indigent and unable to obtain proof of identification without payment of a fee or who has a religious objection to being photographed shall be required to execute an affidavit of identity on a form provided by the county election commission and then shall be allowed to vote. The affidavit shall state that:

(1) The person executing the affidavit is the same individual who is casting the ballot; and

(2) The affiant is indigent and unable to obtain proof of identification without paying a fee or has a religious objection to being photographed.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect January 1, 2012, the public welfare requiring it.