

House File 95 - Reprinted

HOUSE FILE 95
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HF 8)

(As Amended and Passed by the House January 27, 2011)

A BILL FOR

1 An Act establishing a requirement for voters to provide
2 certain identification when voting in person, providing for
3 properly related matters, and including effective date and
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 43.49, subsection 1, unnumbered
2 paragraph 1, Code 2011, is amended to read as follows:

3 On the ~~Monday or~~ Tuesday following the primary election, the
4 board of supervisors shall meet, open, and canvass the returns
5 from each voting precinct in the county, and make abstracts
6 thereof, stating the following:

7 Sec. 2. Section 48A.7A, subsection 1, paragraph a, Code
8 2011, is amended to read as follows:

9 a. A person who is eligible to register to vote and to vote
10 may register on election day by appearing in person at the
11 polling place for the precinct in which the individual resides
12 and completing a voter registration application, making written
13 oath, and providing proof of identity and ~~residence~~ proof of
14 residence pursuant to paragraph "b".

15 Sec. 3. Section 48A.7A, subsection 1, paragraph b, Code
16 2011, is amended to read as follows:

17 b. (1) For purposes of this section, a person may establish
18 ~~identity and residence by presenting to the appropriate~~
19 ~~precinct election official a current and valid Iowa driver's~~
20 ~~license or Iowa nonoperator's identification card or by~~
21 ~~presenting any of the following current and valid forms of~~
22 ~~identification if such identification contains the person's~~
23 ~~photograph and a validity expiration date:~~ by showing proof of
24 identification as required in section 49.77, subsection 3.

25 ~~(a) An out-of-state driver's license or nonoperator's~~
26 ~~identification card.~~

27 ~~(b) A United States passport.~~

28 ~~(c) A United States military identification card.~~

29 ~~(d) An identification card issued by an employer.~~

30 ~~(e) A student identification card issued by an Iowa high~~
31 ~~school or an Iowa postsecondary educational institution.~~

32 (2) ~~If the photographic identification presented does not~~
33 ~~contain the person's current address in the precinct,~~ For
34 purposes of this section, a person may establish residence
35 using proof of identification presented pursuant to section

1 49.77, subsection 3, if the proof of identification contains
2 the person's current address in the precinct. If the proof of
3 identification does not contain the person's current address
4 in the precinct, the person shall also present one of the
5 following documents that shows the person's name and current
6 address in the precinct:

- 7 (a) Residential lease.
- 8 (b) Property tax statement.
- 9 (c) Utility bill.
- 10 (d) Bank statement.
- 11 (e) Paycheck.
- 12 (f) Government check.
- 13 (g) Other government document.

14 Sec. 4. Section 48A.7A, subsection 1, paragraph c, Code
15 2011, is amended by striking the paragraph.

16 Sec. 5. Section 48A.7A, subsections 2 and 3, Code 2011, are
17 amended to read as follows:

18 2. The oath required in subsection 1, paragraph "a", and in
19 ~~paragraph "c", if applicable,~~ shall be attached to the voter
20 registration application.

21 3. At any time before election day, and after the deadline
22 for registration in section 48A.9, a person who appears in
23 person at the commissioner's office or at a satellite absentee
24 voting station or whose ballot is delivered to a health care
25 facility pursuant to section 53.22 may register to vote and
26 vote an absentee ballot by following the procedure in this
27 section for registering to vote on election day. A person who
28 wishes to vote in person at the polling place on election day
29 and who has not registered to vote before the deadline for
30 registering in section 48A.9, is required to register to vote
31 at the polling place on election day following the procedure
32 in this section. However, the person may complete the voter
33 registration application at the commissioner's office and,
34 after the commissioner has reviewed the completed application,
35 may present the application to the appropriate precinct

1 election official along with proof of ~~identity and residency~~
2 identification and proof of residence.

3 Sec. 6. Section 48A.7A, subsection 4, paragraph b, Code
4 2011, is amended by striking the paragraph.

5 Sec. 7. Section 48A.8, subsection 2, unnumbered paragraph
6 1, Code 2011, is amended to read as follows:

7 An eligible elector who registers by mail and who has
8 not previously voted in an election for federal office in
9 the county of registration shall be required to provide
10 additional identification documents when voting for the first
11 time in the county, unless the registrant provided on the
12 registration form the registrant's Iowa driver's license
13 number, or the registrant's Iowa nonoperator's identification
14 card number, or the last four numerals of the registrant's
15 social security number and the driver's license, nonoperator's
16 identification, or partial social security number matches
17 an existing state or federal identification record with the
18 same number, name, and date of birth. If the registrant
19 is required to show additional identification under this
20 subsection and votes in person at the polls, or by absentee
21 ballot at the commissioner's office or at a satellite voting
22 station, the registrant shall provide a current and valid
23 photo identification card, or shall present to the appropriate
24 election official one of the following current documents that
25 shows the name and address of the registrant:

26 Sec. 8. Section 48A.8, subsection 4, Code 2011, is amended
27 to read as follows:

28 4. A registrant under subsection 2 who is required to
29 present additional identification when casting a ballot in
30 person shall be permitted to vote a provisional ballot if the
31 voter does not provide the required additional identification
32 documents pursuant to subsection 2. If a voter who is required
33 to present such additional identification when casting a ballot
34 votes an absentee ballot by mail, the ballot returned by the
35 voter shall be considered a provisional ballot pursuant to

1 sections 49.81 and 53.31.

2 Sec. 9. Section 48A.27, subsection 4, paragraph c,
3 subparagraph (2), Code 2011, is amended to read as follows:

4 (2) The notice shall contain a statement in substantially
5 the following form:

6 Information received from the United States postal service
7 indicates that you are no longer a resident of, and therefore
8 not eligible to vote in (name of county) County, Iowa. If this
9 information is not correct, and you still live in (name of
10 county) County, please complete and mail the attached postage
11 paid card at least ten days before the primary or general
12 election and at least eleven days before any other election at
13 which you wish to vote. If the information is correct and you
14 have moved, please contact a local official in your new area
15 for assistance in registering there. ~~If you do not mail in~~
16 ~~the card, you may be required to show identification before~~
17 ~~being allowed to vote in (name of county) County.~~ If you do not
18 return the card, and you do not vote in an election in (name
19 of county) County, Iowa, on or before (date of second general
20 election following the date of the notice) your name will be
21 removed from the list of voters in that county.

22 Sec. 10. Section 48A.29, subsection 1, paragraph b, Code
23 2011, is amended to read as follows:

24 b. The notice shall contain a statement in substantially the
25 following form:

26 Information received from the United States postal service
27 indicates that you are no longer a resident of (residence
28 address) in (name of county) County, Iowa. If this information
29 is not correct, and you still live in (name of county) County,
30 please complete and mail the attached postage paid card at
31 least ten days before the primary or general election and at
32 least eleven days before any other election at which you wish
33 to vote. If the information is correct, and you have moved,
34 please contact a local official in your new area for assistance
35 in registering there. ~~If you do not mail in the card, you may~~

1 ~~be required to show identification before being allowed to vote~~
2 ~~in (name of county) County.~~ If you do not return the card, and
3 you do not vote in some election in (name of county) County,
4 Iowa, on or before (date of second general election following
5 the date of the notice) your name will be removed from the list
6 of voters in that county.

7 Sec. 11. Section 48A.29, subsection 3, paragraph b, Code
8 2011, is amended to read as follows:

9 b. The notice shall contain a statement in substantially the
10 following form:

11 Information received by this office indicates that you are no
12 longer a resident of (residence address) in (name of county)
13 County, Iowa. If the information is not correct, and you still
14 live at that address, please complete and mail the attached
15 postage paid card at least ten days before the primary or
16 general election and at least eleven days before any other
17 election at which you wish to vote. If the information is
18 correct, and you have moved within the county, you may update
19 your registration by listing your new address on the card and
20 mailing it back. If you have moved outside the county, please
21 contact a local official in your new area for assistance in
22 registering there. ~~If you do not mail in the card, you may be~~
23 ~~required to show identification before being allowed to vote in~~
24 ~~(name of county) County.~~ If you do not return the card, and you
25 do not vote in some election in (name of county) County, Iowa,
26 on or before (date of second general election following the
27 date of the notice) your name will be removed from the list of
28 registered voters in that county.

29 Sec. 12. Section 49.77, subsection 3, Code 2011, is amended
30 by striking the subsection and inserting in lieu thereof the
31 following:

32 3. a. A precinct election official shall require the voter
33 to produce for inspection proof of identification before being
34 allowed to sign the voter roster or declaration of eligibility.

35 b. For purposes of this section, "proof of identification"

1 refers to a document that satisfies all of the following:

2 (1) The document shows the name of the individual to whom
3 the document was issued which shall conform to the name on the
4 election register.

5 (2) The document shows a photograph of the individual to
6 whom it was issued.

7 (3) The document includes an expiration date, and the
8 document is not expired at the time it is presented or expired
9 after the date of the last preceding general election.

10 (4) The document was issued by the United States or the
11 state of Iowa.

12 c. If a voter is unable or refuses to present proof of
13 identification or the precinct election official determines the
14 proof of identification provided by the voter does not qualify
15 as proof of identification under paragraph "b", the precinct
16 election official shall challenge the voter as provided in
17 section 49.79. If the voter is challenged under this paragraph
18 "c", the voter shall be offered the option to vote a ballot, but
19 only in accordance with section 49.81.

20 Sec. 13. Section 49.77, Code 2011, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 3A. If proof of identification is
23 established under subsection 3 to the satisfaction of the
24 precinct election officials, the person may then be allowed to
25 vote.

26 Sec. 14. Section 49.77, subsection 4, paragraphs a and b,
27 Code 2011, are amended to read as follows:

28 a. A person whose name does not appear on the election
29 register of the precinct in which that person claims the right
30 to vote shall not be permitted to vote, unless the person
31 affirms that the person is currently registered in the county
32 and presents proof of identity, ~~or the commissioner informs~~
33 ~~the precinct election officials that an error has occurred~~
34 ~~and that the person is a registered voter of that precinct~~
35 identification pursuant to subsection 3. If the commissioner

1 finds no record of the person's registration but the person
2 insists that the person is a registered voter of that precinct,
3 the precinct election officials shall allow the person to cast
4 a ballot in the manner prescribed by section 49.81.

5 *b.* If the voter informs the precinct election official that
6 the voter resides in the precinct and is not registered to
7 vote, the voter may register to vote pursuant to section 48A.7A
8 and cast a ballot. If such a voter is unable to establish
9 identity and residency in the manner provided in section
10 48A.7A, subsection 1, paragraph "*b*" or "*c*", the voter shall be
11 allowed to cast a ballot in the manner prescribed by section
12 49.81.

13 Sec. 15. Section 49.79, subsection 2, Code 2011, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. *h.* The challenged person was unable or
16 refused to provide proof of identification, or provided
17 insufficient proof of identification, pursuant to section
18 49.77, subsection 3.

19 Sec. 16. Section 49.81, subsection 1, Code 2011, is amended
20 to read as follows:

21 1. A prospective voter who is prohibited under section
22 48A.8, subsection 4, section 49.77, subsection 3 or 4, section
23 49.80, or section 53.19, subsection 3, from voting except under
24 this section shall be notified by the appropriate precinct
25 election official that the voter may cast a provisional
26 ballot. The voter shall mark the ballot and immediately
27 seal it in an envelope of the type prescribed by subsection
28 4. The voter shall deliver the sealed envelope to a precinct
29 election official who shall deposit it in an envelope marked
30 "provisional ballots". The ballot shall be considered as
31 having been cast in the special precinct established by section
32 53.20 for purposes of the postelection canvass.

33 Sec. 17. Section 49.81, subsection 2, paragraph *b*, Code
34 2011, is amended to read as follows:

35 *b.* If the person is casting a provisional ballot because the

1 person ~~failed~~ was unable or refused to provide a required form
2 of identification under section 48A.7A, subsection 1, section
3 48A.8, subsection 4, or section 49.77, subsection 3, a list of
4 the types of acceptable identification and notification that
5 the person must show identification before the ballot can be
6 counted. If a voter is unable or refuses to show proof of
7 identification required under section 49.77, subsection 3,
8 the notification shall also inform the voter of the right to
9 execute an affidavit pursuant to subsection 5.

10 Sec. 18. Section 49.81, Code 2011, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 5. *a.* If a voter casts a provisional
13 ballot pursuant to section 49.77, subsection 3, the precinct
14 election official shall indicate on the provisional ballot
15 envelope that the voter was challenged for the voter's
16 inability or refusal to provide proof of identification.

17 *b.* No later than noon on the Monday following the election,
18 a voter challenged pursuant to section 49.77, subsection 3,
19 paragraph "c", shall appear at the commissioner's office
20 and execute an affidavit in the form prescribed by the state
21 commissioner, affirming that the voter is the same individual
22 who personally appeared before the precinct election board and
23 cast the provisional ballot on election day. The voter must
24 also present proof of identification required by section 49.77,
25 subsection 3, or further affirm either of the following:

26 (1) The voter is indigent and unable to obtain proof of
27 identification without the payment of a fee.

28 (2) The voter has a religious objection to being
29 photographed.

30 *c.* If the board determines that the voter has been
31 challenged solely for the inability or refusal of the voter to
32 provide proof of identification and the voter presents proof
33 of identification or executes the affidavit, as provided in
34 paragraph "b", the board shall find that the provisional ballot
35 is valid and direct that it be counted.

1 Sec. 19. Section 50.24, subsection 1, Code 2011, is amended
2 to read as follows:

3 1. The county board of supervisors shall meet to canvass
4 the vote on the first ~~Monday or~~ Tuesday after the day of
5 each election to which this chapter is applicable, unless
6 the law authorizing the election specifies another date for
7 the canvass. If that ~~Monday or~~ Tuesday is a public holiday,
8 section 4.1, subsection 34, controls.

9 Sec. 20. Section 50.46, Code 2011, is amended to read as
10 follows:

11 **50.46 Special elections — canvass and certificate.**

12 When a special election has been held to fill a vacancy,
13 pursuant to section 69.14, the board of county canvassers
14 shall meet ~~no earlier than 1:00 p.m. on the second day after~~
15 ~~the election,~~ on the first Tuesday following the election and
16 canvass the votes cast at the election. If the ~~second day~~
17 first Tuesday after the election is a public holiday, section
18 4.1, subsection 34, controls. The commissioner, as soon as the
19 canvass is completed, shall transmit to the state commissioner
20 an abstract of the votes so canvassed, and the state board,
21 within five days after receiving such abstracts, shall canvass
22 the tally lists. A certificate of election shall be issued by
23 the county or state board of canvassers, as in other cases.
24 All the provisions regulating elections, obtaining tally lists,
25 and canvass of votes at general elections, except as to time,
26 shall apply to special elections.

27 Sec. 21. Section 50.48, subsection 7, Code 2011, is amended
28 to read as follows:

29 7. If the election is an election held by a city which
30 is not the final election for the office in question, the
31 recount shall progress according to the times provided by this
32 subsection. If this subsection applies the canvass shall be
33 ~~held by the second day~~ on the Tuesday after the election, the
34 request for a recount must be made by the ~~third~~ eighth day
35 after the election, the board shall convene to conduct the

1 recount by the ~~sixth~~ ninth day after the election, and the
2 report shall be filed by the ~~eleventh~~ thirteenth day after the
3 election.

4 Sec. 22. Section 53.10, subsection 2, Code 2011, is amended
5 to read as follows:

6 2. Each person who wishes to vote by absentee ballot at
7 the commissioner's office shall first sign an application for
8 a ballot including the following information: name, current
9 address, and the election for which the ballot is requested.
10 The person may report a change of address or other information
11 on the person's voter registration record at that time. The
12 person must also provide proof of identification pursuant to
13 section 49.77, subsection 3, before receiving an absentee
14 ballot. Upon receipt of a ballot, the registered voter
15 shall immediately mark the ballot; enclose the ballot in a
16 secrecy envelope, if necessary, and seal it in an affidavit
17 envelope; subscribe to the affidavit on the reverse side of the
18 envelope; and return the absentee ballot to the commissioner.
19 The commissioner shall record the numbers appearing on the
20 application and affidavit envelope along with the name of the
21 registered voter.

22 Sec. 23. Section 53.22, subsection 1, Code 2011, is amended
23 by adding the following new paragraph:

24 NEW PARAGRAPH. *d.* Before receiving a ballot under
25 this subsection, each applicant shall present proof of
26 identification pursuant to section 49.77, subsection 3, to the
27 special precinct election board members. If an applicant is
28 unable to present proof of identification, the voter's ballot
29 shall be considered a provisional ballot cast pursuant to
30 section 49.81, and the special precinct election board members
31 shall give the voter an opportunity to execute an affidavit
32 in a form prescribed by the state commissioner affirming
33 either of the reasons listed in section 49.81, subsection 5,
34 paragraph "b", or that the voter is confined to the health care
35 facility or hospital and therefore unable to obtain proof of

1 identification.

2 Sec. 24. Section 144.46, Code 2011, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 3. The fees adopted by the department
5 pursuant to subsection 1 shall not be assessed to applicants
6 who execute an affidavit indicating the applicant is obtaining
7 a certified copy of a birth certificate for the purpose of
8 obtaining an Iowa nonoperator's identification card to be used
9 for voting.

10 Sec. 25. Section 277.20, unnumbered paragraph 1, Code 2011,
11 is amended to read as follows:

12 On the next ~~Friday~~ Tuesday after the regular school
13 election, the county board of supervisors shall canvass the
14 returns made to the county commissioner of elections from
15 the several precinct polling places and the absentee ballot
16 counting board, ascertain the result of the voting with regard
17 to every matter voted upon and cause a record to be made
18 thereof as required by section 50.24. Special elections held
19 in school districts shall be canvassed at the time and in the
20 manner required by that section. The board shall declare the
21 results of the voting for members of boards of directors of
22 school corporations nominated pursuant to section 277.4, and
23 the commissioner shall at once issue a certificate of election
24 to each person declared elected. The board shall also declare
25 the results of the voting on any public question submitted to
26 the voters of a single school district, and the commissioner
27 shall certify the result as required by section 50.27.

28 Sec. 26. Section 321.190, subsection 1, paragraph d, Code
29 2011, is amended to read as follows:

30 *d.* The fee for a nonoperator's identification card shall
31 be five dollars and the card shall be valid for a period
32 of five years from the date of issuance. A nonoperator's
33 identification card shall be issued without expiration
34 to anyone age seventy or over. If an applicant for a
35 nonoperator's identification card is a foreign national

1 who is temporarily present in this state, the nonoperator's
2 identification card shall be issued only for the length of time
3 the foreign national is authorized to be present as determined
4 by the department, not to exceed two years. An issuance fee
5 shall not be charged for a person whose driver's license or
6 driving privilege has been suspended under section 321.210,
7 subsection 1, paragraph "a", subparagraph (3), or for a person
8 obtaining an identification card to be used under section
9 49.77, subsection 3, for voting purposes.

10 Sec. 27. Section 331.605, subsection 1, paragraph f, Code
11 2011, is amended to read as follows:

12 f. A county fee of four dollars for a certified copy of
13 a birth record, death record, or marriage certificate. The
14 fee prescribed by this paragraph shall not be assessed to
15 applicants requesting a certified copy of a birth record if the
16 applicant executes an affidavit indicating the applicant is
17 requesting the certified copy of a birth record for the purpose
18 of obtaining an Iowa nonoperator's identification card to be
19 used for voting.

20 Sec. 28. Section 376.7, subsection 1, Code 2011, is amended
21 to read as follows:

22 1. If a primary election is necessary, it shall be held
23 on the Tuesday four weeks before the date of the regular city
24 election. For each office on the ballot, a voter shall only
25 vote for the number of persons to be elected to that office at
26 the regular city election. The county board of supervisors
27 shall publicly canvass the tally lists of the vote cast in
28 the primary election, following the procedures prescribed
29 in section 50.24, at a meeting to be held on the ~~second day~~
30 first Tuesday following the primary election, ~~and beginning no~~
31 ~~earlier than 1:00 p.m. on that day.~~

32 Sec. 29. Section 376.9, subsection 1, Code 2011, is amended
33 to read as follows:

34 1. A runoff election may be held only for positions unfilled
35 because of failure of a sufficient number of candidates to

1 receive a majority vote in the regular city election. When a
2 council has chosen a runoff election in lieu of a primary, the
3 county board of supervisors shall publicly canvass the tally
4 lists of the vote cast in the regular city election, following
5 the procedures prescribed in section 50.24, at a meeting to be
6 held on the ~~second day~~ first Tuesday following the regular city
7 election, ~~and beginning no earlier than 1:00 p.m. on that day.~~
8 Candidates who do not receive a majority of the votes cast for
9 an office, but who receive the highest number of votes cast
10 for that office in the regular city election, to the extent of
11 twice the number of unfilled positions, are candidates in the
12 runoff election.

13 Sec. 30. EFFECTIVE DATE AND APPLICABILITY. This Act takes
14 effect January 1, 2012, and applies to elections held on or
15 after that date.