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09400SB0453sam001

LRB094 09859 JAM 42851 a

1 AMENDMENT TO SENATE BILL 453

2 AMENDMENT NO. _____. Amend Senate Bill 453 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Election Code is amended by changing
5 Sections 18A-5 and 18A-15 as follows:

6 (10 ILCS 5/18A-5)

7 (Text of Section before amendment by P.A. 93-1071)

8 Sec. 18A-5. Provisional voting; general provisions.

9 (a) A person who claims to be a registered voter is
10 entitled to cast a provisional ballot under the following
11 circumstances:

12 (1) The person's name does not appear on the official
13 list of eligible voters, whether a list of active or
14 inactive voters, for the precinct in which the person seeks
15 to vote;

16 (2) The person's voting status has been challenged by
17 an election judge, a pollwatcher, or any legal voter and
18 that challenge has been sustained by a majority of the
19 election judges; ~~or~~

20 (3) A federal or State court order extends the time for
21 closing the polls beyond the time period established by
22 State law and the person votes during the extended time
23 period; or

24 (4) The voter registered to vote by mail and is

1 required by law to present identification when voting
2 either in person or by absentee ballot, but fails to do so.

3 (b) The procedure for obtaining and casting a provisional
4 ballot at the polling place shall be as follows:

5 (1) After first verifying through an examination of the
6 precinct register that the person's address is within the
7 precinct boundaries, an ~~An~~ election judge at the polling
8 place shall notify a person who is entitled to cast a
9 provisional ballot pursuant to subsection (a) that he or
10 she may cast a provisional ballot in that election. An
11 election judge must accept any information provided by a
12 person who casts a provisional ballot that the person
13 believes supports his or her claim that he or she is a duly
14 registered voter and qualified to vote in the election.
15 However, if the person's residence address is outside the
16 precinct boundaries, the election judge shall inform the
17 person of that fact, give the person the appropriate
18 telephone number of the election authority in order to
19 locate the polling place assigned to serve that address,
20 and instruct the person to go to the proper polling place
21 to vote.

22 (2) The person shall execute a written form provided by
23 the election judge that shall state or contain all of the
24 following that is available:

25 (i) an affidavit stating the following:

26 State of Illinois, County of,
27 Township, Precinct, Ward
28, I,, do solemnly
29 swear (or affirm) that: I am a citizen of the United
30 States; I am 18 years of age or older; I have resided
31 in this State and in this precinct for 30 days
32 preceding this election; I have not voted in this
33 election; I am a duly registered voter in every
34 respect; and I am eligible to vote in this election.

1 Signature Printed Name of Voter Printed
 2 Residence Address of Voter City State
 3 Zip Code Telephone Number Date of
 4 Birth and Driver's License Number or
 5 Last 4 digits of Social Security Number or State
 6 Identification Card Number issued to you by the
 7 Illinois Secretary of State......

8 ~~(ii) Written instruction stating the following:~~

9 ~~In order to expedite the verification of your voter~~
 10 ~~registration status, the (insert name of county~~
 11 ~~clerk of board of election commissioners here)~~
 12 ~~requests that you include your phone number and both~~
 13 ~~the last four digits of your social security number and~~
 14 ~~your driver's license number or State Identification~~
 15 ~~Card Number issued to you by the Secretary of State. At~~
 16 ~~minimum, you are required to include either (A) your~~
 17 ~~driver's license number or State Identification Card~~
 18 ~~Number issued to you by the Secretary of State or (B)~~
 19 ~~the last 4 digits of your social security number.~~

20 (ii) ~~(iii)~~ A box for the election judge to check one of
 21 the 4 ~~3~~ reasons why the person was given a provisional
 22 ballot under subsection (a) of Section 18A-5.

23 (iii) ~~(iv)~~ An area for the election judge to affix his
 24 or her signature and to set forth any facts that support or
 25 oppose the allegation that the person is not qualified to
 26 vote in the precinct in which the person is seeking to
 27 vote.

28 The written affidavit form described in this subsection
 29 (b) (2) must be printed on a multi-part form prescribed by the
 30 county clerk or board of election commissioners, as the case
 31 may be.

32 (3) After the person executes the portion of the written
 33 affidavit described in subsection (b) (2) (i) of this Section,
 34 the election judge shall complete the portion of the written

1 affidavit described in subsection (b) (2) (iii) and (b) (2) (iv).

2 (4) The election judge shall give a copy of the completed
3 written affidavit to the person. The election judge shall place
4 the original written affidavit in a self-adhesive clear plastic
5 packing list envelope that must be attached to a separate
6 envelope marked as a "provisional ballot envelope". The
7 election judge shall also place any information provided by the
8 person who casts a provisional ballot in the clear plastic
9 packing list envelope. Each county clerk or board of election
10 commissioners, as the case may be, must design, obtain or
11 procure self-adhesive clear plastic packing list envelopes and
12 provisional ballot envelopes that are suitable for
13 implementing this subsection (b) (4) of this Section.

14 (5) The election judge shall provide the person with a
15 provisional ballot, written instructions for casting a
16 provisional ballot, and the provisional ballot envelope with
17 the clear plastic packing list envelope affixed to it, which
18 contains the person's original written affidavit and, if any,
19 information provided by the provisional voter to support his or
20 her claim that he or she is a duly registered voter. An
21 election judge must also give the person written information
22 that states that any person who casts a provisional ballot
23 shall be able to ascertain, pursuant to guidelines established
24 by the State Board of Elections, whether the provisional vote
25 was counted in the official canvass of votes for that election
26 and, if the provisional vote was not counted, the reason that
27 the vote was not counted.

28 (6) After the person has completed marking his or her
29 provisional ballot, he or she shall place the marked ballot
30 inside of the provisional ballot envelope, close and seal the
31 envelope, and return the envelope to an election judge, who
32 shall then deposit the sealed provisional ballot envelope into
33 a securable container separately identified and utilized for
34 containing sealed provisional ballot envelopes. Ballots that

1 are provisional because they are cast after 7:00 p.m. by court
2 order shall be kept separate from other provisional ballots.

3 Upon the closing of the polls, the securable container shall be
4 sealed with filament tape provided for that purpose, which
5 shall be wrapped around the box lengthwise and crosswise, at
6 least twice each way, and each of the election judges shall
7 sign the seal.

8 (c) Instead of the affidavit form described in subsection
9 (b), the county clerk or board of election commissioners, as
10 the case may be, may design and use a multi-part affidavit form
11 that is imprinted upon or attached to the provisional ballot
12 envelope described in subsection (b). If a county clerk or
13 board of election commissioners elects to design and use its
14 own multi-part affidavit form, then the county clerk or board
15 of election commissioners shall establish a mechanism for
16 accepting any information the provisional voter has supplied to
17 the election judge to support his or her claim that he or she
18 is a duly registered voter. In all other respects, a county
19 clerk or board of election commissioners shall establish
20 procedures consistent with subsection (b).

21 (d) The county clerk or board of election commissioners, as
22 the case may be, shall use the completed affidavit form
23 described in subsection (b) to update the person's voter
24 registration information in the State voter registration
25 database and voter registration database of the county clerk or
26 board of election commissioners, as the case may be. If a
27 person is later determined not to be a registered voter based
28 on Section 18A-15 of this Code, then the affidavit shall be
29 processed by the county clerk or board of election
30 commissioners, as the case may be, as a voter registration
31 application.

32 (Source: P.A. 93-574, eff. 8-21-03.)

33 (Text of Section after amendment by P.A. 93-1071)

1 Sec. 18A-5. Provisional voting; general provisions.

2 (a) A person who claims to be a registered voter is
3 entitled to cast a provisional ballot under the following
4 circumstances:

5 (1) The person's name does not appear on the official
6 list of eligible voters for the precinct in which the
7 person seeks to vote. The official list is the centralized
8 statewide voter registration list established and
9 maintained in accordance with Section 1A-25;

10 (2) The person's voting status has been challenged by
11 an election judge, a pollwatcher, or any legal voter and
12 that challenge has been sustained by a majority of the
13 election judges; ~~or~~

14 (3) A federal or State court order extends the time for
15 closing the polls beyond the time period established by
16 State law and the person votes during the extended time
17 period; or;

18 (4) The voter registered to vote by mail and is
19 required by law to present identification when voting
20 either in person or by absentee ballot, but fails to do so.

21 (b) The procedure for obtaining and casting a provisional
22 ballot at the polling place shall be as follows:

23 (1) After first verifying through an examination of the
24 precinct register that the person's address is within the
25 precinct boundaries, an ~~An~~ election judge at the polling
26 place shall notify a person who is entitled to cast a
27 provisional ballot pursuant to subsection (a) that he or
28 she may cast a provisional ballot in that election. An
29 election judge must accept any information provided by a
30 person who casts a provisional ballot that the person
31 believes supports his or her claim that he or she is a duly
32 registered voter and qualified to vote in the election.
33 However, if the person's residence address is outside the
34 precinct boundaries, the election judge shall inform the

1 person of that fact, give the person the appropriate
 2 telephone number of the election authority in order to
 3 locate the polling place assigned to serve that address,
 4 and instruct the person to go to the proper polling place
 5 to vote.

6 (2) The person shall execute a written form provided by
 7 the election judge that shall state or contain all of the
 8 following that is available:

9 (i) an affidavit stating the following:

10 State of Illinois, County of,
 11 Township, Precinct, Ward
 12, I,, do solemnly
 13 swear (or affirm) that: I am a citizen of the United
 14 States; I am 18 years of age or older; I have resided
 15 in this State and in this precinct for 30 days
 16 preceding this election; I have not voted in this
 17 election; I am a duly registered voter in every
 18 respect; and I am eligible to vote in this election.
 19 Signature Printed Name of Voter Printed
 20 Residence Address of Voter City State
 21 Zip Code Telephone Number Date of
 22 Birth and Driver's License Number or
 23 Last 4 digits of Social Security Number or State
 24 Identification Card Number issued to you by the
 25 Illinois Secretary of State.....

26 ~~(ii) Written instruction stating the following:~~

27 ~~In order to expedite the verification of your voter~~
 28 ~~registration status, the (insert name of county~~
 29 ~~clerk of board of election commissioners here)~~
 30 ~~requests that you include your phone number and both~~
 31 ~~the last four digits of your social security number and~~
 32 ~~your driver's license number or State Identification~~
 33 ~~Card Number issued to you by the Secretary of State. At~~
 34 ~~minimum, you are required to include either (A) your~~

1 ~~driver's license number or State Identification Card~~
2 ~~Number issued to you by the Secretary of State or (B)~~
3 ~~the last 4 digits of your social security number.~~

4 (ii) ~~(iii)~~ A box for the election judge to check one of
5 the 4 ~~3~~ reasons why the person was given a provisional
6 ballot under subsection (a) of Section 18A-5.

7 (iii) ~~(iv)~~ An area for the election judge to affix his
8 or her signature and to set forth any facts that support or
9 oppose the allegation that the person is not qualified to
10 vote in the precinct in which the person is seeking to
11 vote.

12 The written affidavit form described in this subsection
13 (b) (2) must be printed on a multi-part form prescribed by the
14 county clerk or board of election commissioners, as the case
15 may be.

16 (3) After the person executes the portion of the written
17 affidavit described in subsection (b) (2) (i) of this Section,
18 the election judge shall complete the portion of the written
19 affidavit described in subsection (b) (2) (iii) and (b) (2) (iv).

20 (4) The election judge shall give a copy of the completed
21 written affidavit to the person. The election judge shall place
22 the original written affidavit in a self-adhesive clear plastic
23 packing list envelope that must be attached to a separate
24 envelope marked as a "provisional ballot envelope". The
25 election judge shall also place any information provided by the
26 person who casts a provisional ballot in the clear plastic
27 packing list envelope. Each county clerk or board of election
28 commissioners, as the case may be, must design, obtain or
29 procure self-adhesive clear plastic packing list envelopes and
30 provisional ballot envelopes that are suitable for
31 implementing this subsection (b) (4) of this Section.

32 (5) The election judge shall provide the person with a
33 provisional ballot, written instructions for casting a
34 provisional ballot, and the provisional ballot envelope with

1 the clear plastic packing list envelope affixed to it, which
2 contains the person's original written affidavit and, if any,
3 information provided by the provisional voter to support his or
4 her claim that he or she is a duly registered voter. An
5 election judge must also give the person written information
6 that states that any person who casts a provisional ballot
7 shall be able to ascertain, pursuant to guidelines established
8 by the State Board of Elections, whether the provisional vote
9 was counted in the official canvass of votes for that election
10 and, if the provisional vote was not counted, the reason that
11 the vote was not counted.

12 (6) After the person has completed marking his or her
13 provisional ballot, he or she shall place the marked ballot
14 inside of the provisional ballot envelope, close and seal the
15 envelope, and return the envelope to an election judge, who
16 shall then deposit the sealed provisional ballot envelope into
17 a securable container separately identified and utilized for
18 containing sealed provisional ballot envelopes. Ballots that
19 are provisional because they are cast after 7:00 p.m. by court
20 order shall be kept separate from other provisional ballots.

21 Upon the closing of the polls, the securable container shall be
22 sealed with filament tape provided for that purpose, which
23 shall be wrapped around the box lengthwise and crosswise, at
24 least twice each way, and each of the election judges shall
25 sign the seal.

26 (c) Instead of the affidavit form described in subsection
27 (b), the county clerk or board of election commissioners, as
28 the case may be, may design and use a multi-part affidavit form
29 that is imprinted upon or attached to the provisional ballot
30 envelope described in subsection (b). If a county clerk or
31 board of election commissioners elects to design and use its
32 own multi-part affidavit form, then the county clerk or board
33 of election commissioners shall establish a mechanism for
34 accepting any information the provisional voter has supplied to

1 the election judge to support his or her claim that he or she
2 is a duly registered voter. In all other respects, a county
3 clerk or board of election commissioners shall establish
4 procedures consistent with subsection (b).

5 (d) The county clerk or board of election commissioners, as
6 the case may be, shall use the completed affidavit form
7 described in subsection (b) to update the person's voter
8 registration information in the State voter registration
9 database and voter registration database of the county clerk or
10 board of election commissioners, as the case may be. If a
11 person is later determined not to be a registered voter based
12 on Section 18A-15 of this Code, then the affidavit shall be
13 processed by the county clerk or board of election
14 commissioners, as the case may be, as a voter registration
15 application.

16 (Source: P.A. 93-574, eff. 8-21-03; 93-1071, eff. 6-1-05.)

17 (10 ILCS 5/18A-15)

18 Sec. 18A-15. Validating and counting provisional ballots.

19 (a) The county clerk or board of election commissioners
20 shall complete the validation and counting of provisional
21 ballots within 14 calendar days of the day of the election. The
22 county clerk or board of election commissioners shall have 7
23 calendar days from the completion of the validation and
24 counting of provisional ballots to conduct its final canvass.
25 The State Board of Elections shall complete within 31 calendar
26 days of the election or sooner if all the returns are received,
27 its final canvass of the vote for all public offices.

28 (b) If a county clerk or board of election commissioners
29 determines that all of the following apply, then a provisional
30 ballot is valid and shall be counted as a vote:

31 (1) The provisional voter cast the provisional ballot
32 in the correct precinct based on the address provided by
33 the provisional voter;

1 (2) The affidavit executed by the provisional voter
2 pursuant to subsection (b) (2) of Section 18A-5 contains, at
3 a minimum, the provisional voter's first and last name,
4 house number and street name, and signature or mark ~~18A-10~~
5 ~~is properly executed;~~ and

6 (3) the provisional voter is a registered voter based
7 on information available to the county clerk or board of
8 election commissioners provided by or obtained from any of
9 the following:

10 i. the provisional voter;

11 ii. an election judge;

12 iii. the statewide voter registration database
13 maintained by the State Board of Elections;

14 iv. the records of the county clerk or board of
15 election commissioners' database; or

16 v. the records of the Secretary of State.

17 (c) With respect to subsection (b) (3) of this Section, the
18 county clerk or board of election commissioners shall
19 investigate whether each of the 5 types of information is
20 available and record whether this information is or is not
21 available. If one or more types of information is available,
22 then the county clerk or board of election commissioners shall
23 obtain all relevant information from all sources identified in
24 subsection (b) (3) or until satisfied that the provisional voter
25 is registered and entitled to vote. The county clerk or board
26 of election commissioners shall use any information it obtains
27 as the basis for determining the voter registration status of
28 the provisional voter. If a conflict exists among the
29 information available to the county clerk or board of election
30 commissioners as to the registration status of the provisional
31 voter, then the county clerk or board of election commissioners
32 shall make a determination based on the totality of the
33 circumstances. In a case where the above information equally
34 supports or opposes the registration status of the voter, the

1 county clerk or board of election commissioners shall decide in
2 favor of the provisional voter as being duly registered to
3 vote. If the statewide voter registration database maintained
4 by the State Board of Elections indicates that the provisional
5 voter is registered to vote, but the county clerk's or board of
6 election commissioners' voter registration database indicates
7 that the provisional voter is not registered to vote, then the
8 information found in the statewide voter registration database
9 shall control the matter and the provisional voter shall be
10 deemed to be registered to vote. If the records of the county
11 clerk or board of election commissioners indicates that the
12 provisional voter is registered to vote, but the statewide
13 voter registration database maintained by the State Board of
14 Elections indicates that the provisional voter is not
15 registered to vote, then the information found in the records
16 of the county clerk or board of election commissioners shall
17 control the matter and the provisional voter shall be deemed to
18 be registered to vote. If the provisional voter's signature on
19 his or her provisional ballot request varies from the signature
20 on an otherwise valid registration application solely because
21 of the substitution of initials for the first or middle name,
22 the election authority may not reject the provisional ballot.

23 (d) In validating the registration status of a person
24 casting a provisional ballot, the county clerk or board of
25 election commissioners shall not require a provisional voter to
26 complete any form other than the affidavit executed by the
27 provisional voter under subsection (b) (2) of Section 18A-5. In
28 addition, the county clerk or board of election commissioners
29 shall not require all provisional voters or any particular
30 class or group of provisional voters to appear personally
31 before the county clerk or board of election commissioners or
32 as a matter of policy require provisional voters to submit
33 additional information to verify or otherwise support the
34 information already submitted by the provisional voter. The

1 provisional voter may, within 2 calendar days after the
2 election, submit additional information to the county clerk or
3 board of election commissioners. This information must be
4 received by the county clerk or board of election commissioners
5 within the 2-calendar-day period.

6 (e) If the county clerk or board of election commissioners
7 determines that subsection (b)(1), (b)(2), or (b)(3) does not
8 apply, then the provisional ballot is not valid and may not be
9 counted. The provisional ballot envelope containing the ballot
10 cast by the provisional voter may not be opened. The county
11 clerk or board of election commissioners shall write on the
12 provisional ballot envelope the following: "Provisional ballot
13 determined invalid."

14 (f) If the county clerk or board of election commissioners
15 determines that a provisional ballot is valid under this
16 Section, then the provisional ballot envelope shall be opened.
17 The outside of each provisional ballot envelope shall also be
18 marked to identify the precinct and the date of the election.

19 (g) The provisional ballots determined to be valid shall be
20 added to the vote totals for the precincts from which they were
21 cast in the order in which the ballots were opened. The county
22 clerk or board of election commissioners may, in the
23 alternative, create a separate provisional-voter precinct for
24 the purpose of counting and recording provisional ballots and
25 adding the recorded votes to its official canvass. The
26 validation and counting of provisional ballots shall be subject
27 to the provisions of this Code that apply to pollwatchers. If
28 the provisional ballots are a ballot of a punch card voting
29 system, then the provisional ballot shall be counted in a
30 manner consistent with Article 24A. If the provisional ballots
31 are a ballot of optical scan or other type of approved
32 electronic voting system, then the provisional ballots shall be
33 counted in a manner consistent with Article 24B.

34 (h) As soon as the ballots have been counted, the election

1 judges or election officials shall, in the presence of the
2 county clerk or board of election commissioners, place each of
3 the following items in a separate envelope or bag: (1) all
4 provisional ballots, voted or spoiled; (2) all provisional
5 ballot envelopes of provisional ballots voted or spoiled; and
6 (3) all executed affidavits of the provisional ballots voted or
7 spoiled. All provisional ballot envelopes for provisional
8 voters who have been determined not to be registered to vote
9 shall remain sealed. The county clerk or board of election
10 commissioners shall treat the provisional ballot envelope
11 containing the written affidavit as a voter registration
12 application for that person for the next election and process
13 that application. The election judges or election officials
14 shall then securely seal each envelope or bag, initial the
15 envelope or bag, and plainly mark on the outside of the
16 envelope or bag in ink the precinct in which the provisional
17 ballots were cast. The election judges or election officials
18 shall then place each sealed envelope or bag into a box, secure
19 and seal it in the same manner as described in item (6) of
20 subsection (b) of Section 18A-5. Each election judge or
21 election official shall take and subscribe an oath before the
22 county clerk or board of election commissioners that the
23 election judge or election official securely kept the ballots
24 and papers in the box, did not permit any person to open the
25 box or otherwise touch or tamper with the ballots and papers in
26 the box, and has no knowledge of any other person opening the
27 box. For purposes of this Section, the term "election official"
28 means the county clerk, a member of the board of election
29 commissioners, as the case may be, and their respective
30 employees.

31 (Source: P.A. 93-574, eff. 8-21-03.)

32 Section 95. No acceleration or delay. Where this Act makes
33 changes in a statute that is represented in this Act by text

1 that is not yet or no longer in effect (for example, a Section
2 represented by multiple versions), the use of that text does
3 not accelerate or delay the taking effect of (i) the changes
4 made by this Act or (ii) provisions derived from any other
5 Public Act.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".